

T: +44 (0)300 244 5046
E: MS.MarineLicensing@gov.scot

Marine Scotland - Licensing Operations Team Scoping Opinion

**Scoping Opinion adopted by the Scottish Ministers
under Part 4 of The Marine Works (Environmental
Impact Assessment) (Scotland) Regulations 2017**

Argyll and Bute Council

Fionnphort Harbour Development

February 2022

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1. Introduction

1.1 Background

- 1.1.1 On 02 August 2021, the Scottish Ministers received a scoping report (“the Scoping Report”) from RPS on behalf of Argyll and Bute Council (“the Applicant”) as part of its request for a scoping opinion relating to Fionnphort Harbour Development (“the Proposed Works”). In accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 MW Regulations”) the Scottish Ministers considered the content of the Scoping Report to be sufficient.
- 1.1.2 This scoping opinion is adopted by the Scottish Ministers under the 2017 MW Regulations (“the Scoping Opinion”) in response to the Applicant’s request and should be read in conjunction with the Scoping Report. The matters contained in the Scoping Report have been carefully considered by the Scottish Ministers and use has been made of professional judgment, based on expert advice from stakeholders and Marine Scotland in-house expertise and experience. This Scoping Opinion identifies the scope of impacts to be addressed and the method of assessment to be used in the Environmental Impact Assessment Report (“EIA Report”) for the Proposed Works.
- 1.1.3 The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the 2017 MW Regulations, taken into account the information provided by the Applicant, in particular, information in respect of the specific characteristics of the Proposed Works, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken.
- 1.1.4 In examining the EIA Report, and any other environmental information, the Scottish Ministers will seek to reach an up to date reasoned conclusion on the significant effects on the environment from the Proposed Works. This reasoned conclusion will be considered as up to date if the Scottish Ministers are satisfied that current knowledge and methods of assessment have been taken account of. For the avoidance of doubt, this Scoping Opinion does not preclude the Scottish Ministers from requiring the Applicant to submit additional information in connection with any EIA Report submitted with applications for marine licences under the Marine (Scotland) Act 2010 (“the 2010 Act”).
- 1.1.5 In the event that the Applicant does not submit applications for marine licences under the 2010 Act for the Proposed Works within 12 months of the date of this Scoping Opinion, the Scottish Ministers strongly recommend that the

Applicant seeks further advice from them regarding the validity of the Scoping Opinion.

2. The Proposed Works

2.1 Introduction

- 2.1.1 This chapter provides a summary of the description of the Proposed Works provided by the Applicant in the Scoping Report together with the Scottish Ministers' general comments in response. The details of the Proposed Works in the Scoping Report have not been verified by the Scottish Ministers and are assumed to be accurate.

2.2 Description of the Proposed Works

- 2.2.1 The Proposed Works are to be located at Fionnphort Harbour on the Isle of Mull, which provides a lifeline ferry service to Iona. The Proposed Works will consist of a new rock armour breakwater, overnight berthing facilities for the lifeline ferry, and capital dredging. The Applicant has estimated the duration of the works to be 52 weeks.
- 2.2.2 The new breakwater will have an overall crest length of 175 metres ("m") and will have a crest level of 8.51 m Chart Datum ("CD"). The footprint of the breakwater will be approximately 4,200 metres squared ("m²") and will be constructed from clean quarried rock from Glensanda Quarry, Oban. It will require 56,000 metres cubed ("m³") of rock armour, of which 41,000 m³ will be below Mean High Water Springs ("MHWS").
- 2.2.3 The overnight berthing facilities will consist of a steel walkway running parallel to the lee of the breakwater. This will be supported on an array of tubular piles. A ladder will allow access to the ferry whilst berthed. The total tonnage of piles, including rock sockets, will be 77 tonnes.
- 2.2.4 To accommodate the new navigation channel, capital dredging will be required. The dredge area is approximately 13,000 m², with the dredge volume anticipated to be 7,800 m³, increasing the depth to -3.0 m CD. The dredged substances and objects will be deposited at Port Ellen deposit site, MA030. Seabed sediment cores and grab samples were obtained and tested in November 2020. All samples were taken from the proposed dredge area and were below the Marine Scotland Revised Action Levels 1 and 2.

2.3 Onshore/Planning

- 2.3.1 The Scottish Ministers are aware the Applicant has not sought a separate scoping opinion from the Argyll and Bute Council for the associated onshore works but is instead undertaking a voluntary EIA. It is essential that the EIA concerning onshore works will be available at the time that the EIA Report for the Proposed Works is being considered so that all the information relating to

the project as a 'whole' is presented. The EIA Report for the Proposed Works must consider the cumulative impacts with the onshore works.

2.4 The Scottish Ministers' Comments

Description of the Proposed Works

- 2.4.1 Section 2.2 of the Scoping Report indicates the construction of a rock armour breakwater. The EIA Report should include details on the construction methodology and duration of the construction of the breakwater. If the exact details of these are not known then a worst case scenario should be provided. Section 2.3 of the Scoping Report includes details of the 75 vessel movements required for the construction of the breakwater, the EIA report should include consideration of the impacts of vessel movements upon relevant receptors during the construction of the breakwater.
- 2.4.2 Section 2.2 of the Scoping Report includes details of overnight berthing facilities which includes the requirement of piling. The EIA Report must include details of the number of tubular piles to be installed, installation method and duration of installation. If specific details of this is not known then the Applicant should detail a worst case scenario in the EIA Report. Further to this, the EIA Report must also include an assessment of the impact of piling on relevant receptors during the construction phase along with the assessment of the significant effects. Details of any sound modelling carried out should be included in the EIA Report.

Design Envelope

- 2.4.3 The Scottish Ministers advise that if the details of the Proposed Works cannot be defined precisely then a 'Design Envelope' approach should be adopted. If a design envelope approach is adopted then the Applicant must apply a worst case scenario in the EIA Report.
- 2.4.4 The Scottish Ministers advise that if the design envelope approach is adopted then the Applicant must make every attempt to narrow the range of options. Where flexibility in the design envelope is required, this must be defined within the EIA Report and the reasons for requiring such flexibility clearly stated. At the time of application, the parameters of the Proposed Works should not be so wide-ranging as to represent effectively different projects. To address any uncertainty, the EIA Report must consider the potential impacts associated with each of the different scenarios. The criteria for selecting the worst case and the most likely scenario, together with the potential impacts arising from these, must also be described. The parameters of the Proposed Works must

be clearly and consistently defined in the applications for the marine licences and the accompanying EIA Report.

- 2.4.5 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail may be further refined in a Construction Method Statement (“CMS”) to be submitted to the Scottish Ministers, for their approval, before works commence. Please note however, the information provided in chapter 7 below regarding multi-stage regulatory approval. The CMS will ‘freeze’ the design of the project and will be reviewed by the Scottish Ministers to ensure that the worst case scenario described in the EIA Report is not exceeded.
- 2.4.6 It is a matter for the Applicant, in preparing the EIA Report, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. If the Proposed Works or any associated activities materially change prior to the submission of the EIA Report, the Applicant may wish to consider requesting a new Scoping Opinion.

Alternatives

- 2.4.7 The EIA Regulations require that the EIA Report include ‘a description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the Applicant, which are relevant to the proposed works and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects’. The Scottish Ministers acknowledge Section 2.1.3 of the Applicant’s Scoping Report setting out the consideration of alternatives to date together with the planned activities that are proposed to inform the EIA Report further.
- 2.4.8 For the avoidance of doubt, the Scottish Ministers advise that the EIA Report must include an up to date consideration of the reasonable alternatives studied as the parameters of the Proposed Works have been refined. The Scottish Ministers expect this to comprise a discrete section in the EIA Report that provides details of the reasonable alternatives studied across all aspects of the Proposed Works and the reasoning for the selection of the chosen option(s), including a comparison of the environmental effects.

3. Contents of the EIA Report

3.1 Introduction

- 3.1.1 This chapter provides the Scottish Ministers’ general comments on the approach and content of information to be provided in the Applicant’s EIA

Report, separate to the comments on the specific receptor topics discussed in chapter 5 of this Scoping Opinion.

3.2 EIA Scope

- 3.2.1 Matters are not scoped out unless specifically addressed and justified by the Applicant and confirmed as being scoped out by the Scottish Ministers. The matters scoped out should be documented and an appropriate justification noted in the EIA report.

3.3 Mitigation and Monitoring

- 3.3.1 Any embedded mitigation relied upon for the purposes of the assessment should be clearly and accurately explained in detail within the EIA Report. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The EIA Report must identify and describe any proposed monitoring of significant adverse effects and how the results of such monitoring would be utilised to inform any necessary remedial actions.
- 3.3.2 The EIA Report should clearly demonstrate how the Applicant has had regard to the mitigation hierarchy, including giving consideration to the avoidance of key receptors. The Scottish Ministers advise that where the mitigation is envisaged to form part of a management or mitigation plan, the EIA Report must set out these plans or the reliance on these in sufficient detail so the significance of the residual effect can be assessed and evaluated. This should also include identification of any monitoring and remedial actions (if relevant) in the event that predicted residual effects differ to actual monitored outcomes. Commitment to develop plans without sufficient detail is not considered to be suitable mitigation in itself.
- 3.3.3 The EIA Report must include a table of mitigation which corresponds with the mitigation identified and discussed within the various chapters of the EIA Report and accounts for the representations and advice attached in Appendix I.
- 3.3.4 Where potential impact on the environment have been fully investigated but found to be of little or no significance, it is sufficient to validate that part of the assessment by detailing in the EIA Report, the work that has been undertaken, the results, what impact, if any, has been identified and why it is not significant.

3.4 Risks of Major Accidents and/or Disasters

- 3.4.1 Section 3.1 of the Scoping Report, titled 'Risk of Major Accidents (Navigation and Safety)', contains the Applicants consideration of the potential impacts of the Proposed Works on navigation and marine safety. The Scottish Ministers

advise that navigation and safety and risk of major accidents and/or disasters must be addressed as two separate receptors in the EIA Report. This chapter will address risks of major accidents and/or disasters whilst navigation and safety is considered separately in chapter 5.2 of this Scoping Opinion.

- 3.4.2 The EIA Report must include a description and assessment of the likely significant effects deriving from the vulnerability of the Proposed Works to major accidents and disasters. The Applicant should make use of appropriate guidance, including the recent Institute of Environmental Management and Assessment (“IEMA”) ‘Major Accidents and Disasters in EIA: A Primer’, to better understand the likelihood of an occurrence and the Proposed Works susceptibility to potential major accidents and hazards. The description and assessment should consider the vulnerability of the Proposed Works to a potential accident or disaster and also the Proposed Works potential to cause an accident or disaster.
- 3.4.3 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this. This should include the review of the identified hazards from your baseline assessment, the level of risk attributed to the identified hazards and the relevant receptors to be considered.
- 3.4.4 The assessment must detail how significance has been defined and detail the inclusions and exclusions within the assessment. Any mitigation measures that will be employed to prevent, reduce or control significant effects should be included in the EIA Report.

3.5 Climate and Greenhouse Gases

- 3.5.1 The Scoping Report proposes that the impact of climate change effects will be considered within the Air Quality and Climate Change chapter of the EIA Report and there will be no standalone topic or chapter on climate. The Scottish Ministers are however mindful that Greenhouse Gas (“GHG”) emissions from all projects contribute to climate change. In this regard, the Scottish Ministers highlight the IEMA Environmental Impact Assessment Guide “Assessing Greenhouse Gas Emissions And Evaluating Their Significance” (“IEMA GHG Guidance”), which states that “GHG emissions have a combined environmental effect that is approaching a scientifically defined environmental limit, as a such any GHG emissions or reductions from a project might be considered significant.” The Scottish Ministers have considered this together with the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the requirement of the EIA Regulations to assess significant effects from the Proposed Works on climate. The Scottish

Ministers therefore advise that the EIA Report must include a GHG Assessment which should be based on a Life Cycle Assessment (“LCA”) approach and note that the IEMA GHG Guidance provides further insight on this matter. The Scottish Ministers highlight however that this should include the pre-construction, construction, operation and decommissioning phases, including consideration of the supply chain as well as benefits beyond the life cycle of the Proposed Works.

4. Consultation

4.1 The Consultation Process

4.1.1 Following receipt of the Scoping Report, the Scottish Ministers, in accordance with the 2017 MW Regulations, initiated a 30 day consultation process, which commenced on 19 September 2021. The following bodies were consulted, those marked in bold provided a response and those marked in italics sent nil returns or stated they had no comments:

- **NatureScot (operating name of Scottish Natural Heritage)**
- **Argyll and Bute Council**
- **Marine and Coastguard Agency (“MCA”)**
- **Northern Lighthouse Board (“NLB”)**
- **Historic Environment Scotland (“HES”)**
- **Scottish Environment Protection Agency (“SEPA”)**
- **Mull Community Council (“MCC”)**
- Crown Estate
- Chamber of Shipping
- **Defence Infrastructure Organisation**
- Fisheries Management Scotland
- Caledonian MacBrayne
- Health and Safety Executive
- Oban Fishery Office
- Hebridean Whale and Dolphin Trust
- West Coast Inshore Fisheries Group
- Marine Safety Forum
- Royal Society for the Protection of Birds
- **Royal Yachting Association**
- Scottish Creel Fishermen’s Association
- Scottish Fishermen’s Federation
- Scottish Fishermens Organisation
- **Scottish Water**
- Visit Scotland
- *Whale and Dolphin Conservation*
- **Iona Community Council (“ICC”)**
- **Sound of Iona Harbours Committee (“SolHC”)**

4.1.2 Specific advice was sought from Marine Scotland Science (“MSS”), the Marine Scotland – Marine Analytical Unit (“MAU”) and Transport Scotland, including Transport Scotland Ports and Harbours (“TS”).

4.2 Responses received

- 4.2.1 From the list above a total of twelve responses were received. Advice was also provided by MSS, MAU and TS. The purpose of the consultation was to seek representations to aid the Scottish Ministers' consideration of which potential effects should be scoped in or out of the EIA Report.
- 4.2.2 The Scottish Ministers are satisfied that the requirements for consultation have been met in accordance with the 2017 MW Regulations. The chapters below highlight issues which are of particular importance with regards to the EIA Report and any marine licence applications. The representations and advice received are attached in Appendix I and each must be read in full for detailed requirements from individual consultees.

5. Interests to be considered within the EIA Report

5.1 Introduction

- 5.1.1 This chapter contains the Scottish Ministers' opinion on whether the impacts identified in the Scoping Report are scoped in or out of the EIA Report. The Scottish Ministers advise that the representations from consultees and advice from MAU, MSS and TS must be considered in conjunction with the Scoping Opinion and with the expectation that recommendations and advice as directed through this Scoping Opinion are implemented.
- 5.1.2 The Applicant's consideration of the potential impacts of the Proposed Works and whether they should be scoped in or out of assessment within the EIA Report are detailed in table 4-1 of the Scoping Report.

5.2 Navigation and Safety

- 5.2.1 The Applicant considers navigation and safety in Section 3.1 and the potentially significant effects in Section 3.1.2 of the Scoping Report. In Sections 3.1.3 and 3.1.6 the Applicant provides consideration of whether navigation and safety should be scoped in or out of the EIA report. The Applicant proposes to undertake a Navigational Risk Assessment ("NRA") which will include a Hazard Identification ("HAZID") exercise to collect known and potential marine hazards. This will be undertaken with consultation from MCA, NLB and relevant organisations with an operational and port community interest in the Proposed Works.
- 5.2.2 The Scottish Ministers agree with MCA and support the Applicants proposal to undertake the NRA and advise this must include assessment of the likely impacts to fishing, recreational and commercial traffic within the study area and the likely associated risks to shipping and navigation. The Scottish Ministers agree with representation from MCA and advise that the proposed data types and the use of AIS data, from 2019, to inform the traffic analysis, including seasonal variation are appropriate to inform the NRA. The Scottish Ministers advise that the Applicant must adhere to all the advice on the Port Marine Safety Code and its Guide to Good Practice provided in the representation from MCA in order to address the ongoing safe operation of the marine interface for the Proposed Works. The Applicant must consult with the relevant operators and develop a robust Safety Management System for the project under this code. Further, the Scottish Ministers highlight representation from the MCA and advises that the Applicant must undertake a preliminary assessment on the potential impacts of the Proposed Works to Search and Rescue and emergency response in the area and include this in the NRA. The MCA also advise the Applicant to consider Part 8 of the British Standards

Institution publication on Road Lighting in the assessment. Finally, the Scottish Ministers agree with the representation from MCA and advise that the NRA must address both the construction phase and the operational phase of the Proposed Works.

- 5.2.3 The Scottish Ministers highlight representation from NLB which welcomes the Applicants proposed consultation with the NLB and MCA for the HAZID exercise. The NLB have already made representations through Argyll and Bute Council in which navigational lighting and marking recommendations were made.
- 5.2.4 The Scottish Ministers highlight the advice from MAU and agree that consideration must also be given to risk of possible disruption to the lifeline ferry. The Scottish Ministers advise that the impact of the Proposed Works should include the effect on all seagoing traffic with the additional vessel movement which will be necessary in the area. The Scottish Ministers highlight representation from Argyll and Bute Council and advise that the Applicant must assess the impact of the Proposed Works on the public access rights along the foreshore for non-motorised users, both during the construction and operational phases. Further, the Scottish Ministers agree with representation from the Argyll and Bute Council and advise that the Applicant must assess the impacts to recreational vessels and sea kayakers with full consideration of points raised by the Argyll and Bute Council. For the avoidance of doubt this includes, but is not limited to, an assessment of the impact of the Proposed Works on sea kayaking in the area and the safety implications of this, the impact of the height of the structure on water level crafts, and the impact on navigation and/or anchorage of recreational vessels.
- 5.2.5 The Scottish Ministers advise that navigation and safety are scoped in for further assessment in the EIA Report for both construction and operational phases.

5.3 Terrestrial Biodiversity

- 5.3.1 The Applicant considers terrestrial biodiversity in Section 3.2 and the potentially significant effects in Section 3.2.2 of the Scoping Report. In Section 3.2.6 the Applicant stated that the aspects of terrestrial biodiversity to be scoped into the final EIA Report are; the effects on birds and otters and their prey species at both construction and operation stage. The Applicant proposes to undertake a desk based study as well as several field studies which will inform the assessments within the EIA Report.
- 5.3.2 The Scottish Ministers note that ornithology has been included within Section 3.2 of the Scoping Report, however, advise that its inclusion within the section titled 'Marine Biodiversity' would be more appropriate. Ornithology will

therefore be considered within chapter 5.9 of this Scoping Opinion and should be included in the 'Marine Biodiversity' section of the final EIA Report. This Scoping Opinion will only address the other aspects of terrestrial biodiversity due to marine ornithology being addressed later in this Scoping Opinion. The Scottish Ministers advise that the Applicant must ensure terrestrial biodiversity receptors are addressed to the satisfaction of Argyll and Bute Council in the EIA Report.

- 5.3.3 The Scottish Ministers broadly agree with the Applicant regarding potential impacts during the construction and operational phases and with the proposed methodology for the assessment of the impacts within the EIA Report. The Scottish Ministers advise the Applicant engages with NatureScot to ensure appropriate surveys are undertaken. Further, the Scottish Ministers refer to representation from Argyll and Bute Council and advise that species specific management plans for otters are included in the EIA Report.
- 5.3.4 The Scottish Ministers advise that terrestrial biodiversity is scoped in for further assessment in the EIA Report for both construction and operational phases and should be accompanied by any surveys, assessments and/or management plans as requested by consultees.

5.4 Marine Biodiversity

- 5.4.1 The Applicant's consideration of potential impacts from the Proposed Works on marine biodiversity are considered in Section 3.3 of the Scoping Report and includes fish and shellfish ecology, marine mammals and benthic ecology within this section. In Section 3.3.6., the Applicant has stated which areas of marine biodiversity are to be included in the EIA Report as well as specific benthic surveys to be undertaken.
- 5.4.2 The Scottish Ministers will consider individual marine biodiversity receptors and whether they will be scoped in or out of the EIA Report in the following chapters.

5.5 Benthic Ecology

- 5.5.1.1 The Applicant's consideration of the potentially significant effects on the benthic ecology during the construction and operational phases of the Proposed Works are detailed in Section 3.3.2 of the Scoping Report. Consideration of whether benthic ecology should be scoped in or out of the EIA Report is given in Section 3.3.3 and 3.3.6. The Applicant proposes to scope in benthic ecology for further assessment in the EIA Report and to undertake a desk based assessment and benthic survey to gain a better understanding of the baseline characteristics and the potential impacts the Proposed Works may have on the marine environment.

- 5.5.1.2 The Scottish Ministers welcome the proposed desktop assessment and benthic survey. The Scottish Ministers encourage the Applicant to make use of the available data on National Biodiversity Network Gateway to support this investigation. To further the proposed sampling the Scottish Ministers direct the Applicant to the advice from MSS and advise that the sampling points taken as part of the benthic study should take into account the direction of current with the aim to sample the area that could be impacted by movement of suspended sediment as a result of dredging activities. There should be a greater survey effort on the area to be dredged as this area would experience the highest level of disturbance and habitat loss.
- 5.5.1.3 The Scottish Ministers agree with the potentially significant effects the Applicant has scoped in and direct the Applicant to representation from NatureScot who are content with the proposed surveys and assessments and look forward to reviewing them in due course. Further to this, the Scottish Ministers advise that additional potentially significant effects must also be considered as part of the EIA Report and direct the Applicant to the MSS advice regarding Section 3.2.2.1 of the Scoping Report which details these areas. For the avoidance of doubt the following must be scoped in for further assessment in the EIA Report; change in hydrological conditions and the effect on surrounding benthic and intertidal communities, impacts on the intertidal feature as well as sub-tidal, and the impact of introduction of marine non-native species due to the new breakwater/structures and an increase in vessel movements.
- 5.5.1.4 The Scottish Ministers agree with representation from Argyll and Bute Council and MSS advice regarding the consideration and assessment of Priority Marine Features ("PMF") and advise these should be included in the EIA Report. The Scottish Ministers highlight advice from MSS and advise that the benthic survey should identify whether PMFs and OSPAR Threatened and Declining species exist within the impacted area. Further, the Scottish Ministers direct the Applicant to representation from Argyll and Bute Council noting the nationally important PMF of seagrass beds. The Scottish Ministers agree with the views of Argyll and Bute Council and advise a visual survey should be undertaken to establish the extent of seagrass beds within the areas affected by the Proposed Works. The survey must consist of video / photo images from full Remotely Operated Vehicle ("ROV") runs, diver footage or drop down survey as well as an assessment of the potential direct and indirect impacts of the Proposed Works on the PMF. Any mitigation proposed to offset impacts of the Proposed Works on the PMF should also be included in the EIA Report.

- 5.5.1.5 The Scottish Ministers agree with the advice from MSS and representation from Argyll and Bute Council regarding benthic ecology and therefore advise that benthic ecology is scoped in for further assessment in the EIA Report for both construction and operational phases. The Scottish Ministers advise that the Applicant must include the assessments identified in the Scoping Report as well as the assessments identified by MSS and Argyll and Bute Council in the EIA Report.

5.6 Marine Fish Ecology

- 5.6.1.1 The Applicant's consideration of the potentially significant effects on marine fish ecology during the construction and operational phases of the Proposed Works are detailed in Section 3.3.2 of the Scoping Report. Consideration of whether marine fish ecology should be scoped in or out of the EIA Report is given in Sections 3.3.3 and 3.3.6. The Applicant proposes to scope in marine fish ecology for further assessment in the EIA Report.
- 5.6.1.2 The Scottish Ministers agree with the Applicant's proposal to scope in marine ecology and highlight representation from NatureScot who noted prior engagement with the Applicant and look forward to reviewing surveys and assessments in due course. Additionally, the Scottish Ministers agree with the Applicant's identification of several marine fish species that have spawning and nursery areas that coincide with the Marine Biodiversity Study Area and the Applicant's use of Coull *et al.* 1998 and Ellis *et al.* 2012 to assist with identifying fish spawning and nursery periods. Further, the Scottish Ministers advise the Applicant to detail any fish species which are designated as a PMF. The Scottish Ministers advise that the Applicant should provide information on fish spawning and nursery periods which are key sensitive periods for fish species and consider these sensitive periods in line with the construction programme timeline.
- 5.6.1.3 The Scottish Ministers highlight the MSS advice regarding marine fish ecology and note the benthic environment survey and sediment composition analysis will aid the classification of sediments and help determine the suitability of the area for spawning for the different species listed above. The Scottish Ministers also advise that the Applicant must assess the effects of increased suspended sediment concentrations and sediment deposition on marine fish and shellfish and also consider fish and shellfish eggs and larvae.
- 5.6.1.4 Finally, the Scottish Ministers advise that the Applicant must consider marine fish species, including PMF species such as basking shark, within the underwater noise propagation modelling, with consideration of the timing of noisy construction activities relative to marine fish spawning periods. Noisy construction activities include, but are not limited to, dredging, vessel noise

and piling. The Scottish Ministers direct the Applicant to the MSS advice and recommend this is considered in line with sound exposure guidelines for marine fish for pile driving as detailed in Popper *et al.* (2014).

- 5.6.1.5 The Scottish Ministers advise that marine fish ecology is scoped in for further assessment within the EIA Report for construction and operational phases.

5.7 Diadromous Fish

- 5.7.1.1 The Applicant has briefly addressed salmon, sea trout and European eels within the marine fish ecology section of the Scoping Report. The Scottish Ministers agree with the potential impact mechanisms identified in the Scoping Report and the Applicant's proposal to scope in salmon, sea trout and European eels.
- 5.7.1.2 The Scottish Ministers consider there is a lack of detail and consideration given to diadromous fish in the Scoping Report. The Scottish Ministers agree with advice from MSS and advise that salmon, sea trout and eel are all of high conservation interest with stocks at a low level and the populations of many rivers no longer resilient to loss. The Scottish Ministers advise that there is currently uncertainty regarding the number of salmon, sea trout and eels in the vicinity of the Proposed Works. Further, the Scottish Ministers advise that young salmon, smolts, migrate from rivers to feeding areas to the north of Scotland mainly in April and May and they could be particularly vulnerable to the potential impact mechanisms identified in the Scoping Report.
- 5.7.1.3 The Scottish Ministers advise the diadromous fish are scoped in for further assessment in the EIA Report for the construction and operational phases. The Scottish Ministers recommend engaging with Argyll Fisheries Trust to assist in the assessment.

5.8 Marine Mammals

- 5.8.1.1 The Applicants consideration of the potentially significant effects of the Proposed Works on marine mammals is detailed in Section 3.3.2 of the Scoping Report and consideration of whether marine mammals should be scoped in or out is given in Sections 3.3.3. and 3.3.6. The Scottish Ministers agree with the Applicant's assessment of the potentially significant effects listed for the construction phase and the proposal to scope these in.
- 5.8.1.2 The Scottish Ministers agree with the Applicants proposal to scope in disturbance from dredging, vessel noise, piling activities and the physical presence of vessels, including increased risk of collision and the effects of underwater noise as a result of activities, for further assessment in the EIA Report for the construction phase. Additionally, the Scottish Ministers advise

that disturbance from the physical presence of vessels, including increased risk of collision must be scoped in for further assessment within the EIA Report for the operational phase. Furthermore, the Scottish Ministers highlight the advice from MSS and advise that the impact through changes in prey distribution and abundance both during construction and operational phases be scoped in for consideration within the EIA Report.

- 5.8.1.3 The Scottish Ministers direct the Applicant to advice from MSS and recommend that upon completion of the desk-based review the Applicant engages with MSS through Marine Scotland Licensing Operations Team ("MS-LOT") to ensure all relevant species are scoped into the assessment. Additionally, it is recommended that Hague *et al.* (2020) is included in the desk-based review of baseline conditions for marine mammals.
- 5.8.1.4 The Scottish Ministers advise that dredging and sea deposit activities have the potential to impact marine mammals through pathways other than underwater noise and therefore advise that other impacts to marine mammals are assessed for the construction phase of the Proposed Works.
- 5.8.1.5 The Scottish Ministers direct the Applicant to the advice from MSS regarding the assessment of underwater noise impacts and advise that the assessment should include a site specific, range dependent, underwater noise propagation model. There should be a detailed methodology and the assumptions used in the underwater noise modelling provided for transparency, in order to ascertain if the method used is appropriate to assess the impacts. The Scottish Ministers recommend engaging with MSS through MS-LOT for further advice on suitable underwater noise propagation modelling during the EIA stage of the Proposed Works. The Scottish Ministers agree with the representation by Argyll and Bute Council and advise that species specific management plans, ecological surveys along with a construction environmental management plan must form part of any wider assessment. The species specific management plans must consider how to offset any direct and/or indirect impacts on each species from the different phases of the Proposed Works. For further information on what is expected in these plans the Scottish Ministers direct the Applicant to the representation from Argyll and Bute Council and advise the Applicant must adhere to the guidance provided. These plans must include mitigation to offset any potential impacts and adhere to best practise guidance as required.
- 5.8.1.6 The Scottish Ministers highlight representation from Argyll and Bute Council, NatureScot and advice from MSS that identified the Proposed Works as taking place within the Inner Hebrides and Minches Special Area of Conservation ("SAC"). The Scottish Ministers agree with representation from NatureScot and advice from MSS and advise the Proposed Works could have a likely significant effect on the harbour porpoise qualifying interest of the Inner

Hebrides and Minches SAC, and it is therefore likely that a Habitats Regulations Appraisal will be required. Further, the Scottish Ministers note that the Proposed Works will take place within the Sea of Hebrides Marine Protected Area (“MPA”) and advise that the Applicant must assess if the Proposed Works will have an impact on the minke whale and basking shark qualifying features of this designated site.

- 5.8.1.7 The Scottish Ministers agree with representation from NatureScot, Argyll and Bute Council and advice from MSS and advise that marine mammals must be scoped in for further assessment in the EIA Report for construction and operational phases. This must include the impacts of dredging and sea deposit, an assessment of underwater noise impacts in line with representation from Argyll and Bute Council and advice from MSS and the impact through changes in prey distribution and abundance.

5.9 Marine Ornithology

- 5.9.1.1 The Applicant considered ornithology under the section titled ‘Terrestrial Biodiversity’ in the Scoping Report and gave consideration to the potentially significant effects of the Proposed Works on ornithology in Section 3.2.2. The Applicant detailed consideration of whether ornithology should be scoped in or out in Section 3.2.3 and 3.2.6 of the Scoping Report. As detailed in chapter 5.3 of this Scoping Opinion, the Scottish Ministers advise that it would be more appropriate for ornithology to be considered in the marine biodiversity section of the EIA Report.
- 5.9.1.2 The Scottish Ministers agree with the Applicant’s proposal to scope ornithology in for further assessment in the EIA Report. The Scottish Ministers agree with the potentially significant effects identified for ornithology in the Scoping Report, however consider that vessel activity (additionally to vessel noise) should also be considered for the construction phase. Furthermore, the Scottish Ministers do not consider the list of species likely to be impacted by the Proposed Works to be exhaustive and advise that the EIA Report must give more detailed consideration of key species. This consideration should include where these species have potential connectivity to Special Protection Area (“SPA”) sites.
- 5.9.1.3 The Scottish Ministers acknowledge that the Applicant has stated that SPA’s within 30 kms of the site boundary are to be considered however advise that foraging ranges exceed this distance for several seabird species. The Scottish Ministers therefore direct the Applicant to advice from MSS, regarding potential connectivity to SPA’s, and advise that the long list approach is taken in the first instance. The Scottish Ministers advise that the Applicant must adhere to the MSS advice and ensure careful justification is given for selection

of screening distances since a greater distance will be appropriate for some species. This assessment will likely lead to the inclusion of more SPA's than have been initially identified. Further, the Scottish Ministers advise that the Applicant must adhere to MSS advice and include assessment in the EIA Report of the potential for connectivity between the Proposed Works and Rum SPA, for Manx shearwater, and the Irish Sea Front SPA, for Manx shearwater.

- 5.9.1.4 The Scottish Ministers note that monthly Through the Tide Counts are being undertaken to record water bird species present within 500 m of the Proposed Works. The Scoping Report however, does not make clear if the surveys are restricted to the traditional species included in Wetland Bird Surveys or will include all marine bird species present during observations. The Scottish Ministers advise the Applicant that if other marine bird species are excluded from these counts then targeted vantage point surveys should be used to record other species passing through. Further, the Scottish Ministers direct the Applicant to advice from MSS and advise that a small number of breeding bird surveys must be conducted to assess the impact of construction works during the breeding period and used to identify if any further mitigation is required. The Scottish Ministers advise that this should be considered when drafting the proposed outline Construction Environmental Management Plan ("oCEMP").
- 5.9.1.5 The Scottish Ministers note that the Scoping Report outlines an approach to mitigation measures but does not provide and specific details on mitigation measures for either the construction or operational phases of the Proposed Works. The Scottish Ministers direct the Applicant to representation from NatureScot and advice from MSS and encourage the Applicant to engage with both to ensure any proposed mitigation measures are appropriate once they are developed. Further the Scottish Ministers are content with the proposal of an oCEMP, which will include pollution prevention measures during construction.
- 5.9.1.6 The Scottish Ministers advise that ornithology is scoped in for further assessment in the EIA Report for both construction and operational phases. This must include the assessments stated in the Scoping Report as well as the assessments of vessel activity, other than vessel noise, and the potential for disturbance to breeding birds during the construction phase as referenced by the consultees.

5.10 Land, Soils, Geology & Hydrogeology

- 5.10.1 The Applicant considers land, soils, geology and hydrogeology within Section 3.4 of the Scoping Report, with potentially significant effects being considered in Section 3.4.2 and consideration of whether these are scoped in or out in Sections 3.4.3 and 3.4.6.

- 5.10.2 The Scottish Ministers agree with the conclusions reached in Section 3.4 of the Scoping Report and deem appropriate consideration has been included for designated sites and the impact on land, soils, geology and hydrogeology both during the construction and operational phases of the Proposed Works. The Scottish Ministers agree with the Applicant's decision to consider the potential impacts of the Proposed Works on the mobility of the sand waves within the Sound of Iona in the coastal processes section of the EIA Report.
- 5.10.3 The Scottish Ministers are content with the proposal that land, soils, geology & hydrogeology can be scoped out from further assessment in the EIA Report. The Scottish Ministers advise that the potential impacts of the Proposed Works on the mobility of sand waves within the Sound of Iona must be scoped in for further consideration in the EIA Report for the operational phase, this can be considered under the coastal processes chapter in the EIA Report.

5.11 Water Quality

- 5.11.1 Water quality is considered within Section 3.5 of the Scoping Report with consideration of potentially significant effects in Section 3.5.2 and consideration of whether water quality should be scoped in or out in Sections 3.5.3 and 3.5.6. The Scottish Ministers agree with the potentially significant effects listed during both the construction and operational phases of the Proposed Works and with the need for further assessment to potential changes to hydromorphology during the operational phase.
- 5.11.2 The Scottish Ministers agree with representation from SEPA that the applicant must identify all aspects of construction phase that may impact the environment along with potential pollution risks associated with the Proposed Works. Preventative measures and mitigation should be identified. A draft schedule of mitigation should be produced as part of this process which should cover all the environmental sensitivities, pollution prevention and mitigation measures identified to avoid or minimise environmental effects. The Scottish Ministers advise the Applicant to refer to SEPA's Pollution Prevention guidelines and other guidance produced by the Construction Industry Research and Information Association ("CIRIA").
- 5.11.3 The Scottish Ministers agree with the representation from Argyll and Bute Council regarding water quality and advise that the impacts of siltation from dredging activities must be considered in more detail in the EIA Report and must have regard to the guidance and best practice produced by the SEPA.
- 5.11.4 The Scottish Ministers advise that water quality must be scoped in for further assessment in the EIA Report for both the construction and operational phases.

5.12 Flood Risk

- 5.12.1 The Applicant addresses flood risk in Section 3.6 of the Scoping Report. A summary of the potentially significant effects of the Proposed Works on flood risk during the construction and operational phases is detailed in Section 3.6.2 and consideration to whether flood risk is scoped in or out in Sections 3.6.3 and 3.6.6 of the Scoping Report.
- 5.12.2 The Scottish Ministers agree with the proposed methodology for assessing flood risk in the EIA Report. The Scottish Ministers acknowledge the representation from Argyll and Bute Council and agree that a flood risk assessment having regard for both direct and indirect impacts must form part of the EIA Report. Further, the Scottish Ministers direct the Applicant to representation from SEPA regarding flood risk and advise that the Applicant adheres to the guidance detailed.
- 5.12.3 The Scottish Ministers agree with the conclusion of Section 3.6 of the Scoping Report and advise that flood risk must be scoped in for further assessment in the EIA Report for both construction and operational phases.

5.13 Air Quality

- 5.13.1 Section 3.7 of the Scoping Report details the Applicants consideration of air quality and climate change. Section 3.7.2 considers the potentially significant effects and Sections 3.7.3 and 3.7.6 detail whether air quality and climate change should be scoped in or out of the EIA Report.
- 5.13.2 In relation to climate change, the Scottish Ministers advise that the Applicant must consider this impact of the Proposed Works in the EIA Report and refer the Applicant to chapter 3.5 of this Scoping Opinion for further advice regarding this.
- 5.13.3 With regards to air quality, the Scottish Ministers note the Applicants proposal, in Section 3.7.3 of the Scoping Report, that air quality be scoped out of the EIA Report. The Applicant proposes that the potential impacts of the Proposed Works on air quality are most likely to be from dust during the construction phase. The Scottish Ministers are satisfied with the Applicants proposal that a dust and emissions management plan is to be included in the oCEMP along with the mitigation and control measures outlined in Section 3.7.5 of the Scoping Report for the construction phase. Further the Scottish Ministers are satisfied that there will be no impact on air quality during the operational phase as there is no proposed change to the existing ferry operations due to the Proposed Works. The Scottish Ministers advise that if road transport of

materials is required the Applicant must adhere to SEPA guidance on air quality and should seek further guidance from the Scottish Ministers.

- 5.13.4 The Scottish Ministers advise that air quality can be scoped out of further assessment in the EIA Report if the Applicant includes a dust and emissions management plan, including the mitigation detailed in Section 3.7.5 of the Scoping Report, in the oCEMP.

5.14 Terrestrial Noise & Vibration

- 5.14.1 The Applicant considers the impact of terrestrial noise and vibration from the Proposed Works in Section 3.8 of the Scoping Report, the potentially significant effects in Section 3.8.2 and whether it should be scoped in or out of the EIA Report in Sections 3.8.3 and 3.8.6. The Scottish Ministers broadly agree with the Applicant regarding the proposed EIA Report assessment methodology as outlined in Section 3.8.4 of the Scoping Report.
- 5.14.2 The Scottish Ministers agree with the Applicants conclusion and advise that terrestrial noise and vibration is scoped in for further assessment in the EIA Report for both construction and operational phases.

5.15 Coastal Processes

The impact on coastal processes is considered within Section 3.9 of the Scoping Report with potentially significant effects detailed in Section 3.9.2 and consideration of whether coastal processes should be scoped in or out of the EIA Report in Sections 3.9.3 and 3.9.6. The Scottish Ministers agree with the Applicants proposal to scope in coastal processes and advise that, further to this, the Applicant must take into consideration the advice from MSS regarding physical processes.

- 5.15.1 The Scottish Ministers direct the Applicant to advice from MSS regarding the inclusion of aspects of tidal scouring and changes in tidal stream velocities (and turbulence) and advise that these must be explored in more detail in the EIA Report. The Scoping Report details that simulations will be carried out in the context of extreme storm events and typical summer/winter periods, the Scottish Ministers highlight advice from MSS supporting these simulations and advise that a 1:100 year storm event must be included as a worst case scenario. Further, the Scottish Ministers advise that cumulative effects with the Proposed Works on Iona also need to be considered, so a combined modelling study should be undertaken.
- 5.15.2 The Scottish Ministers advise that coastal processes must be scoped in for further assessment in the EIA Report for both construction and operational phases. As part of this assessment hydrodynamic modelling, including waves,

sediments and cumulative effects, must be undertaken. This assessment must also include an assessment of the Proposed Works on the mobility of sand waves within the Sound of Iona as mentioned in chapter 5.10.3 of this Scoping Opinion.

5.16 Material Assets

- 5.16.1 The Applicant considers material assets within Section 3.10 of the Scoping Report. The Applicant summarises the potentially significant effects on material assets during the different phases of the Proposed Works in Section 3.10.2 and whether or not material assets should be included in the EIA Report in Sections 3.10.3 and 3.10.6.
- 5.16.2 The Applicant has considered material assets under two categories; built assets and natural assets. Built assets includes transport, energy, services infrastructure, settlement and commercial land, port/harbour infrastructure, community resources and the historic environment. Natural assets include forestry, open space minerals, water resources and watercourses. This Scoping Opinion will only consider aspects below MHWS.
- 5.16.3 The Scottish Ministers agree with the Applicants decision to scope out material assets from the EIA Report. However the Scottish Ministers advise that some aspects which have been considered by the Applicant under the heading 'Material Assets' will be assessed separately throughout this Scoping Opinion.
- 5.16.4 For the avoidance of doubt, the Scottish Ministers advise that the material assets can be scoped out of requiring further assessment in the EIA Report, with the caveat that some topics that have been considered by the Applicant, under the heading 'Material Assets', in the Scoping Report will be addressed separately in this Scoping Opinion. These topics can be found under chapter 5.2 Navigation and Safety and chapter 5.22 Socio-Economic and relate to port/harbour infrastructure and transport.

5.17 Traffic and Transportation

- 5.17.1 The Applicant considers traffic and transportation in Section 3.11 of the Scoping Report. Consideration of the potentially significant effects is provided in Section 3.11.2 and proposal of whether to scope traffic and transportation in or out of the EIA Report is given in Sections 3.11.3. and 3.11.6. The Applicant considers terrestrial traffic and transportation under this heading and marine traffic and transport under the heading 'Risk of Major Accident (Safety and Navigation)' in Section 3.1 of the Scoping Report.
- 5.17.2 The Applicant details that material for the construction works will be brought to site via barge as road connections are not feasible. The Scottish Ministers

therefore agree with the Applicants conclusion that there will be no impact on the surrounding road network from the Proposed Works and advise that terrestrial traffic and transportation can be scoped out from further assessment in the EIA Report.

5.18 Cultural Heritage

- 5.18.1 The Applicant considers cultural heritage in Section 3.12 of the Scoping Report. Consideration of the potentially significant effects is provided in Section 3.12.2 and the Applicants proposal to scope cultural heritage out is detailed in Sections 3.12.3 and 3.12.6.
- 5.18.2 The Scottish Ministers highlight representation from HES who note that there are no known heritage assets within the footprint or its immediate surrounding. Due to this, and the footprint of the Proposed Works being in an area that is subject to regular fluctuations and change through storm events, the Scottish Ministers agree with the Applicants proposal to scope out cultural heritage from further assessment in the EIA Report. The Scottish Ministers highlight representation from HES and advise the Applicant to ensure they seek a view regarding cultural heritage concerns from the Local Authority.

5.19 Landscape & Visual

- 5.19.1 The Applicant considers the impact of the Proposed Works on landscape and visual resources in Section 3.13 of the Scoping Report. The potentially significant effects are detailed in Section 3.13.2 and consideration of whether this receptor should be scoped in or out is provided in Sections 3.13.3 and 3.13.6. The Scottish Ministers agree with the Applicant's proposal to scope landscape and visual impacts in for further assessment in the EIA Report.
- 5.19.2 The Scottish Ministers highlight the representation from Argyll and Bute Council regarding the location of the Proposed Works and note that the site is located within a regionally significant scenic area within a relatively undeveloped coastal environment and there are several Local Nature Conservation sites within proximity. The Scottish Ministers agree that the Proposed Works will constitute a substantial structure in both landscape and seascape terms and therefore agree with the Applicants proposal to undertake a detailed landscape character assessment and a detailed visual impact assessment. The Scottish Ministers agree with representation from Argyll and Bute Council that identified the need for additional photographs and visualisations to be included in the assessment, as well as consideration and evaluation of any potential cumulative visual impacts and navigational lighting and markings, including night time impacts and advise that these must be undertaken by the Applicant. Further to this, the Scottish Ministers direct the Applicant to representation from NatureScot regarding landscape and visual

impacts and advise that the Applicant must include the three additional viewpoints recommended by NatureScot in the landscape and visual impact assessment.

- 5.19.3 The Scottish Ministers advise that landscape and visual impacts are scoped in for further assessment in the EIA Report for construction and operational phases.

5.20 Population & Human Health

- 5.20.1 The impacts to population and human health of the Proposed Works are considered in Section 3.14 of the Scoping Report, the potentially significant effects in Section 3.14.2 and the Applicant's proposal to scope in population and human health in Sections 3.14.3 and 3.14.6.
- 5.20.2 The Applicants review of population and human health contains limited consideration on the socio-economic impact of the Proposed Works. This was criticised by the MAU, Iona Community Council, Mull Community Council and the Sound of Iona Harbours Committee. The Scottish Ministers advise that socio-economic impacts will be addressed separately at chapter 5.22 of this Scoping Opinion.
- 5.20.3 The Scottish Ministers broadly agree with the proposed methodology and inclusion of key outputs from relevant inter-related technical disciplines scoped into the EIA Report to determine the impact upon population and human health within the Scoping Report. However, to further this assessment the Scottish Ministers direct the Applicant to representation from Argyll and Bute Council regarding impacts on other users and advises the Applicant to consider this advice in the EIA Report. The Scottish Ministers advise particular attention should be directed towards consideration of other sea users including sea kayakers, who may be pushed further into more dangerous waters due to the Proposed Works, and sail boats which are used for pleasure boating in the Sound of Iona.
- 5.20.4 The Scottish Ministers support the Applicants proposal to produce an oCEMP which includes appropriate mitigation in order to reduce negative impacts on population and health.
- 5.20.5 The Scottish Ministers agree that population and human health is scoped in for further assessment in the EIA Report for both construction and operational phases and advise that the Applicant must address the concerns raised by the consultees.

5.21 Waste

- 5.21.1 The Applicant considers the impact of waste in Section 3.15 of the Scoping Report with details of the potentially significant effects in Section 3.15.2 and consideration of whether waste should be scoped in or out in Sections 3.15.3 and 3.15.6. The Scottish Ministers disagree with the Applicants proposal that waste can be scoped out of the EIA Report. The Scottish Ministers advise that waste must be scoped in for further assessment within the EIA Report and a qualitative assessment on the effects of waste must be completed. This assessment should be comprehensive enough to allow an understanding of the potential impacts of waste during the construction and operational phases of the Proposed Works.
- 5.21.2 The Scottish Ministers welcome the creation of an oCEMP and Site Waste Management Plan ("SWMP") and advise that the results of the qualitative assessment on the effects of waste must be fed into the oCEMP and SWMP. The Scottish Ministers agree with the Applicants proposal for these plans to contain measures and procedures for the management of waste and pollution control measures. Contractors will be contractually obliged to follow the SWMP and relevant legislation. The oCEMP and SWAP should also contain measures in place to mitigate any potential impacts..
- 5.21.3 For the avoidance of doubt, the Scottish Ministers advise that waste is scoped in for further assessment into the effects of waste in the EIA Report.

5.22 Socio-Economic

- 5.22.1 The Scoping Report does not include much consideration of the socio-economic impact of the Proposed Works. The Scottish Ministers believe this should be included within its own chapter of the EIA Report.
- 5.22.2 The Scottish Ministers highlight representation from ICC, which is endorsed by MCC, SolHC and advice from MAU, which identified the lack of economic analysis and assessment of economic opportunities as a result of the Proposed Works. The Scottish Ministers agree that these assessments should be undertaken as well as an assessment to ensure other projects in the area are not handicapped by the Proposed Works.
- 5.22.3 The Scottish Ministers highlight advice from the MAU which identifies the social and economic impact consideration in the Scoping Report to be quite narrow. The Scottish Ministers agree with MAU and would expect a broader range of social and economic impacts to be considered through a Socio-Economic Impact Assessment ("SEIA"). The Scottish Ministers direct the Applicant to the MAU advice regarding stakeholder engagement and highlight the importance of engaging with stakeholders as a critical aspect for the impact assessment and advise it is crucial that stakeholders are consulted. Further, the Scottish Ministers agree with the MAU advice regarding the context and

baseline of the Scoping Report and advise that the EIA Report should include context about the communities as well as baseline information about the current level of disruption as per in the MAU advice. The Scottish Ministers advise that the Applicant must adhere to the advice provided by MAU whilst undertaking the SEIA.

- 5.22.4 Additionally the Scottish Ministers highlight advice from MSS and advise there is a lack of consideration of the potential impacts of the Proposed Works on fishing activity. The Scottish Ministers highlighted the need for early and effective engage with the fishing industry and to have consideration if any of the Proposed Works may displace fishing activity or restrict access to the harbour. The Scottish Ministers advise that the Applicant must engage with the local fishing industry.
- 5.22.5 Finally, the Scottish Ministers agree with representation from ICC, MCC and SolHC which highlighted the need to consider the Proposed Works in combination with pier facilities and users, pier surroundings, marine tourism and transport. The Scottish Ministers also agree with the MAU, that the Applicant must include details of how the Proposed Works might cause disruption to the lifeline ferry during the construction phase, estimated at 52 weeks, and must include details as to how these impacts will be mitigated.
- 5.22.6 The Scottish Ministers advise that socio-economic impacts of the Proposed Works must be scoped in for further assessment in the EIA Report for the construction and operational phases and a SEIA must be undertaken as per MAU advice.

5.23 Cumulative Effects and Environmental Interactions

- 5.23.1 The Applicant briefly mentions the potential for cumulative effects and environmental interactions between this Proposed Works and others in the area noting the most significant construction in the area is the building of a breakwater and overnight berthing facility proposed at Iona less than 1.4 km away.
- 5.23.2 The Scottish Ministers advise that cumulative effects do not necessarily require a standalone chapter in the EIA Report but cumulative impacts must be considered in relation to each of the chapters scoped in above. The Scottish Ministers also advise the Applicant to consider representation from Argyll and Bute Council, ICC, MCC, SolHC, SEPA, and advice from MSS when assessing cumulative effects.

6. Application and EIA Report

6.1 General

- 6.1.1 The EIA Report must be in accordance with the 2017 MW Regulations and the Scottish Ministers draw your attention in particular to, regulation 6. In accordance with the 2017 MW EIA Regulations, the Scottish Ministers advise that the EIA Report must be based on this Scoping Opinion.
- 6.1.2 The Scottish Ministers note the need to carry out an assessment under The Conservation (Natural Habitats, &c.) Regulations 1994. This assessment must be coordinated with the EIA in accordance with the 2017 MW Regulations.
- 6.1.3 A gap analysis template is attached at Appendix II to record the environmental concerns identified during the scoping process. This template should be completed and used to inform the preparation of the EIA Report. As part of the submission of the EIA Report the Scottish Ministers advise that Applicant must provide confirmation of how this Scoping Opinion is reflected in the EIA Report.

7. Multi-Stage Regulatory Approval

7.1 Background

- 7.1.1 The 2017 MW Regulations contain provisions regulating the assessment of environmental impacts. A multi-stage approval process arises where an approval procedure comprises more than one stage; one stage involving a principal decision and one or more other stages involving implementing decision(s) within the parameters set by the principal decision. While the effects which works may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision, if those effects are not identified or identifiable at the time of the principle decision, assessment must be undertaken at the subsequent stage.
- 7.1.2 The definition in the 2017 MW Regulations is as follows: “*application for multi-stage regulatory approval*” means an application for approval, consent or agreement required by a condition included in a regulatory approval where (in terms of the condition) that approval, consent or agreement must be obtained from the Scottish Ministers before all or part of the works permitted by the regulatory approval may be begun”.
- 7.1.3 A marine licence, if granted, by the Scottish Ministers for the Proposed Works, may have several conditions attached requiring approvals etc. which fall under this definition, for example the approval of a CMS. When making an application for multi-stage approval the Applicant must satisfy the Scottish Ministers that no significant effects have been identified in addition to those already assessed in the EIA Report.
- 7.1.4 If during the consideration of information provided in support of an application for multi-stage regulatory approval the Scottish Ministers consider that the works may have significant environmental effects which have not previously been identified in the EIA Report (perhaps due to revised construction methods or updated survey information), then information on such effects and their impacts will be required. This information will fall to be dealt with as additional information under the 2017 MW Regulations, and procedures for consultation, public participation, public notice and decision notice of additional information will apply.

Signed

Thomas Inglis
03 February 2022
Authorised by the Scottish Ministers to sign in that behalf.

Appendix I: Consultation Responses & Advice

Please refer to separate document provided alongside the Scoping Opinion

Appendix II: Gap Analysis

Applicant to complete:

Consultee	No.	Point for Inclusion	EIA Report Section	Justification
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