



Dear Friends of the Firth of Clyde,

Thank you for taking the time to meet with me and please accept my apologies for the delayed response to your email of 21 July 2019 with the attached letter detailing your concerns regarding the Hunterston Marine Construction Yard Redevelopment project. Much of what is written below was discussed at our meeting.

I received a larger number of postcards, which I understand you have administered on behalf of the wider public. As Marine Scotland has not been provided with correspondence details for all of these postcards, we hope you will also accept this letter as a response to those postcards and, as such, we will be placing a copy of this letter on our website (<http://marine.gov.scot/>) for all interested parties to read.

As you are aware, Peel Ports has submitted a screening opinion request to Marine Scotland - Licensing Operations Team (MS-LOT). This screening opinion request is still under consideration, therefore I am unable to discuss the specifics of the case.

Your letter raised concerns around the level of consultation, as well as the provision of information on Marine Scotland websites. MS-LOT is currently considering the screening opinion request submitted by Peel Ports and will be in a position to issue a screening opinion when all the information provided by Peel Ports and the comments provided by the statutory consultation bodies have been fully considered. I can confirm that the Scottish Ministers have consulted such statutory consultation bodies as provided for by the Marine Works (Environmental Impact Assessment) (Scotland) Regulations as to their views on whether the proposed works require an Environmental Impact Assessment (EIA). Those regulations only provide for consulting on a screening opinion request with the statutory consultation bodies.

MS-LOT's website <http://marine.gov.scot/ml/hunterston-marine-construction-yard-redevelopment-hunterston-north-ayrshire> holds copies of the documents submitted in 2017 to support the original screening opinion request as well as the documentation for the 2019 screening opinion request. A copy of MS-LOT's original screening opinion has been available online since 2017 ([http://marine.gov.scot/sites/default/files/hunterston\\_marine\\_construction\\_yard\\_-\\_screening\\_opinion.pdf](http://marine.gov.scot/sites/default/files/hunterston_marine_construction_yard_-_screening_opinion.pdf)).

The specific environmental considerations you raised were passed to the relevant MS-LOT officials for consideration and they have provided responses which have been included in the annex to this letter.

You also raised concerns around a piece-meal approach to the consideration of licences with reference to other licences to be applied for in the future including a European Protected Species licence, separate marine licence applications for the dredging of the caisson gates and construction works, a sampling plan for dredge material and an Environmental Management Plan. Peel Ports

provided details of the proposed regulated activities and MS-LOT is considering both the proposed construction works and dredging activity during the screening process.

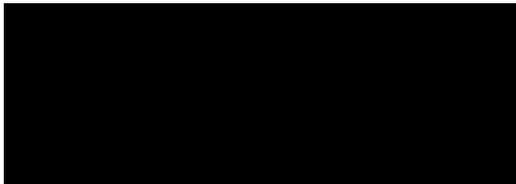
In general terms, marine licences are required for dredging activity and construction works below mean high water springs level and, before MS-LOT will accept a marine licence application for dredging activity, an applicant is required to submit a pre-dredge sediment sampling plan for approval and carry out sediment sampling and testing for chemical contaminants in the dredge area. This is a requirement for all dredging applications. Similarly, a construction method statement is often required for any construction marine licence application. Additionally, if any works are likely to cause disturbance or injury to a European protected species, a licence is required to undertake the activity legally.

Public consultation would occur should an EIA be required. It might also be useful to know that, regardless of whether or not an EIA is required, Peel Ports will be required to apply for marine licences for all licensable activities below mean high water springs. In determining an application for a marine licence, the Scottish Ministers must have regard to the need to protect the environment and human health, the need to prevent interference with legitimate uses of the sea and such other matters as the Scottish Ministers consider relevant. As already indicated in previous correspondence (dated 19 December 2018 and 19 February 2019), Friends of the Firth of Clyde will be consulted on any marine licence applications and the documentation will also be available on our website for other interested parties to review and submit comments on. Marine Scotland has also committed to consulting with you on any scoping report, if an EIA is required.

You have raised a number of points about the process North Ayrshire Council (NAC) has followed. I am unable to comment on these and would recommend you raise these points directly with NAC.

I hope this is helpful and if you have further questions relating the marine licensing, please don't hesitate to get in touch with MS-LOT at [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot)

Yours sincerely,



Graham Black

Director, Marine Scotland

## **Annex A – MS-LOT response to specific issues**

1. MS-LOT has been in correspondence with Peel Ports to ensure sufficient information is obtained to allow MS-LOT to reach a screening opinion.
  - a) The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the Regulations”) do not require the applicant to provide a construction method statement when a screening opinion request is submitted to the Scottish Ministers. A description of the proposed works has, however, been provided to the Scottish Ministers for consideration.
  - b) As part of coming to a screening opinion MS-LOT will consider the 2017 and 2019 requests and all supplementary environmental information submitted to MS-LOT. This includes consideration of the overall dredging proposal, which includes dredging an estimated 423,000m<sup>3</sup> in the approach channel to the hammerhead quay and a further 192,000m<sup>3</sup> in front of the proposed caisson gates, as well as the extension to the existing hammerhead quay.
  - c) Part 1 of The Marine (Scotland) Act 2010 defines the Scottish marine area as the area of sea within the seaward limits of the territorial sea of the United Kingdom adjacent to Scotland and includes the bed and subsoil of the sea within the area. It also goes on to define the sea as any area submerged at mean high water spring (“MHWS”) tide and the waters of every estuary, river or channel, so far as the tide flows at MHWS tide. I hope this provides you with reassurance that Marine Scotland will be considering the impacts below MHWS, regardless of any debate over the position of mean low water springs.
  - d) Marine Scotland understands the boundaries of the Southannan Sands Site of Special Scientific Interest (“SSSI”) are those which can be found on Scottish Natural Heritage’s (“SNH”) Sitelink website (<https://sitelink.nature.scot/site/10261>). You have communicated further on the SSSI boundary and the line of the mean low water spring with MS-LOT. MS-LOT will continue to discuss this issue with SNH and will revert back to you in due course.
2. The possible environmental effects of the change in the dredge pocket gradient are being considered by MS-LOT as part of the screening opinion determination.
3. If Peel Ports apply for a change or extension to the works in the future, the Scottish Ministers may undertake a new screening exercise if the proposed change or extension meets the corresponding threshold or criteria in column 2 of Schedule 2 of the Regulations and if, in the opinion of the Scottish Ministers, it may have significant adverse effect on the environment.
4. The intertidal surveys commissioned by Peel Ports are being considered as part of the screening by MS-LOT. MS-LOT has consulted with SNH on the documents and continues to be in discussion with them.
5. The eelgrass meadows are being considered by MS-LOT as part of the screening opinion determination.
6. Shellfish waters are not included in the Regulations as either a sensitive area or marine protected area. MS-LOT routinely consider the impacts of any proposed works on shellfish waters areas during the determination of any application for a marine licence
7. MS-LOT understands you are referring to Schedule 1 (8) (2) of the Regulations *Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes*. Marine Scotland understands that the existing facilities at Hunterston can already take vessels over this size and that the proposed works are an extension to the existing facilities and that the extension on its own would not be capable of accepting such vessels.
8. Marine Scotland cannot comment on the requirements for waste management licences. This would be a question for Scottish Environment Protection Agency (“SEPA”). Marine Scotland has consulted with SEPA during the consideration of the screening opinion request.
9. Marine Scotland asked Peelports to ensure they included all potential marine licensable activities in their screening which we understood to be changes to the existing rock armour, extension of the jetty and a capital dredge (a capital dredge is one where dredging has not taken place for at least 7 years and/or the dredge will go below the currently charted depths.)