

## A5.0 Overarching policy framework and legislation

### A5.1 Overarching policy framework

#### A5.1.1 Falkland Islands Development Plan

The Falkland Islands Development Plan (F.I.G., 2015a), adopted in August 2015, provides a framework for future spatial development, including the determination of planning applications. It includes the Local Plan for Stanley (known as the Town Plan). With regard to the determination of planning applications, the 1991 Ordinance states:

*“Where, in making any determination under this Ordinance, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.*

The September 2020 stakeholder engagement process included discussion with the Head of Planning and Building Services at F.I.G. It was confirmed that as the proposed scheme is identified within the Falkland Islands Development Plan (F.I.G., 2015a), there are no foreseen issues with the proposed scheme from a planning policy perspective.

A review of policy contained within the Falklands Islands Development Plan has been undertaken to illustrate how the proposed scheme is compliant with applicable policy. The relevant policy and associated comments regarding how the proposed scheme complies is detailed in **Appendix 1**. In summary, the proposed scheme is considered to be compliant with all applicable policy contained in the Falkland Islands Development Plan.

#### A5.1.2 The Islands Plan (2018-2022)

The overall vision of The Islands Plan (2018-2022) (F.I.G., 2018) is *“to progress the sustainable economic, social and political development of the Falkland Islands for the benefit of all residents”* and it sets out a series of vision statements relating to areas such as community and culture, population and workforce, economic development, infrastructure and environment.

The Islands Plan (2018-2022) is a material consideration in the determination of planning applications and, therefore, **Appendix 1** presents an analysis of how the proposed scheme relates to the vision statements and commitments set out in the Plan. In summary, the proposed scheme is considered to be compliant with the applicable visions detailed in the Islands Plan (2018-2022).

#### A5.1.3 State of the Environment 2020

F.I.G.’s State of the Environment 2020 report (F.I.G., 2020) provides a baseline which sets out the status and condition of major environmental resources of the Falkland Islands. The State of the Environment 2020 report also quotes various United Nations Sustainable Development Goals and, for some areas, Falkland Islands specific objectives and indicators (e.g. with respect to fisheries and biodiversity). Applicable goals, objectives and indicators from the plan are detailed in **Appendix 1**.

While not constituting formal guidance, the EIS makes reference to these objectives and indicators in assessing the potential impacts of the proposed scheme, where applicable.

### A5.2 Legislation

In addition to the 1991 Ordinance and the 2015 Regulations, **Table 5.1** provides a brief description of other legislation relevant to the assessment of potential impacts of the proposed scheme.

**Table 5.1**      **Legislation relevant to the assessment of the proposed scheme**

Legislation	Summary
Maritime Ordinance 2017	This Ordinance supersedes the Marine Environment (Protection) Ordinance 1995 and the Environment Protection (Overseas Territories) (Amendment) Order 1997. It consolidates various enactments relating to merchant shipping, dumping and deposits at sea.
Harbours and Ports Ordinance 2017	This Ordinance makes provision for the continued appointment of a Harbour Master and the establishment or designation of an Authority to regular harbours and ports. The Ordinance also makes provision for maritime services like pilotage within harbours in the Falkland Islands as well as licensing dredging and other works that can be carried out at harbours and ports.
Marine Mammals Ordinance 1992	<p>This Ordinance prohibits:</p> <ul style="list-style-type: none"> <li>• The intentional harming, taking or killing of any marine mammal (including whales, porpoises, dolphins, otters, seals, sea lions and elephant seals).</li> <li>• The use of explosives in such a manner that may cause harm to any marine mammal on land or in inland waters, territorial seas or any fishery waters of the Falkland Islands; and</li> <li>• The import or export of any marine mammal, or any part of a marine mammal, living or dead, without a licence.</li> </ul>
Conservation of Wildlife and Nature Ordinance 1999	This Ordinance prohibits the deliberate killing, injuring, capturing, replacing or disturbing any protected wild animal, bird or plant without a licence.
Fisheries (Conservation and Management) Ordinance 2005	<p>This Ordinance protects fisheries resources in order to:</p> <ul style="list-style-type: none"> <li>• Meet the reasonably foreseeable needs of future generations.</li> <li>• Avoid, remedy, or mitigate any adverse effects of fishing on the marine environment so far as is reasonably practicable to do so.</li> </ul> <p>The Ordinance has the following environmental and information principles:</p> <ul style="list-style-type: none"> <li>• Associated or dependent species shall be maintained at, or above, a level that ensures their long term viability;</li> <li>• Biological diversity of the marine environment shall be maintained;</li> <li>• Habitats of particular significance for fisheries management shall be protected;</li> <li>• Decisions shall be based on the best available information;</li> <li>• Decision-makers shall consider any uncertainty in the information available in any case; and</li> <li>• Decision-makers shall be cautious when information is uncertain, unreliable, or inadequate.</li> </ul>

Legislation	Summary
Merchant Shipping (Registration of Ships) Regulations 2001	These Regulations require all vessels registered in the Falkland Islands to comply with the International Convention for the Prevention of Pollution from Ships (MARPOL) 73/78. An exception to this is compliance with Annex IV on the discharge of sewage from ships. It was specifically requested that this annex not be applied, as the Falkland Islands is unable to comply with the legislative requirement for adequate vessel reception facilities.
The Protection of Wrecks Ordinance 1977	This Ordinance allows for the protection of wrecks that are either of historical, archaeological or artistic importance, or are dangerous. Subsidiary legislation, The Various Wreck Sites (Designation) (Amendment) Order 1995, designated restricted areas for the purpose of protection of wrecks.
The Merchant Shipping Act 1894	The Merchant Shipping Act 1894 allows for the Receiver of Wreck to take possession of any wreck or article that has originated from a ship (including flotsam and jetsam) or take possession of any abandoned wreck. Under this legislation, all wrecks in the Falkland Islands, if not privately owned, are deemed the property of the Crown and it is an offence to tamper with them or to remove any items without authority. There are also provisions with regard to salvage rights.
The Road Traffic Ordinance 1948	The Road Traffic Ordinance 1948 provides for the regulation and control of road traffic in the Falkland Islands.
Highways (Weight Limits) Ordinance 2004	<p>This Ordinance prohibits the use of vehicles with a laden weight which exceeds 38 metric tons on publicly maintainable highways. The Ordinance includes two schedules;</p> <ul style="list-style-type: none"> <li>• Schedule 1: Maximum permitted weights for vehicles.</li> <li>• Schedule 2: Maximum permitted weights for vehicle combinations.</li> </ul> <p>The proposed new access road has been designed for a side load trailer arctic of 70 tons. This exceeds the 38 tons detailed in the Highways Ordinance. However, it should be noted that side loaders which currently use FIPASS travel along FIPASS Road and exceed the weight limit.</p>

### A5.3 Methodological guidance for EIA

The legislative framework for the EIA is defined by the 1991 Ordinance, the 2015 Regulations and the legislation listed in **Table 5.1**.

**Table 5.2** summarises the guidance and best practice that has been applied for each area of the EIA. There is a lack of detailed local methodological guidance and, therefore, the EIA has typically adopted the approach to EIA that would apply in the UK, but applied in a proportionate manner to reflect local conditions, the scoping opinion (**Section A6.3**) and feedback received during stakeholder engagement.

**Table 5.2** Guidance / best practice used to inform the EIA

Topic	Guidance / best practice used to inform the EIA
Coastal processes	<p>The assessment of potential effects on coastal processes has been undertaken with reference to the UK Marine Policy Statement (MPS) (HM Government, 2011) in the absence of specific guidance applicable to the Falkland Islands. The UK MPS states that “<i>marine plan authorities should not consider development which may affect areas at high risk and probability of coastal change unless the impacts upon it can be managed. Marine plan authorities should seek to minimise and mitigate any geomorphological changes that an activity or development will have on coastal processes, including sediment movement.</i>” The potential effects on coastal processes are presented in <b>Section A7.0</b>.</p>
Water and sediment quality	<p>The water and sediment quality assessment (<b>Section A8.0</b>) has been carried out in accordance with the following UK assessment criteria in the absence of specific Falkland Islands guidance:</p> <ul style="list-style-type: none"> <li>• Assessment of impacts with regard to water quality have been assessed in light of UK environmental quality standards (EQS) and UK bathing water standards.</li> <li>• The assessment of potential impacts associated with disturbance of sediment during the construction phase has been undertaken in accordance with recognised guidelines and action levels used in the UK, namely: <ul style="list-style-type: none"> <li>○ Cefas Guideline Action Levels for the disposal of dredged material (MMO, 2020); and,</li> <li>○ Canadian Sediment Quality Guidelines (CSQG) for the Protection of Aquatic Life (Canadian Council of Ministers of the Environment (CCME), 2002).</li> </ul> </li> </ul>
Marine ecology Coastal and terrestrial ecology	<p>As noted in <b>Table 5.2</b>, there are various Ordinances which are applicable to marine ecology and coastal and terrestrial ecology (reported in <b>Section A9.0</b> and <b>A10.0</b>). The details from the applicable Ordinances have been used to inform the impact assessment.</p>
Archaeology and cultural heritage	<p>In the absence of guidance specific to the Falkland Islands, the assessment of potential archaeological and cultural heritage impacts has been undertaken with reference to the UK MPS and National Policy Statement for Ports (Department for Transport, 2012, Section 5.1.2 Historic Environment). Additionally, the assessment takes into account the following documents:</p> <ul style="list-style-type: none"> <li>• The Assessment and Management of Marine Archaeology in Port and Harbour Development (Historic England, 2016); and</li> <li>• Dredging and Port Construction: Interactions with Features of Archaeological or Heritage Interest (PIANC, 2014)</li> </ul>
Noise and vibration	<p>The assessment of impacts to receptors as a result of noise and vibration disturbance has been undertaken in accordance with:</p> <ul style="list-style-type: none"> <li>• BS 5228-1:2009+A1:2014, <i>Code of Practice for Noise and Vibration Control on Construction and Open Sites</i>.</li> <li>• Highways England Design Manual for Roads and Bridges (DMRB).</li> </ul>

Topic	Guidance / best practice used to inform the EIA
	BS 4142:2014+A1:2019 <i>Methods for rating and assessing industrial and commercial sound.</i>
Air quality	<p>The assessment of impacts to air quality has been undertaken in accordance with the:</p> <ul style="list-style-type: none"> <li>• UK Institute of Air Quality Management (IAQM) ‘Guidance on the Assessment of Dust from Demolition and Construction’ (IAQM, 2016).</li> <li>• UK Department for Environment, Food and Rural Affairs (Defra) technical guidance (TG16) (Defra, 2018).</li> </ul> <p>The latest IAQM and Environmental Protection UK (EPUK) guidance (IAQM and EPUK, 2017).</p>
Traffic	<p>The guidelines for the Environmental Assessment of Road Traffic (GEART) (published January 1993 by the Institute of Environmental Assessment) are UK guidelines for the assessment of the environmental impacts of road traffic associated with new developments, irrespective of whether the developments are to be subject to formal EIAs. The purpose of the guidelines is to provide the basis for systematic, consistent and comprehensive coverage for the appraisal of traffic impacts arising from development projects. These guidelines have been used for the traffic assessment in the absence of Falkland Islands specific guidance.</p>
Landscape and visual	<p>The assessment of landscape and visual impacts has made reference to the Guidelines for Landscape and Visual Impact Assessment’ (GLVIA), Third Edition Landscape Institute &amp; Institute of Environmental Management and Assessment 2013. It should be noted that the above guidance does not dictate a prescriptive methodology; instead it encourages practitioners to develop transparent and logical methods, using standardised terminology and which are proportionate the type and size of development proposed. Given the nature and location of the proposed scheme, the assessment of potential landscape and visual impacts has been undertaken in a qualitative manner, considering the sensitivity of the landscape and visual character and the magnitude of change as a result of the proposed scheme. The magnitude of change has considered the size and scale of an effect, the geographical extent of an effect and the duration and reversibility.</p>
Land quality	<p>The land quality assessment in <b>Section A16.0</b> has been carried out in accordance with the principles contained within the Environmental Protection Act 1990 (Part 2A): Contaminated Land Statutory Guidance. The guidance provides the regulatory basis for the identification, designation and remediation of contaminated land. The definition of contaminated land as set out in the guidance had been used to help determine whether the landside elements of the proposed scheme could be potentially affected by land contamination.</p> <p>The Land Quality assessment approach is based upon guidance in the Environment Agency Land Contamination Risk Management (2020) Framework (LCRM). This provides a technical framework for the application of a tiered risk management process comprising the development of a preliminary Conceptual Site Model (CSM) by desk study review of available documentary information. The CSM is developed to identify potential sources of contamination, associated contaminants from past or current activities on and adjacent to the proposed scheme, receptors to such contamination and pathways between the two.</p>

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	<p>The following documents have also been used to inform the assessment of potential impacts:</p> <ul style="list-style-type: none"> <li>• Land Contamination: Risk Management (formerly – Environment Agency Model Procedures for the Management of Land Contamination, Contaminated Land Report 11) (Environment Agency, 2020).</li> <li>• Contaminated Land Risk Assessment, A Guide to Good Practice (CIRIA, 2001).</li> <li>• British Standard BS10175:2011 +A2:2017. Investigation of Potentially Contaminated Sites;</li> <li>• Environmental Protection Act 1990: Part 2A, Contaminated Land Statutory Guidance.</li> </ul> <p>Guiding Principles Land Contamination (GPLC2); Environment Agency, Land Contamination Groundwater Compliance Points: Quantitative Risk Assessments (Environment Agency, 2017).</p>
Flood risk	<p>There is no guidance within the Falkland Islands for the assessment of impacts to flood risk. Based on discussions with F.I.G., it is understood that there is no significant flood risk at the proposed scheme footprint. The flood risk assessment has, therefore, been undertaken in a qualitative manner, with reference to the allowances recommended by the Intergovernmental Panel on Climate Change (IPCC) regarding sea level rise depending on the effectiveness of efforts to control global warming.</p>
Navigation	<p>There is no guidance within the Falkland Islands for the assessment of impacts to navigation. However, consultation has been undertaken with the Harbour Master and F.I.G. to agree an approach to navigation assessment.</p> <p>As agreed with F.I.G. Planning and Building Services via the environmental scoping process, a formal navigation risk assessment has not been undertaken as this is not considered necessary to inform the impact assessment. The assessment of impacts from a navigation perspective has therefore been undertaken in a qualitative manner, in accordance with the methodology detailed in <b>Section A6.0</b>.</p> <p>Consultation with the Harbour Master in January 2021 confirmed that in relation to vessel manoeuvring, the increased volume of vessels due to construction activities is low and, therefore, a navigation model on the temporary phasing of the construction phase of the proposed scheme (<b>Section A 4.2</b>) is not required. This indicates that the risk of collision was considered by the Harbour Master to be sufficiently low not to warrant further analysis.</p> <p>Within the UK, there are no generally accepted criteria for assessing the significance of impacts to navigation; rather, they are assessed based on the scale of the increase over the baseline position, as well as the nature and context of their impacts. The assessment presented within <b>Section A18.0</b> has adopted this approach.</p>

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Socio-economics	<p>There is no guidance within the Falkland Islands for the assessment of socio-economic impacts. It has, therefore, been assumed that the approach adopted within the UK is acceptable. Within the UK, there are no generally accepted criteria for assessing the significance of socio-economic impacts; rather, they are assessed based on the scale of the increase over the baseline position, as well as the nature and context of their impacts. The assessment presented within <b>Section A19.0</b> has adopted this approach.</p>
Climate change	<p>The Greenhouse Gas (GHG) assessment has been undertaken in accordance with the principles outlined in the Greenhouse Gas Protocol, an international standard for corporate level GHG inventories. In addition, significance criteria for the GHG assessment have been derived from the Institute of Environmental Management and Assessment (IEMA) guidance 'Environmental Impact Assessment Guide to Assessing Greenhouse Gas Emissions and Evaluating their Significance' (IEMA, 2017).</p> <p>In addition, IEMA has also published a framework for the consideration of climate change resilience and adaptation in the EIA process. The guidance advises that the future climate at the development site should be identified, and how adaptation and resilience measures have been built into the design of a development (IEMA, 2020).</p>
Waste	<p>Waste management infrastructure is very limited on the Falkland Islands and there is no specific legislation or policy to dictate or prioritise how waste from the proposed scheme should be managed.</p> <p>F.I.G. has developed a waste strategy (F.I.G., 2018) which proposed a phased in differential treatment of waste streams and the implementation of a new waste management facility (engineered landfill). Much of the waste strategy has yet to be implemented. It is assumed that these new facilities will be online ahead of the construction phase of the proposed scheme to receive waste streams generated from it.</p> <p>The Falkland Islands are significantly constrained by location, low population, and a lack of volume of waste to be able to implement modern waste management techniques for the full range of wastes that are likely to be produced by the proposed scheme according to the standards of good and best waste management practice required in the UK.</p> <p>It is proposed that the waste management principles adopted in the UK will be used to manage wastes in connection with the proposed scheme where feasible, cost effective and with due regard to the carbon generated in transportation. Key principles will need to be adapted to accommodate what can realistically be achieved on the Falkland Islands.</p> <p>Further detail regarding the principles of waste management that can be adopted on the Falkland Islands, and the proposed approach to manage waste arising from the proposed scheme is detailed in <b>Appendix 2</b>.</p>
Human health	<p>There is no guidance within the Falkland Islands for the assessment of impacts to human health. It has therefore been assumed that the approach adopted within the UK is acceptable. Within the UK, there are no generally accepted criteria for assessing the significance of impacts to human health; rather, they are assessed qualitatively based on the scale of the increase over the baseline</p>

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	<p>position, as well as the nature and context of their impacts. The assessment is informed by the findings of other technical assessments within the EIS, namely noise, air quality, climate change, land quality and flood risk. The assessment presented within <b>Section A21.0</b> has adopted this approach.</p>