

**Item: 8**

**Planning Committee: 25 June 2025.**

**Proposed Installation of Horizontal Directional Drills at Warebeth and Seabed Offshore, Stromness.**

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

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## **1. Overview**

- 1.1. This report considers a works licence application for horizontal directional drills including a marine exit point approximately 1,200 metres offshore from Warebeth, Stromness, and within the harbour authority area. Two objections have been received on grounds of potential environmental effects from the drilling operation, including in terms of excavated material.

Application Reference:	25/117/WL.
Application Type:	Works Licence.
Proposal:	Install horizontal directional drills.
Applicant:	RJ McLeod (Contractors) Ltd., McLeod House, Strathpeffer Road, Dingwall, IV15 9XB.

- 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. Approve the application for a works licence in respect of the proposal to install horizontal directional drills on land/seabed within the harbour area at Warebeth, Stromness, subject to the terms and conditions detailed in Appendix 1 to this report.

### **3. Consultations**

#### **Marine Services**

3.1. “We have a nil response to this consultation.”

#### **NatureScot**

3.2. “There are natural heritage interests of international and national importance close to the site, but in our view, these will not be adversely affected by the proposal.”

### **4. Representations**

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

- Jim Leitch, Feolquoy, Evie.
- Leslie Sinclair, 31A Broad Street, Kirkwall, KW15 1DH.

4.2. Representations are on the following grounds:

- Risk of environmental impact from the drilling process, including marine biodiversity and local marine environments.
- Disturbance of harmful materials during the drilling process, and management and disposal of any such materials.
- Impact on the Heart of Neolithic Orkney World Heritage Site.

### **5. Relevant Planning History**

5.1. The works subject to this application for works licence are a relatively small component of a larger project, to install high-voltage cables from Orkney to mainland Scotland. The larger project has been subject to consideration under the respective terrestrial and marine consenting resumes. Whilst related, larger project and any other permissions are without prejudice to consideration of a works licence application.

### **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 license 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 licensee 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.

### **Habitats Regulations**

- 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**

- 7.1. As noted in section 1 above, a Works Licence is sought for the installation of horizontal directional drills below the shore and seabed, whereby the marine exit point of the drills would be 1,200 metres offshore from Warebeth and within the harbour area, as indicated in the Location Plan attached as Appendix 2 to this report.

### **Navigation**

- 7.2. Marine Services as harbour authority has confirmed no objection to the proposed development. This is in relation to the operation of the Harbour Authority area, including consideration of navigational impacts.

### **Natural Heritage**

- 7.3. Potential impact on the marine environment was raised in objection. In its consultation response, NatureScot confirmed that whilst there are natural heritage interests of international and national importance close to the site, in its view as

the statutory nature conservation body, these would not be adversely affected by the proposed works.

- 7.4. The Council's HRA as competent authority is attached as Appendix 3 to this report, and is informed by the appraisal of NatureScot, reaching a conclusion that no European site would be adversely affected by the proposed works, and therefore Appropriate Assessment is not required.

#### **Disturbance of harmful materials**

- 7.5. Submitted objections include reference to drilling works within 'a potential uranium belt' and raises a resultant risk of 'potential radiation exposure', and requests information regarding mitigation and measures in place to guard against any such risk.
- 7.6. In response, the applicant commissioned a geotechnical engineering report, including reference to the following sources:
- British Regional Geology Orkney and Shetland memoir dated 1976, Institute of Geological Sciences (IGS 1976) (Now British Geological Survey)
  - Orkney Islands Scotland, Solid and Drift Geology scale 1:100 000 Special Provisional Map dated 1999 British Geological Survey)
  - Historic borehole HY20NW1 dated 1972, completed for Institute of Geological Sciences (BGS) Geochemical Division

- 7.7. The geotechnical engineering report includes the following conclusions:

"The geological map for the Warebeth area, site of the horizontal direction drilling (HDD) for the SSEN cable landfall, indicates the bedrock to be of the Upper Caithness Flagstone.

At depth the Upper Caithness Flagstone overlies the Lower Caithness Flagstone which in turn overlies the basal dolomitic conglomerate. The geological map also indicates that the bedrock dips generally to the west, this means that a specific layer within the stratigraphic column will be at a greater depth when compared to its location in the east.

From review of the British Geological Survey Interactive Viewer, a Historic borehole HY20NW1 is considered relevant for this response as it is located approximately 240m northeast of the proposed SSEN landfall entry point. This borehole, inclined at 70°, was sunk to a depth of 257.61m with the ground surface, noted as 10m ordnance datum.

This borehole records the Upper Caithness Flagstones to approximately 15m below surface and the Lower Caithness Flagstone to 173.20m. The conglomerate was encountered between 173.20m and 188.29m below ground level. Taking into account the borehole inclination, the depth to the conglomerate is taken to be between 162.75m (or at -152.75m ordnance datum) and 176.93m (or at -166.93m ordnance datum).

As part of a ground investigation, a borehole (BH-LAND-01) was drilled at the HDD location at Warebeth to a depth of 39.95m below ground level (-31.5m ordnance datum) and did not encounter the conglomerate. This correlates with the information provided in the historic borehole HY20NW1.

The geological model for the HDD profile design indicates a fault located 700m west of the HDD entry point. West of the fault is the Upper Caithness Flagstones which has been ‘downtown’ next to the older Lower Caithness Flagstones. Therefore, as the pilot hole progresses from east to west through the fault, it passes from older rock to younger rock. This indicates that the location of the basal conglomerate, which underlies the Lower Caithness Flagstones, will be located at an even greater depth.”

- 7.8. The geotechnical engineering report reaches the conclusion that, “Based upon our geological review as outlined above, we conclude that the risk of encountering the uranium bearing layer of the basal conglomerate is considered to be negligible to low during landfall drilling operations at Warebeth”.
- 7.9. This is considered to adequately address the concern raised in the objection.
- 7.10. In terms of general safety measures, the developer has confirmed, “The HDD works are carried out under Health & Safety and Environmental control measures, and mitigations are in place to protect the workforce and the environment from the hazards identified. A Construction Environmental Management Plan is in place, together with a Risk Assessment and Method Statement for this work. Material removed from the site will be recorded in accordance with SEPA requirements.”

### **World Heritage Site**

- 7.11. As noted above, this application relates to the works for drilling at Warebeth and 1,200 metres offshore only, and not any wider works or related project. On that basis, and notwithstanding the objection, there is no impact on the setting of the Heart of Neolithic Orkney World Heritage Site.

## 8. Conclusion

- 8.1. The proposed development meets all requirements of Section 11 of the Act. Harbour authority interests including navigation, the marine environment generally, and European sites specifically would be adequately protected. Sufficient information has been provided regarding the management of materials that would be disturbed during the drilling operation. There are no material considerations including those raised in the objections that would outweigh a conclusion of approval of the works licence application.

### For Further Information please contact:

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### Implications of Report

1. **Financial:** None.
2. **Legal:** Detailed in section 7 above.
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 application, it is imperative that clear reasons for proposing the refusal of a works licence on the basis of the proposal being contrary to the officer's recommendation be given and minuted. This is in order to provide clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.
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. Any ballast discharge of over 50 tons may require compliance with the Scapa Flow Ballast Water Management Plan.

04. During any works within the Harbour Area and its approaches, protocols, to be agreed, will require to be followed with regards to communications and warnings with Orkney Vessel Traffic Services (VTS).

05. All construction vessel traffic near the approaches to the Harbour Authority area should inform Vessel Traffic Services (VTS) of their intentions, and their exclusion zones should not interfere with the movement of shipping to and from Orkney Harbours areas.

06. 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.

07. The works to which this licence relates shall be maintained in good repair at all times.

08. 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.

09. 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.

10. 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.

11. 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

- 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.



## **Appendix 3.**

### **Install Horizontal Directional Drills at Warebeth and Seabed Offshore, Stromness.**

**Works Licence Reference: 25/117/WL**

#### **Consideration of Proposals affecting European Sites**

The proposal is close to Scapa Flow Special Protection Area (SPA) protected for its non-breeding black-throated diver, eider, great northern diver, long-tailed duck, red-breasted merganser, shag, Slavonian grebe and breeding red-throated diver.

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 therefore apply.

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, it 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 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. 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.

#### **Appraisal**

The section of the proposed development covered by this works licence application is approximately 300 metres from the boundary of the SPA at its closest point, and generally approximately 500 metres from it. Works on site would be of a short duration.

It is therefore concluded that it is unlikely that the proposal would have a significant effect on any qualifying interests either directly or indirectly.

## **Conclusion**

An appropriate assessment is therefore not required.