

Item: 16

Policy and Resources Committee: 20 September 2022.

Orkney Harbours Masterplan Phase 1.

Report by Corporate Director for Enterprise and Sustainable Regeneration.

1. Purpose of Report

To consider extension of specific governance arrangements with regard to progressing elements of the Orkney Harbours Masterplan Phase 1.

2. Recommendations

The Committee is invited to note:

2.1.

That, on 23 December 2021, when considering specific governance arrangements with regard to progressing elements of the Orkney Harbours Masterplan Phase 1, the Council approved the establishment of a negotiating team, together with the delegation of powers to authorise and conclude agreements associated with the proposed developments in the Orkney Harbours Masterplan Phase 1, and the Crown Estate Scotland's ScotWind seabed leasing rounds, for the calendar year 1 January to 31 December 2022, as detailed in section 3 of this report.

2.2.

Due to recent increased and positive interest in the proposed developments at Scapa Deep Water Quay and Hatston, the proposal to extend the governance arrangements, referred to at paragraph 2.1 above, for a further period from 1 January to 31 December 2023.

2.3.

That, as titles and remits of certain posts have changed since 23 December 2021, any extension of governance arrangements with regard to progressing elements of the Orkney Harbours Masterplan Phase 1 will require to reflect these changes.

It is recommended:

2.4.

That the specific governance arrangements with regard to progressing elements of the Orkney Harbours Masterplan Phase 1 agreed by Council on 23 December 2021 be extended for a further period, from 1 January to 31 December 2023, subject to references to specific officers being amended as follows in order to reflect changes

arising from the recent implementation of the Council's new delivery model (staffing restructure):

- Replace Interim Executive Director of Finance, Regulatory, Marine and Transportation Services with Corporate Director Enterprise and Sustainable Regeneration.
- Replace Head of Legal Services with Head of Legal and Governance.
- Replace Interim Head of Finance with Head of Finance.

3. Background

3.1.

At the Special General Meeting held on 23 December 2021, when considering specific governance arrangements with regard to progressing elements of the Orkney Harbours Masterplan Phase 1, the Council noted:

- That, on 21 December 2021, when considering specific governance arrangements with regard to progressing elements of the Orkney Harbours Masterplan Phase 1, the Policy and Resources Committee recommended that consideration of establishing a negotiating team and the delegation of powers to authorise and conclude agreements associated with the proposed developments in the Orkney Harbours Masterplan Phase 1, and the Crown Estate Scotland's ScotWind seabed leasing rounds, be referred to the Special General Meeting of the Council to be held on 23 December 2021.
- The proposal that the delegation to the Chief Executive, in consultation with elected members and officers, should not include authority to award construction contracts for capital projects associated with the Orkney Harbours Masterplan Phase 1, or any developments associated with Crown Estate Scotland's ScotWind sea-bed leasing rounds.
- That the proposed delegation would necessarily include authority to conclude agreements with Crown Estate Scotland and other parties regarding land acquisitions or options to purchase land necessary to deliver the Orkney Harbours Masterplan Phase 1.
- That, as the delegation was proposed to cover the period 1 January to 31 December 2022, it might not be possible to consult with elected members for the period covering the pre-election period for the Local Government Election to be held on 5 May 2022, which was due to commence on 15 March 2022, until the appointment of committee office bearers, which would conclude in early June 2022.
- That the proposed Scapa Deep Water Quay and the proposed extension and seabed reclamation at Hatston Pier would continue to be progressed through the Capital Project Appraisal process in order to obtain formal approval to proceed with those capital projects.

3.2.

The Council thereafter resolved:

- That a negotiating team, comprising the undernoted officers, be established to negotiate Heads of Terms and/or other commercial agreements that might result from the preferred developer contacts and/or negotiations arising from the announcement of Crown Estate Scotland's ScotWind seabed leasing due in January 2022:
 - Interim Chief Executive.
 - Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.
 - Head of Legal Services.
 - Interim Head of Finance.
 - Head of Marine Services, Transportation and Harbour Master.
 - Any other officers that the negotiating team nominate.
- That powers be delegated to the Chief Executive, in consultation with the undernoted Members, when available, and officers, to authorise and conclude Heads of Terms, commercial or other agreements associated with the proposed developments contained within the Orkney Harbours Masterplan Phase 1, as well as any developments associated with Crown Estate Scotland's ScotWind seabed leasing rounds, for the period 1 January to 31 December 2022 inclusive:
 - Leader.
 - Depute Leader.
 - Chair, Development and Infrastructure Committee.
 - Vice Chair, Development and Infrastructure Committee.
 - Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.
 - Head of Legal Services.
 - Head of Marine Services, Transportation and Harbour Master.
- That the delegation referred to above should not include the award of any construction contracts for capital projects associated with the Orkney Harbours Masterplan Phase 1, or any developments associated with Crown Estate Scotland's ScotWind seabed leasing rounds.
- That the delegation referred to above should include authority to conclude agreements with Crown Estate Scotland and other parties regarding land acquisitions or options to purchase land necessary to deliver the Orkney Harbours Masterplan Phase 1.
- That, where an agreement required the commitment of the Council to a potential liability in excess of £5 million, prior approval be sought either through routine Council governance structures or, if time limited, by calling special meetings of the relevant Committee and/or the Council.

3.3.

These specific governance arrangements were put in place noting that it may not be possible to consult with all elected members in the commercial and practical timeframes.

4. Proposed Extension of Specific Governance Arrangements

4.1.

Although the governance arrangements approved on 23 December 2021 have not been fully used at the time of writing this report, it is considered that they will be needed within the period up to and including the original period for which they cover i.e.: 1 January to 31 December 2022.

4.2.

Due to recent increased and positive interest in the proposed developments at Scapa Deep Water Quay and Hatston, it is proposed that the governance arrangements should be extended for a further calendar year, ie 1 January to 31 December 2023.

5. Corporate Governance

This report relates to the Council complying with governance and procedural issues and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

6. Financial Implications

6.1.

There are no direct financial implications contained within this report.

6.2.

The exercise of powers delegated to the Chief Executive is likely to have financial implications for the Council. This has not been quantified in this report, but it is considered that establishment of the negotiating team will assist the Chief Executive in discharging his duties with regard to best value.

7. Legal Aspects

7.1.

The Council has a statutory duty to achieve best value. Implementing the recommendations in this report will assist the Council in discharging this duty by enabling the Council to maximise the opportunities arising from the Orkney Harbours Masterplan and the ScotWind and Crown Estate Scotland seabed leasing rounds.

7.2.

The Council must act within its delegated powers. The recommendations in this report ensure that appropriate governance is in place for the Council to enter into commercial agreements in relation to the proposed developments contained within the Orkney Harbours Masterplan and any developments associated with the ScotWind and Crown Estate Scotland seabed leasing rounds.

8. Contact Officers

Gareth Waterson, Corporate Director for Enterprise and Sustainable Regeneration, Email: gareth.waterson@orkney.gov.uk

James Buck, Head of Marine Services, Transportation and Harbour Master, Email: james.buck@orkney.gov.uk

David Sawkins, Deputy Harbour Master: Strategy and Support, Email: david.sawkins@orkney.gov.uk