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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

Iona Harbour Development

May 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 Iona 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 licence/s 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 section 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 involves the installation of berthing piles at the existing Iona ferry slipway, the creation of a new breakwater and dredging. The site is located on the East Coast of Iona. The existing ferry terminal consists of a slipway and pier jutting out into the Sound of Iona. Currently, the Iona to Mull ferry operates from the pier, which also has facilities for fishing, commercial and private vessels as well as berthing for visiting craft.
- 2.2.2 The new breakwater will be constructed approximately 70 metres ("m") south of the existing slipway. The overall length of the new breakwater crest is approximately 177 m. The structure will comprise a rock armour structure with a slope of approximately 1 in 1.5 and the proposed crest level of the breakwater will be 7.71 m Chart Datum ("CD"). The overall footprint of the breakwater is approximately 7000 metres squared ("m²").
- 2.2.3 The rock armour breakwater will be constructed of clean quarried rock brought in from the Glensanda Quarry in Oban by barge. It is estimated that the volume of rock required for the breakwater is 43,000 metres cubed ("m³"), approximately 33,000 m³ of which will be below Mean High Water Springs ("MHWS").
- 2.2.4 It is proposed to install 12 new berthing piles immediately to the south of the existing slipway. The total tonnage of the piles including the rock sockets is approximately 96 tonnes. The piles will be delivered by barge and lifted into position by crane. It is anticipated that a single vessel will be used to both deliver and install / drive piles. The method of pile installation has not yet been detailed by the Applicant. It is essential that this information be included in the EIA Report.
- 2.2.5 Dredging is required to accommodate the new navigation channel. The Applicant advises that this will be minor in nature and comprise of overburden dredging only. The approximate dredge area is 3,400 m² and the approximate volume is 3,298 m³. It is proposed that this is to be carried out using suction

dredge and that the material will be deposited at the nearest licensed deposit site which is Port Ellen.

- 2.2.6 It is specified that there is known to be mains electricity present to the north of the site but it is considered that this is sufficient distance from the site to prevent any interference with this service.
- 2.2.7 The duration of the construction phase of the Proposed Works is estimated to be 52 weeks. The design life of the structure is estimated to be approximately 120 years.

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 describes the dredging that will be required as part of the Proposed Works. It states that the material to be dredged will be deposited at the nearest licensed offshore deposit site and gives this as the site at Port Ellen. A Best Practical Environmental Option ("BPEO") statement must be prepared in relation to the deposit of dredge material and a separate marine licence to deposit this material will be required.
- 2.4.2 The Scoping Report also stated that the dredging of areas on the ferry route could be undertaken at times agreed with the ferry operator or at night. Following discussion between the Applicant, the ferry operator, other marine users and / or local residents who may be affected by the noise, details of the plans must be included in the EIA Report.
- 2.4.3 Section 2.3 the Scoping Report includes 'sea level formation for rock armour installation (undertaken by a diving team)'. The EIA Report should define more clearly what this entails and the extent required.
- 2.4.4 Section 2.3 of the Scoping Report also details the delivery and installation of the rock armour. It is stated that the proposed breakwater is 40 m from ferries / tourism / fishing slipways. These features should be shown on a detailed

chart of the vicinity. Section 2.1 of the Scoping Report states that the proposed breakwater is to be 70 m from the ferry slipway, clarification of this is required.

- 2.4.5 Section 2.3 of the Scoping Report states that it is expected that around 60 vessel movements would be required to transport the rock armour to the site. If the exact number of vessel movements is not known then the worst case scenario should be detailed in the EIA Report. The EIA Report should also include consideration of the impacts of vessel movements upon relevant receptors during construction of the breakwater.

Design Envelope

- 2.4.6 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.
- 2.4.7 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.
- 2.4.8 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 Section 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.
- 2.4.9 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

- 2.4.10 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 Scoping Report sets out the alternatives which were considered however does not provide any depth of information as to why this was the preferred alternative.
- 2.4.11 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 section 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 section 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 Applicant’s 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 5.3 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 section 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 20 August 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 (“NS”) (operating name of Scottish Natural Heritage)**
- **Scottish Environmental Protection Agency (“SEPA”)**
- **Argyll and Bute Council (“ABC”)**
- **Marine Coastguard Agency (“MCA”)**
- **Northern Lighthouse Board (“NLB”)**
- **Historic Environment Scotland (“HES”)**
- Health and Safety Executive
- **Iona Community Council (“ICC”)**
- UK Chamber of Shipping
- Crown Estate
- **Defence Infrastructure Organisation (Ministry of Defence)**
- Fisheries Management Scotland
- Caledonian MacBrayne
- Fishery Office: Oban
- Hebridean Whale and Dolphin Trust
- West Coast Regional Inshore Fisheries Group
- Marine Safety Forum
- **National Trust for Scotland (“NTS”)**
- Royal Yachting Association
- Royal Society for the Protection of Birds
- Scottish Fishermen’s Federation
- Scottish Fishermen’s Organisation
- Scottish Creel Fishermen’s Association
- **Scottish Water (“SW”)**
- Scottish Wildlife Trust
- Visit Scotland
- *Whale and Dolphin Conservation*

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 10 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 sections 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 section 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 the assessment within the EIA Report are detailed in table 4-1 of the Scoping Report.

5.2 Risk of Major Accidents

- 5.2.1 Section 3.1 of the Scoping Report, titled 'Risk of Major Accidents (Navigation and Safety)', contains the Applicant's 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. Chapter 3.4 of this Scoping Opinion addresses risks of major accidents and / or disasters whilst navigation and safety is considered separately in Chapter 5.3 of this Scoping Opinion.

5.3 Navigation and Safety

- 5.3.1 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 specifies that the area to be considered for navigational assessment comprises the area of the marine works within the Sound of Iona, plus the route the dredge and deposit craft will take between the dredge site at Iona and the disposal site at Port Ellen, Islay. 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.
- 5.3.2 The Scottish Ministers agree with representation from MCA and support the Applicant's 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 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 on 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 or 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, including what is required with regards to risk mitigation. The Scottish Ministers also agree that no effects of the assessment of shipping and navigation should be scoped out prior to the outcome of the NRA and further stakeholder consultation.

- 5.3.3 The Scottish Ministers highlight representation from ICC regarding the need to include other pier users in consultation and detail users that have not been referenced in the Scoping Report. The Scottish Ministers advise the Applicant must engage with ICC to ensure all pier users are included in consultation to inform the HAZID. Additionally, the Scottish Ministers advise that ICC and NTS must be included in the consultation plan to provide updates on scheme timings, referenced in Section 3.1.5.1 of the Scoping Report.
- 5.3.4 The Scottish Ministers highlight representation from NLB which welcomes the Applicant's proposed consultation with the NLB and MCA for the HAZID exercise. The NLB have already made representations through ABC in which navigational lighting and marking recommendations were made.
- 5.3.5 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 the impact of the Proposed Works must include the effect on all seagoing traffic with the additional vessel movement which will be necessary in the area. Details of how this might affect the lifeline ferry during the construction and any mitigation planned to be undertake during the construction must also be included in the EIA Report. The Scottish Ministers highlight representation from ABC 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 ABC and advise that the Applicant must also assess the impacts to recreational vessels and sea kayakers with full consideration of the points raised by ABC. 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.

- 5.3.6 The Scottish Ministers agree with the Applicant and consultees that navigation and safety must be scoped in for further assessment in the EIA Report for both construction and operational phases. The Scottish Ministers advise that a comprehensive NRA must be undertaken with stakeholder engagement and must include consideration of the impacts of the Proposed Works on all aspects of safety and navigation at the marine interface during both the construction and operational phases.

5.4 Terrestrial Biodiversity

- 5.4.1 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 has stated that the aspects of terrestrial biodiversity to be scoped in to the final EIA Report as; the effects on birds and otters and their prey species at both construction and operation stages. The Applicant proposes to undertake a desk based study as well as several field studies which will inform the assessments within the EIA Report.
- 5.4.2 The Scottish Ministers note that marine 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. Marine ornithology will therefore be considered within Chapter 5.5 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 otter 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 ABC in the EIA Report.
- 5.4.3 The Scottish Ministers highlight acknowledgement from NS confirming that the Applicant has been in contact regarding methodologies and species / habitat locations and further advise the Applicant to engage with NS to ensure appropriate surveys are undertaken.
- 5.4.4 The Scottish Ministers highlight representation from NTS regarding the use of the National Biodiversity Network Atlas ("NBN Atlas") for obtaining data on local wildlife sightings and advise that the Applicant must make use of the NBN

Atlas in establishing otter baselines. Additionally the Scottish Ministers direct the Applicant to representation from ICC and advise that the Applicant must consult with the Ross of Mull Ranger to inform the EIA Report.

- 5.4.5 ABC consider all ecological / biodiversity impacts together in its representation. Relevant to the section on terrestrial biodiversity is its consideration of otters. The Scottish Ministers agree with the representation from ABC and advise that species management plans, ecological surveys and a construction environmental management plan must form part of the wider assessment.
- 5.4.6 The Scottish Ministers agree with the Applicant and consultees and advise that terrestrial biodiversity is scoped in for further assessment in the EIA Report for the construction and operational phases. This should include the studies and assessments detailed in the Scoping Report as well as any surveys, assessments and / or management plans requested by consultees.

5.5 Marine Biodiversity

- 5.5.1 The Applicant's consideration of potential impacts of the Proposed Works on marine biodiversity are detailed in Section 3.3 of the Scoping Report and include benthic ecology, fish and shellfish ecology and marine mammals. 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.
- 5.5.2 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.

5.6 Benthic Ecology

- 5.6.1 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 3.3.1 of the Scoping Report. Consideration of whether benthic 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 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. The Scottish Ministers welcome the proposed desktop assessment and benthic survey and are content with the proposed sampling points for benthic fauna.

- 5.6.2 The Scottish Ministers agree with the potentially significant effects the Applicant has scoped in and direct the Applicant to representation from NS 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 3.3.2.1 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 Marine Non-Native Species (“MNNS”) due to the new breakwater / structures and an increase in vessel movements. Additionally, the Scottish Ministers highlight representation from SEPA regarding the introduction of MNNS and advise that the Applicant must put in place effective biosecurity measures to prevent introduction and to stop their spread. Detail of the measures to minimise the risks of introducing MNNS must be included in the EIA Report and any construction environmental management plan.
- 5.6.3 The Scottish Ministers agree with representation from ABC 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 PMF and OSPAR Threatened and Declining species exist within the impacted area in addition to the Annex I features proposed in the Scoping Report. Further, the Scottish Ministers direct the Applicant to representation from ABC noting the nationally important PMF of seagrass beds. The Scottish Ministers agree with the views of ABC and advise a visual survey must be undertaken to establish the extent of seagrass beds within the areas affected by the construction, dredging and increased sedimentation associated with 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. Additionally, to further the proposed sampling the Scottish Ministers direct the Applicant to the advice given by 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. Any mitigation proposed to offset impacts of the Proposed Works on the PMF should also be included in the EIA Report.

- 5.6.4 The Scottish Ministers agree with the Applicant, the advice from MSS and representation from ABC and advise that benthic ecology must be scoped in for further assessment in the EIA Report for the construction and operational phases. Assessments identified in the Scoping Report as well as those identified by MSS and ABC must be included in the final EIA Report.

5.7 Marine Fish and Shellfish Ecology

- 5.7.1.1 The Applicant's consideration of the potentially significant effects on fish and shellfish 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 fish and shellfish 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 fish and shellfish ecology for further assessment in the EIA Report. This Scoping Opinion will only address marine fish and shellfish in this chapter whilst diadromous fish will be addressed below in Chapter 5.8.
- 5.7.2 The Scottish Ministers agree with the Applicant's proposal to scope in marine fish and shellfish ecology and highlight representation from NS 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 with 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 highlight any fish species that are designated as PMF. The Scottish Ministers also support and direct the Applicant to advice from MSS, under the heading of 'Marine fish ecology', and advise that the Applicant must 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.
- 5.7.3 The Scottish Ministers highlight advice from MSS regarding marine fish and shellfish ecology and note the benthic environment survey and sediment composition analysis that must be undertaken to inform the benthic ecology section of the EIA Report, will aid the classification of sediments and help determine the suitability of the area for spawning for the different species listed in the Scoping Report. 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.
- 5.7.4 Further, the Scottish Ministers advise that the Applicant must consider marine fish and shellfish species, including PMF species such as basking shark, within

the underwater noise propagation modelling, and with consideration of the timing of noisy underwater 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 advise this must be considered in line with sound exposure guidelines for marine fish for pile driving as detailed in Popper *et al.* (2014).

- 5.7.5 The Scottish Ministers agree with the Applicant, NS and with advice from MSS and advise that marine fish and shellfish ecology must be scoped in for further assessment in the EIA Report for both construction and operational phases.

5.8 Diadromous Fish

- 5.8.1 The Applicant has briefly addressed salmon, sea trout and European eels within the fish and shellfish 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.
- 5.8.2 The Scottish Ministers consider there to be a lack of detail and consideration given to diadromous fish in the Scoping Report 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 European eels in the vicinity of the Proposed Works. Further, the Scottish Ministers highlight advice from MSS that young salmon, smolts, migrate from rivers to feeding areas to the north of Scotland mainly in April and May and therefore could be particularly vulnerable to the potential impact mechanisms identified in the Scoping Report.
- 5.8.3 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.

5.9 Marine Mammals

- 5.9.1 The Applicant's 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.
- 5.9.2 The Scottish Ministers agree with the conclusions of the Applicant's assessment of the potentially significant effects listed for the construction and operational phases and with what the Applicant proposes to scope in. For the

avoidance of doubt the Scottish Ministers advise that the following must be scoped in for further assessment in the EIA Report for the construction phase; the effects of underwater noise as a result of activities including disturbance from dredging, vessel noise, piling activities and the physical presence of vessels, including an increased risk of collision. Additionally, the Scottish Ministers advise the following must be scoped in for further assessment in the EIA Report for the operational phase; disturbance from the physical presence of vessels, including increased risk of collision. Furthermore, the Scottish Ministers highlight advice from MSS and advise the impact through changes in prey distribution and abundance both during construction and operational phases must be scoped in for considered within the EIA Report.

- 5.9.3 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 basking shark or minke whale qualifying features of this designated site. The Scottish Ministers highlight representation from ABC, NS 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 NS and advice from MSS and advise that 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.
- 5.9.4 The Scottish Ministers highlight advice from MSS and recommend the Applicant engages with MSS, through Marine Scotland Licensing Operations Team (“MS-LOT”), to ensure all relevant species are scoped into the assessment on completion of the desk-based review. The Scottish Ministers recommend that Hague *et al.* (2020) is included in the desk-based review of baseline conditions for marine mammals. Additionally the Scottish Ministers agree with ICC recommendations in its representation and advise that the Hebridean Whale and Dolphin Trust and the Scottish Association for Marine Science must be contacted as they hold large amounts of data regarding species presence within the area which must be used to inform the Scoping Report. The NBN Atlas recommended in the representation from NTS must also be consulted for the same reason.
- 5.9.5 The Scottish Ministers direct the Applicant to advice from MSS and advise that dredging and sea deposit activities and the placement of rock armour have the potential to impact marine mammals through pathways other than underwater noise and advise that other impacts to marine mammals must be assessed during the construction phase of the Proposed Works.

- 5.9.6 The Scottish Ministers direct the Applicant to 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.
- 5.9.7 The Scottish Ministers agree with representation from ABC and advise that species specific management plans, ecological surveys and 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 ABC and advise the Applicant must adhere to the guidance provided. These plans must include mitigation to offset any potential impacts and adhere to best practice guidance as required. Additionally, the Scottish Ministers direct the Applicant to advice from MSS regarding preliminary mitigation measures for marine mammals and encourage the Applicant to engage with MSS, through MS-LOT, to ensure the mitigation proposed is appropriate.
- 5.9.8 The Scottish Ministers agree with representation from NS, ABC and advice from MSS and therefore advise that marine mammals must be scoped in for further assessment in the EIA Report for the construction and operational phases. The impacts of dredging and sea deposit and rock armour placement, an assessment of underwater noise in line with representation from ABC and advice from MSS and the impact through changes in prey distribution and abundance must be assessed in the final EIA Report. Information should also be gathered regarding the range of species which may be impacted as per representations made by ICC and NTS.

5.10 Marine Ornithology

- 5.10.1 The Applicant considered ornithology under the section titled 'Terrestrial Biodiversity' in the Scoping Report and provides 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 Sections 3.2.3 and 3.2.6 of the Scoping Report. This Scoping Opinion will only address aspects below MHWS and therefore will only consider marine ornithology but advise that the Applicant ensures all terrestrial ornithology concerns are addressed to the satisfaction of the

consultees in the EIA Report. In regards to marine ornithology, the Scottish Ministers agree with the Applicant's proposal to scope ornithology in for further assessment in the EIA Report and, as detailed in Chapter 5.4 of this Scoping Opinion, advise that it would be more appropriate for ornithology to be considered in the marine biodiversity section of the EIA Report.

- 5.10.2 The Scottish Ministers agree with the potentially significant effects identified for ornithology in the Scoping Report, however consider that vessel activity (other than vessel noise) should also be considered for the construction phase. Additionally, 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 and where these species have potential connectivity to Special Protection Area ("SPA") sites. Additionally, the Scottish Ministers direct the Applicant to representation from NTS and advise that the Applicant must include consideration of the NBN Atlas to facilitate this investigation. Further, 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. Additionally, 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.
- 5.10.3 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 survey is restricted to the traditional species included in Wetland Bird Surveys or if it 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 the results 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"). The Scottish Ministers direct the Applicant to representation from

NS and encourage the Applicant to engage with NS to ensure to surveys and assessments are appropriate.

- 5.10.4 The Scottish Ministers note that the Scoping Report outlines an approach to mitigation measures but does not provide specific details on mitigation measures for either the construction or operational phases of the Proposed Works. The Scottish Ministers direct the Applicant to advice from MSS and encourage the Applicant to engage with MSS, through MS-LOT, to ensure any proposed mitigation measures are appropriate once they are developed. Further, the Scottish Ministers note and are content with the proposal of an oCEMP which will include pollution prevention measures during construction.
- 5.10.5 The Scottish Ministers advise that marine 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 and considerations identified by the consultees and MSS. Consultation and advice in this process should be sought from NS and MSS.

5.11 Land, Soils, Geology and Hydrogeology

- 5.11.1 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. This Scoping Opinion will only address the aspects of land, soils, geology and hydrogeology that are below MHWS. However, the Scottish Ministers advise that all land, soils, geology and hydrogeology concerns must be addressed to the satisfaction of the consultees in the EIA Report. Additionally, clarification as to what is included in the Proposed Works should be included to the satisfaction of ICC.
- 5.11.2 The Scottish Ministers broadly agree with the findings of Section 3.4 of the Scoping Report and deem that 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 proposal 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.
- 5.11.3 The Scottish Ministers confirm that land, soils, geology & hydrogeology can be scoped out of 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 should be considered under the coastal processes section in the EIA Report.

5.12 Water Quality

- 5.12.1 The Applicant considers water quality in 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. When considering water quality the Applicant makes reference to the Water Framework Directive (“WFD”) as well as to other relevant legislation, SEPA guidelines and industry standards. The Scottish Ministers agree with the Applicant’s proposal to scope water quality into the EIA Report.
- 5.12.2 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 of potential changes to hydromorphology during the operational phase. Additionally, the Scottish Ministers agree with the representation from ABC regarding water quality and advise that the impact of siltation from dredging activities must be considered in more detail and have regard to the guidance and best practice produced by SEPA.
- 5.12.3 The Scottish Ministers acknowledge the Applicant’s commitment to consider the WFD and direct the Applicant to representation from SEPA which provides further information and guidance on how to meet the requirements of the WFD and what should be considered in the assessment. The Scottish Ministers advise that the Applicant must address this advice from SEPA, including advise that relates to the site layout.
- 5.12.4 The Scottish Ministers direct the Applicant to representation from SEPA on pollution prevention and environmental management and advise that the Applicant must adhere to this advice. The Scottish Ministers advise that the Applicant must identify all aspects of construction phase that may impact the water environment along with potential pollution risks associated with the Proposed Works and identify the principle preventative measures and mitigation for these. A draft Schedule of Mitigation must be produced as part of this process and must 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”). The draft Schedule of Mitigation must be included in the oCEMP.
- 5.12.5 SW confirmed in its representation that there are no drinking water catchment or water abstraction sources which are designated as Drinking Water Protected Area under the WFD in the area that may be affected by the Proposed Works. Additionally the Scottish Ministers direct the Applicant to

representation from SW regarding surface water and advise the Applicant to consider this advice and contact SW directly if necessary.

- 5.12.6 The Scottish Ministers agree with the Applicant and advise that water quality must be scoped in for further assessment in the EIA Report for both construction and operational phases.

5.13 Flood Risk

- 5.13.1 The Applicant addresses flood risk in Section 3.6 of the Scoping Report, summarises the potentially significant effects of the Proposed Works on flood risk during the different phases of the Proposed Works in Section 3.6.2 and considers whether flood risk is scoped in or out in Sections 3.6.3 and 3.6.6 of the Scoping Report.
- 5.13.2 The Scottish Ministers agree with the proposed methodology for assessing flood risk in the EIA Report. The Scottish Ministers acknowledge the response from ABC who advise 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.
- 5.13.3 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.

5.14 Air Quality and Climate Change

- 5.14.1 The Applicant considers air quality and climate change in Section 3.7 of the Scoping Report. 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.
- 5.14.2 In relation to climate change, the Scottish Ministers advise that the Applicant must consider the 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.
- 5.14.3 With regards to air quality, the Scottish Ministers note the Applicant's proposal in Section 3.7.3 of the Scoping Report, that air quality can 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 Applicant's 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 advice from the Scottish Ministers.

- 5.14.1 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.

5.15 Terrestrial Noise and Vibration

- 5.15.1 The Applicant considers terrestrial noise and vibration of 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. This Scoping Opinion will only address aspects below MHWS but advise that the Applicant ensures all terrestrial noise and vibration concerns are addressed to the satisfaction of the consultees in the EIA Report.
- 5.15.2 The Scottish Ministers agree with the Applicant's conclusion and advise that terrestrial noise and vibration is scoped in for further assessment in the EIA Report for both construction and operational phases.

5.16 Coastal Processes

- 5.16.1 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, NTS and NS agree with the Applicant's proposal to scope in coastal processes and advise that, further to this, the Applicant must take into consideration the recommendations from MSS regarding the physical processes.
- 5.16.2 The Scottish Ministers direct the Applicant to representation from ABC and advice from MSS regarding the impact of the Proposed Works on localised sea conditions and advise that the following must be assessed further in the EIA. Representation from ABC states that assessment of whether the design of the structure could influence wave refraction, tidal velocity or current direction in the sound must be undertaken, and MSS advise that hydrodynamic and sediment transport conditions, including waves and tidal currents in the sound and suspended sediment transport, must be considered to support

calibration validation. Additionally, aspects of tidal scouring and changes in tidal stream velocities (and turbulence) must be explored in more detail in the EIA Report.

- 5.16.3 The Scoping Report details that simulation 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 works at Fionnphort also need to be considered, so a combined modelling study must be undertaken. The Scottish Ministers highlight representation from ICC regarding the lack of detail surrounding mitigation measures for coastal processes provided in the Scoping Report and encourage the Applicant to engage with ICC whilst determining appropriate mitigation measures.
- 5.16.4 The Scottish Ministers agree with the Applicant, NS, NTS and advice from MSS and 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. The coastal processes section must also include an assessment of the Proposed Works on the mobility of sand waves within the Sound of Iona as mentioned in Section 5.11.3 of this Scoping Opinion.

5.17 Material Assets

- 5.17.1 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.
- 5.17.2 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.
- 5.17.1 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 5.3 Navigation

and Safety, Chapter 5.20 Landscape and Visual and Chapter 5.23 Socio-Economic and relate to port / harbour infrastructure and transport.

5.18 Material Assets - Traffic and Transportation

- 5.18.1 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 the Applicant's 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 in this section of the Scoping Report and marine traffic and transport under the heading 'Risk of Major Accident (Safety and Navigation)' in Section 3.1 of the Scoping Report. This Scoping Opinion will only address aspects below MHWS. However, the Scottish Ministers advise that all terrestrial and transport concerns must be addressed to the satisfaction of the consultees in the EIA Report.
- 5.18.2 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 Applicant's 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.

5.19 Cultural Heritage

- 5.19.1 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 consideration of whether this receptor should be scoped in or out is provided in Sections 3.12.3 and 3.12.6. The Applicant proposes to scope in the potential for physical effects upon unrecorded heritage assets within the construction footprint, and the potential for operational effects upon Iona Conservation Area and the scheduled St Mary's Abbey elements of cultural heritage and to scope out the effects on all other assets as detailed in Section 3.12.3. In considering the potential impact the Proposed Works may have on the cultural heritage the Applicant has focussed on an area within a 500 m buffer zone of the construction footprint of the Proposed Works. This will include the Iona Conservation Area as well as 3 Scheduled Monuments and 4 listed buildings named in the Scoping Report. This Scoping Opinion will only address the aspects of cultural heritage that are below MHWS. However, the Scottish Ministers advise that all cultural heritage concerns are addressed to the satisfaction of ABC, HES and ICC in the EIA Report.
- 5.19.2 The Applicant acknowledges the presence of sandy deposits within the footprint of the Proposed Works which hold the potential for surviving

unrecorded marine archaeology which could be impacted by the construction works. The Scottish Ministers agree with representation from HES and support the Applicant's proposal to undertake a desk-based assessment, drawing upon existing data, including bathymetry, to inform the development of mitigation measures where potentially significant effects are identified. The Scottish Ministers also agree with the Applicant's proposal to undertake an archaeological watching brief and / or establishment of a Protocol for Archaeological Discoveries and advise that, if appropriate, this must be undertaken if any potentially significant effects are identified during the construction phase.

- 5.19.3 The Scottish Ministers acknowledge representation from NTS regarding the importance of protecting Iona's cultural and natural heritage and its desire to ensure the Proposed Works are of maximum benefit to the island and community with minimal impact on the heritage. NTS and HES provide additional comment on the potential for adverse visual impacts upon cultural heritage receptors as a result of the Proposed Works which will address this further in Chapter 5.20 of this Scoping Opinion.
- 5.19.4 The Scottish Ministers highlight representation from ICC regarding the lack of clarity on the methodology of the Proposed Works or any proposed mitigation relating to cultural heritage aspects. The Scottish Ministers agree with the views of ICC and advise that the Applicant must consult with the local community with regards to both the methodology and mitigation measures to ensure the value and importance of cultural heritage is considered appropriately.
- 5.19.5 The Scottish Ministers advise that cultural heritage must be scoped in for further assessment in the EIA Report for both construction and operational phases. The Scottish Ministers advise the Applicant must engage with ICC to ensure its concerns are addressed.

5.20 Landscape and Visual

- 5.20.1 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.
- 5.20.2 The Scottish Ministers highlight the representation from ABC 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 with several Local Nature Conservation sites within proximity.

The Scottish Ministers agree with ABC that the Proposed Works will constitute a substantial structure in both landscape and seascape terms and therefore support the Applicant's proposal to undertake a detailed Landscape Character Assessment and a detailed Visual Impact Assessment.

5.20.3 The Scottish Ministers highlight representations from NTS, ICC, ABC, NS and HES who all raised concerns regarding the potential impact of the Proposed Works on the surrounding area due to the high importance of Iona's cultural and natural heritage. NTS highlighted the importance of the breakwater to enable access to the island but stress the shared desire to ensure the way in which the Proposed Works are designed is of maximum benefit to the island and the community with minimal impact on the heritage. The Scottish Ministers agree with these views and direct the Applicant to representation from NTS, ICC, ABC, NS and HES identifying the need for additional information regarding the design of the Proposed Works and for additional photographs and visualisations to be included in the assessment. The Scottish Ministers direct the Applicant to representation from ICC and NTS regarding the lack of clarity provided in the Scoping Report on the design of the Proposed Works and therefore the lack of clarity on what is being assessed in terms of the visual and landscape impact. The Scottish Ministers agree with the views of ICC and advise that the Applicant must include mitigation that enhances the design and ensures the Proposed Works are an attractive feature which integrates with the coast. Additionally the Scottish Ministers agree with representation from NTS regarding visual impacts and advise that the Applicant must include the whole island in the Landscape Charter Assessment to ensure cumulative impacts for the Proposed Works and any future development can be assessed. Additionally, the Scottish Ministers agree with representation from ABC that consideration and evaluation of any potential cumulative visual impacts and navigational lighting and markings, including night time impacts, must be included in the Landscape Charter Assessment and Visual Impact Assessment.

5.20.4 Further to this, the Scottish Ministers direct the Applicant to representation from ICC, NS, ABC and HES highlighting concerns regarding the viewpoints proposed by the Applicant to be considered in further assessments. ICC have raised concerns regarding the viewpoints which have been selected by the Applicant and indicate that they are not representative of the area, are out of date and, and as also noted by NTS, are incorrectly labelled. The Scottish Ministers agree with ICC and advise the Applicant to engage with ICC to ensure further appropriate viewpoints are considered in the assessments. Additionally, the Scottish Ministers advise that the Applicant must include the two additional viewpoints recommended by NS into the Landscape Charter Assessment and Visual Impact Assessment. This view is also supported by ABC and HES who advise the Proposed Works have the potential to cause

adverse visual impacts upon the village conservation area and the setting of several scheduled monuments, including St Mary's Abbey, due to the height of the breakwater. HES have also highlighted that there could be a setting impact on Iona Nunnery. ABC consider the proposed height of the berthing facility to be excessive for the magnitude of storm events which the ferry would be operating in. The Scottish Ministers agree with the views of ICC, NS, ABC and HES and advise the Applicant must include; the view from the approach to the Island from the ferry (or other suitable craft), the view from the Bay of Martyrs, including looking towards the St Mary's Abbey from the waters just off Bay of Martyrs and the view of the Iona Nunnery in the Landscape Charter Assessment and the Visual Impact Assessment. The Scottish Ministers also advise the Applicant to engage with ICC regarding the inclusion of further appropriate visualisations. The Applicant must also engage with ICC and HES to discuss how best to mitigate impacts should significant visual impacts be identified.

- 5.20.5 The Scottish Ministers agree with the Applicant and advise that landscape and visual impacts are scoped in for further assessment in the EIA Report for both the construction and operational phases. The assessments committed to in the Scoping Report must be undertaken, as well as all further assessments and considerations that consultees have identified. Further visualisations should be provided and utilised in the EIA Report as agreed with consultees.

5.21 Population and Human Health

- 5.21.1 The impacts of the Proposed Works on population and human health are considered by the Applicant 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.
- 5.21.2 The Applicant's review of population and human health contains limited consideration on the socio-economic impact of the Proposed Works. This was criticised by the MAU and ICC. The Scottish Ministers advise that the socio-economic impact will be addressed separately in Chapter 5.23 of this Scoping Opinion.
- 5.21.3 The Scottish Ministers direct the Applicant to representation from ICC highlighting that the Applicant had incorrectly identified the closest residential property and therefore, the Scottish Ministers advise that assessment of noise or air quality during the construction phase must include properties closer to the Proposed Works rather than those referred to by the Applicant. The Applicant is advised to consult directly with ICC to identify any properties that should be included if need be. Additionally, the ICC have raised concerns regarding the effects of dust and debris on the local population. The Scottish

Ministers acknowledge that the Applicant has committed to producing an oCEMP which includes appropriate mitigation in order to reduce negative impacts on population and human health. Within the oCEMP the Applicant has committed to include a dust and emissions management plan, the Scottish Ministers advise that this must address ICC's concerns and include assessment of the effects of dust and debris on the local population as well as mitigation that will minimise the impacts.

- 5.21.4 The Scottish Ministers highlight advice from MAU regarding the positive impacts the Proposed Works may have. These include the reduction in weather related disruption to the ferry service which has potential benefits for services such as medical supplies as well as the reduced health and safety risk to ferry boat operators. The Scottish Ministers advise that consideration of potential benefits to population and human health should also be considered.
- 5.21.5 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 ABC regarding impacts on other users and the impact of noise 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.
- 5.21.6 The Scottish Ministers agree with the Applicant and advise 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.

5.22 Waste

- 5.22.1 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.
- 5.22.2 The Scottish Ministers disagree with the Applicant's 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.

- 5.22.3 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 Applicant’s 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 SWMP must also contain measures in place to mitigate any potential impacts.
- 5.22.4 For the avoidance of doubt the Scottish Ministers advise that waste is scoped in for further assessment in the EIA Report for both the construction and operational phases.

5.23 Socio-Economic

- 5.23.1 The Scoping Report does not include much consideration of the socio-economic impact of the Proposed Works. The Scottish Ministers advise that this should be included within its own chapter in the EIA Report.
- 5.23.2 The Scottish Ministers direct the Applicant to the advice from the MAU as well as representation from ICC 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.
- 5.23.3 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 would expect a broader range of social and economic impacts to be considered through a Socio-Economic Impact Assessment (“SEIA”) and advise that the Applicant must undertake a 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 success of an impact assessment and advise it is crucial that stakeholders are consulted. Further, the Scottish Ministers agree with the MAU advice regarding the lack of context concerning the communities in 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 MAU recommend further assessment of economic opportunities as a result of the Proposed Works should be undertaken. The Scottish Ministers advise that the Applicant must adhere to the advice provided by MAU whilst undertaking the SEIA.

- 5.23.4 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 engagement with the fishing industry. Consideration must be given to whether 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.
- 5.23.5 Finally, the Scottish Ministers agree with representation from ICC 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 advise 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.
- 5.23.6 The Scottish Ministers advise that socio-economic impacts of the Proposed Works are scoped in for further assessment in the EIA Report for the construction and operational phases. A SEIA must be undertaken and must be based on the recommendations as to structure and content provided in the MAU advice.

5.24 Cumulative Effects and Environmental Interactions

- 5.24.1 The Applicant briefly mentions the potential for cumulative effects and environmental interactions between this Proposed Works and others in the area. The most significant construction in the area is the building of a breakwater and overnight berthing facility proposed at Fionnphort just less than 1.4 km away.
- 5.24.2 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 ABC, ICC, 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 The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). 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
05 May 2022

Authorised by the Scottish Ministers to sign on their 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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