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## NORTH AYRSHIRE COUNCIL

5<sup>th</sup> December 2018

### Planning Committee

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**Title:** Hunterston Construction Yard – SEPA Consultation Response

**Purpose:** To agree the consultation response on behalf of the Council to SEPA with respect to the application for a waste management license at Hunterston Construction Yard.

**Recommendation:** The Planning Committee agree the consultation response attached at Appendix 1.

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## 1. Executive Summary

- 1.1 SEPA has consulted the Council as Planning Authority on an application for a Waste Management Licence at Hunterston Construction Yard. SEPA's guidance advises that the planning function and the licensing function should complement each other, rather than duplicating controls.
- 1.2 On 25<sup>th</sup> April 2018 the Planning Committee resolved to grant planning permission to three applications, mainly:
  - i) Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary Condition 1 of Planning Permission ref 16/00268/PP to allow use of the site for decommissioning of large marine structures (Ref.17/01273/PP);
  - ii) Erection of caisson gates and subsequent removal of existing bund (Ref. 18/00132/PP); and,
  - iii) Replacement and enlargement of existing jetty (Ref. 18/00134/PP).
- 1.3 The applications were granted subject to conditions.
- 1.4 In order to implement the planning consent the applicant, Clydeport Operations Limited, must apply to Marine Scotland and SEPA for certain licenses relating to the construction works and general operations on site.
- 1.5 On 3<sup>rd</sup> October 2018 Clydeport Operations Limited applied for a Waste Management Licence under the Environmental Protection Act 1990 (As amended) and Waste Management Licensing (Scotland) Regulations 2011. SEPA has issued a consultation to North Ayrshire Council.

- 1.6 This report summarises the Councils response to SEPA with respect to the consultation.

## 2. Background

- 2.1 Planning permission was granted for the decommissioning of large marine structures at Hunterston Construction Yard. The use would result in the production of waste from decommissioning marine structures. In order to operate the site the applicant requires a Waste Management License from SEPA. Whilst Clydeport had proposed to seek a Pollution Prevention and Control (PPC) permit it is understood that SEPA has taken the decision that the decommissioning works would fall below the level of activities that would require a PPC and SEPA has therefore advised Clydeport to apply for Waste Management License.
- 2.2 As part of the Waste Management License (WML) procedure SEPA has consulted North Ayrshire Council on the content of the application and the activities on site.
- 2.3 The WML application contains the application form, supporting documentation in the form of a Certificate of Incorporation for Clydeport, a lease for the site, the approved planning application forms, a Working Plan for the site and the Ports Emergency Plan.
- 2.3 SEPA's guidance states that the planning system controls the development and use of land. It therefore has an important role to play in determining the location of development including waste management and disposal facilities. Planning controls are not an appropriate means for the detailed control of pollution from waste management facilities. This should always be done by SEPA through the licensing system. In the same way, licence conditions should not cover issues which are fundamentally about development and land use, except where there is not any planning permission. Important issues in the context of this consultation response would be the contents of the proposed Working Plan. The Working Plan contains details of the general operation of the site including operating hours, exported waste types, waste storage, decommissioning operations, pollution control and emergency procedures.
- 2.4 The application states that the proposed operation hours would be Monday to Friday 7am to 7pm and Saturday 7am to 1pm. A list of the expected types and annual quantities of waste to be handled by the site is outlined within the Working Plan as are the quantities that could be stored on site. Members should note that the values provided are annual rather than daily quantities. The expected start date is as soon as the WML is granted.
- 2.5 The WML was submitted to SEPA on 3<sup>rd</sup> October 2018. A consultation request was issued by SEPA on 16<sup>th</sup> October 2018. Whilst there is a deadline to respond

within 28 days of the consultation request SEPA has agreed to an extension of the consultation period until 6<sup>th</sup> December 2018.

- 2.6 As part of the Council's internal consultation process, Planning Services has consulted with Environmental Health, who offer the following response:

*The Hunterston Marine Services Centre Working Plan document dated 3 October 2018 submitted with the application confirms in Section 6.5 Noise Control "All site operations shall be carried out so they do not give rise to nuisance noise beyond the site boundary".*

*The relevant planning permission relating to noise emission from the site requires "The rated noise level, as defined in BS 4142:2014, from activities associated with the construction, repair and decommissioning of large marine related structures, permitted under Condition 1, must not exceed the background noise level by 5dB(A) or more at the curtilage of any noise sensitive property. For the avoidance of doubt this condition would not apply to any operations that are licensed by SEPA or Marine Scotland"*

*It is recommended that the inclusion of a similar condition be imposed on any waste management licence for site activities licensed by SEPA in order that the operations do not give rise to nuisance noise beyond the site boundary.*

*There is no objection to the application provided SEPA is satisfied that the limits set for any relevant discharges to air, land and water will be protective of the environment.*

The planning permission (Ref. 17/01273/PP) contains a number of conditions including condition 3, quoted above. Whilst the applicants Working Plan does outline a number of measures to avoid nuisance noise (Section 6.5) it would be appropriate to request that SEPA place a similar restriction on noise from the site to protect amenity.

- 2.7 It is noted within the Working Plan that the operator proposes to export scrap metal from the Hammerhead Quay or the Hunterston Coal Jetty with all other wastes exported by sea, rail or road. The planning permission controls, under condition 1, all operations within the existing dock and quay. It does not extend to the areas identified within the Hunterston Coal Yard or Jetty.
- 2.8 No details regarding the export of materials by road have been provided. The traffic implications on the road network would be assessed by Transport Scotland, as Trunk Road Authority. However in the interests of residential amenity, it would be recommended that the Council seek the application of a condition, ensuring that any Heavy Goods Vehicles or other larger vehicles transporting waste from the site are subject to an approved routing agreement.
- 2.9 Members will be aware of a number of objections to the Waste Management License. These objectors have been referred to SEPA so that they may consider the concerns being raised.

### 3. Proposals

3.1 Subject to the proposed Waste Management License and the contents of the applicants Working Plan it is recommended that North Ayrshire Council in the response to SEPA state that certain aspects of the waste export do not benefit from planning permission and request that should the WML be granted the following conditions be applied:

(i) That the rated noise level as defined in BS 4142:2014, from activities licensed by SEPA must not exceed the background noise level by 5dB(A) or more at the curtilage of any noise sensitive property.

Reason: To ensure that the site activities licensed by SEPA do not give rise to nuisance noise beyond the site boundary.

(ii) That any vehicles exporting waste materials by road shall be subject to a routing agreement to be approved by SEPA in conjunction with North Ayrshire Council.

Reason: In the interests of amenity and road safety.

(iii) That no waste materials from the site shall be exported via the Hunterston Coal Yard or Jetty.

Reason: To ensure the Waste Management License complies with the approved planning permissions.

3.2 A copy of the draft response is provided with Appendix 1.

### 4. Implications

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| <b>Financial:</b>       | The Consultation has no financial implications out with normal budgetary provisions. |
| <b>Human Resources:</b> | The matters raised can be addressed within existing staff resources                  |

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| <b>Legal:</b>                              | Environmental Protection Act 1990 (As amended) and Waste Management Licensing (Scotland) Regulations 2011                         |
| <b>Equality:</b>                           | N/A   |
| <b>Children and Young People:</b>          |   |
| <b>Environmental &amp; Sustainability:</b> | To ensure environmental practices are in line with appropriate regulation.  |
| <b>Key Priorities:</b>                     | The consultation response supports the Council Plan priority - "Protecting and enhancing the environment for future generations." |
| <b>Community Benefits:</b>                 | N/A   |

## 5. Consultation

5.1 None



Karen Yeomans  
Executive Director  
Economy & Communities

For further information please contact **Ross Middleton, Planning Officer** on **01294 324379**

## Background Papers

N/A

**ECONOMIC GROWTH**

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**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

Your Ref: W/M/L/1173385

Our Ref: RM/17/01273/PP

6<sup>th</sup> December 2018

Registry Angus Smith  
Angus Smith Building  
6 Parklands Avenue  
Eurocentral  
Holytown  
ML1 4WQ

Dear Sirs

**APPLICATION FOR WASTE MANAGEMENT LICENSE**  
**APPLICATION ID: WML/L/1173385**  
**APPLICANT: CLYDEPORT OPERATIONS LIMITED**  
**LOCATION OF SITE: HUNTERSTON MARINE SERVICES CENTRE**

Thank you for your consultation and for the extension of time in which to submit comments.

**Advice to SEPA**

The Council would have **no objection** to the license, provided that the proposals to utilise Hunterston Coal Jetty are omitted from the license and that SEPA is satisfied that the limits set for any relevant discharges to air, land and water would be protective of the environment.

The Council has considered the detail of the proposals and can provide the following comments.

**Planning Permissions**

On 25<sup>th</sup> April 2018 North Ayrshire Council as Planning Authority granted planning permission for a variance of Condition 1 of Planning Permission ref 16/00268/PP, to allow use of the Hunterston Construction Yard for decommissioning of large marine structures (Ref.17/01273/PP).

The Council would note that the applicants form contains a copy of the planning consent.

The applicants Working Plan refers to the export of materials via sea, rail or road with proposals to export waste through Hunterston Coal Jetty as well as the docking of structures at the jetty prior to their movement to Hunterston Construction Yard. The Council would advise that planning consent does not exist for the use of the Hunterston Coal Jetty in association with the decommissioning site at Hunterston Construction Yard and would raise objection to any operations associated with the Waste Management License that proceed without the benefit of planning permission.

Executive Director (Economy & Communities): Karen Yeomans

The export of waste materials via the road may be acceptable subject to information with respect to vehicle movements, type of vehicle and transport routes. The Council would advise that any waste materials being exported from the site by road are minimised and where unavoidable, are subject to a routing agreement.

## **Noise**

The Hunterston Marine Services Centre Working Plan document dated 3 October 2018 submitted with the application confirms in Section 6.5 Noise Control "All site operations shall be carried out so they do not give rise to nuisance noise beyond the site boundary".

The relevant planning permission relating to noise emission from the site requires "The rated noise level, as defined in BS 4142:2014, from activities associated with the construction, repair and decommissioning of large marine related structures, permitted under Condition 1, must not exceed the background noise level by 5dB(A) or more at the curtilage of any noise sensitive property. For the avoidance of doubt this condition would not apply to any operations that are licensed by SEPA or Marine Scotland"

The Council would recommend the a similar condition be imposed on any Waste Management Licence for site activities licensed by SEPA in order that the operations align with the planning permission and ultimately do not give rise to nuisance noise beyond the site boundary.

## **Conditions**

Should SEPA be minded to grant the proposed Waste Management License, North Ayrshire Council would highlight that the proposed Export procedures outlined within the Working Plan do not benefit from planning permission. The Council therefore request that the following conditions be applied to any license:

(i) That the rated noise level as defined in BS 4142:2014, from activities licensed by SEPA must not exceed the background noise level by 5dB(A) or more at the curtilage of any noise sensitive property.

Reason: To ensure that the site activities licensed by SEPA do not give rise to nuisance noise beyond the site boundary.

(ii) That any vehicles exporting waste materials by road be subject to a routing agreement to be approved by SEPA in conjunction with North Ayrshire Council..

Reason: In the interests of amenity and road safety.

(iii) That no waste materials from the site shall be exported via the Hunterston Coal Terminal.

Reason: To ensure the Waste Management License complies with the approved planning permissions.

Should you have any queries regarding the contents of this letter please do not hesitate to contact James Miller on 01294 324315.

Yours Sincerely

Executive Director (Economy & Communities): Karen Yeomans

Caitriona McAuley  
Head of Service (Economic Growth)

Executive Director (Economy & Communities): Karen Yeomans