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mARINE SCOTLAND LICENSING OPERATIONS TEAM’S (“MS-LOT”) ASSESSMENT OF THE PROJECT’S IMPLICATIONS FOR DESIGNATED SPECIAL AREAS OF CONSERVATION (“sac”) IN VIEW OF THE SITES’ CONSERVATION OBJECTIVES.

APPLICATION FOR A MARINE LICENCE UNDER THE MARINE (SCOTLAND) ACT 2010 for THE CONSTRUCTION, DREDGING, DEPOSIT OF DREDGED SUBSTANCES AND OBJECTS AND REMOVAL OF SUBSTANCES OR OBJECTS ASSOCIATED WITH THE UPGRADING OF THE EXISTING FERRY TERMINAL AT EAST LOCH TARBERT, TARBERT, isle of harris

SITE DETAILS: tarbert, isle of harris

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| **Name** | **Assessor or Approver** | **Date** |
| Stephanie Sweeting | Assessor | 13/05/2019 |
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SECTION 1: BACKGROUND

# **Appropriate assessment (“AA”) conclusion**

## This AA concludes that there will be no adverse effect on the site integrity of the Inner Hebrides and the Minches SAC and Ascrib, Isay and Dunvegan SAC from the Caledonian Maritime Assets Limited (“CMAL”) proposal either in isolation or in combination with other projects, provided the condition described in Section 4 is applied.

# **Introduction**

## This is a record of the AA for the CMAL proposal to upgrade the existing Ferry Terminal at East Loch Tarbert, Tarbert Isle of Harris including construction works (including the removal of substances or objects), dredging activities and deposit of dredged substances or objects (“dredge spoil”) (hereinafter collectively referred to as “the Works”). The assessment has been undertaken by Marine Scotland - Licensing Operations Team (“MS-LOT”). This assessment is required under Regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 (“the Regulations”). This AA is in accordance with Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Council Directive 2009/147/EC on the conservation of wild birds. MS-LOT, as the 'competent authority' under the Regulations, has to be satisfied that the project will not adversely affect the integrity of any European site (SAC and Special Protection Areas (“SPA”)) before it can grant consent for the project.

## A detailed AA has been undertaken and Scottish Natural Heritage (“SNH”) has been consulted.

# **Details of proposed operation**

## CMAL propose to upgrade the existing ferry terminal at Tarbert. The Works include the following components:

## Pier demolition, reconstruction and extension;

## Dredging and deposit of dredge spoil ; and

## Extension of marshalling area through land reclamation, including construction of a rock armour revetment.

## The existing pier will be demolished and temporary fendering will be installed with shore braces for support. This will transfer the berthing loads from the fender piles and facilitate the berthing of the ferry until the pier is reconstructed. The reconstructed and extended pier will be approximately 100 metres (“m”) long and between 10 and 12.5m wide, with an area of approximately 1,400 square metres (“m2”). The pier will be supported on approximately 50 new vertical and raked steel piles driven into the seabed. The new piles will support precast reinforced concrete cross beams and slabs, with a top reinforced concreated slab which will be poured in situ. The new pier will incorporate the existing inner and outer dolphins, which will be broken down to a suitable level, before being over-slabbed and incorporated into the new pier structure. Sacrificial cathodic protection will be included to help to protect the pier structure from corrosion.

## There are three dredge areas as shown in appendix 1. The existing seabed will be excavated to achieve a dredge level of -5m Chart Datum (“CD”) at the pier berth. This area is known as the operational dredge area which covers an area of 4,000m2 and has an estimated dredge volume of 4,500 cubic metres (“m3”). In the second dredge area, the existing seabed will be excavated to remove soft, poor quality seabed material to a maximum depth of -7.85 CD. This area is known as the reclamation area and is 8,500m2 in extent with an estimated dredge volume of 31,300m3. An area adjacent to the reclamation area where the pontoons are located also needs to be dredged to facilitate access by vessels to dredge the reclamation area. The dredge will reduce the seabed to between -1m CD and -3m CD. This is known as the access dredge (pontoon) area which is 4,800m2 and has an estimated dredge volume of 5,000m3. The total dredge volume is 40,000m3 however the Applicant is seeking a licence for a total of 50,000m3 to account for insitu changes. All dredge spoil is to be deposited at the Stornoway designated deposit site.

## An area of 13,000m2 of land will be reclaimed to the south and east of the existing marshalling area, up to and including below the existing pier. The land will be reclaimed by placing rock fill onto the firm gravel or rock of the seabed, exposed by the dredging activities. A retaining wall will be installed to keep the upper levels of the infill material in place. A rock armour revetment will be constructed to protect the reclaimed areas. Where access is limited, it is proposed to utilise grout filled mattresses instead of rock armour to ensure slope scour protection. An estimated 6,000m3 of primary (including 2,000m3 of existing rock armour which will be removed and then reused) and 3,500m3 of secondary armour material will be used. In addition, an estimated 40,000m3 of rock and fill material will be required to fill in the land reclamation area. A new drainage system will be installed to accommodate the surface water arising from the marshalling area.

# **Consultation**

## SNH was consulted on the application and supporting information, including [Tarbert Ferry Terminal Upgrade Habitat Regulations Appraisal Pre-Screening Report (“HRA Report”)](Appendix%20F1,%20Tarbert%20Ferry%20Terminal%20Upgrade%20Habitat%20Regulations%20Appraisal%20Pre-Screening%20Report%20of%20the%20Tarbert%20Ferry%20Terminal%20Upgrade%20Environmental%20Impact%20Assessment%20Report) and a [Construction Environmental Management Document (“CEMD”)](http://marine.gov.scot/data/0690706908-construction-environmental-management-document-issue-3-0) on 22 February 2019 and provided a response on 09 May 2019.

# 

# **Main points raised during consultation**

## The HRA Report submitted by CMAL concluded that there were no SPAs within 5 kilometres (km) of the Works. There are four SPAs located between six and 28 km from the Works. None of the avian qualifying feature species were recorded as being present in the area during the ornithological survey. On this basis, the report concludes that there is no potential for the proposed Works to affect any SPAs.

## The HRA Report also considered potential impacts on the following SACs:

* Loch nam Madadh SAC
* North Harris SAC
* Monach Islands SAC
* Sound of Barra SAC
* Langavat SAC
* North Rona SAC
* Treshnish Isles SAC
* South East Islay Skerries SAC

## The HRA Report concludes that there will be no likely significant effects on any of these sites from the Works. Details of the reasoning can be found in the [HRA Report](http://marine.gov.scot/sites/default/files/eiar_volume_3_-_part_1_a1_to_f1_-_tarbert_ferry_terminal_upgrade_redacted_0.pdf). SNH supports the conclusions of the HRA and therefore these sites will not be considered further in this assessment.

## The HRA Report found that there could be a likely significant effect on the protected features of the Inner Hebrides and the Minches SAC and the Ascrib, Isay and Dunvegan SAC. SNH agreed with this conclusion in its consultation response.

SECTION 2: INFORMATION ON NATURA SITES

# **Background information and qualifying interests for the relevant Natura sites**

## This section provides links to the Scottish Natural Heritage Interactive (“SNHi”) website where the background information on the site being considered in this assessment is available. The qualifying interests for the site are listed as are the conservation objectives.

Table 1 Name of Natura site affected and current status

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| --- |
| **Inner Hebrides and the Minches SAC**  <https://sitelink.nature.scot/site/10508>  **Ascrib, Isay and Dunvegan SAC**  <https://sitelink.nature.scot/site/8193> |

Table 2 European qualifying interests

|  |
| --- |
| **Inner Hebrides and the Minches SAC**   * Harbour porpoise (*Phocoena phocoena*)   **Ascrib, Isay and Dunvegan SAC**   * Harbour seal (*Phoca vitulina*) |

Table 3 Conservation objectives

|  |
| --- |
| **Inner Hebrides and the Minches SAC**  To ensure that the Inner Hebrides and the Minches SAC continue to make an appropriate contribution to harbour porpoise remaining at favourable conservation status.  To ensure for harbour porpoise within the context of environmental changes, that the integrity of the Inner Hebrides and the Minches SAC is maintained through:   * Harbour porpoise within the Inner Hebrides and the Minches are not at significant risk from injury or killing; * The distribution of harbour porpoise throughout the site is maintained by avoiding significant disturbance; and * The condition of supporting habitats and the availability of prey for harbour porpoise are maintained.   **Ascrib, Isay and Dunvegan SAC**  To avoid deterioration of the habitats and qualifying species (listed above) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and  To ensure for the qualifying species that the following are maintained in the long term:   * Population of the species, as a viable component of the site * Distribution of the species within site * Distribution and extent of habitats supporting the species * Structure, function and supporting processes of habitats supporting the species * No significant disturbance of the species |

SECTION 3: ASSESSMENT IN RELATION TO REGULATION 48 OF THE CONSERVATION (NATURAL HABITATS, &C.) REGULATIONS 1994

# **Requirement for appropriate assessment**

## *Is the operation directly connected with or necessary to conservation management of the site?*

## The operation is not directly connected with or necessary to conservation management of the site.

## *Is the operation likely to have a significant effect on the qualifying interest?*

## In their response dated 09 May 2019, SNH advised that it supports the conclusions of the HRA Report that there is potential for the Works to have a likely significant effect on the Inner Hebrides and the Minches SAC and the Ascrib, Isay and Dunvegan SAC.

## MS-LOT agree with the conclusions of the HRA Report and SNH’s advice and have undertaken an AA for the Inner Hebrides and the Minches SAC and the Ascrib, Isay and Dunvegan SAC.

# **Appropriate assessment of the implications for the site in view of the site’s conservation objectives.**

MS-LOT have considered the application and supporting documentation including the HRA report and CEMD submitted by CMAL and the advice provided by SNH to support this assessment.

## Inner Hebrides and the Minches SAC

The Works are located within 8km of the SAC and the deposit site is 850m from the SAC. Connectivity has been identified due to the highly mobile nature of the site’s harbour porpoise qualifying feature. The HRA report noted that there is the potential to cause moderate disturbance and possible injury to harbour porpoise due to the noise from piling and potential interactions with falling material during dredge spoil deposit at the Stornoway deposit site. Through the implementation of marine mammal protocols for piling and the deposit of dredge spoil, the resulting effects on harbour porpoise are reduced to minor. Therefore, no population level effects are expected on the Inner Hebrides and the Minches SAC harbour porpoise qualifying interest, and the conservation objectives of the site will not be compromised.

SNH advised that it supports the conclusions of the HRA report and advised that there will be no adverse effects on the integrity of the site if the proposed mitigation measures outlined in the CEMD are adhered to. The marine mammal protocols for piling and deposit of dredged spoil are included within the CEMD. The piling protocol applies to both pile driving and the removal of temporary piles.

MS-LOT concurs with the conclusion of the HRA Report and the view of SNH that providing the CEMD is adhered to, there will be no adverse effect on the site integrity of the Inner Hebrides and the Minches SAC.

## Ascrib, Isay and Dunvegan SAC

The Works are located within the foraging range of harbour seals from the Ascrib, Isay and Dunvegan SAC and thus there is the potential for the Works to have a likely significant effect on the site.

The HRA found that there is the potential to cause moderate disturbance and possible injury to harbour seals due to the noise from piling operations and potential interactions with falling material during dredge spoil deposit at the Stornoway deposit site.. Through the implementation of marine mammal protocols for piling and deposit of dredge spoil, the resulting effects on harbour seals are reduced to minor. Therefore, no population level effects are expected on the Ascrib, Isay and Dunvegan SAC harbour seal qualifying inerest, and the conservation objectives of the site will not be compromised.

SNH advised that it supports the conclusions of the HRA Report and advised that there will be no adverse effects on the integrity of the site if the proposed mitigation measures outlined in the CEMD are adhered to. The marine mammal protocols for piling and deposit of dredge spoil are included within the CEMD. The piling protocol applies to both pile driving and the removal of temporary piles.

MS-LOT concurs with the conclusion of the HRA Report and the view of SNH that providing the CEMD is adhered to, there will be no adverse effect on the site integrity of the Ascrib, Isay and Dunvegan SAC.

## MS-LOT has taken into consideration the information provided in support of the application and concurs with the conclusions of SNH that this project in isolation, with appropriate mitigation, will not adversely affect the site integrity of the Inner Hebrides and the Minches SAC or the Ascrib, Isay and Dunvegan SAC.

# **In-combination assessment**

## MS-LOT has carried out an in-combination assessment to ascertain whether the CMAL proposal will have a cumulative effect with other plans or projects which, in-combination, would have the potential to affect the qualifying interests of the Inner Hebrides and the Minches SAC or the Ascrib, Isay and Dunvegan SAC.

### The following projects currently have an active marine licence and associated AA which identified a likely significant effect on the qualifying interests of the Inner Hebrides and the Minches SAC or the Ascrib, Isay and Dunvegan SAC.

## **Sgeir Mhor (Salmon) Ltd, installation of a finfish farm**

### The proposal involves the installation of a finfish farm consisting of 8 ring cages, 16 grid moorings, 15 buoys and 1 feed barge and was granted a marine licence on 12 October 2017.

### The AA for this project concluded that there would be no adverse effect on the site integrity of the Inner Hebrides and the Minches cSAC providing the proposal is undertaken in strict accordance with the predator control plan, detailed within the Environment Management Plan.

### Provided that the Sgeir Mhor proposal is undertaken in accordance with the conditions set out in the AA and in accordance with the conditions set out in the planning permission and the CMAL project is undertaken in accordance with the condition in this AA, MS-LOT concludes that there will be no adverse effect on the site integrity of the Inner Hebrides and the Minches SAC as a result of the CMAL proposal in-combination with the Sgeir Mhor (Salmon) Ltd works.

## **Grieg Seafood - finfish farm at Loch Snizort East, Isle of Skye**

### The proposal consists of an existing finfish farm, for which a marine licence was granted in 2016. The finfish farm consists of 10 ring cages of 120m circumference, 18 grid moorings, 18 buoys and 1 feed barge. The marine licence was subsequently varied to amend the licence to ensure consistency with the planning permission and an AA was undertaken by The Highland Council, which concluded that the proposal would not adversely affect the integrity of the Inner Hebrides and the Minches SAC.

### An in-combination assessment was subsequently carried out by MS-LOT. Provided the conditions attached to the planning permission for the finfish farm and the condition in this AA for the CMAL proposal are both adhered to, MS-LOT concludes that there will be no adverse effect on the site integrity of the Inner Hebrides and the Minches SAC as a result of the CMAL proposal in-combination with the Grieg Seafood proposal.

## **Mowi Scotland Ltd - Finfish Farm – Bagh Dail Nan Ceann**

### The proposal consists of an existing finfish farm, for which a marine licence was granted in 2015. The finfish farm consists of 10 ring cages of 120m circumference, 24 grid moorings, 1 boat mooring and 1 feed barge. The marine licence was subsequently varied to install two additional 120m circumference cages and to move the feed barge. An AA was undertaken by Argyll and Bute Council, which concluded that the proposal would not adversely affect the integrity of the Inner Hebrides and the Minches SAC.

### An in-combination assessment was subsequently carried out by MS-LOT. Provided the conditions attached to the planning permission for the finfish farm and the condition in this AA are both adhered to, MS-LOT concludes that there will be no adverse effect on the site integrity of the Inner Hebrides and the Minches SAC as a result of the CMAL proposal in-combination with the Mowi Scotland Ltd proposal.

## **Mowi Scotland Ltd - Finfish Farm – Poll na Gille**

### The marine licence for the existing finfish farm was granted on 02 August 2016 and consists of 16 cages, 28 grid moorings, 1 permitted boat mooring and 1 feed barge. Planning permission was granted by Argyll and Bute Council on 08 March 2012.

### The current proposal is to vary the existing marine licence to replace 16 100m circumference cages with 12 120m circumference cages and increase the moorings area. The current variation application is for 12 cages, 21 grid moorings, 1 raft and 1 feed barge.

### An AA was undertaken by Argyll and Bute Council which concluded that the proposal would not adversely affect the integrity of the Inner Hebrides and the Minches SAC.  An in-combination assessment was subsequently carried out by MS-LOT. Provided the conditions attached to the planning permission for the finfish farm and the condition in this AA for the CMAL proposal are both adhered to, MS-LOT concludes that there will be no adverse effect on the site integrity of the Inner Hebrides and the Minches SAC as a result of the CMAL proposal in-combination with the Mowi Scotland Ltd proposal.

## **Mowi Scotland Ltd – Finfish Farm – Sconser Quarry, Isle of Skye**

### The proposal consists of the installation of a new finfish farm consisting of 12 cages, 34 grid moorings, 3 permitted single point moorings, 1 feed barge and 1 raft. An AA was undertaken by Argyll and Bute Council, which concluded that the works would not adversely affect the integrity of the Inner Hebrides and the Minches SAC. Planning permission was granted on appeal by Argyll and Bute Council on 29 November 2018.

### An in-combination assessment was subsequently carried out by MS-LOT. Provided the conditions attached to the planning permission and the condition in this AA for the CMAL proposal are both adhered to, MS-LOT concludes that there will be no adverse effect on the site integrity of the Inner Hebrides and the Minches SAC as a result of the CMAL proposal in-combination with the Mowi Scotland Ltd proposal.

## **The Scottish Salmon Company – Wellboat Discharge – Portree Outer Fish Farm, Loch Portree, Isle of Skye**

### The proposal consists of discharge of used chemicals from wellboats. An AA was undertaken by SEPA, which concluded that the works would not adversely affect the integrity of the Inner Hebrides and the Minches SAC. A CAR licence was granted by SEPA on 07 March 2017 and a variation was subsequently granted on 25 April 2017. MS-LOT adopted the AA on 29 January 2019 and a marine licence was granted on 19 February 2019.

### Provided the condition in the AA for the CMAL proposal are implemented, MS-LOT concludes that there will be no adverse effect on the site integrity of the Inner Hebrides and the Minches SAC as a result of the CMAL proposal in-combination with the Scottish Salmon Company proposal.

## **Seals, West Scotland**

### Fish farm companies and organisations responsible for the protection of river fisheries and netting stations (although currently no salmon can be caught outside of an estuary and therefore there will be no licences for netting stations in 2018) can apply for licences to shoot seals as a last resort means of predator control under Part 6 of the Marine (Scotland) Act 2010.

### Applications for licences to shoot seals are to protect the health and welfare of farmed fish (Scottish Government, 2010a) or prevent serious damage to fisheries or fish farms (Scottish Government, 2010b).

### There are currently seven valid licences likely to have a significant effect on the Ascrib, Isay and Dunvegan SAC. The number of harbour seals permitted from these licences within the Western Scotland Seal Management Area is 22.

### The AA for these applications concluded that there would be no adverse effect on the site integrity of the Ascrib, Isay and Dunvegan SAC provided that the conditions set out in the AA were complied with. Provided both projects are carried out in accordance with the conditions set out in their respective AAs, MS-LOT concludes that there will be no adverse effect on the site integrity of the Ascrib, Isay and Dunvegan SAC as a result of West Scotland seal licences in combination with the CMAL proposal.

## **SMRU seal research licence**

### The Scottish Ministers may grant a licence authorising the taking of seals for scientific, research or educational purposes under Part 6 of the Marine (Scotland) Act 2010. SMRU applied for a licence to take seals in Scotland for scientific, research or educational purposes. The proposed activities are to be carried out between 01 February 2019 until 31 January 2020.

### The means by which seals are taken is by capture using bag nets or canvas bags on land, or at sea in tangle nets, seine nets, popup nets or traps in areas used by seals. Seals may be sedated to assist capture on land using tranquillizer darts administered with a blow-pipe. Seals are normally released after capture, unless a seal is seriously injured or disabled and has no reasonable chance of recovering. If a seal is injured while being taken, appropriate veterinary care is administered.

### The AA for this project concluded that there would be no adverse effect on the site integrity of the Ascrib, Isay and Dunvegan SAC provided that the conditions set out in the AA are complied with. Provided both projects are carried out in accordance with the conditions set out in their respective AAs, MS-LOT concludes that there will be no adverse effect on the site integrity of the Ascrib, Isay and Dunvegan SAC as a result of SMRU’s seal research licence in combination with the CMAL proposal.

## **MS-LOT Conclusion**

### **MS-LOT concludes that the CMAL proposal will not adversely affect the site integrity of the Inner Hebrides and the Minches SAC and the Ascrib, Isay and Dunvegan SAC either in isolation or in combination with other plans or projects.**

SECTION 4: CONDITIONS

## **Conditions required**

### The licensee must ensure that the works are carried out in accordance with the Construction Environmental Management Document (“CEMD”) (issue 3, dated 27 June 2019) submitted to the licensing authority, or any subsequent version, approved for the purpose by the licensing authority. In the event that the licensee wishes to update or amend the CEMD, the licensee must submit, in writing, details of proposed updates or amendments to the licensing authority for their written approval, no later than two months or at such a time as agreed with the licensing authority, prior to the planned implementation of the proposed updates or amendments. It is not permissible for any works associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The CEMD must remain consistent with the application and supporting information.

Appendix 1. Operational, reclamation and access dredge areas.

