

**Representations by Friends of The Firth of Clyde(FOFC) to NAC
Re. application by Clydeport Operations Ltd (Clydeport) to SEPA for a Waste
Management Licence (WML) following on the grant of Planning Permission for the
decommissioning of large marine structures at Hunterston Marine Construction Yard (also
called Hunterston Marine Services Centre), Fairlie.**

As a group of concerned residents FOFC would urge NAC to take the following matters in to account in exercising their obligations as a statutory consultee in the above WML application process:-

1.Impact on road infrastructure

Your attention is drawn to major and fundamental discrepancies between:-

A) the following information, collated from statements made by Clydeport in said WML application, which we understand is presently with SEPA:-

Location in Hunterston Marine Services Working Plan'	Section Heading	Reference to road use (queries by FOFC)
3.4 (pg 7)	Parking Facilities	There will be a "Waste Carriers Park" to pick up waste cargo for export from the site by ROAD
3.7 (pg9)	Waste Storage	Recovered scrap metals will be stockpiled for bulking up prior to export by ROAD , rail or sea
3.8 (pg10)	Foul Surface Water Drainage	Will be "tankered" off site - BY ROAD? REQUIRES CLARIFICATION
3.8.3 (pg10)	Water Treatment Plant	When not operational due to maintenance or breakdown waste water from treatment centre will be "tankered" off site - BY ROAD? REQUIRES CLARIFICATION
5.2 (pg15)	Enabling Works	Waste skips and containers will be positioned and replaced as necessary - BY ROAD? REQUIRES CLARIFICATION
5.3 (pg 15)	Removal of Marine Growth	Removed marine growth shall be stored and collected for disposal by a licenced waste carrier -BY ROAD
5.5 (pg 16)	Asbestos Containing Materials (ACM)	Method of removal from site not specified - BY ROAD? REQUIRES CLARIFICATION
5.6 (pg 16)	Removal of Residual Dirty Water & Slops (Oily water)	Will be by ROAD TANKER
Appendices	Waste Export Routes: Drawing Number 168612-014	Transport of NORM by ROAD , rail and sea
Appendices	Flow chart - Drawing 168612-006	Shows all waste (Hazardous/ General Waste & WEE) being recovered or going to land fill - BY ROAD? REQUIRES CLARIFICATION

and

B)

i). The **Planning Statement** by Clydeport to NAC , referred to in **the NAC S.42 Report to Planning Committee** (the **Report to Planning Committee**) lodged on the NAC planning portal on 1.10.18, which Statement, in the words of NAC, "confirms that the proposal **would**

not have additional impacts on the transport network as bulk exports of scrap would leave the site via rail or sea."

ii) the **Analysis** in the **Report to Planning Committee** in which it is confirmed that ".....With respect to (d) the applicant has confirmed that structures to be decommissioned would be brought to the site by sea. **The resulting scrap materials would be transported from site via the sea or rail. Any impact on the road network would be negligible"**

iii) the section headed **Consultations** in the **Report to Planning Committee** in which West Kilbride Community Council states that "The re-industrialisation of the peninsula either by further construction or decommissioning must be accompanied by improved access to the peninsula as **the A78 is now at the limit of its capacity where it passes through both Seamill and Fairlie**" and Clydeport states in response that "There are no proposals as part of this application to improve access to the site via the A78 as **scrap material would be removed via rail or the sea"**

It is clear that if a WML is granted on the terms requested this would be a subversion of the planning process as it would allow the site operators to act in a way which was not only not envisaged by their planning permission, but was not so envisaged **because of factually incorrect representations made by them to NAC and other parties and relied on by the NAC Planning Committee when it was agreed that planning permission should be granted.**

Furthermore, if a WML is granted in the terms requested **there will be a considerable increase in the demands placed on the local road network, which it is not capable of sustaining, either in terms of the increased load on the existing physical infrastructure or in terms of road safety. The Main Road through Fairlie in particular is wholly unsuited to the type and volume of traffic now envisaged.** In May 2013 a group from Fairlie Safe Roads and Pavements along with FCC were invited to Holyrood for an audience with Keith Brown, then Transport Minister to discuss the problems of coal lorries passing through Fairlie. Fairlie Safe Roads group also presented to the NAC petitions committee and gained full support in addressing long term road safety issues. *The photo below demonstrates that when 2 vehicles pass the road is so narrow they must drive right at the curb, where the pavement is very narrow.*



2.Failure by Clydeport to observe Condition 8 of Planning Permission

Your attention is drawn to the following:-

The Planning Permission provides " *That **within 3 months of the date of the consent**, a draft **Code of Practice** for the operation of the construction, repair and decommissioning of Marine Structures, hereby approved, shall be submitted for the approval in writing by North Ayrshire Council as Planning Authority. The draft Code of Practice shall include the formation of a **liaison committee**, which shall comprise of **local councillors, local community group members, the site operator and other interested parties**; and should include the timescales for the meetings of the liaison committee. **The development shall thereafter be undertaken in accordance with any Code of Practice as approved by North Ayrshire Council as Planning Authority.**"*

We are unaware of a liaison committee having been set up (we believe that steps may currently be being taken to do this but that is not enough) nor of any Code of Practice having been approved. If we are correct, **we would submit that no decisions in relation to the necessary licence applications, including a WML, can properly be made** as presumably NAC and the various other statutory consultees will, when expressing their views in response to a licence application, require to be guided by the provisions of the Code of Practice.

3. WML is not the correct licence, it should be Pollution Prevention & Control (PPC) Permit

i)The application by Clydeport for a WML rather than a PPC Permit is **wholly at odds with representations and assurances made by them during the planning process** , on the basis of which the Planning Permission was granted by NAC and **wholly at odds with statements made by NAC to the Planning Committee** in reliance of these representations, as seen in the following excerpts from the **Report To Planning Committee** and from the **Applicants' Response To Objections** published on the NAC Planning Portal 12th April 2018 in relation to the planning application :-

Report To Planning Committee (Consultations/SEPA) - *"No objection (by SEPA) to this planning application from a land use planning perspective, consider that the principle of development has been established at this site. Notwithstanding this, there would be a requirement for the developer to provide further information and to apply for the relevant environmental regulatory permits. The applicant should contact SEPA to discuss what permits may be required and to consider what controls would fall upon the Local Authority. Response: Noted. **It is understood that the applicant has engaged SEPA with regard to seeking a PPC permit which controls operations on the site.**"*

Report to Planning Committee (Consultations/NAC Environmental Health) - *"No objection (by EH) subject to a condition controlling noise. The condition would be applicable if the control of noise from the site is regulated by North Ayrshire Council. SEPA has requested further information from the applicant to allow a determination of what environmental regulatory permits would be required. **It may be the case that control of noise from the site will be a matter for SEPA to consider under permit.** Response: Noted. A condition could be applied in this regard. **It is understood that the applicant has engaged SEPA with regard to seeking a PPC permit which controls operations on the site. If a PPC permit is provided by SEPA the controls would take precedence over any Planning conditions"***

Report To Planning Committee (Consultations/Fairlie Community Council) - *".....
3. FCC are somewhat cynical about the applicant being concerned too much about our environment. Response: Noted. An amendment to condition 3 would ensure that there is no significant detrimental impact by way of noise but **in the event that a PPC permit is provided by SEPA, those conditions within the permit would strengthen any planning controls.** Pollution and lighting would be controlled through the remaining*

conditions as well as any regulations outlined by SEPA and Marine Scotland when a license is applied to the site."

Applicant's Response to Objections (Objection (from a resident)) *"The inadequate noise assessment states that the distances between source and receptors and significant for all receptors then contradict themselves by stating that the distances are not significant for receptors. Response: "These matters have been subject of rigorous examination by the applicants Environmental Consultants at Envirocentre and the Council Environmental Health Officers and will now be assessed by the Scottish Environmental Protection Agency as part of future PPC Permitting."*

There is **no mention whatsoever of a WML** in the Report To The Planning Committee or in the Applicant's Response To Objections. **All relevant references are to a PPC Permit**. Again it is clear that if a WML is granted this would be a subversion of the planning process, allowing the site operators to act in a way which was not only not envisaged by their planning permission, but was not so envisaged because of **factually incorrect representations** made by them to NAC and other parties **and relied upon by the NAC Planning Committee when considering the planning application.**

ii) even if the planning permission had not been granted on the premise that a PPC permit and not a WML would be required, **a WML is entirely inappropriate in the present case** and a PPC permit is required instead in view of a) the **unprecedented quantity** (well exceeding 10 tonnes per day) and **nature of the waste** (including NORM, asbestos and marine fouling) associated with this application b) the fact that **guidance from within the industry itself highlights this requirement** and that **existing decommissioning facilities are required to have a Pollution Prevention & Control (PPC) Permit.**

4. Reference to use of Hunterston Coal Jetty as Part of The Decommissioning Process

The Working Plan forming part of the WML application makes reference (pg 9, para 3.6.4) to the use of Hunterston Coal Jetty for "**mooring large marine structures**" and for "**disassembling same in to smaller, easier to handle components**" (3.6.4). Further reference is made to the use of the Coal Jetty **for receipt and inspection of assets** (pg 12, para 4.2 and pg 14, para 5.1). These actions are all **clearly part of the decommissioning process** and EnviroCentre's strange assertion that no decommissioning work will be carried out at the Coal Jetty is **self-evidently factually inaccurate and meaningless.**

However

i) Clydeport **do NOT have planning permission to use Hunterston Coal Jetty in the decommissioning process.** If it is the case that the decommissioning site now includes Hunterston Coal Jetty **Clydeport will require to apply for planning permission. Moreover this will constitute a Material Change of Use requiring an Environmental Impact Assessment (EIA) to be undertaken making the current licence application irrelevant.**

(ii) NAC have previously confirmed that **Clydeport would be regarded as being in breach of the planning permission for decommissioning if they use Hunterston Coal Jetty as part of the decommissioning process.**

As the Working Plan forming part of the WML application takes no account of these matters and as use of the Coal Jetty is an integral part of the Working Plan It would be wholly inappropriate for any licence or permit which relies on the Working Plan to be granted.

For all of the above reasons **we would urge you to take the view with SEPA that they should require Clydeport to apply for a PPC Permit.** If they are of the view however that an MWL is appropriate, which we strenuously argue against, we would also urge you to take the view with SEPA, if it is within your remit, that they should ask for a full Environmental Impact Assessment before making their decision. In view of the facts surrounding this application we do not believe it to be safe for that decision to be made without a full EIA.

Friends of The Firth of Clyde 13.11.18