

Appendix One

Consultation Responses

Argyll and Bute Council Response



Development And Economic Growth
Director: Kirsty Flanagan

Marine and Coastal Development Unit

Municipal Buildings, Albany Street, Oban, Argyll, PA34 4AW

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Direct Line: 01631 567 909

Ref: B2383700

5 August 2021

Marine Scotland - Marine Planning & Policy
Scottish Government
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Screening Opinion under Regulation 10(1) of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (hereafter referred to as 'the EIA Regulations')
CMAL Ltd (Per Jacobs UK Ltd) - Harbour Repair Works - Kennacraig, Argyll and Bute

Thank you for consulting Argyll and Bute Council on the above marine licence application. The proposal will require planning permission and will need to consider infrastructure impacts during the works to ensure continued safe access / egress during this time. From a marine planning perspective, I have no concerns over the proposed application for the harbour repair works. I have however enclosed below for information, relevant advice from the Council's Marine and Coastal Development Unit.

Yours faithfully



Lorraine Holdstock
Marine and Coastal Development Policy Officer

Proposal

The proposal is for Harbour Repair Works at Kennacraig, Argyll and Bute.

The Proposed Development is located on a small island off the coast of West Loch Tarbert, at the existing Kennacraig Terminal. Development works include: dredging, transportation and disposal of sediments from the site at sea, piling, wall construction, and fendering.

The works primarily consist of the following:

- Dredging of the areas, from -4.6m Chart Datum (CD) to -5.5m CD. It is estimated approximately 10,500m² (19,530 tonnes) of material will be dredged, including side slopes;
- Construction of a new anchored combi wall along the length of the landward structures. A combi wall consists of tubular steel king piles with sheet piles acting as an infill between the king piles;
- Replacement of the existing MV Fender units with Parallel Motion Fenders attached directly to the existing dolphin structures;
- Construction of two strongpoints formed of a reinforced concrete cap supported on tubular steel piles; and
- Installation of fender piles along the length of the infill pier between the inner and middle berthing dolphin.

Works Duration

The developer anticipates that the construction programme would last approximately 36 weeks. It is anticipated that works would start in 2022, with the works completed during 2023.

Overall Screening Opinion

It is the Officer's opinion that the proposed development does not constitute an Environmental Impact Assessment (EIA) as defined under Schedule 2 of the EIA Regulations. The proposal will however require planning permission and will need to consider infrastructure impacts during the works to ensure continued safe access / egress during this time. I further recommend that a precautionary approach be undertaken for the duration of works.

National Marine Plan

- The proposed development extends into the marine environment and therefore the Council as a public body is required to take authorisation decisions in accordance with the National Marine Plan, unless relevant considerations indicate otherwise.
- The proposal is considered to be consistent with *General Policies (GEN 1; GEN 2, GEN 3, GEN 4, GEN 5 & GEN 8)* of the Plan, including the relevant '*Shipping, Ports, Harbours and Ferries*' policies: *TRANSPORT 3, 4, and 5*.

Local Development Plan (LDP)

- In addition to the general policies of the 2016 LDP, the proposed development is considered to be consistent with Supplementary Guidance - *SG LDP TRAN 8 (Piers and Harbours)*, *SG LDP CST 1 (Coastal Development)*, and *Policy LDP 4 – Supporting the Sustainable Development of our Coastal Zone*.

Flood risk

- It is considered that the proposal complies with the Supplementary Guidance policy *SG LDP SERV 7 – Flooding and Land Erosion – The Risk Framework for Development*. However, if land raising is required, it may be acceptable provided effective compensatory flood storage can be demonstrated and it will not lead to flooding elsewhere, and the objectives of the EU Water Framework Directive are not compromised in so doing.

Effect on nature conservation interests/Ecological Impact

- West Loch Tarbert is out-with the nearby Inner Hebrides and the Minches Special Area of Conservation (SAC), designated for Harbour porpoise (*Phocoena phocoena*). The designation protects harbour porpoise that are sensitive to underwater noise.
- A satisfactory Screening Opinion (Stage One) and Appropriate Assessment (Stage Two) have been provided within the Habitats Regulations Appraisal. It is agreed that the contractor must provide a Construction Environment Management Plan (CEMP) and Method Statement. The Method Statement must detail the proposed piling works, including duration, type of piling, predicted noise levels and mitigation measures that will be adhered to. The CEMP and Method Statement should be agreed by the Council in consultation with NatureScot prior to works commencing.
- As a measure of good practice and with advice from NatureScot; piling works should be undertaken out-with the months of May to August to ensure calving and feeding cetaceans are not disturbed.
- It is important to note that the west coast of Scotland is an important UK and European habitat for cetaceans and Basking sharks. The waters off Argyll are noted as key migratory routes for these European Protected Species. Any effects must be mitigated by the following existing guidance and good practice:
 1. Marine Scotland Guidance: The Protection of Marine European Protected Species from Injury and Disturbance Guidance for Scottish Inshore Waters (July 2020). Please refer to web link:
<https://www.gov.scot/publications/marine-european-protected-species-protection-from-injury-and-disturbance/>
 2. JNCC guidance: Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise. Please refer to web link:
http://jncc.defra.gov.uk/pdf/JNCC_Guidelines_Piling%20protocol_August%202010.pdf.
- Otters are classed as European Protected Species (EPS) under the Conservation (Natural Habitats, &c.) Regulations 1994. Where there is a high likelihood of otters being present, it is recommended that an otter survey will be required, and an EPS Licence to conduct works may be required from NatureScot.

Impacts on water quality

- West Loch Tarbert was classified as an overall Good Status Coastal Water Body under the Scotland River Basin District in 2017 (most recent data). A Water Framework Directive Assessment would be helpful to assess possible effects from the proposal.
- Inner West Loch Tarbert and West Loch Tarbert: Loup Bay are designated as Shellfish Harvesting Areas by the Food Standards Agency (FSA) for the production of Pacific oysters (*Crassostrea gigas*). Two Pacific oyster farms are in operation within the loch. Traigh Bhan to the north-east and Loup Bay to the south-west of Kennacraig. It is advised that the contractor consult with Labbett Family Farms Ltd before works commence.
- Dredging impacts are likely to be localised and minor in nature. It is however possible that localised siltation and pollution may occur as a result of dredging. The operation of a silt boom would be encouraged to reduce siltation. Agree that the contractor should consider a Best Practice Environmental Option Assessment to confirm dredge disposal. It is further advised that the contractor follow appropriate dredging guidance and Pollution Prevention Guidelines located on the SEPA web link: <https://www.sepa.org.uk/regulations/water/guidance/> to provide further mitigation.

- The contractor is required to apply for a Marine Licence for Dredging and Sea Disposal. Refer to the web link: <https://www.gov.scot/publications/marine-licensing-applications-and-guidance/>.

Landscape and Visual Impacts

- The proposal is located within the North Kintyre Countryside Zone, as identified in the adopted Local Development Plan (LDP) 2016.
- The development's design and scale should not be visually intrusive; its design and scale should respect the character and appearance of the surrounding area, and be consistent with *Policy LDP 9 – Development Setting, Layout and Design*, associated Supplementary Guidance and the *Argyll and Bute Landscape Capacity Assessment*.
- Construction impacts are likely to be temporary. It is therefore considered unlikely that the proposed development will result in significant adverse landscape and visual impacts.

Interaction with other activities

- The Council is required to protect public access rights to and along the foreshore for all non-motorised users. Where there is a pier or breakwater structure that will obstruct access along a foreshore or loch side, a reasonable means of passing by the obstruction should be provided to allow the public to exercise their right of access along the shore.
- It is considered that the proposed construction will not result in any significant access rights or conflicts with other marine and coastal users.
- The works should be marked according to advice from the Northern Lighthouse Board.
- The proposal is a medium engineering operation which is not likely to pose any obvious major issues, and therefore considered consistent with the relevant policies of the Local Development Plan.

Navigation

- It is considered unlikely that the proposal will significantly affect safe navigation or recreational boating during construction.

Noise

- Mitigation measures to abate noise and vibration should be deployed during the construction phase of the development. Noise mitigation measures should be detailed within the CEMP/Method Statement.

Final Comments

- Under *Policy LDP 4 – Supporting the Sustainable Development of our Coastal Zone*, and all other relevant LDP policies and Supplementary Guidance, the applicant has demonstrated a locational and operational need for the proposed harbour repair works. The development will enable ferry operations to continue with lower carbon emissions, and to provide a vital island connection including freight services.

Historic Environment Scotland Response



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By email to:

MS.MarineLicensing@gov.scot

Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: 0131-668-8716
HMConsultations@hes.scot

Our case ID: 300052508

29 July 2021

Dear Marine Scotland

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017
Request for EIA Screening Opinion for Harbour Repair Works at Kennacraig, Argyll and
Bute**

Thank you for your consultation which we received on 05 July 2021 seeking our comments on an Environmental Impact Assessment (EIA) screening opinion for the above proposed development. This letter contains our comments for our historic environment interests.

Our historic environment interests cover world heritage sites, scheduled monuments and their setting, category A-listed buildings and their setting, gardens and designed landscapes and battlefields on their respective Inventories. Our historic environment interests also cover historic marine protected areas (HMPAs) and undesignated marine historic environment features.

The West of Scotland Archaeology Service (WoSAS) will also be able to offer advice for their interests. This may include unscheduled archaeology, category B- and C-listed buildings and conservation areas.

Development Proposals

We understand that the proposals involve works for the refurbishment of the Kennacraig Ferry Terminal in Argyll and Bute. The works will comprise the creation of a deeper berth through dredging and other associated enabling works including the construction of new retaining walls, the creation of two new piled strongpoints and the replacement of the existing fenders.

Our advice

While we note that heritage assets including the **Eilean Araich Mhoir, dun 730m NNW of Tigh na Croit** (Scheduled Monument, SM3183) and the **Unknown Barge, Wreck** (Canmore Maritime ID 324524) are located in the vicinity of the red line boundary for the development proposals, we do not consider that there would be significant impacts on these heritage assets as a result of the proposed works. We are therefore content to



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agree with the conclusions at Section 5 (Screening Conclusions) of the EIA Screening Report (June 2021) that any environmental impacts would be minimal.

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Alison Baisden and they can be contacted by phone on 0131 668 8575 or by email on Alison.Baisden@hes.scot.

Yours faithfully

Historic Environment Scotland

NatureScot Response

Marine Planning and Policy
Marine Scotland
Scottish Government

By email only: ms.marinelicensing@gov.scot

22 July 2021

Our ref: CEA163676

Dear Sir / Madam,

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2017 (AS AMENDED)**

CMAL Ltd (Per Jacobs UK Ltd) - Harbour Repair Works - Kennacraig, Argyll

Thank you for your email received on the 5th July 2021 requesting comment from NatureScot regarding repair works to the existing harbour at Kennacraig (hereafter referred to as the Proposal).

In providing the following comments, our role is to advise whether the Proposal is likely to have any significant effects on the environment in order to inform the Competent Authority's decision as to whether an Environmental Impact Assessment (EIA) is required. The decision on whether an EIA is required is for the Competent Authority to make.

1. Summary of Our Advice

In our view, the Proposal is likely to have a significant effect on the qualifying features of the Sound of Gigha Special Protection Area (SPA). We require further information to determine whether the Proposal will have an adverse impact on site integrity on the qualifying SPA features. Please see details set out in our appraisal below.

The Proposal is likely to have a significant effect on the qualifying feature of the Inner Hebrides and the Minches Special Area of Conservation (SAC), however we do not consider that it will result in an adverse effect on site integrity.

The Proposal may also have adverse impacts on Priority Marine Features (PMF).

2. Designated Areas

2.1 Sound of Gigha Special Protection Area

Approximately 0.6ha of the Proposal boundary area falls within the Sound of Gigha SPA, designated for its non-breeding populations of eiders, great northern divers, red-breasted mergansers and Slavonian grebes. It is noted that the proposed dredging within and adjacent to the SPA will amount to 1.05ha.

We welcome the shadow Habitats Regulation Appraisal (HRA) that has been submitted alongside this screening request and whilst generally we agree with the assessment, we do require further information to inform our appraisal. We appreciate that some of the following requested information may not be available at this early state of the Proposal.

Desk Based Study / Winter Survey

There appears to have been no desk based study undertaken of wintering SPA birds to inform the shadow HRA. We recommend that you consult with the Argyll Bird Club and British Trust for Ornithology (BTO) to determine recent numbers of SPA bird records across the winter period for this area and then use this data to inform the HRA. If there is not enough sufficient information available from the Argyll Bird Club visits or WeBS, then the Applicant may need to consider undertaking a winter bird survey.

Disposal of dredged spoil

We note that it is assumed that the rock which is dredged will be disposed of offsite, either at a sea disposal site or landfill, as determined by the findings of a Best Practicable Environmental Option Assessment (BPEO). It will be necessary to inform NatureScot of the chosen disposal method once this has been determined. There should be no disposal of any dredge material within the SPA and we suggest that this is included as a condition to any consent or licence.

If it is proposed that removal of spoil is undertaken at a sea disposal site, we will require to know approximately how many additional vessel journeys would be expected within the dredging period. This is because, depending on the time of year for dredging (i.e. during the flightless moulting period for eider), this could constitute repeated disturbance and additional mitigation may be required in this instance. Note that the flightless period for eiders is July – mid September.

Red-breasted mergansers

Red-breasted mergansers can demonstrate high behavioural sensitivity to noise. The planned mitigation for a soft-start procedure to help mitigate against noise disturbance is acceptable. We note that the current assessment assumes there is no use of explosives. Should this change, we would need to be re-consulted.

2.2 Inner Hebrides and the Minches SAC

The Inner Hebrides and the Minches SAC, designated for harbour porpoise, is located approximately 8.9km southwest of the Proposal.

In our opinion, there will be a likely significant effect for the Inner Hebrides and the Minches SAC and, as such, MS-LOT will therefore be required to complete an appropriate assessment prior to issuing a licence.

We note that piling will be taking place over a period of 18 weeks and that there is a likelihood that the activity could result in some disturbance of harbour porpoise inside the boundary of the SAC. Although the works could last up to 18 weeks, piling will not be occurring continuously throughout this period. Without detailed sound propagation modelling it is impossible to predict zones of disturbance. However, given the location of West Loch Tarbert in relation to the Inner Hebrides and the Minches SAC it is reasonable to conclude that any temporary disturbance will be restricted to a small portion on the south eastern periphery of the SAC. Given the temporary nature of the proposed work, combined with the distance to the SAC and the small portion of the SAC that is likely to be affected, we deem it reasonable to conclude that this will not result in an adverse effect on site integrity.

2.3 Other Designated Areas

We agree that the Proposal will have no LSE on the conservation objectives of Tarbert Woods SAC or Knapdale Lochs SPA and therefore do not need to be considered further.

3. Priority Marine Features

Records of native oyster and blue mussel beds have been recorded within 700m of the Proposal. Native oysters have a high sensitivity to low levels of siltation (up to 5cm). Smothering by 5 cm of sediment may prevent the flow of water through the oyster that permits respiration, feeding and removal of waste. Native oysters are permanently fixed to the substratum and would not be able to burrow up through the deposited material. The closest records are approximately 650-700m from the proposed works. Given the distance between the proposed works and the closest records the risk appears to be low. However, in the absence of further information relating to the exact methods of dredging that are proposed and the disposal methods / locations, including the quantity and fate of any sediments released in to the water column, we would advise that possible impacts on native oyster and blue mussel beds should be assessed further.

4. European Protected Species

We note that the screening document does not make reference to cetacean species as European Protected Species (EPS). In our opinion, despite the predicted low density of cetacean species, there is a risk that disturbance could occur, even with the proposed mitigation. As such, the requirement for an EPS licence should be discussed with MS-LOT.

Please do not hesitate to contact me should you have any queries regarding our advice.

Yours sincerely,

[by email]

Catriona Laird

Operations Officer – Mid Argyll and Kintyre

Catriona.laird@nature.scot

From: Liam Wright <Liam.Wright@nature.scot>

Sent: 25 August 2021 15:30

To: Makela A (Anni) <Anni.Makela@gov.scot>

Cc: Catriona Laird <Catriona.Laird@nature.scot>; Stan Phillips <Stan.Phillips@nature.scot>; Erica Knott <Erica.Knott@nature.scot>

Subject: CMAL Ltd (Per Jacobs UK Ltd) - Harbour Repair Works - Kennacraig, Argyll - Screening Request - Consultation

Dear Anni,

CMAL Ltd (Per Jacobs UK Ltd) - Harbour Repair Works - Kennacraig, Argyll - Screening Request - Consultation

Further to our earlier discussion I am writing to follow up on previous correspondence issued with regards to the above marine licence application.

I am writing to confirm that in so far as our remit is concerned we consider that any significant environmental effects are unlikely. We would not therefore require an EIA in order to assess the relevant environmental considerations. We are content that the issues we have highlighted in our earlier response can be addressed through the submission of additional information in support of the marine licence application.

However, we would also highlight that we do not consider all relevant interactions which may give rise to 'significant effects' and therefore it was not possible for us to advise on the need for an EIA in relation to aspects of the proposal which are not within our remit.

I trust this is clear but if you would like any further clarification then please do not hesitate to get in touch.

Kind regards,
Liam

Liam Wright | Marine Sustainability Advisor – Aquaculture and Northwest Area

NatureScot | Temporarily home-working | 0131 316 2695

nature.scot | @nature_scot | *Scotland's Nature Agency* | *Buidheann Nàdair na h-Alba*

Scottish Environment Protection Agency Response

Hutchison D (David) (MSC)

From: Planning SW <planning.sw@sepa.org.uk>
Sent: 04 August 2021 14:24
To: MS Marine Licensing
Subject: 2026 CMAL Ltd (Per Jacobs UK Ltd) - Harbour Repair Works - Kennacraig, Argyll - Screening Request - Consultation - Response Required by 26 July 2021

OFFICIAL – BUSINESS

Dear Marine Scotland

Thank you for consulting SEPA on the above proposal. Please regard this email as our official response.

From SEPA's perspective (issues within SEPA's remit only), I can confirm that it is not necessary to undertake an EIA. However, we would like to emphasize the importance of undertaking a comprehensive biosecurity plan for these works, in line with the guidance which can be found via this link: [Marine Biosecurity Planning.pdf \(nature.scot\)](#) With regard to the existing *Biosecurity Management Plan during preconstruction & construction*, and any revised or updated biosecurity plans, please note that attention should be made to ensure that all on-site equipment, including dredge barges, is included in the plans.

Information on our planning service along with guidance for planning authorities, developers and any other interested party is available on our website at <http://www.sepa.org.uk/planning.aspx>

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Kind regards

Peter Minting
SEPA Planning Officer

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