



**Item: 9**

**Planning Committee: 25 March 2026.**

**Proposed Erection of Causeway to Facilitate Mooring of Temporary Floating Pier or Barge near Eday Ferry Terminal, Eday.**

**Report by Director of Infrastructure and Organisational Development.**

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## **1. Overview**

- 1.1. This report considers an application for a works licence for the erection of a causeway, comprising rock-fill core bund and in-fill, with concrete bankseat, to facilitate the mooring of a temporary floating pier or barge near Eday Ferry Terminal, Eday. Six representations (objections) have been received. The development complies with relevant requirements of the Orkney County Council Act 1974, and objections and other considerations do not merit refusal of the application.

Application Reference:	26/012/WL.
Application Type:	Works Licence.
Proposal:	Erect a causeway comprising rock-fill core bund and in-fill, with concrete bankseat, to facilitate the mooring of a temporary floating pier or barge (resubmission of 25/303/WL).
Applicant:	Neven Point Wind Ltd.
Agent:	Not applicable.

- 1.2. All application documents (including plans, consultation responses and valid representations) are available for members to view [here](#) (click on “Accept and Search” to confirm the Disclaimer and Copyright document has been read and understood, and then enter the application number given above).

## 2. Recommendation

- 2.1. It is recommended that members of the Committee:
- i. Grant the application for works licence in respect of the proposal to erect a causeway, comprising rock-fill core bund and in-fill, with a concrete bankseat, to facilitate the mooring of a temporary floating pier or barge (resubmission of 25/303/WL) near Eday Ferry Terminal, Eday, subject to the conditions detailed in Appendix 1 to this report.

## 3. Consultations

### Development and Marine Planning – Marine

- 3.1. “It should be noted that comments made here may pertain to documents submitted for this development through the Planning Application (25/302/PPMAJ), in relation to details in the EIAR on Commercial Fishing, Benthic Impacts and Biodiversity Enhancement.

Coastal Development: As detailed in the Planning Statement submitted for this Works Licence and planning application (26/012/WL, 25/302/PPMAJ), the principle of the proposed development location is considered to be supported by the relevant policy provisions in NPF4 Policy 10 and OLDP Policy 12. It is noted that the proposed development location is not within a vulnerable area for coastal erosion identified in Dynamic Coast. That said, clarification should be [sought] from OIC Engineering that the requirements of NPF4 Policy 10 b) ii. and iii. can be met.

Orkney Islands Regional Marine Plan (OIRMP): It should be noted that Orkney Islands Council (OIC) has prepared the Orkney Islands Regional Marine Plan (OIRMP). Subject to approval by Scottish Ministers, the OIRMP is scheduled to be adopted in February 2026. It is welcomed that the OIRMP has been acknowledged in this application.

Navigation and harbour operations: It is welcome that consultation has already taken place with the Harbour Authority. It is noted that the proposed development location was selected to avoid disruption to the arrival, berthing and departure of the vehicular ferry which berths at the linkspan on the west of the existing pier.

As the operation is taking place within the statutory Harbour Area, the applicant should continue to consult with Harbour Authority and should consult Orkney Ferries to ensure no/minimal disruption to their operations and navigational safety. The navigation risk assessment document clearly considers the potential impacts on other marine users.

Commercial fishing: The EIA does not include sufficient information to demonstrate how the applicant has avoided, minimised or appropriately mitigated, impacts on the economic, and where appropriate, cultural importance of fishing, in particular to fragile island communities, in alignment with National Marine Plan Fisheries Policy 2 and OIRMP Sector Policy 1.

Specifically, it is not clear what consultation has taken place with potential affected fishers. To determine that any potential issues have been appropriately addressed, the developer should consult with the Orkney Fisheries Association and the Orkney Regional Inshore Fishery Group to ensure minimal disruption to fishers' activities.

Benthic Impacts: It is welcome that the developer has assessed the Priority Marine Features in the local area within Chapter 8 and that a CEMP will be produced for approval by NatureScot (and OIC) prior to works commencing. Information is lacking on where the floating pier will be moved to, in the event of forecasted weather exceeding operational limits as stated in section 3.5.17 in Chapter 3. Further information should be provided on where the floating pier would be relocated to, with due consideration to any PMFs to avoid, minimise and mitigate any significant adverse impacts on benthic PMFs. OIRMP General Policy 9d is relevant.

Biodiversity enhancement: It is welcome that the applicant has proposed measures for biodiversity enhancement in line with NPF4 under Policy 3. Policy Gen 9 Natural Heritage (c) of the National Marine Plan and OIRMP General Policy 9b, should also be considered by the developer, for biodiversity enhancement opportunities within the forthcoming Biodiversity Enhancement and Management Plan (BEMP). To secure marine related enhancement opportunities, the BEMP should include design details of habitat features to maximise ecological niches within the rock armour of the landing point, and where appropriate, include the use of eco-blocks (as detailed in EIAR Chapter 8).”

### **Marine Services**

- 3.2. Response received confirming no comment in respect of the proposal.

### **NatureScot**

- 3.3. “There are natural heritage interests of national importance on the site, but in our view, these will not be adversely affected by the proposal.

## Background

We provided detailed advice to the applicant on 19 February 2025, including the need for consideration and assessment of potential impacts on a number of designated sites. We also assessed potential impacts on priority marine features (PMF), concluding that there was no significant risk of impacting the national status of PMF.

## Appraisal of the impacts of the proposal and advice

Based on the information provided and assessments already carried out, we conclude that there will be no likely significant effect on any Special Protection Areas (SPA) or Special Areas of Conservation (SAC), with the exception of North Orkney SPA, which is appraised below.

## North Orkney SPA

The proposal could affect North Orkney Special Protection Area (SPA) protected for its great northern diver (non-breeding), red-throated diver (breeding), Slavonian grebe (non-breeding) and velvet scoter (non-breeding).

The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the 'Habitats Regulations') apply or, for reserved matters, The Conservation of Habitats and Species Regulations 2017. Consequently, Orkney Islands Council is required to consider the effect of the proposal on the SPA before it can be consented (commonly known as Habitats Regulations Appraisal). The NatureScot website has a summary of the legislative requirements (The Habitats Directive and Habitats Regulations).

Our advice is that this proposal is likely to have a significant effect on the qualifying interests of North Orkney SPA. Consequently, Orkney Islands Council, as competent authority, is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests.

To help you do this we advise that based on the appraisal carried out to date, our conclusion is that the proposal will not adversely affect the integrity of the site. The appraisal we carried out considered the impact of the proposals on the following factors:

- Vessels transiting between Kirkwall and the development, during the construction phases of the pier and the wind farm, will travel through North Orkney SPA, having the potential to disturb and displace SPA birds.
- The transit route is in an area with existing high levels of marine traffic, so degrees of displacement or habituation will already exist.

- Increased boat traffic associated with the development will be temporary (operational phase of the pier being over two summers and one winter).”

## 4. Representations

4.1. Six valid representations (objections) have been received from:

- Margaret Bremner, Coastahead, Eday, KW17 2AA.
- Walter J Cormack, Sties, Eday, KW17 2AA.
- Eday Estate, c/o Caroline Webster and Henrietta Joy, Hebden Cottage, Eday, KW17 2AB.
- Alan Kelly, Galtyha, Eday, KW17 2AA.
- Claire Stevens, 2 Hammarhill, Eday, KW17 2AB.
- Mr and Mrs Sylvetser, Stenaquoy, Eday, KW17 2AA.

4.2. Representations are on the following grounds:

- Unclear tidal, weather, and contingency arrangements.
- Risk to navigation, harbour operations, and lifeline ferry service.
- Impact on island access and essential services.
- Construction phase impacts.
- Application appears premature and materially similar to a previously refused scheme.
- No decommissioning, maintenance, or financial security arrangements provided.
- Potential safety and regulatory concerns.

4.3. Representations also include comments on technical points including the accuracy, certainty and clarity of the submission, and provision of technical documentation, and procedural points including that the development is of similar nature to a previous application and queries regarding land and foreshore rights. These matters are mainly procedural in terms of the technical competency of the application process, not matters key to the assessment of effects of the proposed development.

## 5. Relevant Planning History

### 5.1. Previous submissions.

Reference	Proposal	Location	Decision	Date
25/303/WL.	Erect a causeway comprising rock-fill core bund and in-fill, with concrete bankseat, to facilitate the mooring of a temporary floating pier or barge.	Eday Ferry Terminal, Eday.	Deemed refusal.	12.01.26.
25/302/PPMAJ.	Erect a causeway comprising rock-fill core bund and in-fill, with concrete bankseat, to facilitate the mooring of a temporary floating pier or barge.	Eday Ferry Terminal, Eday.	Pending Consideration.	
PRESCR/001/25.	Proposal of Application Notice to construct a causeway/stub pier with a temporary ramp and floating pontoon.	Eday Ferry Terminal (Adjacent To East), Eday.	Closed.	02.08.25.

## **6. Legislative Position**

- 6.1. The Orkney County Council Act 1974 (“the Act”) authorises Orkney Islands Council to exercise harbour jurisdiction and powers in respect of development, including power to licence the construction of works and dredging in certain areas, i.e. licensing works within the harbour authority area.
- 6.2. Under the provisions of Section 11 of the Act, subject to terms and conditions as required, the Council may grant to any person a licence to construct, place, maintain, alter, renew or extend any works on, under or over tidal waters or tidal lands below the level of high water in a harbour area.
- 6.3. In deciding whether to grant a licence, or the terms and conditions to be included in a licence, the Council must take into consideration any valid objection. Critical to consideration of a Works Licence application, is that the licence must not damage or injuriously affect submarine electricity cables or gas works, or interfere with or adversely affect the operation of any such cable work.

### **Conservation (Natural Habitats, &c.) Regulations 1994**

- 6.4. As competent authority, the Council must consider whether any plan or project would have a ‘likely significant effect’ on a European site (Special Protection Area or Special Area of Conservation) before it can be consented, and if so carry out an Appropriate Assessment. That process is known as Habitats Regulations Appraisal (HRA). In considering likely significant effects alone or in combination, revised Circular 6/1995 advises that HRA can be based on the information submitted in support of the application and informed by the appraisal of the appropriate statutory nature conservation body, in this case NatureScot.

## **7. Assessment**

### **Background**

- 7.1. As noted in section 1 above, a works licence is sought for the erection of a causeway comprising rock-fill core bund and in-fill, with concrete bankseat, to facilitate the mooring of a temporary floating pier or barge, as indicated in the Location Plan attached as Appendix 2 to this report. By explanation, the ‘causeway’ described would be constructed on the shoreline, projecting into the sea. A floating pier or barge would be fixed to this causeway, further projecting into the sea and fixed by moorings. The dimensions of this floating pier or barge are shown in submitted drawings. This floating pier or barge would facilitate vessels temporarily moored against it, for the delivery of goods.

- 7.2. Application 25/303/WL was submitted previously for a matching development. Section 11(5) of the Act specifies that if within three months of the date of application, a works licence has not been granted, the application is deemed to be refused. There is no mechanism for extension. Three months elapsed without a decision, principally due to timescales for receipt of consultation responses. Accordingly, that application was subject to a deemed refusal and hence the current application is a resubmission.
- 7.3. In some cases, development subject to an application for works licence will also be subject to an application for planning permission. Each application must be considered independently, without prejudice to consideration of the other. Accordingly, the works licence and planning application processes may be in sequence or simultaneously. In this instance, planning application reference 25/302/PPMAJ was submitted prior to this current works licence application; however, the planning application is not yet determined. Both applications must be approved for the development to be implemented. In this context, whilst the applications are separate, some matters are more appropriately considered in relation to the planning application, which is accompanied by an environmental impact assessment.

### **Navigation**

- 7.4. Some objections include concerns regarding impact on navigation, in terms of the development and its proposed position, or in storm events in terms of vessel movements around the existing pier. Marine Services, as the Harbour Authority, has confirmed no objection. This is in relation to the operation of the harbour authority area, including consideration of navigational impacts.
- 7.5. Development and Marine Planning has confirmed no objection, noting a recommendation that the applicant maintain contact with the Harbour Authority and should consult Orkney Ferries to minimise any disruption to ferry operations and navigational safety.

### **Natural Heritage**

- 7.6. The potential impacts on designated sites, including North Orkney Special Protection Area (SPA) were raised through consultation. NatureScot has advised that the proposal is likely to have a significant effect on the qualifying interests of North Orkney SPA, and concluded, following appraisal, that the proposal would not adversely affect the integrity of the site. In reaching this view, NatureScot considered the potential disturbance and displacement of SPA bird species, arising from vessel movements associated with the development in the context of existing

high levels of marine traffic in the area and the temporary nature of the increased activity.

- 7.7. In terms of potential impact on a European site, the Council, as competent authority under the Habitats Regulations, is required to undertake an Appropriate Assessment in view of the likely significant effect identified. The Council's Habitats Regulations Appraisal is attached as Appendix 3 to this report. Having had regard to the advice of NatureScot and the conservation objectives of the North Orkney SPA, the Appropriate Assessment concludes that the proposal would not adversely affect the integrity of the designated site.

### **Consultee Comments**

- 7.8. Further comments are submitted by Development and Marine Planning in relation to commercial fishing, benthic impacts, and biodiversity enhancement. Those matters would be adequately considered under the assessment of the planning application, which is accompanied by an Environmental Impact Assessment, and should the planning application be approved adequate mitigation could be secured. As noted above, the development cannot be implemented without approval of both works licence and planning permission.

### **Objections and Technical Clarifications**

- 7.9. Representations received included comments on compliance with publication requirements for the application. As required by Section 11(c) of the Act, a notice was published in The Orcadian on 28 January 2026, advising of the timescale and method for persons to object in writing to the application.
- 7.10. Some content of representations received suggests some lack of clarity and the difference between a works licence and a planning application. It is critical to note that this current application is an application for works licence under the provisions of the Orkney County Council Act 1974 'to construct, place, maintain, alter, renew, or extend any works on, under or over tidal waters or tidal lands below the level of high water in a harbour area'; a planning application as submitted in relation to the Town and Country Planning (Scotland) Act 1997, as amended, and includes an assessment of policies of the local development plan and other material planning considerations. On this basis, it differs from consideration of an application for works licence.
- 7.11. Representations include comments regarding perceived inconsistencies or lack of clarity, particularly in relation to the full development design and resultant seabed disturbance. This principally relates to the proposal description of a 'temporary

floating pier or barge' and the fact that there is no finalised design for this temporary structure, that would be fixed temporarily to the causeway. However, the submitted drawing provides a design envelope within which the temporary floating pier or barge would be designed, and this would be subject to condition. As confirmed above, this temporary structure is also subject to planning application assessment, and the associated assessment of environmental effects is included in environmental impact assessment.

- 7.12. In terms of Section 11(2) of the Act, an application for works licence must “specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted”. The original submission of the application included an acknowledgement of this requirement of the Act, on the basis the land rights are not currently secured and therefore setting out the action taken to enable the applicant to obtain such rights if the licence is granted. Specifically, it was stated that the applicant “has identified and engaged with the additional landowners”. In this context, it is critical to note that there is no requirement for those rights to be obtained prior to a works licence being granted; the rights would be necessary to ‘benefit from’ or implement the works.
- 7.13. Several representations include statements that land and foreshore rights have not been demonstrated, at the time of application submission. This is not disputed, by the applicant or in terms of process being followed, and the applicant has repeated the terms of the Act, that if land rights are not in place the developer must specify ‘the action taken to enable him to obtain such rights’. In response, the applicant has provided a further statement and confirmed an intention to “engage with any additional landowners pertaining to the proposed development to put in place the necessary land agreements”. This is considered sufficient in relation to Section 11(2) of the Act. It would thereafter be a matter for the developer to complete any legal requirements adequately, should the works licence be granted. Notwithstanding representations, there is no requirement to conclude the process of obtaining legal rights ahead of granting a licence, and Section 11(2) requires a statement at the stage of submission of an application, not a legal situation to be reached or achieved in relation to a decision.
- 7.14. Other matters are raised that are procedural in terms of the processing of the application or matters that would be addressed by the separate application for planning permission, with accompanying environmental impact assessment.

## 8. Conclusion

- 8.1. The proposed development meets the requirements of Section 11 of the Act. Harbour Authority interests including navigation would be adequately protected. The development would not adversely affect the integrity of the European site. There are no relevant considerations, including those raised in representations, that would outweigh a conclusion to grant the works licence, and the development is considered acceptable subject to conditions.

### For Further Information please contact:

Isla McLeod, Graduate Planner (Development Management), [isla.mcleod@orkney.gov.uk](mailto:isla.mcleod@orkney.gov.uk)

### Implications of Report

1. **Financial:** None.
2. **Legal:** Detailed in section 6 above, except to note that under Section 13 of the Act, any person who has made a valid objection and who is aggrieved by a decision to grant a works licence has a third-party right of appeal to Scottish Ministers.
3. **Corporate Governance:** In accordance with the Scheme of Administration, determination of this application is delegated to the Planning Committee.
4. **Human Resources:** None.
5. **Equalities:** Not relevant.
6. **Island Communities Impact:** Not relevant.
7. **Links to Council Plan:** Not relevant.
8. **Links to Local Outcomes Improvement Plan:** Not relevant.
9. **Environmental and Climate Risk:** None.
10. **Risk:** If members are minded to refuse the works licence application, it is imperative that clear reasons are given for doing so. Failure to do so may impact upon any appeal to Scottish Ministers. In addition, an award of costs may be made against the Council if its decision to refuse is considered wholly unreasonable.
11. **Procurement:** None.
12. **Health and Safety:** None.
13. **Property and Assets:** None.
14. **Information Technology:** None.
15. **Cost of Living:** None.

### Appendices

Appendix 1 – Conditions.

Appendix 2 – Location Plan.

Appendix 3 – Habitats Regulations Appraisal.

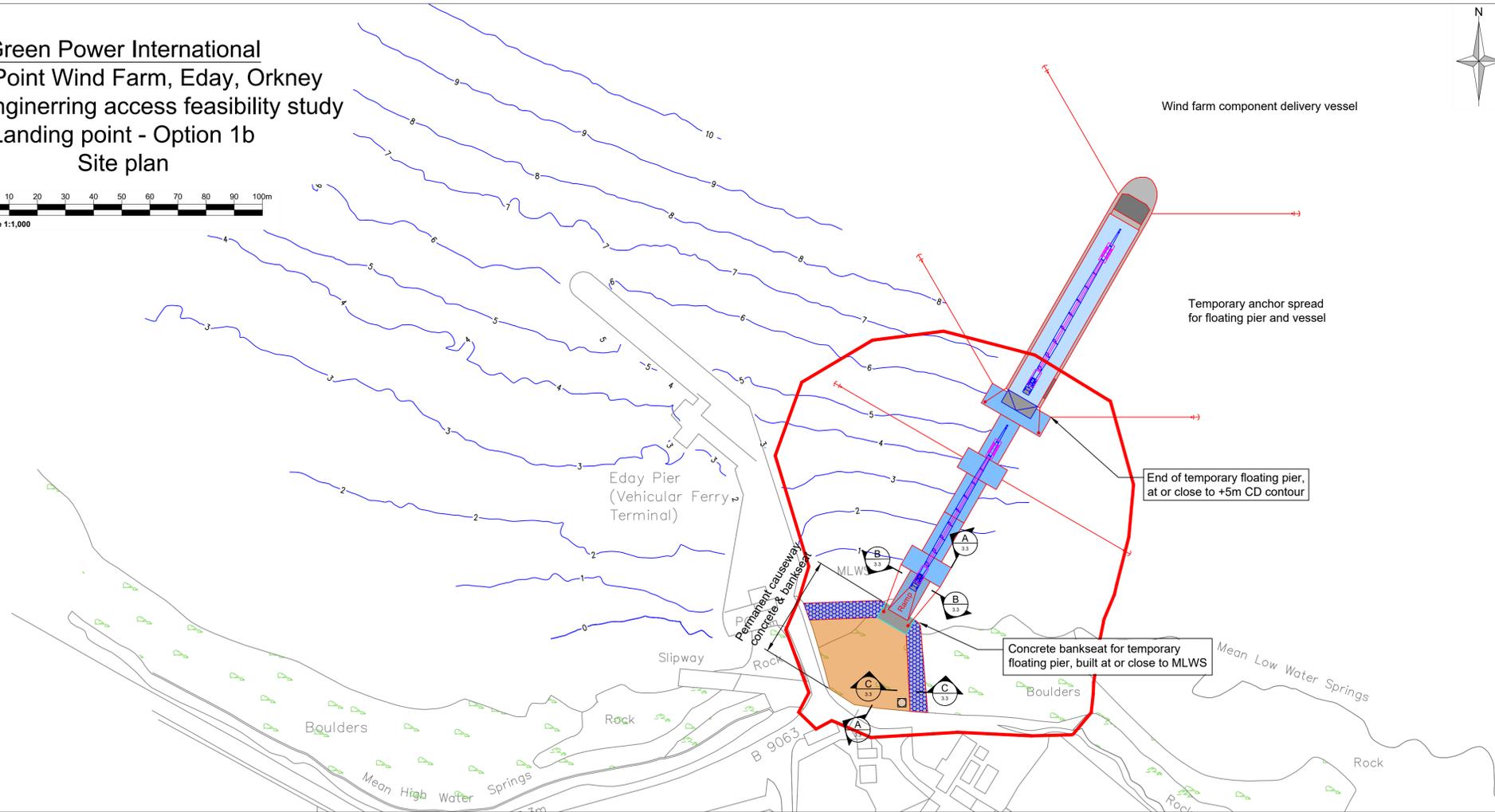
## **Appendix 1.**

01. Any shipping activity within the Orkney Harbour Area must be conducted within the requirements of the Orkney Pilotage Direction 1988 as amended 2007, 2010 and 2016. Vessels over 80m in length associated with the works will require a Pilot unless alternative arrangements to the satisfaction of the competent authority (for pilotage) are agreed following appropriate risk assessment.
02. Harbour dues may be payable for all operations within the Harbour Area.
03. During any works within the Harbour Area and its approaches, protocols, to be agreed, shall be followed with regards to communications and warnings with Orkney Vessel Traffic Services (VTS).
04. All construction vessel traffic near the approaches to the Harbour Authority area shall inform Vessel Traffic Services (VTS) of their intentions, and their exclusion zones shall not interfere with the movement of shipping to and from Orkney Harbours areas.
05. The applicant shall give to the Council not less than 21 days' notice in writing of their intention to commence works and shall comply with any requirement as respect the works imposed by the Council in the interests of safety or the orderly management of the planning of the Harbour Area in which the works are situated.
06. The works to which this licence relates shall be maintained in good repair at all times.
07. The applicant shall permit duly authorised officers of the Council to inspect the works to which this licence relates at all reasonable times for the purpose of ensuring that there is compliance with the terms of this licence.
08. The Council reserves the right to review and amend the terms and conditions upon which this licence is granted by giving to the applicant three months' notice in writing expiring at any time.
09. This licence shall remain the property of the Council at all times and the applicant shall if called upon to do so in writing by the Council deliver the licence to the Council forthwith. The applicant shall retain the licence in a safe place and shall not cause or permit the licence to be lost, damaged, defaced, mutilated or destroyed in any way.
10. In construing these presents unless the context otherwise requires:
  1. Wherein any obligation is to be undertaken by more than one person the Council has the right to take any action in relation to this licence against any one of these persons who will be liable for the full extent of the obligation and not just for a share of the obligations under this licence.
  2. Words importing the singular in number shall include the plural in number and vice versa.
  3. Words importing the masculine gender shall include the feminine gender and vice versa, and

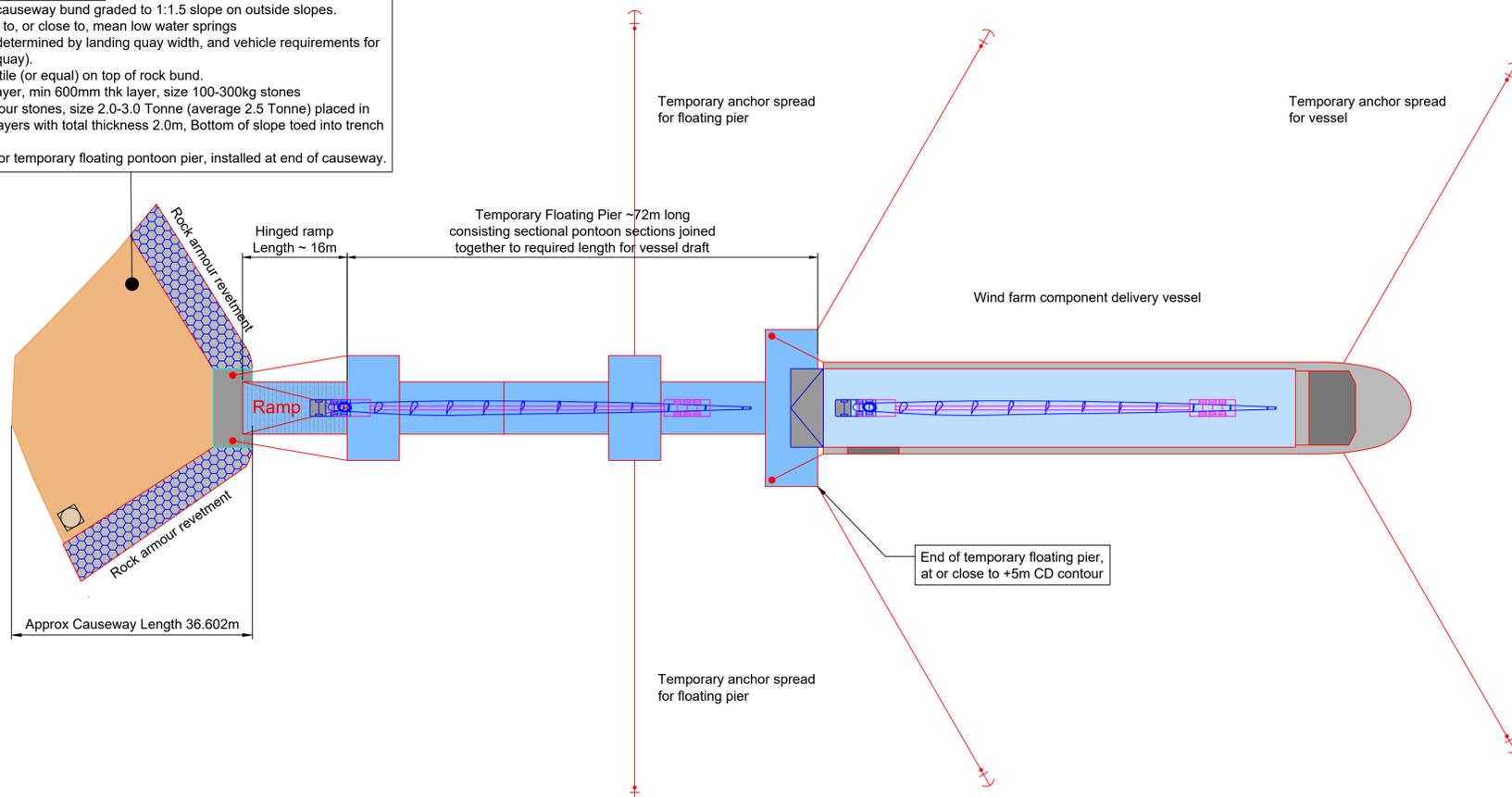
4. Any notice requiring to be given in writing shall be deemed to be effected 48 hours after despatch by First Class posted mail sent, in the case of the applicant, to the address stated in this licence and, in the case of the Council to the Council's principal offices.

11. No works shall commence until a detailed specification of the pontoon / barge has been submitted to and approved, in writing, by the Planning Authority. Thereafter, the works and design shall be wholly in accordance with these approved details.

Green Power International  
 Never Point Wind Farm, Eday, Orkney  
 Marine engineering access feasibility study  
 Landing point - Option 1b  
 Site plan



**Permanent causeway and bankseat**  
 Fragmented rockfill causeway bund graded to 1:1.5 slope on outside slopes. Causeway taken out to, or close to, mean low water springs (width of causeway determined by landing quay width, and vehicle requirements for access to and from quay).  
 Terram 2000 geotextile (or equal) on top of rock bund.  
 Secondary armour layer, min 600mm thk layer, size 100-300kg stones  
 Primary layer of armour stones, size 2.0-3.0 Tonne (average 2.5 Tonne) placed in double interlocking layers with total thickness 2.0m, Bottom of slope toed into trench dug in seabed.  
 Concrete bankseat for temporary floating pontoon pier, installed at end of causeway.



Landing Point - Option 1b floating pier option schematic layout



- Notes:**
- Details shown have been provided by Arch Henderson. Drawing ref 222038-11. Dated August 2022.
  - All dimensions are in millimetres UNO.
  - All levels are in metres relative to chart datum UNO. (OD = +1.64m CD).
  - All general arrangement details are indicative and for discussion only. Details are subject to change pending confirmation of client information and requirements.
  - This figure is to be read in conjunction with figure 3.2.
  - Bathymetric survey data provided by 'Triscom LTD' survey carried out Nov 2022 (ref:12203).
  - Topographical survey data provided by 'Survey & CAD Services', Orkney, survey carried out Oct 2024

Chart Datum (Eday)	Ordnance Datum (Newlyn)	Quay heights and tide data Eday
+5.00m	+3.36m	Quay Edge Level (Eday-Approx)
+3.60m	+1.96m	MHWS Tides (TBC)
+1.64m	0.00m	Ordnance Datum (Newlyn)
+0.30m	-1.34m	MLWS Tides (TBC)
0.00m	-1.64m	Chart Datum (Eday)
-5.00m	-6.64m	
-10.00m	-11.64m	

PO	Initial Issue	24/06/25	LB	EQ
Rev	Amendments	Date	By	Chk Auth



Client: GreenPower (International) Ltd  
 Project: Neven Point Pier\_ EIA

Figure Title: Landing Point Site Layout - Causeway with Floating Pontoon / Barge

Scale: As shown	@ A1	SLR Project No: 405.065664.00001
Designed: N/A	Drawn: LB	Checked: EQ
Date: N/A	Date: 24/06/2025	Date: 24/06/2025

Figure Number: **Figure 1.2** Rev: **P0**

**Works Licence for Eday Ferry Terminal (Land Near), Eday, Orkney****PLANNING REFERENCE: 26/012/WL****CONSIDERATION OF PROPOSALS AFFECTING EUROPEAN SITES**

The proposed site lies within the North Orkney Special Protection Area (SPA) designated for its Great Northern diver (non-breeding), Red-throated diver (breeding), Slavonian Grebe (non-breeding), and Velvet Scoter (non-breeding).

The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") or, for reserved matters, The Conservation of Habitats and Species Regulations 2017 apply. Consequently, Orkney Islands Council ("the Council") is required to consider the effect of the proposal for Eday Ferry Terminal (Land Near) in the North Orkney SPA before it can be consented (commonly known as Habitats Regulations Appraisal).

This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a Natura 2000 site, is that it is likely to have a significant effect on that site, the Council must undertake an appropriate assessment of the implications for the conservation interests for which the area has been designated. The need for appropriate assessment extends to plans or projects outwith the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as a competent authority, has a duty to:

- determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then
- make an appropriate assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not adversely affect the integrity of the site(s). If this is not the case, and there are no alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required.

In their response to the Council, NatureScot has provided an appraisal of the impact that the proposal is likely to have on the North SPA.

North Orkney Special Protection Area (SPA)

Qualifying Habitats:

1. To ensure that the qualifying features of the North Orkney SPA are in favourable condition and make an appropriate contribution to achieving Favourable Conservation Status.
2. To ensure that the integrity of the North Orkney SPA is maintained in the context of environmental changes by meeting objectives 2a, 2b and 2c for each qualifying feature:
  - a) The populations of qualifying features are viable components of the site.
  - b) The distribution of the qualifying features is maintained throughout the site by avoiding significant disturbance of the species.
  - c) The supporting habitats and processes relevant to qualifying features and their prey/food resources are maintained.

#### Qualifying Interests:

- Vessels transiting between Kirkwall and the development, during the construction phases of the pier and the wind farm, will travel through North Orkney SPA, having the potential to disturb and displace SPA birds.
- During construction phase of pier, there will be an estimated 24 vessel movements between Kirkwall and Eday over 17 weeks, at 1-2 per week. This represents a 1.3% increase in vessel movements through the summer construction period (Environmental Report).
- The operational phase (two summers and one winter) is expected to equate to roughly 14% and 6% increase in marine traffic baseline levels in the vicinity of Kirkwall during winter and summer periods respectively (Environmental Report).
- The transit route is in an area with existing high levels of marine traffic, so degrees of displacement or habituation will already exist.
- Increased boat traffic associated with the development will be temporary (operational phase of the pier being over two summers and one winter).

#### Protected Species

Nature Scot fulfils its advisory role on protected species through the provision of standing advice and does not expect to be consulted other than in exceptional circumstances not covered by the relevant standing advice available at planning and development: protected animals and Protected Species: birds.

#### Assessment

Whilst the responsibility to carry out the Appropriate Assessment rests with the Council. Advice contained within Circular 6/1995 is that the assessment can be based on the information submitted from other agencies, and in this case, the Appropriate Assessment is informed by information provided by NatureScot.

Advice from NatureScot indicates that this proposal is likely to have a significant effect on the features of North Orkney SPA. Consequently, the Council, as the competent authority, is required to carry out an Appropriate Assessment in view of the conservation objectives of the site for the qualifying interest.

The identified impact pathway is the disturbance and potential displacement of SPA-qualifying species arising from increased vessel movements. In considering the implications for site integrity, the Council has assessed whether the proposal would

undermine the conservation objectives of the SPA. Having regard to the scale, duration and temporary nature of the proposal, and taking account of existing baseline marine activity within the area, it is not considered that the level of additional activity would result in disturbance of such magnitude, frequency or duration as to undermine these objectives.

There is no evidence to suggest that the proposal would adversely affect population viability, result in long-term displacement from the SPA, or compromise the supporting habitat or prey resources upon which the qualifying species depend.

Accordingly, the Council is satisfied that the proposal will not adversely affect the integrity of the North Orkney SPA.

### **Conclusion**

Based on this Appropriate Assessment and in compliance with legislation, it is concluded that the proposal will not adversely affect the integrity of the North Orkney SPA, or the protected species and breeding bird assemblages within. This is based on the above noted factors and upon the developer instigating the proposed means of mitigation fully.