

## **Item: 8**

**Policy and Resources Committee: 21 December 2021.**

**Orkney Harbours Masterplan Phase 1.**

**Proposed Governance Arrangements.**

**Report by Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.**

### **1. Purpose of Report**

To consider specific governance arrangements with regard to progressing elements of the Orkney Harbours Masterplan Phase 1.

### **2. Recommendations**

The Committee is invited to note:

#### **2.1.**

That interest in the proposed Scapa Deep Water Quay and Hatston Pier extension projects contained within the Orkney Harbours Masterplan Phase 1 has remained at a high level since applications were submitted to Crown Estate Scotland's ScotWind seabed leasing round by potential developers in July 2021.

#### **2.2.**

That Crown Estate Scotland is due to announce preferred developers for the ScotWind off-shore wind seabed leases in mid to late January 2022.

#### **2.3.**

That, as a result of the announcement by Crown Estate Scotland, due in January 2022, as well as continued and further strong interest from a number of the applicants for seabed leases, the Harbour Authority is expecting a number of approaches from potential developers seeking to enter into discussions and negotiations for use of the proposed facilities at Scapa Deep Water Quay, Hatston Pier, Scapa Flow and Lyness.

#### **2.4.**

The proposal that, to ensure the Council and the wider Orkney community do not miss out on opportunities that will arise from the preferred developer/s' announcement due by Crown Estate Scotland in January 2022, a negotiating team be established, together with delegation to authorise and conclude the necessary agreements.

**It is recommended:**

## **2.5.**

That a negotiating team, comprising the undernoted officers, be established to negotiate Heads of Terms and/or other commercial agreements that may result from the preferred developer contacts and/or negotiations arising from the announcement of Crown Estate Scotland's ScotWind seabed leasing due in January 2022:

- Interim Chief Executive.
- Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.
- Head of Legal Services.
- Interim Head of Finance.
- Head of Marine Services, Transportation and Harbour Master.
- Any other officers that the negotiating team nominate.

## **2.6.**

That powers be delegated to the Chief Executive, in consultation with the undernoted Members, to authorise and conclude any Heads of Terms, commercial or other agreements associated with the proposed developments contained within the Orkney Harbours Masterplan Phase 1, as well as any developments associated with Crown Estate Scotland's ScotWind sea-bed leasing rounds, for the period 1 January to 31 December 2022 inclusive:

- Leader.
- Depute Leader.
- Chair, Development and Infrastructure Committee.
- Vice Chair, Development and Infrastructure Committee.

## **3. Background**

### **3.1.**

The Orkney Harbours Masterplan Phase 1, which was approved by the Council in April 2020, includes proposed developments and/or works at Scapa Deep Water Quay, Hatston, Kirkwall Pier, Stromness and Lyness

### **3.2.**

In June 2020, reports were submitted to the Harbour Authority Sub-committee, the Development and Infrastructure Committee and the Policy and Resources Committee regarding the proposed Scapa Deep Water Quay and the proposed extension and seabed reclamation at Hatston Pier. This resulted in the proposed projects progressing through Stage 1 of the Capital Project Appraisal process, with funding allocated in respect of carrying out further studies, investigations and preparing all the necessary documentation required to produce the Stage 2 Capital Project Appraisals.

### **3.3.**

On 23 November 2021, the Policy and Resources Committee recommended approval of the Stage 2 Capital Project Appraisal in respect of Phase 1 of the seabed reclamation at Hatston Pier.

### **3.4.**

There have been a number of seminars throughout 2020 and 2021 to inform and update Members with regard to commercial interest being shown in the Scapa Flow Deep Water Quay and Hatston projects in particular, by potential developers for the ScotWind off-shore wind sea-bed leasing round being led by Crown Estate Scotland (CES). By default this leads to interest in using the anchorage areas in Scapa Flow, Lyness and Stromness.

### **3.5.**

Sea-bed lease applications by potential developers were submitted to CES by July 2021, at which time the Council had a relatively large number of Memorandum of Understandings with potential developers. The interest in Scapa Flow, Scapa Deep Water Quay, Lyness, Stromness and Hatston has remained high since July 2021, with a number of visits and meetings with a number of these potential developers.

### **3.6.**

CES is due to announce preferred developers for the ScotWind sea-bed leasing exercise in mid to late January 2022.

## **4. Proposed Delegated Authority**

### **4.1.**

As a result of the announcement by CES due in January 2022, together with continue and further strong interest from a number of the applicants for seabed leases, the Harbour Authority is expecting a number of approaches to start discussions and negotiations for use of the facilities at the proposed Scapa Deep Water Quay, Hatston Pier and existing facilities at Lyness.

### **4.2.**

On 3 November 2021, the Senior Management Team (SMT) considered a report regarding the formation of a negotiating team in order that the Council and the wider Orkney community do not miss out on opportunities that will arise from the preferred developer/s' announcement due by CES in January 2022. Due to the complexity and possible number of preferred developer contacts and negotiations likely to be received, it is proposed that a negotiating team is set up specifically for this purpose, comprising the following officers:

- Interim Chief Executive.
- Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.

- Head of Legal Services.
- Interim Head of Finance.
- Head of Marine Services, Transportation and Harbour Master.
- Any other officials that the negotiating team nominate.

#### **4.3.**

The negotiating team would negotiate any Heads of Terms, commercial agreements etc that may result from the preferred developer contacts and/or negotiations, for a fixed period from 1 January to 31 December 2022 inclusive.

#### **4.4.**

In order to maintain scrutiny and allow decisions to be made in a timely manner, it is further proposed that powers be delegated to the Chief Executive, in consultation with the undernoted Members, to authorise and conclude any Heads of Terms, commercial or other agreements associated with the proposed developments contained within the Orkney Harbours Masterplan Phase 1, and in relation to any developments associated with ScotWind and Crown Estate Scotland sea-bed leasing rounds for the period 1 January 2022 to 31 December 2022 inclusive:

- Leader.
- Depute Leader.
- Chair, Development and Infrastructure Committee.
- Vice Chair, Development and Infrastructure Committee.

### **5. Corporate Governance**

This report relates to governance and procedural issues and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

### **6. Financial Implications**

#### **6.1.**

There are no direct financial implications contained within this report.

#### **6.2.**

The exercise of powers delegated to the Chief Executive is likely to have financial implications for the Council. This has not been quantified in this report, but it is considered that the establishment of a negotiating team will assist the Chief Executive in discharging his duties with regard to best value.

## **7. Legal Aspects**

### **7.1.**

The Council has a statutory duty to achieve best value. Implementing the recommendations in this report will assist the Council in discharging this duty by enabling the Council to maximise the opportunities arising from the Orkney Harbours Masterplan and the ScotWind and Crown Estate Scotland seabed leasing rounds.

### **7.2.**

The Council must act within its delegated powers. The recommendations in this report ensure that appropriate governance is in place for the Council to enter into commercial agreements in relation to the proposed developments contained within the Orkney Harbours Masterplan and any developments associated with the ScotWind and Crown Estate Scotland seabed leasing rounds.

## **8. Contact Officers**

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