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Dear Emily

Thank you for your email of 7 February 2025 on behalf of your client, Fraserburgh Harbour Commissioners, regarding a planned harbour revision order for Fraserburgh Harbour involving substantial improvements to existing Harbour facilities. It is intended that the proposed works will be authorised by an order made under Section 14 of the Harbours Act 1964 (the 1964 Act).

### **Harbours Act 1964**

Where Scottish Ministers are notified of a proposed order which authorises a project, they are required in terms of paragraph 4 of Part 1 of Schedule 3 to the 1964 Act to decide:

- Whether that application relates to a project which is of a type specified in Annex I or Annex II to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment as amended (the EIA Directive); and
- If it relates to a project which is of a type specified in Annex II, whether taking into account the selection criteria, the project is a relevant project.

Ministers are also required to determine whether the project is likely to have a significant effect on a European site and, if so, whether an appropriate assessment is required in terms of regulation 48 of the Conservation (Natural Habitats & Etc) Regulation 1994.

Scottish Ministers have considered the characteristics of the project (as described and shown on the draft submitted plans and drawings) and have concluded that:

- This application relates to a project which is of a type specified in paragraph 10(e) of Annex II to the EIA Directive; and
- Having regard to the selection criteria, it is a relevant project in terms of Schedule 3 to the 1964 Act.

Accordingly, an EIA is required in terms of the 1964 Act.

## Scoping

The applicant has requested a pre-application scoping opinion under paragraph 3 of Schedule 3 to the 1964 Act. This letter comprises the requested scoping opinion.

This scoping opinion is provided on behalf of Scottish Ministers, who have consulted with the relevant environmental bodies about the extent of the information the applicant should supply. The applicant is asked to take into account the views provided by Aberdeenshire Council, NatureScot and the Scottish Environment Protection Agency (SEPA) outlined in **Annex A**.

## Conclusion

We trust that you will be able to address any further matters before submitting your formal application for a Harbour Revision Order. It would, of course, be open to the consulting bodies to object to this application for consent if they still have concerns when the application is submitted.

Please do not hesitate to contact me if you wish to discuss any aspect of this letter or the application process.

Yours sincerely



**Dario Dalla Costa**  
Ports Policy Advisor

**ABERDEENSHIRE COUNCIL****Consultation on Scoping opinion for proposed development at Fraserburgh Harbour****Erection of New South Breakwater, Extension of North Breakwater, Extension to Quayside, Erection of Dry Dock and Associated Pier, New Access Road, Security Gatehouse and Ancillary Works at Fraserburgh Harbour, Shore Street, Fraserburgh, Aberdeenshire, AB43 9BR**

Aberdeenshire Council as Local Planning authority has also received a scoping opinion for the development for which Fraserburgh Harbour Development Scoping Report No: 122 Rev1 dated 06/02/2025 has been submitted along with Habitats Regulation Assessment Screening Supporting Document Rev 1 dated 04 Feb 2025 and Fraserburgh Harbour Wintering Bird Surveys 2023/24 Rev 1 Dated 06 Feb 2025.

Within the Scoping report, it is stated that while Fraserburgh Harbour Commissioners (FHC) has the option to seek deemed planning permission through the Harbour Revision Order Process, in light of the nature and scale of the proposals, a planning application will be submitted to Aberdeenshire Council which will both necessitate and reinforce FHC's commitment to collaboration and local engagement. This is acknowledged and accepted by the Planning Authority.

The development falls under Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 in respect of subsections 1(e) and 10 (g). It is further acknowledged that no formal screening has been submitted for the project but having considered the characteristics, location, and potential impacts of the proposed Fraserburgh Harbour Development (as detailed under Schedule 3 of the aforementioned Regulations) that the developer has drawn the conclusion that the project will require an EIA. Given the resultant significant impacts of the development, the planning authority accept this position.

It is noted that you have sought comments on whether the development falls under Annex I or II of the Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 and also to confirm whether it is a relevant project. In response, this is a matter that is ultimately for Transport Scotland to determine. Notwithstanding this, Article 4 (2) ANNEX 2 part 1g refers to Reclamation of land from the sea and 10 e refers to infrastructure projects involving Construction of roads, harbours and port installations, including fishing harbours (projects not included in Annex I) which both apply to the project.

It is noted that you have also asked whether an ES should be provided by the applicant under the terms of the Directive, and if so, the extent of the information referred to in Annex IV to the Directive which the applicant should supply in the statement. Again this is a matter for Transport Scotland to determine. As stated above the planning authority accepts the developers conclusion that an EIA is necessary and in terms of the assessment of the environmental effects of the project, I can advise that as part of the scoping request received by Aberdeenshire Council, relevant consultations were undertaken on the scoping report to establish whether all relevant matters have been considered and will be addressed as part of any ES submitted in support of a formal planning application.

In summary, the Scoping report and accompanying documents are considered to be fairly comprehensive and the factors scoped in / out are largely accepted. However, there are additional factors which have been highlighted to the developers covering the following:

- Lighting requires to be scoped in which should consider the angle, direction and specified area(s) illuminated with regards to the installation of artificial light both during the construction phase and operational phase.
- Biodiversity Enhancement - Policy 3 of National Planning Framework 4 requires that, for all sites, measures are identified to enhance biodiversity in proportion to the opportunities available and the scale of the development.
- A methodology for assessing the significance of impacts cultural heritage assets is required
- SEPA has referred the developer to its standing advice and Pollution Prevention and Control (Scotland) Regulations 2012 and Water Environment (Controlled Activities) (Scotland) Regulations 2011.

I note that you have also requested a view as to whether the project is likely to have a significant effect on a European site and, if so, whether an appropriate assessment is likely to be required under regulation 48 of the Conservation (Natural Habitats, etc.) Regulations 1994. The HRA screening report (referred in paragraph1) concludes that there is insufficient evidence to be able to discount there being a likely significant effect on bottlenose dolphin, Atlantic salmon, sea lamprey, freshwater pearl mussel or 17 bird species that form qualifying interests of European Sites as a result of construction works associated with the development. Due to the potential ecological connectivity between the proposed development and the European sites it is considered that Appropriate Assessment will be required in relation to these sites.

This opinion will be held for public inspection for a two year period.

Should you wish to discuss any matters relating to this response please contact Lindsey Geddes at [lindsey.geddes@aberdeenshire.gov.uk](mailto:lindsey.geddes@aberdeenshire.gov.uk).

## NATURESCOT

- We consider that the proposal falls under Annex II of the EIA Directive 2011/92/EU of the European Parliament and is regarded as a relevant project.
- We consider that an Environmental Statement (referred to below as an EIA Report) should be provided by the applicant – please see our comments below on the EIA scoping report which indicates the information that should be contained in the statement.
- We consider that the proposal is likely to have a significant effect on one or more European site and that an appropriate assessment is likely to be required under regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 – please see our comments below on the Habitats Regulations Appraisal (HRA) screening supporting document.

### Proposal

The applicant is proposing improvements to the existing Fraserburgh Harbour and the construction of a new harbour immediately to the south, along with associated infrastructure. This is referred to collectively as the Fraserburgh Harbour Development (FHD). A single EIA scoping report has been produced for the FHD, alongside a HRA screening supporting document for the proposal.

The reports relate to the following components of the Fraserburgh Harbour Development:

- Existing harbour improvement works:
  - Extension to the ship lift facility
  - Relocation of the existing south breakwater box berth
  - Dredging and widening of the entrance of Faithlie Harbour
  - Dredging and widening of the entrance of Balaclava Harbour
  - Installation of more pontoons in Bruce's Jetty
  - Widening of the entrance to Middle Jetty and South Pier
  - Dredging the existing channel
- Creation of the New South Harbour (NSH):
  - Extension to the Balaclava breakwater i.e. new north breakwater
  - Installation of a new south breakwater
  - Dredging to create the NSH breakwater
  - Installation of a new dry dock
  - Land reclamation to provide multipurpose quayside space
  - Installation of an access road to NSH
  - Installation of services to NSH

These works will be subject to marine licencing, a Harbour Revision Order and planning consent. The EIA scoping report and HRA screening supporting document are to inform all three consenting regimes, noting that not all areas of the reports are relevant to all three consenting authorities.

We provide the following comments on the EIA scoping report and HRA screening supporting document which relate to areas of interest relevant to the remit of NatureScot.

## Protected areas

Within the EIA scoping report, protected areas - Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Marine Protected Areas (MPA), Ramsar sites, Sites of Special Scientific Interest (SSSIs) and Geological Conservation Review (GCR) sites – are considered in chapter 7 (soils and geology) and biodiversity chapters 12 – 16, depending on the specific interests of the sites.

The EIA scoping report notes where overlapping issues are discussed in other chapters. This is helpful and should be replicated in the EIA Report.

For the EIA scoping report, we agree with the list of protected areas that are considered to have potential ecological connectivity with the FHD, as shown in table 12.2.1, and potential impacts to be considered in the EIA Report.

The HRA screening supporting document considers potential connectivity between the proposal and qualifying interests of SACs and SPAs which may be affected by the proposal. We agree with the list of relevant qualifying interests scoped in:

- Atlantic salmon
- Sea lamprey and river lamprey
- Freshwater pearl mussel
- Bottlenose dolphin
- Harbour porpoise
- Bird species

These species are then considered in the context of each SAC or SPA to determine which sites should be screened in, i.e. taken forward for further assessment in line with the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994, known as the “Habitats Regulations”.

We agree with the list of nine SACs and their qualifying interests screened in, as shown in table 8.1 of the HRA screening supporting document.

For SPAs our guidance notes for offshore wind applications and connectivity with marine bird SPAs have been used to identify potential ecological connectivity with the proposal.

Specifically, 38 SPAs have been screened in where a qualifying interest species has been recorded in the area of Fraserburgh Harbour and the distance between Fraserburgh and the SPA is within the range of the species (as given in our guidance notes for breeding<sup>1</sup> and non-breeding<sup>2</sup> populations).

These guidance notes were developed to inform the assessment of offshore wind applications rather than coastal infrastructure proposals. The guidance notes are intended to establish connectivity between seabird colonies and key offshore foraging locations. We consider that harbours and coastal areas are generally not important foraging locations so the use of these guidance notes is not appropriate in the context of FHD. As such, the applicant may wish to reconsider the list of SPAs screened in for further assessment in the HRA process.

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<sup>1</sup> [Guidance Note 3: Guidance to support Offshore Wind applications: Marine Birds - Identifying theoretical connectivity with breeding site Special Protection Areas using breeding season foraging ranges.](#)

<sup>2</sup> [Guidance Note 4: Guidance to Support Offshore Wind Applications: Ornithology - Determining Connectivity of Marine Birds with Marine Special Protection Areas and Breeding Seabirds from Colony SPAs in the Non-Breeding Season.](#)

## **Protected species and biodiversity**

The EIA scoping report chapters 13 – 16 focus on biodiversity topics such as species groups or habitats, noting connections with the protected areas identified in chapter 12.

We agree with the EIA scoping report's identification of potential impacts arising from the construction and operational phases of the FHD and their potential effects on relevant species and habitats. Those scoped in will be taken forward for full discussion in the EIA Report. The EIA Report will need to include assessments specific to relevant protected areas as a result of impacts on the interests for which they are designated.

We note that the measures set out in the EIA scoping report's initial schedule of mitigation (appendix 1) will be carried forward to the EIA Report which will include additional measures determined through the assessment process. The Scottish Government's Fourth National Planning Framework (NPF4) sets out a requirement for developments to deliver positive effects for biodiversity, primarily under Policy 3. This requires that significant biodiversity enhancements are provided, in addition to any proposed mitigation. Further advice is available on our [website](#).

## **Seascape, landscape and visual**

We consider that the seascape, landscape and visual impacts of the proposal will be local in nature and as such we do not intend to comment further. Please note that this advice is given without prejudice to a full and detailed consideration of the impacts of the proposal if submitted for formal consultation as part of the EIA or consenting processes.

For further advice, please contact Shirley Reid at [shirley.reid@nature.scot](mailto:shirley.reid@nature.scot).

## SCOTTISH ENVIRONMENT PROTECTION AGENCY

### Advice for the planning authority

We have **no objection** to the proposed development; however, please note our regulatory advice provided below, as we strongly advise early discussions with the SEPA Regulatory team.

#### Flood risk

We have **no objection** on the basis of flood risk as we note that proposals are for reducing impacts of waves in the harbour and are therefore unlikely to increase risk elsewhere.

#### Other planning matters

For all other planning matters, please see our [triage framework and standing advice](#) which are available on our [website](#).

### Regulatory advice

#### Pollution Prevention and Control (Scotland) Regulations 2012

We note that Fraserburgh Harbour was initially issued with a Part A permit under the Pollution Prevention and Control (Scotland) Regulations 2000 (PPC/A/1023207) in 2008. Under the Transitional provisions within the Pollution Prevention and Control (Scotland) Regulations 2012, SEPA revoked the PPC Part A Permit and issued Fraserburgh Harbour with two separate licences (a Part B permit and a simple water use licence issued under the Water Environment (Controlled Activities) (Scotland) Regulations 2011).

Coating activities are now covered in the Part B permit (PPC/B/1116547) of the Pollution Prevention and Control (Scotland) Regulations 2012. This permit may need to be reviewed to update site plans; however, there are no known changes to the requirement on operators when spraying of vessels in Dry Dock shiplift or slipways.

This is covered in the Industrial Emissions Directive (UK Gov website) under Article 59(3) as follows "For coating activities covered by item 8 of the table in Part 2 of Annex VII [e.g. including coating of ships] which cannot be carried out under contained conditions, the competent authority may allow the emissions of the installation not to comply with the requirements set out in that paragraph if the operator demonstrates to the competent authority that such compliance is not technically and economically feasible and that the best available techniques are being used. As a result, there are unlikely to be any concerns as far as air emissions are concerned as the permit will extend the existing control measures to cover the additional areas of activity.

As a Part B permit there are no requirements for any site or baseline surveys, however the Harbour should discuss any site extension proposals with SEPA as there are a defined set of criteria SEPA must apply to variations involving Solvent emission sites which will determine if the variation is substantial and therefore require advertisement and statutory consultation. Please contact [ppcpermitting@sepa.org.uk](mailto:ppcpermitting@sepa.org.uk) to discuss this further.

#### Water Environment (Controlled Activities) (Scotland) Regulations 2011

Regarding the multi discharge single licence issued in 20/12/2013 under the Water Environment (Controlled Activities) (Scotland) Regulations 2011, this licence covered the matters from the legacy PPC Part A permit and contained technical measures for dealing with the discharge of water from coating removal from Certified (TBT free) and non-certified (Potentially TBT coated)



vessels to speed up processing of vessels through the port and to reduce the cost to ship owners of the unnecessary testing and disposal of uncontaminated waters.

The CAR licence (CAR/S/1116546) may need reviewing to determine if the technical measures applied are still valid and that the discharge volumes, emission standards and points of entry into the harbour are still valid. These are potential issues, as a new discharge point may constitute a new discharge. Due to the multiple activities involved, we would strongly advise early pre-application discussions with the SEPA Water Permitting team at [waterpermitting@sepa.org.uk](mailto:waterpermitting@sepa.org.uk).

If you have queries relating to this advice, please contact us at [planning.north@sepa.org.uk](mailto:planning.north@sepa.org.uk) including our reference number (PCS-20004575) in the email subject.

## **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](#).