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Dear Sir/Madam

Falklands Conservation response to public consultation on Stanley Port Development EIS

Falklands Conservation (FC) recognises the potential economic and social benefits of a new port facility and is not in principle opposed to a significant infrastructure project of this type. Development can carry significant risk to the natural environment, but equally provides significant opportunities. Falklands Conservation expect leading practice to be applied to such development to ensure not only preservation of the environment for future generations, but to deliver opportunities for environmental benefit, in line with FIG policy goals and the local community's aspirations.

FC acknowledges an improvement in environmental risk reduction regarding some of the operational elements of the port, such as lighting management to reduce risks to bird strike, and contaminant control; however Falklands Conservation has a number of significant concerns regarding the current Environmental Impact Statement (EIS):

Policy Goals and Compliance

The relevant policy as identified in section 'A5.1 Overarching policy framework' is incomplete. The submitted EIS omits the currently developing key piece of environmental policy in the Islands – The Falkland Islands Environment Strategy, which also incorporates the Falkland Islands Biodiversity Framework.

In addition, relevant policy has not been interpreted correctly and reference to key wildlife legislation is incorrect, such as regarding the pale maiden.

Development compliance with policy is essential yet disappointingly key environmental policy is absent and positive compliance opportunities in the most relevant area for an EIS (i.e. environmental, not economic) are not identified.

Falklands Conservation would like to see all relevant policy included and incorporated into the EIA, with opportunities for achieving positive policy objectives assessed and delivered. For example, the Islands Plan goal 'Encourage natural habitat restoration and preservation' and the Environment Strategy objective 'to mitigate for degradation and promote restoration of native ecosystems, where possible' direct development considerations in regards to mitigation, compensation and biodiversity net gain and should be applied to the current proposal. This could occur through coastal remediation, restoration and native planting, for example.

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Quality and accuracy

The quality and accuracy of the EIS is considered poor, particularly given the scale and costs of the development proposal. Errors occur throughout. As an example, an appended list of inaccuracies from the section on cetaceans is included.

The use of incorrect and out-of-date information critically reduces confidence in the assessments made and conclusions drawn, and could result in higher risks to wildlife and the wider environment than presented. In particular, appropriate environmental policy may not be triggered to ensure environmental protection where it has been deemed necessary (such as Development Plan Policy SP5 regarding globally and nationally designated sites).

Falklands Conservation would like to see accurate and, in accordance with standard practice, up-to-date information used to form the basis of the risk assessment. This new information would have to be re-assessed against decision-making policy.

For cetaceans, for example, this would mean as minimum, including the correct identification of the risk zone for cetaceans regarding noise impacts and the correct application of JNCC guidelines for piling activities.

Delivery

With regards to the policy goals identified above, but also with regards to good EIA/development practice, positive environmental impacts resulting from the proposed development are notable by their absence.

There is little or no indication in the EIS that environment opportunities have been considered; rather, the non-technical summary provides a list of dismissive statements about 'negligible' risks. Clearly reduced risk is not no risk, and the EIS is lacking through no stated approaches to reduce undesirable consequences further.

For example, the development is likely to reduce, compared to current, the risks regarding lighting induced bird-strike for sooty shearwaters. Whilst FC appreciates a residual small number of downed or injured birds at the port may not have an overall effect on population numbers, there is no follow up plan for dealing with this situation. Even considering animal welfare alone, detailing an approach to undertaking searches during sensitive periods and what actions to take in the event of an injured seabird, would be expected.

Given the relatively low number of environmental challenges that this development faces, alongside the number of opportunities that coastal development presents both in terms of public amenity and native wildlife enhancements, it makes the final proposal even more underwhelming.

FC would like to see a more progressive overall approach to the Environmental Impact Assessment (EIA) process and commitments in the EIS that identify not only how to compensate for smaller impacts, but also deliver environmental net gain for the Falklands Islands in line with modern standards, community aspirations and the recognition of increasing pressures on the environment generally. As stated earlier, this would include coastal enhancement such as cleaning up the shoreline and restoration using native species.

EIA Procedure and Approaches

Many of the issues with the current EIS could have been avoided through improved consultation and engagement, particularly with those possessing information and expertise such as FIG departments, local organisations and community members.

FC has had no contact regarding the EIS between the announcement of an intent to develop a proposal and until after the EIS was submitted.

FC has a number of up-to-date data sets that could have improved the risk assessment, along with expertise that could have avoided errors and inaccuracies.

The situation highlights that current EIA guidelines for Development Control are insufficient to ensure quality of process. They are also inconsistent with, and inferior to, those described by other Falklands legislation i.e. for the Offshore Minerals Ordinance.

FC would like to see EIA procedures significantly strengthened and standardised, and the current EIS improved to enable robust decision-making for the environment.

Sincerely

A handwritten signature in black ink, appearing to be 'Allan', written in a cursive style with a long horizontal stroke extending to the right.

Conservation Manager, Falklands Conservation

Appendix: Errors and inaccuracies from cetaceans section of EIS

Information

The EIA has not used the most recent and comprehensive data that Falklands Conservation have collected on sei whales and right whales over the last 3 years, nor have we been approached for information regarding the latest data and an outdated 2017 report has been used in favour of the most up to date information. Although our data on sei and right whales for 2019-2021 has not been mentioned, our cetacean officer has been referenced as a pers com. for 2021 humpback whale sightings when they were not contacted.

The EIA consistently refers to the Berkeley Sound KBA which does not exist, the entire inshore waters, including Stanley harbour are a designated KBA for sei whales, as such population estimates used in the report are outdated and it has used a sei whale population estimate from a 2007 IUCN Red List estimate which has since been updated therefore conclusions drawn from this number could be wrong. In table 9.3 the population estimates for the sei whale are wrong. There is a peer-reviewed published paper on abundance of sei whales in one part of the Falklands.

On page 145, the photo ID estimates used for Berkeley Sound are wrong (out of date), as it the statement "There is no evidence to support the site being a calving or nursery ground (Weir, 2017)" it is an outdated reference and has since been shown to support mother-calf pairs.

In Table 9.6 Peale's and commerson's dolphins are referred to as mid-frequency which they are not, they are narrow band high frequency species.

There is a statement on page 167 where it says there are no known collisions with sei whales in the Falklands however in a 2018 report there is a confirmed collision with a sei whale. There has also been a documented strike of a right whale just outside of Port William. Right whales are highly vulnerable to vessel strike and right whales are frequently seen in PW between June and August, so considerations of increased shipping related to the harbour expansion should include potential collision with this species.

Impacts

For the soft start procedures it is stated on page 109 that "Other JNCC guidelines that were deemed unnecessary for the proposed works included soft-starts and the use of Passive Acoustic Monitoring (PAM)." This needs to be clarified as on page 163 it lays out the procedure for how soft starts will occur. Soft starts are best practice procedure all over the world, and are usually implemented regardless of whether marine mammals have been observed or not, or whether it is daylight or dark.

Best practice is also to use TTS what are these? as an impact range and not PTS, therefore it should be used, page 163 mentions the motioning zone "will be greater than the instantaneous PTS impact range and would therefore reduce the potential for any impact to all marine mammal species." And table 9.9 states the risk of TTS is negligible due to the mitigation for piling activities set out on page 163 however they are not using TTS range as the monitoring zone. We would like to see the TTS range as the monitoring zone.

In relation to the soft start procedures we have some concerns, we do not believe one observer will be enough to cover the entire impact zone given the structural obstructions that are present at FIPASS. It is stated "if any marine mammal in within the monitoring zone after 20 minute watch period, the soft-start procedure will commence to encourage them to move out of the area" a soft start should not be implemented if there is a marine mammal in zone and should only start once the animal has left the

impact zone as laid out in the JNCC guidelines. If a marine mammal enters the mitigation zone once the soft start has commenced it is best practice to cease operations until it has moved out of the zone, however this is not always feasible, as stated in the JNCC guidelines we would at least like to see no further increase in power until the animal has been seen to have exited the mitigation zone or 20 min has elapsed. It is stated that PAM will not be required however this is best practice and is especially effective for the detection of high-frequency dolphins such as Commerson's and Peale's within the mitigation zone, we also do not understand how the zone will be lit to allow for visual observations in poor visibility conditions as stated on page 163.

There is no reference to southern-right whales throughout the document which are the most likely to be impacted by noise disturbance and ship strike and have been known to have been seen within the harbour. There is also no mention of increased risk to dolphins during port operations when there has been a documented fatal incident of boat strike on a dolphin at FIPASS.