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E: ms.marinelicensing@gov.scot

Ms Sophie Gooch
Fairhurst
1 Arngrove Court
Barrack Road
Newcastle upon Tyne
NE4 6DB

Date: 7th July 2020

Dear Ms Gooch,

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

Thank you for your screening opinion request dated 9 April 2020 in regards to the proposed marina development, including pontoon walkway construction, capital dredging and dredged material deposit at Port Edgar, South Queensferry (“the Proposed Works”).

The Scottish Ministers consider the Proposed Works to fall under paragraph 12(a) of schedule 2 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the 2017 MW Regulations”), with the Proposed Works being carried out in a sensitive area, as defined by the 2017 MW Regulations. Consequently, the Scottish Ministers are obliged to adopt a screening opinion as to whether the Proposed Works are, or are not, an EIA project under the 2017 MW Regulations.

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

When making a determination as to whether schedule 2 works are an EIA project, the Scottish Ministers must take into account such of the selection criteria set out in schedule 3 of the 2017 MW Regulations as are relevant to the works. In this regard, the Scottish Ministers have considered the following:

Characteristics of the works

The Proposed Works involve capital plough dredging adjacent to the existing West Pier at Port Edgar, followed by the construction of a pontoon walkway along the length of the eastern side of the West Pier.

Over a period of approximately 30 days, 20,000 cubic metres (“m³”) of material is proposed to be removed from the dredge area and deposited at the existing dredged material deposit area towards the entrance to Port Edgar. On completion of the dredge, over a period of approximately four weeks, a pontoon walkway will be constructed via the installation of 20 pre-fabricated pontoon units along the length of the eastern side of the West Pier. The pontoon system will be attached to galvanised steel guide columns fixed to each of the existing concrete pier structures. No piling is to be undertaken. A new access gangway will then be installed between the existing concrete pier structure and the new pontoon walkway. It is anticipated that an annual maintenance dredge of approximately 10,000m³ will be required to allow the continued operation of the new pontoons.

During the Proposed Works, noise and visual disturbance could disturb or displace birds from the immediate area of the works. In addition, habitat removal as well as increased sedimentation in the water column is likely to occur due to dredging activities. To mitigate the potential disturbance or displacement of birds, the Proposed Works are intended to be carried out near the end of the wintering bird season.

The Proposed Works also have the potential to pollute the marine environment should any release of contaminants from the dredged material or leakage of fuels, oils etc. from plant machinery/equipment occur. Sampling and analysis of the proposed dredge material has indicated some elevated contamination levels, however, whilst there may be short-term impacts caused by potential temporary plumes of sediment forming during the dredging, it is considered unlikely that dredging or the dispersal of dredged material will have significant impacts on water quality.

The invasive non-native species (“INNS”) Japanese wakame (*Undaria pinnatifida*) is known to be present within Port Edgar. To mitigate against the risk of the spread of this INNS, a Biosecurity Management Plan is already in place for the existing Port Edgar marina, which implements regular biofoul checks of pontoons, biannual removal of biofoul from the pontoons and measures to reduce the risk of dispersal in the course of dredging activities. It is anticipated that these mitigation measures will also effectively address any INNS concerns associated with the Proposed Works.

SEPA advised that providing good working practices and environmental mitigation measures are followed during the Proposed Works, it does not anticipate any adverse impacts on the environment. In order to mitigate the risk of environmental impacts occurring, the Proposed Works are intended to be carried out in adherence with good working practices.

Location of the works

The Proposed Works are partly located within the Firth of Forth Special Protected Area (“SPA”), Special Site of Scientific Interest (“SSSI”) and Ramsar, with qualifying features including non-breeding waterfowl and wading birds.

Approximately 0.5ha of the Firth of Forth SPA is anticipated to be dredged resulting in direct loss of habitat. The Proposed Works will also have indirect impacts upon this SPA through displacement and disturbance of its qualifying features.

The Proposed Works are also situated approximately 1.5 kilometres from the Forth Islands SPA, with qualifying features including the common tern and arctic tern. The common tern population of the Forth Islands SPA may be affected by the Proposed Works as a portion of the population breed on various structures, including a tern raft, within the existing Port Edgar Marina located to the east of the Proposed Works.

HES advised that it had not been provided with sufficient information to determine whether significant effects on its interests were likely but considered that the only potentially significant effect would be on marine archaeology. It is the view of HES that if it cannot be demonstrated that these effects are not significant, they should be further assessed through the EIA process. HES advised that investigation should be undertaken to identify the potential for unrecorded archaeology and that mitigation measures should be described.

In its consultation response, the Council deferred to the screening opinion it had adopted on 3 June 2020 for the Proposed Works, under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended). Taking into account the Habitats Regulations Appraisal (“HRA”) screening report submitted by the Applicant and the comments received by the Council from SNH, the Council did not consider the scale and extent of the Proposed Works to justify the submission of an EIA.

It is the Scottish Ministers’ understanding that the Council also granted Listed Building Consent for the Proposed Works on the 1 June 2020, with the Council considering the Proposed Works to comply with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 in that they preserve the character and setting of the listed building and do not adversely affect any features of special architectural and historic interest.

Characteristics of the potential impact

SNH advised that the Proposed Works will generate direct (loss of habitat) and indirect (displacement and disturbance) impacts upon the Firth of Forth SPA and that the common tern qualifying feature of the Forth Islands SPA may also be affected as a portion of its population currently breeds on various structures within Port Edgar. SNH advised that the impacts upon these European sites therefore need to be assessed through the HRA process. SNH noted that at this stage it is unclear whether the Proposed Works will have adverse effects upon the integrity of the Firth of Forth SPA. SNH therefore considers it possible that there may be significant effects upon this internationally important receptor. Consequently, it is SNH’s view that the Proposed Works represent an EIA project.

The Scottish Ministers are in agreement with SNH regarding the existing uncertainty around the potential impacts of the Proposed Works, specifically in relation to habitat loss, on the Firth of Forth SPA. The Scottish Ministers are however content that this uncertainty can be effectively addressed through the HRA process required to be undertaken. In this regard, the Scottish Ministers expect an updated HRA report to be submitted in support of the marine licence application for the Proposed Works and for pre-application advice to be sought from SNH to ensure its concerns are sufficiently addressed within the report.

Due to a lack of information, it is currently unclear whether or not the Proposed Works are likely to have a significant effect on marine archaeology receptors. Taking into account the advice received from HES, as detailed above, it would be the Scottish Ministers' anticipation for a Protocol for Archeological Discovery ("PAD") to be developed and submitted in support of the marine licence application for the Proposed Works. Pre-application advice should be sought from HES to inform the PAD and to confirm that this sufficiently addresses its marine archaeology concerns.

The Scottish Ministers are content that the scale and extent of the Proposed Works are relatively limited and that the impacts associated with the location of the Proposed Works can be effectively addressed and mitigated through the HRA process and the implementation of a PAD to avoid any significant adverse effects on the environment.

Conclusion

In view of the findings above, the Scottish Ministers are of the opinion that the Proposed Works are not an EIA project under the 2017 MW Regulations and, therefore, an EIA is not required to be carried out in respect of the Proposed Works.

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

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

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

Yours sincerely

Neil Macleod
Licensing Operations Team
Marine Scotland

Appendix I



Scottish Natural Heritage
Dualchas Nàdair na h-Alba
nature.scot

Fiona Munro
Marine Scotland – Marine Planning & Policy

Email: ms.marinelicensing@gov.scot

Date: 03 April 2020
Our ref: CEA158715/ A3205715

Dear Ms Munro

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 (AS AMENDED) (“the EIA Regulations”)

CONSULTATION UNDER PART 2, REGULATION 10(5) OF THE EIA REGULATIONS

Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina

Thank you for your email of 13 March 2020 consulting us on the above EIA Screening Opinion request.

Background

We have had extensive discussions with the ornithological consultant, Wildlife Consulting, about this proposal. I have included an email discussion as Annex 1 to this response.

SNH Advice

EIA Regulations require that EIA screening decisions must be concluded by the competent authority. Our role at this stage is to advise you on the environmental receptors within our remit which may be significantly affected by the proposal and which should be assessed, whether through EIA or other means. However we note the specific requirement in Regulation 10(5).

This proposal is partly located within the Firth of Forth Special Protection Area (SPA) and will generate direct (loss of habitat) and indirect (displacement and disturbance) impacts upon this SPA. It may also affect the common tern population of the Forth Islands SPA as some of that population now breed on various structures within Port Edgar Marina. Therefore impacts upon these European sites need to be assessed through the Habitats Regulations Appraisal (HRA) process.

At this stage it is not clear whether the proposal will have ‘adverse effects upon the integrity’ of the Firth of Forth SPA in particular. Therefore it is possible that there may be significant effects upon this internationally important receptor, and so in our view it is an EIA project.

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We recommend that if impacts upon European sites are the sole issue to trigger EIA then the project is very tightly scoped to only this issue, and effectively the HRA and EIA report become very similar. The only added issues from EIA is the lengthened timescales and the need for public consultation.

In our view this proposal will not have significant effects on any other receptors within our remit (i.e. habitats, species, geodiversity, landscape & visual).

I hope these comments are useful, if you would like to discuss them further you can contact me via 0131 316 2629 / malcolm.fraser@nature.scot

Yours sincerely

[by email]

Malcolm Fraser
Operations Officer – Forth

Annex 1 – email discussion between SNH and Wildlife Consulting

From: Malcolm Fraser
Sent: 26 February 2020 13:20
To: 'colin@wildlifeconsulting.co.uk' <colin@wildlifeconsulting.co.uk>
Subject: RE: 122592A: Port Edgar Marina West Pier Dredging and Pontoon Licence Applications - HRA Screening Report

Colin –

We advise that your proposed survey work covering February and March alone would not be sufficient to inform HRA.

We typically request two full relevant seasons of survey work to inform HRA. For the Firth of Forth SPA this would require two full seasons of wintering bird surveys. We request two years of survey data as one individual year may not be representative e.g. if there are weather extremes or other short-term factors affecting bird populations. However if there is relevant supporting information this requirement can often be reduced to a single full season.

Supporting information could be:

- WeBS data (I understand that you have purchased 5 years of data for the relevant sector)
- Site-specific data (e.g. data collected in relation to the Forth Replacement Crossing project, depending on the age of the data)

We also confirm that common tern from the Forth Islands SPA should be considered as part of the HRA for this proposal. This would normally require survey work during the breeding season unless, as you have noted, there is existing survey data from the monitoring reports.

You have proposed through the tide counts to identify and assess low tide feeding and high tide roosting within the marina. We agree that this will give you the best picture of current site usage by target species. However you should consider how this data can be supported by existing data. For example how would through the tide counts within Port Edgar be supported by WeBS counts? As discussed you may be best served by trying to get disaggregated data from the WeBS counter.

I hope this is useful.

All the best.

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Malcolm Fraser | Operations Officer - Forth

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From 1 May 2020, SNH will be rebranding and changing its name to NatureScot.

From: colin@wildlifeconsulting.co.uk <colin@wildlifeconsulting.co.uk>
Sent: 24 February 2020 15:02
To: Malcolm Fraser <Malcolm.Fraser@nature.scot>

Cc: 'Leigh Kelly' <l.kelly@mhorenvironmental.com>; jamie.reed@fairhurst.co.uk; 'Chris Paton' <chris.paton@fairhurst.co.uk>
Subject: RE: 122592A: Port Edgar Marina West Pier Dredging and Pontoon Licence Applications - HRA Screening Report

Malcolm

Good to speak with you earlier.

As discussed, I would be most grateful if you are able to discuss with your ornithologist whether SNH can agree that site specific ornithology survey work covering Port Edgar Marina and additional 500m buffer of estuarine habitat over the remainder of this winter period (end March 2020) will be sufficient to inform the HRA, augmented with background data. We would propose to undertake monthly Through the Tide Counts in February and March 2020, to identify and quantify SPA bird low tide feeding and high tide roosting areas.

As mentioned, from memory during surveys for the Queensferry Crossing the area was relatively quiet in terms of wintering waders compared for example with Drum Sands to the west. It would be useful if you are able to forward any monitoring data at Port Edgar undertaken for the Queensferry Crossing. In the meantime I have also requested contact details for the WeBS Abercorn – Queensferry Recorder from the BTO, to ascertain background bird records within Port Edgar Marina and surrounding 500m, as opposed to over the whole count sector.

In terms of the the Forth Islands SPA the new tern raft installed in Port Edgar Marina in 2018 (which replaced the previous raft damaged by a storm in 2015) proved very successful in 2019, and as expected is used by common tern only (109 Apparently Occupied Nests, with successful fledging of 118 young). We do not intend to undertake site surveys during the breeding season as the most recent three years' monitoring reports are comprehensive and we consider they contain sufficient information to inform an appropriate assessment of the Forth Islands SPA.

I look forward to hearing from you.

Kind regards
Colin

Colin Nisbet
Director & Principal Ecologist



Wildlife Consulting Ltd | Ecology | Environmental Consultancy
Mobile 07788 877462

Company Number: SC620396
VAT Registration Number: 320 4160 59

From: Malcolm Fraser <Malcolm.Fraser@nature.scot>
Sent: 14 February 2020 14:53
To: ms.marinelicensing@gov.scot; fiona.munro2@gov.scot

Cc: 'Leigh Kelly' <l.kelly@mhorenvironmental.com>; colin@wildlifeconsulting.co.uk; jamie.reed@fairhurst.co.uk

Subject: RE: 122592A: Port Edgar Marina West Pier Dredging and Pontoon Licence Applications - HRA Screening Report

All –

Thank you for providing the HRA Screening Report and other documentation.

First I need to clarify that during my previous conversations about this proposal unfortunately there were no drawings or other documents available. As such I have misunderstood the nature of the proposal and thought this was simply an extension of the existing maintenance dredge. In fact it is a new capital dredge and installation of pontoons within the Firth of Forth SPA/ SSSI.

I can summarise our position in relation to this proposal.

The main receptor here is the Firth of Forth SPA, which would see 0.5 ha of direct habitat loss via capital (and future maintenance) dredges.

- The HRA screening report considers that this habitat loss is negligible percentage of the total size of the SPA (c. 7,000 ha) – this is not a reasonable measure of impact. A more reasonable measure might be percentage loss of habitat in the particular WeBS sector. In this case it may be more appropriate to use percentage loss of habitat in Port Edgar Marina (as WeBS sectors have been redrawn in this area, additionally Port Edgar Marina is a discrete functional location).
- The HRA screening report also asserts that the habitat that would be lost is low-med value to SPA birds due to existing levels of disturbance but there is no evidence provided to support this position.
- The HRA screening does not consider any additional indirect loss of habitat during the operational phase via disturbance/ displacement.

I am also at present unclear on whether we should be considering Forth Islands SPA as a receptor, as there is now a tern raft in Port Edgar Marina used by common tern in the breeding season, and these birds are likely to be part of the same population as on Long Craig Island, which is part of that SPA. I need to discuss this with SNH colleagues and confirm.

As such it is not possible to support a conclusion of 'no likely significant effects' ('no LSE') upon the Firth of Forth SPA. Potential impacts arise via direct (and probable indirect) loss of habitat, as well as disturbance and displacement of SPA birds.

In HRA terms this means that an appropriate assessment is required, and typically the applicant must provide adequate information to inform appropriate assessment.

I need to flag up at this stage that it may be challenging to demonstrate that this proposal will have 'no adverse effects on site integrity' and that it can actually be consented.

All the best.

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Malcolm Fraser | Operations Officer - Forth

Scottish Natural Heritage | Silvan House | 3rd Floor East | 231 Corstorphine Road | Edinburgh | EH12 7AT | t: 0131 316 2629

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From: colin@wildlifeconsulting.co.uk <colin@wildlifeconsulting.co.uk>
Sent: 11 February 2020 19:31
To: ms.marinelicensing@gov.scot; fiona.munro2@gov.scot
Cc: Malcolm Fraser <Malcolm.Fraser@nature.scot>; 'Leigh Kelly' <l.kelly@mhorenvironmental.com>
Subject: 122592A: Port Edgar Marina West Pier Dredging and Pontoon Licence Applications - HRA Screening Report

Dear Fiona

I hope you are well.

I attach an HRA Screening Report assessing the potential for Likely Significant Effect on the Firth of Forth SPA arising from proposed dredging and pontoon installation at West Pier, Port Edgar Marina, South Queensferry.

Following previous consultation with Marine Scotland and Scottish Natural Heritage in relation to an additional dredge area at the east of the marina for Forth Boat Tours it was indicated the additional area and its cumulative effect may trigger the Environmental Impact Assessment (EIA) process. As such Port Edgar Marina wish to progress with the West Pier Works only at this time.

Port Edgar Marina are undertaking a licensed dredge on 18th February (licence number 06629/19/0), which is likely to take one – two weeks. They would like to be in a position to move the dredger onto the West Pier works as soon as this is complete.

The following Appendices accompany the report:

- Appendix A – Dredging Licence Application
- Appendix B – Pontoon Licence Application
- Appendix C – Illustration of Dredge Area (Included in HRA Screening Report)
- Appendix D – Illustration of Pontoon Area (Included in HRA Screening Report)
- Appendix E – Dredging Method Statement (further detail and vessel specification were submitted with the original application)
- Appendix F – Pontoon Method Statement (further detail and design specification were submitted with the original application)

I have spoken to Malcom Fraser to outline the situation to SNH, but unfortunately was not able to speak with Marine Scotland. Given the tight timescale please do not hesitate to contact me if you need to discuss anything further.

With kind regards
Colin

Colin Nisbet
Director & Principal Ecologist



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VAT Registration Number: 320 4160 59*

MacLeod N (Neil) (MARLAB)

From: Malcolm Fraser <Malcolm.Fraser@nature.scot>
Sent: 23 April 2020 09:41
To: Munro F (Fiona) (MARLAB)
Subject: RE: Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for Screening Opinion

Fiona –

Thank you for providing the revised HRA Screening Report, and for your own breakdown of the issues in the email below.

The revised HRA Screening Report does not change our advice of 03 April 2020.

There will be direct and indirect impacts upon one or more European sites. The HRA process must be followed, and at this stage we are not clear what the outcome of this process will be. Therefore under the specific terms of the Marine Works EIA Regulations our view is that this is an EIA project.

All the best.

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Malcolm Fraser | Operations Officer - Forth

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From: Fiona.Munro2@gov.scot <Fiona.Munro2@gov.scot>
Sent: 21 April 2020 16:33
To: Malcolm Fraser <Malcolm.Fraser@nature.scot>
Subject: RE: Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for Screening Opinion

Dear Malcolm,

Thank you for the previous advice provided on 3 April 2020 with regards to the Port Edgar Marina EIA screening.

MS-LOT received additional information from the applicant in the form of an updated HRA Screening report accompanied by a Screening Opinion Request. In this document the applicant has provided two years of bird monitoring data from the Queensferry Crossing and discussion around loss of foraging area within the Firth of Forth SPA in relation to dredge depth and neap tide.

There are three aspects we have identified that may be of potential concern:

- The Jacobs bird monitoring data from the Queensferry Crossing is provided but not interpreted.
- The loss of habitat within the Firth of Forth SPA is argued to be insignificant because of the percentage loss in terms of the entire SPA (of 0.008%) rather than the impact of the loss within the specific section of the SPA.

- The applicant's report argues that there would be no loss of foraging area within the SPA because the same area of mudflat will still be available at a neap tide which is 2 metres, with the dredge depth being between 1 and 1.5 metres. However, the usual tidal range (90% of the time) registered by Musselburgh Tidal Monitoring Station is between 0.14-1.73 metres, which would suggest there would be a reduction in foraging area.

In order to meet our obligations under the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (As Amended) the screening opinion is due to be issued by 24 April 2020. Will the additional information provided by the applicant be likely to change the advice provided previously by SNH on 3 April 2020?

Kind regards,
Fiona Munro

Marine Licensing Casework Manager
Marine Scotland - Marine Planning & Policy

Scottish Government | Marine Laboratory | 375 Victoria Road | Aberdeen | AB11 9DB
Email: MS.MarineLicensing@gov.scot
Website: <http://www.gov.scot/Topics/marine/Licensing/marine>

COVID-19: Marine Scotland - Licensing Operations Team (LOT) is working from home and unable to respond to phone enquiries. Please communicate with LOT via email. Email addresses are MS.MarineRenewables@gov.scot for marine renewables correspondence or MS.MarineLicensing@gov.scot for all licensing queries

From: Malcolm Fraser <Malcolm.Fraser@nature.scot>
Sent: 03 April 2020 09:26
To: MS Marine Licensing <MS.MarineLicensing@gov.scot>
Subject: RE: Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for Screening Opinion

Thank you for consulting us on the above proposal. Our advice is attached to this email.

I hope these comments are useful, if you would like to discuss them my contact details are below.

All the best.

--

Malcolm Fraser | Operations Officer - Forth

Scottish Natural Heritage | Silvan House | 3rd Floor East | 231 Corstorphine Road | Edinburgh | EH12 7AT | t: 0131 316 2629
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From: MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>
Sent: 13 March 2020 09:54
To: FO.Eyemouth@gov.scot; FORTH <FORTH@nature.scot>; hmconsultations@hes.scot; planning.se@sepa.org.uk
Cc: Fiona.Munro2@gov.scot

Subject: Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for Screening Opinion

Dear Sir/Madam,

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 (AS AMENDED) (“the EIA Regulations”)

CONSULTATION UNDER PART 2, REGULATION 10(5) OF THE EIA REGULATIONS

Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina

Port Edgar Marina Ltd have applied for a marine licence to carry out Schedule 2 works. These works have not been the subject of a screening opinion and an EIA report has not accompanied the application. Scottish Ministers will adopt a screening opinion in relation to the above proposed works under regulation 12(2) of the EIA Regulations.

Please find details of the above proposed works at: <http://marine.gov.scot/ml/screening-request-construction-pontoon-and-capital-dredging-and-sea-deposit-dredge-material-port>

I should be grateful if you would please review the associated information and, as required by regulation 10(5) of the EIA Regulations, provide your view as to whether the above proposed works are an EIA project as defined in the EIA Regulations.

In accordance with regulation 10(6) of the EIA Regulations, please ensure you provide your view no later than 03 April 2020 (3 weeks from the date of consultation).

Kind regards,
Fiona Munro

Marine Scotland - Marine Planning & Policy

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

General Queries: +44 (0)300 244 5046

Email: ms.marinelicensing@gov.scot

Website: <http://www.gov.scot/Topics/marine/Licensing/marine>

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Fiona Munro
Marine Scotland
Scottish Government
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Our ref: PCS/170595
Your ref: Port Edgar Marina

If telephoning ask for:
Silvia Cagnoni-Watt

25 March 2020

By email only to: ms.MarineLicensing@gov.scot

Dear Fiona

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2017 (AS AMENDED)
Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea
Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for
Screening Opinion**

Thank you for consulting SEPA on the screening opinion for the above development proposal by way of your consultation email, dated 11 February 2020.

SEPA considers there could be the following potential environmental impacts relevant to SEPA's remit: water pollution.

1. Marine licensing

- 1.1 The quality of map showing the proposed dredge area is very poor.
- 1.2 We are not commenting on the HRA as it is more appropriate for SNH to respond to this document.
- 1.3 Please refer to our standing advice in relation to Marine Licence consultations contained in the SEPA's Land Use Planning System SEPA Guidance Note 13 (LUPS-GU13) [SEPA standing advice for the Department for Business, Energy and Industrial Strategy and Marine Scotland on marine consultations](#).

2. Compliance and beyond

- 2.1 This activity lies outwith SEPA's regulatory remit as it does not apply to Controlled Activities Regulations (CAR). However the applicant should be aware of their duty to avoid land based pollution to the marine environment. The relevant guidance in [Netregs](#) covers this. In particular the GPP5 Works and maintenance in or near water.
- 2.2 Dredging soil is to be deposited back into the Firth of Forth which is not within SEPA's remit. We understand that Marine Scotland deals with guidance on offshore disposal.

3. Flood risk



Chairman
Bob Downes

Chief Executive
Terry A'Hearn

SEPA Edinburgh Office

Silvan House, 3rd Floor, 231 Corstorphine Road,
Edinburgh EH12 7AT.

www.sepa.org.uk • customer enquiries 03000 99 66 99

- 3.1 We have consulted the SEPA Flood maps and note that the proposal is in the 1:200 Year coastal flood events map. We recommend consultation with the Council Flood Protection Officer.

Regulatory advice for the applicant

4. Regulatory requirements

- 4.1 Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office at:

SEPA, Pentland Court, The Saltire Centre, Glenrothes, KY6 2DA. Tel: 01592 776910

If you have any queries relating to this letter, please contact me by telephone on 01786 452430 or e-mail at planning.se@sepa.org.uk.

Yours sincerely

Silvia Cagnoni-Watt
Senior Planning Officer
Planning Service

ECopy to: Fiona.Munro2@gov.scot

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](#).

MacLeod N (Neil) (MARLAB)

From: Cagnoni, Silvia <Silvia.Cagnoni@sepa.org.uk>
Sent: 02 April 2020 15:08
To: MS Marine Licensing
Subject: FW: Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for Screening Opinion

Fiona,

According to our guidance in Section 3 Table 1 of LUPS-GU13 we consider that in this instance we do not think that there is the potential for an EIA to be required.

<https://www.sepa.org.uk/media/143312/lups-gu13.pdf>

Regards

Silvia

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

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

Sent: 01 April 2020 15:59

To: Planning South East <Planning.SE@SEPA.org.uk>

Cc: Planning South East <Planning.SE@SEPA.org.uk>

Subject: Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for Screening Opinion

Dear SEPA,

Thank you for the consultation response dated 25 March 2020 for the Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material screening request.

However, SEPA is a consultation body and must give its views as to whether the proposed works is an EIA project (within a period of 3 weeks beginning on the date on which you were consulted), as required by regulation 10(5) and 10(6) of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (As Amended). The response dated 25 March 2020 does not state whether the proposed works is considered an EIA project. Please ensure you provide your view no later than 03 April 2020 (3 weeks from the date of consultation).

Kind regards,

Fiona Munro

-

Marine Licensing Casework Manager
Marine Scotland - Marine Planning & Policy

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

Email: MS.MarineLicensing@gov.scot

Website: <http://www.gov.scot/Topics/marine/Licensing/marine>

COVID-19: Marine Scotland - Licensing Operations Team (LOT) is working from home and unable to respond to phone enquiries. Please communicate with LOT via email. Email addresses are MS.MarineRenewables@gov.scot for marine renewables correspondence or MS.MarineLicensing@gov.scot for all licensing queries

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

From: planning.riccarton@sepa.org.uk <planning.riccarton@sepa.org.uk>
Sent: 26 March 2020 12:47
To: MS Marine Licensing <MS.MarineLicensing@gov.scot>; Munro F (Fiona) (MARLAB) <Fiona.Munro2@gov.scot>
Subject: SEPA Response to Consultation Reference Port Edgar Marina

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

Where applicable this email has been copied to the agent and/or applicant.

This is an auto-generated email sent on behalf of SEPA's Planning Service. Information on our planning service along with guidance for planning authorities, developers and any other interested party is available on our website at <http://www.sepa.org.uk/planning.aspx>.

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Dear Sir/Madam,

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2017 (AS AMENDED) (“the EIA Regulations”)

CONSULTATION UNDER PART 2, REGULATION 10(5) OF THE EIA REGULATIONS

Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina

Port Edgar Marina Ltd have applied for a marine licence to carry out Schedule 2 works. These works have not been the subject of a screening opinion and an EIA report has not accompanied the application. Scottish Ministers will adopt a screening opinion in relation to the above proposed works under regulation 12(2) of the EIA Regulations.

Please find details of the above proposed works at: <http://marine.gov.scot/ml/screening-request-construction-pontoon-and-capital-dredging-and-sea-deposit-dredge-material-port>

I should be grateful if you would please review the associated information and, as required by regulation 10(5) of the EIA Regulations, provide your view as to whether the above proposed works are an EIA project as defined in the EIA Regulations.

In accordance with regulation 10(6) of the EIA Regulations, please ensure you provide your view no later than 03 April 2020 (3 weeks from the date of consultation).

Kind regards,
Fiona Munro

Marine Scotland - Marine Planning & Policy

Scottish Government | Marine Laboratory | 375 Victoria Road | Aberdeen | AB11 9DB General
Queries: +44 (0)300 244 5046
Email: ms.marinelicensing@gov.scot
Website: <http://www.gov.scot/Topics/marine/Licensing/marine>

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MacLeod N (Neil) (MARLAB)

From: Munro F (Fiona) (MARLAB)
Sent: 07 July 2020 14:19
To: MacLeod N (Neil) (MARLAB)
Subject: FW: Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for Screening Opinion - Deadline Reminder

From: Lynsey Townsend <Lynsey.Townsend@edinburgh.gov.uk>
Sent: 10 June 2020 10:47
To: Munro F (Fiona) (MARLAB) <Fiona.Munro2@gov.scot>
Subject: RE: Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for Screening Opinion - Deadline Reminder

Morning Fiona

The letter was issued to Sophie at Fairhurst on the 3rd June 2020. All the information relating to the screening (20/01851/SCR) is public on the [planning portal](#)

I hope this is of assistance to you.

Kind regards

Lynsey

Lynsey Townsend
Senior Planner – West Area Team

From: Fiona.Munro2@gov.scot <Fiona.Munro2@gov.scot>
Sent: 10 June 2020 07:54
To: Lynsey Townsend <Lynsey.Townsend@edinburgh.gov.uk>; Planning <planning@edinburgh.gov.uk>
Subject: RE: Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina - Consultation on Request for Screening Opinion - Deadline Reminder

Dear Edinburgh Council,

Port Edgar Marina Ltd - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material, Port Edgar Marina

I just wanted to remind you that the agreed extended statutory deadline for Edinburgh Council to respond in accordance with regulation 10(6) of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended), was last week (5 June 2020) for the local authority to provide its views on whether the Port Edgar Marina project is an EIA project.

As a statutory consultee, we very much would appreciate your response to inform our screening opinion as soon as possible.

Kind regards,
Fiona



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By email: MS.MarineLicensing@gov.scot

Fiona Munro
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

Our case ID: 300043964

24 March 2020

Dear Ms Munro

[The Marine Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 Consultation Under Part 2, Regulation 10\(5\)](#)

[Port Edgar Marina, Shore Road, South Queensferry, EH30 9SQ - Construction of a Pontoon and Capital Dredging and Sea Deposit of Dredge Material Request for Screening Opinion](#)

Thank you for your consultation which we received on 13 March 2020 seeking our comments on an Environmental Impact Assessment (EIA) screening opinion for the above proposed development. This letter contains our comments for our historic environment interests. That is world heritage sites, scheduled monuments and their setting, category A-listed buildings and their setting, gardens and designed landscapes and battlefields on their respective Inventories.

Your archaeological and conservation advisors will also be able to offer advice for their interests. This may include unscheduled archaeology, category B- and C-listed buildings and conservation areas.

Our Screening opinion

From the information provided at this stage we cannot rule out significant effects on the marine historic environment. An EIA is therefore required for this proposed development unless these effects can be effectively ruled out or mitigated before an application is submitted.

Given the lack of information included with the application, it is currently not clear how this proposal could proceed in accordance with the provisions of the UK or Scottish Marine Plans.

Our advice

We recommend that further investigation is undertaken to identify the potential for unrecorded archaeology and mitigation measures are described. The guidance in [The Crown Estate Protocol for Archaeological Discoveries](#) document will help with the design of suitable actions and mitigation measures. We also recommend that the



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developer takes account of the [Joint Nautical Archaeological Committee's Code of Practice for Seabed Development](#) as part of the assessment of the impact of this proposal.

If you find that there is no marine archaeology in the area, we would be happy to be re-screened as no EIA would be required for our interests.

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Ruth Cameron, who can be contacted by phone on 0131 668 8657 or by email on Ruth.Cameron@hes.scot.

Yours sincerely

Historic Environment Scotland



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By email: MS.MarineLicensing@gov.scot

Ms Fiona Munro
Marine Licensing Casework Manager
Marine Scotland (Aberdeen Office)
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

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

Our case ID: 300043964

18 May 2020

Dear Ms Munro

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS (2017)

Port Edgar Marina, Shore Road, South Queensferry, EH30 9SQ - Construction of a
Pontoon and Capital Dredging and Sea Deposit of Dredge Material
Updated Screening Request

Thank you for your consultation which we received on 30 April 2020 seeking our comments on an Environmental Impact Assessment (EIA) screening opinion for the above proposed development. This letter contains our comments for our historic environment interests. That is World Heritage Sites, scheduled monuments and their setting, category A-listed buildings and their setting, gardens and designed landscapes and battlefields on their respective inventories.

The relevant local authority archaeological and conservation advisors will also be able to offer advice for their interests. This may include unscheduled archaeology, category B- and C-listed buildings and conservation areas.

Our Screening opinion

We do not have enough information to know whether significant effects on our interests are likely. We consider that the only potentially significant effect would be on marine archaeology. If it cannot be demonstrated that these effects are not significant, they should be further assessed through the EIA process.

Our advice

We have previously advised in our screening response dated 24 March that further investigation should be undertaken to identify the potential for unrecorded archaeology and that mitigation measures should be described. The applicant has still not provided any of this information and we therefore cannot offer any more comments or advice on this.

However, we note that the applicant has now submitted some cultural heritage specific comments. These relate only to terrestrial historic assets, and specifically the [category C](#)



[listed West Pier](#) and we would like to offer some comments on this as there appears to be a number of points of confusion.

Firstly, it is important to note that it is not the role of Historic Environment Scotland to administer listed building consent (LBC). It is for the planning authority to decide whether or not LBC is required. Impacts on category C listed buildings are also not part of our remit in the planning system – as set out above. We recommend that you seek comments from City of Edinburgh Council on these issues.

Secondly, the applicant appears to query the designation of the pier. If the applicant would like this listing to be reviewed, they should do so through our designations team, using [the form available on our website](#). We note that the main reason identified for this query is the condition of the pier.

We would refer the applicant to paragraph 14 of Annex 2 of our [Designation Policy and Selection Guidance](#), which states:

The extent to which a building or structure survives is a consideration when assessing it for listing. However, the present condition of the surviving fabric is not a factor when deciding whether it is of special architectural or historic interest.

It is therefore unlikely that the issues raised would affect the designation of the West Pier.

Finally, we would like to state again that for our interests, the only potentially significant effect is that on marine archaeology. We would be happy to comment on more information on this topic.

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Ruth Cameron, who can be contacted by phone on 0131 668 8657 or by email on Ruth.Cameron@hes.scot.

Yours sincerely

Historic Environment Scotland