



Stephen Luxton  
Director  
Department of Mineral Resources  
Falkland Islands Government

9 March 2018

BY EMAIL ONLY

Dear Mr Luxton,

## SEALION FIELD DEVELOPMENT – PHASE 1, ENVIRONMENTAL IMPACT STATEMENT

The RSPB appreciates the time spent on compiling and writing this extensive EIS and value the significant input from FIG in bringing it to public consultation. We recognise the potential economic transformation that such large scale industrial growth can bring to the lives of Falkland Islanders. We therefore offer our expertise and comments with the intent of contributing to the shared goal of the sustainable development of the islands.

Please find below some comments on this Environmental Impact Statement (EIS) and licence application by Premier Oil Ltd (the Proponent). We provide our headline comments in this letter, with more detail provided in the attached annex.

The RSPB feels that the EIS consultation has a **significant flaw** due to lack of inclusion of a number of significant reports (set out in the annex below) that are key to understanding the conclusions made in the EIS, but which are not summarised in a meaningful way in that document and which have not been made publically available. Provision of supporting reports is standard practice in EIA consultation. This omission limits consultees' understanding of key issues and their ability to provide a full response to issues raised in the EIS and the licence application.

The RSPB appreciates the time spent on compiling and writing this EIS. However, we have concerns about a number of aspects which we feel need to be addressed by the proponent and taken into account by Falkland Islands Government decision makers: :

### Baseline data

We are disappointed that no effort has been made between the exploration and extraction licence applications to gather more offshore baseline ecological data on birds and cetaceans.

There are also significant gaps in the baseline data of receptors that may be impacted by the inshore transfer operations in Berkeley Sound, and it is hard to understand why these gaps could not have been filled in the time available. We agree that the proponent has taken a suitably precautionary approach in their risk assessments. However, these data gaps mean that there is unnecessary uncertainty regarding both the significance of impact on receptors, but also regarding the efficacy of any mitigation measures that are proposed. **We believe that FIG needs to ensure these baseline gaps are filled through appropriate consent conditions prior to any operations commencing.** Nevertheless, we believe that it is poor practice that this information is not available to decision makers when taking a consent decision on a major infrastructure project.

#### Alternatives for inshore transfer of oil

We continue to be concerned with risks associated with inshore transfer of oil and believe its avoidance would be desirable. With regards to the alternative of offshore transfer, we note the issues with the safety case, but also that the Proponent will undertake trials to prove its viability or otherwise once vessels are in the water. Having not been able to review the inshore transfer location environmental assessment comparison report, we are obliged to take on face value that Berkeley Sound is the least damaging option. **Due to the relative risks to the environment posed by inshore transfer we encourage FIG to ensure that any eventual consent is conditioned to ensure this work reports and a decision taken as soon as possible after operations commence, ideally with a fixed timetable.**

#### Bird-strike

The EIS concludes that bird strike has a moderate residual significance risk to seabirds. In a worst case this could have significant impacts on endangered seabird populations. We are concerned that there is little detail presented or apparent commitment to identify mitigation measures to reduce this potential, which are not dependent on a reaction to in-situ monitoring once vessels are in place and impacts already occurring. Again, **as a condition of consent the Proponent should be required to outline in detail measures they will take to reduce artificial light pollution on its operating vessels, platform and FPSO. This should include a requirement to investigate and report in a timely way (before production) on the potential for use of non-pilot flares and green spectrum lighting. This information should form part of a precautionary state-of-the-art bird strike mitigation plan agreed before project implementation.** This is particularly important as adaptive management and retrofitting of vessels once in the field is likely to be difficult, expensive and potentially impractical.

#### Oil spill response

We note that the offshore oil spill scenarios in the EIS factor in oil spill response into their final risk significance values, but that the document then states that due to the weather conditions in the North Falklands Basin, oil spill response is unlikely to be a feasible mitigation option. **FIG decision makers need to be cognisant that, although unlikely, should a major spill event occur offshore, there will be very little that can be done whilst impacts occur to globally important seabird populations for which they are responsible.**

Inshore there is little information in the EIS to show how the proposed oil spill response mitigation has taken into account the most sensitive colonies and habitats in Berkeley Sound – such as the large colony of near-threatened Sooty Shearwaters– or detail as to why the mitigation strategy chosen was picked over those which would result in better response outcomes. No attempt has been made to try to quantify the potential extent of impact on individual protected areas and their interest features within the Sound. As above, **FIG decision makers should be aware that a major oil spill event in Berkeley sound, even with oil spill response, will have adverse impacts on nationally important seabird and cetacean populations for which they are responsible.**

**Agreed Inshore and Offshore Oil Spill Response Plans and a Wildlife Response Plan should be a condition of consent.**

#### Environmental Monitoring and Management Plan

Due to the uncertainties surrounding identified impacts to receptors in the EIS, it is vital that the EMMP is a robust, long term and iterative process that builds in adaptive management mechanisms to amend project activities and mitigation measures as needed. As such, we have a number of issues (set out in the Annex to this letter) which we believe the EMMP must address, and which are not adequately covered in the EIS. In addition, due to the vital importance of the EMMP in monitoring and addressing project impacts **we believe that FIG need to carefully condition the set up, and implementation of the EMMP so that they retain a close regulatory and enforcement role**, as would come into effect under the draft Environmental Case legislation.

#### Offsetting

The EIS sets out that all residual moderate impacts will be dealt with through ‘offsetting’ contributions to the Environment Fund. Although we understand that it is difficult for the Proponent to undertake direct or indirect offsetting themselves, **it is very important that these contributions are ring-fenced for conservation projects that benefit the conservation status of species and habitats that are impacted by the project**, rather than being part of any wider pot of money. In particular, projects to enhance baseline data provision are not offsetting and should not be considered for funding from this source.

We note that the Proponent is including offshore and inshore oil spill residual impacts in its offsetting contributions to the Environment Fund. In reality, it is not possible to offset for impacts that would only occur in the event of an accident, and this would in no way absolve the Proponent of their remediation obligations in such an instance. We are therefore taking it that this is part of a ‘net gain’ contribution by the Proponent to the environment of the Falklands, and as such it should be considered a separate contribution.

### Decommissioning

We note the commitment in the EIS to decommission the project to UK standards. Whilst acknowledging that at this stage it is not practical to have a detailed decommissioning plan, we believe **this needs to be an integral part of the project and a condition of the consent**. In addition, **we believe there should be a requirement to ensure that funds will always be available for the full decommissioning of the project**, especially in the event that the operator went bust, or the operation was sold to a different company. Not doing so would risk unacceptable liabilities to Falklands and potentially UK taxpayers.


### Remediation Liabilities

The Deep Water Horizon blowout illustrated the potential enormous scale of environmental liabilities in the event of a catastrophic event. FIG and the UK government therefore **need to have certainty that the Proponent has adequate resources and insurance to fully cover a worst-case scenario event. This information should be publicly available for reasons of clear public interest**. Not to do so would risk unacceptable consequences for the globally important environment of the Falklands, Falkland Islanders and potentially UK taxpayers.

**For the reasons set out above and in the annex below, the RSPB does not believe that the EIS as it currently stands allows FIG decision makers to make a fully informed decision on licence application. However, if a decision is taken to consent the project we strongly recommend that robust conditions address these issues prior to operations commencing.**

We look forward to continue working with your department and the proponent during this early-phase period that is inevitably full of technical challenges. If you have any queries regarding this representation, please feel free to contact myself or my colleague Sacha Cleminson.

Yours Sincerely,



Daniel Pullan, MRTPI

International Casework Manager,  
Royal Society for the Protection of Birds, United Kingdom

cc Sacha Cleminson, RSPB

## Annex

### **The Royal Society for the Protection of Birds and the Falkland Islands**

The RSPB was set up in 1889. It is a registered charity incorporated by Royal Charter and is Europe's largest wildlife conservation organisation, with a membership of over 1.2 million. The RSPB manages 203 nature reserves in the UK covering an area of over 143,000 hectares.

The principal objective of the RSPB is the conservation of wild birds and their habitats. The RSPB campaigns throughout the UK and in international forums for the development, strengthening and enforcement of environmental law and policy. In so doing, it also plays an active role in scrutinising development proposals which may affect important bird areas in the UK and in UK Overseas Territories, offering ornithological and other relevant wider environmental expertise.

The RSPB has been involved with nature conservation in the Falklands Islands for almost two decades, working closely with our BirdLife partner, Falklands Conservation. The UK's Overseas Territories are one of the RSPB's four key priority areas for our work.

### **Other Detailed Comments on the EIS**

#### **Supporting Reports**

The following reports form the basis of important conclusions outlined in the EIS, which were not available to consultees, and which detail specific issues relating to the ecological impacts to birds, cetaceans and coastal habitats which are important in reviewing the EIS and the adequacy of its assessments and conclusions:

- Genesis. 2017. Review of Seabird Data at Sea Lion
- Marengo, I. 2014b. GIS-based assessment of coastal vulnerability to oil spill of the north-east coastline of the Falkland Islands
- Premier. 2015c. Environmental assessment of potential inshore transfer sites.
- Offshore Oil Spill Strategy
- Inshore Oil Spill Strategy
- Wildlife Response Strategy

#### **Baseline Information**

##### Offshore Avian Baseline Data

7.4.5.2.1.1 (p.330) – We have not been able to review the Genesis report to be able to review their assessment and arguments. The coverage of the data (although in a much smaller time series) may or may not be equivalent to that used in frontier areas in the UK. This does not imply that the data used in these new UK fields is adequate and the environment offshore in the UK is not

as environmentally sensitive as that of the North Falklands Basin (NFB), which we feel should imply a need for a higher level of effort.

The fact that much of the NFB east of the drill site has no SAST data in sensitive months (see Fig's 95-98, pp 380-383) clearly indicates a significant data gap, particularly when considering impacts from spill events. There is little indication that the available GAP seabird tracking data has filled this. Indeed, the report states (p.333) that penguin tracking data has not yet been compiled and analysed to enable its use.

7.4.5.2.1.4 (p.335) – The EIS suggests that the SAST data is still relevant, as available Rockhopper penguin tracking summer tracking data corresponds well with the surveys of 2000. Even a brief glance at Fig.77 shows this is not the case, and that most penguin tracks are either in squares where SAST recorded no birds, or in squares which were not covered by SAST at all.

**The RSPB acknowledges the precautionary nature of the oil spill assessments made in the EIS, and that in relation to bird strike risk, baseline data without vessels in the water may not provide a reasonable basis of assessment (due to birds being attracted to the vessels). However, this does not overcome the fact that the Proponent has not undertaken any systematic, repeatable offshore seabird surveys in the offshore zone of influence, leading to their risk significance assessments for oil pollution events being highly uncertain. We do not believe this is a reasonable outcome for the EIS of a large extractive project in a globally sensitive environment.**

#### Berkeley Sound Avian Data

7.4.5.3.1.6 (p.358) – Volunteer lagoon is a key seabird site in the vicinity of Berkeley Sound, and yet no baseline surveys were undertaken to ascertain population numbers of seabirds, their significance nationally and their temporal use of the site.

Table 70 (p.370) – Excluding penguin populations, no attempt has been made to quantify the significance of seabird populations at Berkeley Sound colonies in relation to national or biogeographic scales, making it difficult to assess risk significance for these populations.

We are concerned that significant effort has not been put in to survey the numbers and behaviour of the sooty shearwater population in and around the sound, as these are a potential key species which could be affected by an oil spill event and key feature of Kidney and Cochon island Important Bird Area (IBA).

**The baseline data for birds in and around Berkeley Sound is patchy and excludes important data. The RSPB believes that these holes in the baseline need to be completed, and risk assessments re-appraised in advance of any operations occurring in the Sound.**

## Oil Vulnerability

7.4.5.6.1 (p.378) – There is no explanation of why the oil vulnerability was not calculated using the newer SOSI method, rather than OVI.

Figures 95-98 (pp.380-383) – as above these figures illustrate the lack of baseline data, and so OVI values for much of the area east of the project area that would be impacted by spill events.

## Marine Mammals

Fig.99 (p.387) – This figure illustrates the holes in the JNCC data for marine mammals to the east of the project area, which has implications regarding the certainty of assessment for risk significance from spill events for marine mammals

7.4.6.3.1 (p.402) – No specific field surveys were undertaken by the Proponent to assess marine mammal populations in Berkeley Sound and surrounding area, despite the fact that the existing patchy data shows it holds significant seal and cetacean populations. In our opinion this is a significant failing in the EIS, and makes it very difficult to assess the significance of marine mammal populations present, the risk significance of impacts affecting them, and the efficacy of any mitigation measures proposed to address these issues (eg: inshore oil spill response, disturbance and collision).

7.4.6.3.2.4 (p.412) – no indication of the relative significance of sealion colonies and haul out populations within a national or biogeographic context, whereas this information is provided for fur seals.

**The RSPB does not think that the baseline information provided in the EIS, particularly inshore, is fit for purpose. As such, if consent were granted we strongly recommend that this information is required before operations commence in the Sound, and that risk assessments and mitigation strategies are re-appraised at this time.**

## Sensitivity of Shorelines

7.6.3 (p.437>) – Having not been able to review the Marengo report, we are not able to comment on this assessment and its conclusions. There is no explanation in the EIS of how its results have been taken into account in the Inshore Oil Spill Strategy.

## Scoping

We have already made our views clear on the scoping process of the EIS (our letter 17/10/17). In the explanation of the internal ENVIID scoping process, there is no mention of how the external consultation influenced the eventual scope of the assessment.



## Impact Assessment

### Artificial Light

10.1.7 (p.557>) – we are concerned that only limited mitigation measures to reduce light pollution, and so the potential for seabird attraction and wrecks, have been outlined in the EIS, and that investigation of pilot-free flares and green deck lighting has been put back to post-sanction.

10.1.10 (p.564) – Due to the uncertainty surrounding bird strike both offshore and inshore, particularly as seabird usage in the areas surrounding project vessels may be influenced by attraction, we agree that further comprehensive monitoring is undertaken, as part of a Bird Strike Management Plan and integrated into the EMMP.

**The RSPB strongly recommends that an agreed Bird Strike Management plan is a condition of consent, and that all reasonable mitigation measures RE: the design of project vessels are implemented before operations commence, as retrofitting vessels in the field may be prohibitively expensive or impractical. Saying this, bird strike monitoring should be an integrated part of the EMMP as outlined below, and an adaptive management approach adopted such that if significant impacts occur, further mitigation measures are put in place address them.**

### Helicopter Disturbance

Although we acknowledge that with the mitigation measures outlined in the EIS, significant impacts are unlikely to occur to sensitive species populations, **we do however feel that monitoring of the implementation/enforcement of FILFH protocols is included in the EMMP,** to ensure that this is the case during operations.

### Marine Mammal Collision

10.11.10.1 (p.814) – **the EMMP needs to include collision monitoring and monitoring of the implementation of mitigation measures (eg: ship speeds).**

### Offshore Oil Spill

We have not had the opportunity to review the offshore oil spill strategy which should have been appended to the EIS as a key mitigation strategy.

12.1.2.2 (p.1072) – although it is discussed, no summary is given in the EIS of FPSO collision risk or iceberg collision risk.

12.1.4.4.5 (p.1109) – It is unclear from the EIS where anchor-handling vessels offload captured oil – is this to other vessels in the vicinity, or to onshore facilities?



12.1.7 (p.1165) – although the scenario assessments for FPSO and well blow-out included offshore oil spill response as a mitigation measure, reducing residual impacts, this concluding section states that offshore oil spill response is unlikely to be a viable option. It would therefore have been clearer not to include it in the individual scenario assessments.

12.1.10 (p.1166) – although in the baseline section above, the seabird data is deemed adequate, this section acknowledges that species distribution is a data gap. In our opinion, this gap should have been filled within this EIS process, and it is not an appropriate response to leave it to the GAP project at some point in the future.

### Inshore Oil Spill

We have not had the opportunity to review the inshore oil spill strategy which should have been appended to the EIS as a key mitigation strategy.

Table 299 (p.1197) - without explanation, this table and associated section is not legible to a non-specialist audience.

12.2.7.1.2 (p.1249) – This talks about recovered oil storage capacity, but as offshore, it is unclear what this is referring to.

12.2.7.2 (p.1250) – It is unclear why response option 5 has been chosen over other options that would achieve better response results (eg: options 2,12 and 13).

From the information presented in the EIS, it is unclear how the inshore oil spill mitigation has taken into account the coastal sensitivities, and key seabird and marine mammal sites in Berkeley Sound and its surrounding area. Oil spill marker species monitoring should be included in the EMMP, as should spill modelling before each inshore transfer operation (to also take into account ecological sensitivities dependent on time of year).

### Environmental Monitoring and Management Plan (EMMP)

**A clear distinction needs to be made between inadequacies in the spatial and temporal coverage of baseline data in the EIS, which needs to be closely conditioned and completed before operations commence, and operational monitoring and management of impacts, which should be managed by the EMMP process.**

15.2 (p.1324) – **The RSPB recommends that the EMMP steering group includes relevant experts/representative from the Proponent, FIG and relevant sector stakeholders (eg: fisheries/nature conservation).**

153.2 (p.1327) – **instead of 5 year review periods, it would make more sense to have short review periods at the start of operations, gradually increasing as time progresses, and so as certainty over impacts increases.** This might look something like 1, 3, 6, 10, 15 years etc..

Although the EIS provides a bare-bones outline of the EMMP scope, this needs to be discussed and agreed by a representative steering committee once sanction has been given.