

Sent by e mail to Robert.davies@arcadis.com
C/O

Ffôn/Phone: 0300 0654374

Date 26 September 2018

Dear Mr Davies,

SCREENING OPINION UNDER THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2007 (as amended)

REQUEST FOR SCREENING OPINION – DEE CROSSING REPLACEMENT WATER MAIN

I am writing further to your request for a screening opinion, dated 29 June 2018, made in accordance with The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) ("The Regulations").

The purpose of the Environmental Impact Assessment (EIA) screening procedure is to determine whether the proposed works require an Environmental Impact Assessment and submission of an Environmental Statement (ES).

In reaching our Screening Opinion we have considered the proposed works against Schedule A1 and A2 of the above regulations. We have also consulted with the bodies that we consider have an interest in the project by reason of their environmental responsibilities, or local or regional competences, as required by the above regulations.

Screening Opinion

It is our opinion that the works fall within the categories of project listed within Schedule A2, paragraph 68 of the above regulations, (installations of long distance aqueducts) and therefore must be considered in terms of its size, nature and location having regard to the relevant criteria listed in Schedule 1 of the above regulations.

We have carefully considered the views of the consultation bodies alongside the criteria as set out in Schedule 1 of the Regulations, and have determined, based on the information provided; that the project does not require a statutory Environmental Impact Assessment.

We have come to this conclusion on the basis of the likely significant impacts of the project. We have considered the project in terms of the criteria set out in Schedule 1 and consider that the project described in the screening report is unlikely to have significant adverse impacts on the environment.

The Conservation of Habitats and Species Regulations 2017

As part of the screening exercise, we considered whether the proposed project, either alone or in combination with other plans or projects, is likely to have a significant effect on any site designated as a European site of conservation importance under the above Regulations. To assist in making this judgement of likely significant effect, we have sought advice from our statutory nature conversation advisor.

We have come to the conclusion that there is the potential for the project to have adverse effects on the identified designated sites: The Dee Estuary (Wales and England) Ramsar Site, River Dee and Bala Lake / Afon Dyfrdwy a Llyn Tegid SAC, Dee Estuary / Aber Dyfrdwy SAC (Wales and England), The Dee Estuary (Wales and England) SPA, Afon Dyfrdwy (River Dee) SSSI and Dee Estuary / Aber Afon Dyfrdwy (Wales and England) SSSI.

However, these potential impacts can be dealt with through the Habitats Regulations Assessment that will be required under the Conservation of Habitats and Species Regulations 2017. Without wishing to prejudice the outcomes of any such assessment we consider that it is likely that any potential impacts identified can be sufficiently minimised through the provision of suitable mitigation.

We would encourage you to contact Natural Resources Wales and Natural England to receive further pre-application advice.

This Screening Opinion will be provided to all those bodies that were consulted and will be publicised on our website and on our Public Register.

Yours sincerely

Marine Licensing Team
Natural Resources Wales

Cc: All Consultation Bodies

Annex 1 – Comments by Consultation Bodies

The Crown Estate, Royal Yachting Commission, MOD and Welsh Government Fisheries Office had no comments to make on the screening opinion request but advised that they have no objection to the works being undertaken. All those consultees contacted at the screening stage will be consulted once a marine licence application is received.

Current information suggests little or no commercial fishing takes place in the area and navigation in the River should not be affected in any way.

Dee Conservancy Harbour master advises that with regard to the safety of navigation, the avoidance of interference from noise and light need to be considered and will be assessed on consultation of the Marine Licence application.

Cadw have identified the following Scheduled monuments located within a 3km buffer of the total application area

Scheduled monuments:

FL002 Ewloe Castle
FL180 Kelsterton Brewery

Registered historic parks and gardens:

PGW (C) 77(FLT) Shotton Steelworks Garden (grade II)

Intervening topography and buildings means that neither scheduled monument FL002 or FL180 is visible from the proposed works. An area of mature trees and intervening buildings between the site of the registered historic park and garden PGW (C) 77(FLT) and the location of the proposed works approximately 1km to the west also mean that the registered historic park and garden will not be visible from the proposed works. Consequently there will be no effect on the settings of the scheduled monuments or the registered historic park and garden and an EIA will not be required.

The Dee Conservancy advise that the pipes will cross under the Dee Estuary, which is owned at this location by the Dee Conservancy (i.e. NRW) and so we will need a legal arrangement with DCWW to cover risks and additional responsibilities associated with this new installation. The Dee Conservancy had been informed that DCWW intend to install the pipework under notice. William Patterson who has been the lead for NRW Estates on this project, has been made aware of this requirement.

NRW Technical Experts have advised that the proposed work areas are located adjacent to the SPA and Ramsar sites, however, unless operations are particularly noisy, there is only a low risk of disturbance to the over-wintering or nesting bird species, for which these sites are designated.

The main potential impact arising from the proposal is the potential for noise and vibrational disturbance to the fish features of the above designated sites. River and sea lamprey are features of the Dee Estuary SAC and SSSI, with the nearby River Dee SAC and SSSI designated for Atlantic salmon, brook lamprey, river lamprey and sea lamprey. The applicant is advised to consider potential mitigation that could be implemented to reduce disturbance impacts to migratory salmon (particularly during the smolt run) and lamprey. Please note this advice differs from that quoted in the screening opinion request letter. *“.....NRW’s Fish Officer has confirmed that construction activity does not need to be timed to avoid the salmonid migration season, but activities causing noise and vibration would be timed to avoid lamprey spawning/migration season (which runs from May to July inclusive) (Joel Rees-Jones, pers comm., April 2017).”* This advice had been based on proposed timings of the works prior to receipt of a screening opinion request.

The River Dee SAC is also designated for otter. NRW hold several records of otter activity within the vicinity of the proposed works. The screening letter proposes that ecology pre-construction checks will be undertaken and that night time working will be controlled to allow the safe passage of nocturnal otter. Other mitigation to reduce potential impacts to otter should be considered as appropriate, such as covering any excavations overnight and minimising the use of night time lighting.

As well as being a feature of the River Dee SAC, otter are also a European Protected Species. Otter, Atlantic salmon, river lamprey and sea lamprey are also listed as section 7 priority species under the Environment (Wales) Act 2016.

Environment Management

Prior to construction a risk and method statement must be submitted identifying all potential environmental risks, and steps that will be taken to mitigate these risks. These should include but are not limited to:

- Details of any dewatering that may take place and where this will be discharged to. A position statement on temporary dewatering of excavations is available on the gov.uk website. Please read this carefully as a permit to discharge may be required.
<https://www.gov.uk/government/publications/temporary-dewatering-from-excavations-to-surface-water>.
- A licence to abstract water may also be required, please see our guidance on abstraction licensing:
<http://naturalresources.wales/permits-and-permissions/water-abstraction-and-impoundment/changes-to-water-abstraction-licensing-exemptions/?lang=en>
- Risk of pollution occurring from siltation via disturbance of the river bed or surrounding land.
- Details of substances being used in the operations including fuels, oils, chemicals etc and how pollution from these substances will be prevented.

- Details of waste arising from the operations or waste being imported onto site to be used in the operations. Permits / exemptions may be required for these activities.

It is important that the applicant considers the prevention of the introduction and spread of invasive non-native species. The applicant's intention to include mitigation measures to this effect to be submitted within a project environmental management plan (PEMP) has been noted.

Waterways Management

With regards to the maintenance of safe navigation in the Dee Estuary, NRW would require advance notification of any works planned that may impact the waterways e.g. use of safety boats, cross river line etc. This is particularly important with respect to the transit of the Airbus A380 wings on the Dee River Craft.

Development Flood Risk

Typically, under the Environmental Permitting Regulations (England & Wales, 2016) there is a requirement to obtain a bespoke Flood Risk Activity Permit for any works or structures affecting the River Dee. However, if an application for a Marine Licence has been made in respect of that activity, then there would be no requirement for a separate bespoke Flood Risk Activity Permit to be obtained from Natural Resources Wales.

We note from the Indicative Working Area information presented in Figure 2 of the submitted information, that two relatively large "working areas" will be required to facilitate operations. These locations are set some distance from the River Dee and may be beyond control of the Marine Licence process.

Both of the working areas are predominantly located outside of the extreme flood risk outline (river and sea flooding) and therefore flood risk constraints are likely to be minimal. However, the proposed working area to the south of the river, is located partially within the floodplain. Efforts should be made to ensure that any construction operations within the working area do not affect flood plain storage within the affected area, i.e. there should be no land raising and/or storage of materials within the flood risk areas. The applicant should be made aware that a bespoke Flood Risk Activity Permit is likely to be required for any works in the floodplain that would divert or obstruct flood waters.

Further information and guidance about Flood Risk Activity Permits is available on our website at:

<http://naturalresources.wales/permits-and-permissions/flood-risk-activities/guidance/?lang=en>

NRW would also request further re-consultation should there be changes to the proposed working areas, and/or if the route of the proposed replacement water pipeline were to change.

The applicant should be advised that, in addition to a marine licence, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Natural England requests that a detailed assessment of the potential impacts of this proposal upon the identified designated sites is submitted with any subsequent application. They have indicated that from the information provided it is not clear how sites downstream may be indirectly impacted by the proposed works.

Natural England note the duration of the proposed scheme is 10 – 12 months therefore the potential for disturbance to birds will be present through several important life-cycle stages (breeding, two passage periods and over-wintering). They advise there is no evidence presented in the “Ecology and Biodiversity” section of the request letter which addresses this. Over-wintering bird surveys will be particularly important as there is an observation in the information provided on the presence of oystercatchers in the vicinity of the launch site. Over-wintering oystercatcher are a protected species of several sites in the area and may have a functional linkage to the launch site.

The developer must provide information supporting this application sufficient for an assessment to be made as to whether protected species are likely to be affected and, if they are, whether sufficient mitigation, avoidance or compensation measures will be put in place. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

NRW PS are aware the Local Planning Authority has come to the following conclusion:

EIA IS NOT REQUIRED. The development/project does not fall within the EIA Regulations. The project is listed within the descriptions of development in Column 1 of Schedule 2 of the EIA Regulations but does not meet the relevant thresholds/criterion of Schedule 1 of the above regulations and is not likely to have significant effects.