

T: +44 (0)300 244 5046
E: ms.marinelicensing@gov.scot

Peter Mulcahy
Jacobs UK Ltd
95 Bothwell Street
Glasgow
G2 7HX

Date: 07 September 2021

Dear Mr Mulcahy,

SCREENING OPINION UNDER THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017

Thank you for your screening opinion request dated 18 June 2021 in regards to the proposed ferry terminal improvement works, including construction of a new linkspan, capital dredging and dredged material deposit at Port Ellen, Isle of Islay ("the Proposed Works").

The Scottish Ministers consider the Proposed Works to fall under paragraph 10(m) of schedule 2 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 MW Regulations"), with the Proposed Works meeting the corresponding threshold described in column 2 of schedule 2. Consequently, the Scottish Ministers are obliged to adopt a screening opinion as to whether the Proposed Works are, or are not, an Environmental Impact Assessment ("EIA") project under the 2017 MW Regulations.

Under regulation 10(5) of the 2017 MW Regulations, the Scottish Ministers have consulted with NatureScot (formerly Scottish Natural Heritage), the Scottish Environment Protection Agency ("SEPA"), Argyll and Bute Council and Historic Environment Scotland ("HES") as to their view on whether the Proposed Works are an EIA project. Copies of the consultation responses received are attached for your review (at Appendix I).

When making a determination as to whether schedule 2 works are an EIA project, the Scottish Ministers must take into account such of the selection criteria set out in schedule 3 of the 2017 MW Regulations as are relevant to the Proposed Works. In this regard, the Scottish Ministers have considered the following:

Characteristics of the works

The Proposed Works are required to accommodate a new larger but more efficient ferry on the Port Ellen to Kennacraig route. They include the construction of a new retaining wall in front of the existing linkspan, the repositioning of the linkspan 2.5m forward of its current position and replacing the existing MV fender units with new parallel motion fenders supported on tubular piles. The Proposed Works cover a total area of approximately 31,500m².

In addition, approximately 33,000m³ (63,000 tonnes) of seabed will be dredged, of which 3,000m³ (8,100 tonnes) is existing rock armour scour protection from around the perimeter of the existing pier which will be reinstated once the area where it sits has been deepened. It is proposed that the remainder of the dredged material (30,000m³) comprising of soil and bedrock will be deposited at a designated sea deposit site approximately 0.6 nautical miles from the site of the Proposed Works. It is possible that some areas of bedrock (up to 150m³) may require to be fractured using explosives before they can be removed. Explosives will only be used as a last resort if alternative methods such as Cardox or pre-drilling are not suitable and further assessment, including noise modelling, will be undertaken and mitigation agreed should this be required.

The Proposed Works include the construction of a new sheet pile retaining wall, 2.5m in front of the existing linkspan, which will be reinforced with rock anchors and backfilled with an imported granular material. A concrete cope will be cast on the top of the new wall. Four new bearing piles will be installed to support the linkspan in its new location. The existing linkspan is housed within a concrete recess. This will be broken out and a new concrete recess cast to house the repositioned linkspan.

The fenders along the existing pier will be removed and new parallel motion fenders will be installed. These will be attached to new tubular steel piles, driven into the seabed in front of the existing sheet piled wall which forms the pier.

It is estimated that the total timescale for the Proposed Works will be 30 weeks. This includes 27 weeks dredging and approximately 19 weeks of piling.

Location of the works

The Proposed Works are located on the south coast of the Isle of Islay at the existing Port Ellen terminal. The Proposed Works are not located within any designated sites but the South-East Islay Skerries Special Area of Conservation ("SAC"), designated for harbour seals (*Phoca vitulina*), is located 4.3 km from the ferry terminal. The main impacts on seals and other marine mammals from the Proposed Development are likely to be caused by noise from piling and possibly blasting should the use of explosives be required, and the potential risk of injury during the deposit of dredged material.

NatureScot advised that the Proposed Works could have a likely significant effect on the South-East Islay Skerries SAC. Although NatureScot identified several gaps in the Habitats Regulations Appraisal ("HRA") submitted as part of the screening opinion request, they advised that the risks to harbour seals can be adequately assessed through the HRA process and suitable mitigation measures identified. The Scottish Ministers advise you to engage in further pre-application discussions with NatureScot to ensure that all of the required information is included in an updated HRA to support any marine licence application.

NatureScot identified a number of mitigation measures which should be considered including avoidance of piling during the harbour seal breeding season (June/July), use of marine mammal observers, passive acoustic monitoring and soft start. The Proposed

Works should also be undertaken in accordance with the protocol in the Joint Nature Conservation Committee guidance for piling, details of which can be found in the NatureScot response in Appendix I. NatureScot also identified that cetaceans could also be affected by noise from the Proposed Works. However they advised that the mitigation measures proposed for seals will minimise the risk of injury to cetaceans but a European Protected Species licence for disturbance may still be required. Argyll and Bute Council agreed with the points raised by NatureScot and suggested that further information should be provided with any marine licence regarding the piling methods proposed and appropriate mitigation measures. They noted the importance of Islay as a migratory route for cetaceans and basking sharks.

In relation to the dredging, NatureScot advised that any disturbance will be highly localised and will be unlikely to affect seals or cetaceans. Depending on the location and method of deposit of dredged material, pre-deposit mitigation, including use of a marine mammal observer, may be required to ensure no marine mammals are at risk of collision however this is standard mitigation which has been employed successfully for similar projects.

NatureScot and Argyll and Bute Council identified that maerl bed habitat, a Priority Marine Feature ("PMF"), is present within the wider bay. NatureScot's records show it has been identified 650m from the dredge area however there is no data available to show how far it extends from this point towards the Proposed Works. Further assessment is therefore required. This should include survey work to understand the distribution of the habitat and assessment of the impacts of sedimentation arising from the dredging works, including deposit of dredged material on the maerl beds. This should be submitted alongside any marine licence application.

NatureScot agreed with the HRA that the Proposed Works will not have a likely significant effect on the Oa special protection area or the Ardmore, Kildalton and Callumkirk Woodlands site of special scientific interest.

Argyll and Bute Council agreed with the screening opinion request regarding other PMFs present in the vicinity of the Proposed Works including grey seals, kelp beds and tide-swept algal communities. Although you should be aware of these features, the mitigation identified for harbour seals and maerl beds should ensure there is no adverse effect from the Proposed Works on these additional PMFs. Otters may also be present in the area around the Proposed Works however you have proposed to carry out an otter survey prior to works commencing to inform any mitigation and licensing requirements. This approach is supported by Argyll and Bute Council.

Both Argyll and Bute Council and NatureScot are of the view that an EIA is not required for the Proposed Works and that adequate mitigation measures can be identified and implemented through the marine licensing process to ensure that there will not be a significant effect on natural heritage receptors from the Proposed Works.

HES advised that there are a number of marine historic environment features within the boundary area of the Proposed Works including the Ann (a 19th century schooner), the Catherine (a 19th century sloop) and the Saracen (a 20th century motor fishing vessel). However, HES does not consider that these features will be significantly impacted by the Proposed Works as this area is part of the existing harbour and has been systematically dredged and cleared previously. HES advised that it agrees with the screening opinion request that any environmental effects from the Proposed Works will be minimal.

Characteristics of the potential impact

Argyll and Bute Council advised that South-East Islay has an overall water body status of good and that a Water Framework Directive Assessment would be helpful to assess possible effects from the Proposed Works. However, they go on to advise that dredging impacts are likely to be localised and minor in nature. Although localised, siltation and pollution may occur and thus Argyll and Bute Council advised that the SEPA Pollution Prevention Guidelines should be followed and additional mitigation such as a silt boom should be considered.

Argyll and Bute Council also advised that it is unlikely that the Proposed Works will result in significant adverse landscape and visual impacts, impacts to other marine and coastal users or to safe navigation or recreational boating.

In relation to noise and vibration, Argyll and Bute Council advised that mitigation measures should be employed during the construction phase however these can be detailed and agreed in a Construction Environment Management Plan as part of any marine licence application.

SEPA advised that they do not consider it necessary to undertake an EIA for the Proposed Works however a biosecurity plan should be prepared and submitted alongside any marine licence application. SEPA provides further guidance on the content of the plan in its consultation response in Appendix I which you should refer to.

Conclusion

In view of the findings above, the Scottish Ministers are of the opinion that the Proposed Works are not an EIA project under the 2017 MW Regulations and, therefore, an EIA is not required to be carried out in respect of the Proposed Works.

If you increase, alter or extend the Proposed Works, you are advised to contact Marine Scotland - Licensing Operations Team again to confirm if the screening opinion is still valid.

A copy of the screening opinion has been forwarded to Argyll and Bute Council planning department. The screening opinion has also been made publicly available through the Marine Scotland Information website (<http://marine.gov.scot/ml/port-ellen-harbour-refurbishments>)

If you require any further assistance or advice on this matter, please do not hesitate to contact me.

Yours sincerely

Thomas Inglis

Marine Scotland - Licensing Operations Team

Annex One

Argyll and Bute council response

From: [Holdstock, Lorraine](#)
To: [MS Marine Licensing](#)
Subject: Revised Screening Opinion under Regulation 10(1) of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 CMAL Ltd (Per Jacobs UK Ltd) - Harbour Refurbishment Works - Port Ellen, Argyll and Bute [OFFICIAL]
Date: 20 July 2021 10:08:57
Attachments: [image001.png](#)
[image003.png](#)
[ABC Screening Opinion CMAL Ltd \(Per Jacobs UK Ltd\)-Harbour Refurbishment Works - Port Ellen, Argyll and Bute_20.7.21.doc](#)
Importance: High

Classification: OFFICIAL

Dear Sir/Madam,

Please refer to the attached [revised \(20.07.21\)](#) Screening Opinion under Regulation 10(1) of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 CMAL Ltd (Per Jacobs UK Ltd) - Harbour Refurbishment Works - Port Ellen, Argyll and Bute comments from the Council's Marine and Coastal Development Unit on the above marine licence application.

[Please ignore my submission on the 16th July 2021.](#)

With thanks and kind regards,

Lorraine

Lorraine Holdstock BSc MSc

Marine & Coastal Development Policy Officer

Development Policy

Development and Economic Growth

Argyll and Bute Council

01631 567 909

lorraine.holdstock@argyll-bute.gov.uk

www.argyll-bute.gov.uk





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Development And Economic Growth
Director: Kirsty Flanagan

Marine and Coastal Development Unit

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

E-mail: lorraine.holdstock@argyll-bute.gov.uk

www.argyll-bute.gov.uk

Direct Line: 01631 567 909

Ref: B2383700

20 July 2021

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

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

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

Yours faithfully



Lorraine Holdstock
Marine and Coastal Development Policy Officer

Proposal

The proposal is for Harbour Refurbishment Works at Port Ellen, Argyll and Bute.

The proposed development is located on the south coast of Islay, at the existing Port Ellen Terminal. Development works include: dredging, transportation and disposal of sediments from the site, piling, new retaining wall along a section of quayside and the repositioning of the linkspan.

Works associated with the proposed development consist of the following:

- Dredging of the areas indicated in the drawings, from -4.5m Chart Datum (CD) to -5.5m CD. It is estimated approximately 33,000m³ of material will be dredged of which 3,000m³ is the rock armour scour protection which will be reused once the pocket that it sits in has been dredged;
- Construction of a new sheet pile retaining wall in front of the existing linkspan and moving the linkspan 2.5m forward of its current location, at the south berth;
- Removal of the existing MV fender units which are attached directly to the sheet piled wall which forms the pier. The existing fenders will be replaced with new parallel motion fenders which will be supported on new tubular steel piles.

Works Duration

The developer anticipates that the construction programme would last approximately 30 weeks. It is anticipated that works would begin in 2022, with the new ferry becoming operational in 2024.

Overall Screening Opinion

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

National Marine Plan

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

Local Development Plan (LDP)

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

Flood risk

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



Effect on nature conservation interests/Ecological Impact

- Kilnaughton Bay/Port Ellen Marina and Loch Leòdamais are out-with the nearby South-East Islay Skerries Special Area of Conservation (SAC), designated for the Priority Marine Feature (PMF); harbour seal (*Phoca vitulina*). The designation protects harbour seals that are sensitive to underwater noise.
- A satisfactory Screening Opinion (Stage One) and Appropriate Assessment (Stage Two) have been provided within the Habitats Regulations Appraisal. It is agreed that the contractor must provide a Construction Environment Management Plan (CEMP) and Method Statement. The Method Statement must detail the proposed piling works, including duration, type of piling, predicted noise levels and mitigation measures that will be adhered to. The CEMP and Method Statement should be agreed by the Council in consultation with NatureScot prior to works commencing.
- With advice from NatureScot; piling works should be undertaken out-with the months of June to July to ensure calving and feeding harbour seals are not disturbed.
- It is important to note that the west coast of Scotland is the most important UK and European habitat for cetaceans and Basking sharks. The waters off Argyll and in particular Islay are noted as key migratory routes for these European Protected Species. Any effects are therefore required be mitigated by the following existing guidance and good practice:
 1. Marine Scotland Guidance: The Protection of Marine European Protected Species from Injury and Disturbance Guidance for Scottish Inshore Waters (July 2020). Please refer to web link: <https://www.gov.scot/publications/marine-european-protected-species-protection-from-injury-and-disturbance/>
 2. JNCC guidance: Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise. Please refer to web link: http://jncc.defra.gov.uk/pdf/JNCC_Guidelines_Piling%20protocol_August%202010.pdf.
- In addition to the above comments and as a measure of good practice, it is advised that the contractor log daily seal and cetacean sightings and prepare a report during the construction phase.
- The south of Eilean nan Caorach, approximately 0.8 km south of the Bay of Port Ellen is noted to have distributions of Maerl beds, a nationally important Priority Marine Feature (PMF). Maerl beds can be smothered by the effect of dredging and siltation. It will be important to be aware of this PMF when dredged materials are disposed of at sea. NatureScot should be able to provide advice on their distribution in relation to the proposed development and whether a seabed survey will be required.
- Similarly it will be important to be aware of other PMFs in the vicinity of the proposal. These include: grey seals; kelp beds and tide-swept algal communities.
- Otters are classed as European Protected Species (EPS) under the Conservation (Natural Habitats, &c.) Regulations 1994. Where there is a high likelihood of otters being present, it is recommended that an otter survey will be required, and an EPS Licence to conduct works may be required from NatureScot.

Impacts on water quality

- South-East Islay was classified as an overall Good Status Coastal Water Body under the Scotland River Basin District in 2016 (most recent data). Agree that a Water Framework Directive Assessment would be helpful to assess possible effects from the proposal.



- Dredging impacts are likely to be localised and minor in nature. It is however possible that localised siltation and pollution may occur as a result of dredging. The operation of a silt boom would be encouraged to reduce siltation. It is further advised that the contractor follow appropriate dredging guidance and Pollution Prevention Guidelines located on the SEPA web link: <https://www.sepa.org.uk/regulations/water/guidance/> to provide further mitigation.
- The contractor is required to apply for a Marine Licence for Dredging and Sea Disposal. Refer to the web link: <https://www.gov.scot/publications/marine-licensing-applications-and-guidance/>.

Landscape and Visual Impacts

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

Interaction with other activities

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

Navigation

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

Noise

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

Final Comments

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





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By email to:

MS.MarineLicensing@gov.scot

Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

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

Our case ID: 300052507

29 July 2021

Dear Marine Scotland

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017
Request for Screening Opinion for Harbour Refurbishment Works at Port Ellen, Argyll
and Bute**

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

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

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

Development Proposals

We understand that the proposals involve works for the refurbishment of the Port Ellen Ferry Terminal in Islay, Argyll and Bute. The works comprise the creation of a deeper berth through dredging and other associated enabling works, including a new retaining wall along a section of quayside and the repositioning of the linkspan.

Our advice

We note that a number of marine historic environment features are located within the red line boundary for the development. These include the **Ann, Schooner, 19th C.** (Canmore Maritime ID 284008), the **Catharine, Sloop, 19th C.** (Canmore Maritime ID 274404) and the **Saracen, Motor Fishing Vessel 20th C.** (Canmore Maritime ID 303219). We do not, however, consider that significant impacts on these heritage assets are likely as a result of the proposed works. This is because this area has already been systematically



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dredged and cleared for the existing harbour, and we do not anticipate that the proposed works would give rise to further impacts.

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

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

Yours faithfully

Historic Environment Scotland

From: [Sally Weaser](#)
To: [MS Marine Licensing](#)
Subject: Harbour Refurbishment Works - Port Ellen - Screening request - CMAL Ltd (perJacobs Uk Ltd) - NatureScot Response - 6 August 2021 (A3522407)
Date: 06 August 2021 16:11:56
Attachments: [Harbour Refurbishment Works - Port Ellen - Screening request - CMAL Ltd \(perJacobs Uk Ltd\) - NatureScot Response - 6 August 2021 \(A3522407\).pdf](#)



Good afternoon,

Please find attached our response to the above screening request.

Kind regards

Sally

Sally Weaser | Operations Officer – Argyll and Outer Hebrides

NatureScot | Cameron House, Albany Street, Oban, PA34 4AE | t: 0300 244 9360 | 

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

NatureScot is the operating name of Scottish Natural Heritage.

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Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NatureScot.

Marine Planning and Policy
Marine Scotland
Scottish Government

By email only: ms.marinelicensing@gov.scot

06 August 2021

Our ref: A3522407

To whom it may concern,

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

CMAL Ltd (Per Jacobs UK Ltd) - Harbour Repair Works – Port Ellen, Islay, Argyll

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

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

1. Summary of Our Advice

In our view, the Proposal is likely to have a significant effect on the qualifying features of the South-East Islay Skerries SAC. We require further information to determine whether the Proposal will have an adverse impact on site integrity. Please see details set out in our appraisal below.

The Proposal may cause disturbance to European Protected Species (EPS).

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

2. Designated Areas

2.1 South-East Islay Skerries SAC

The South-East Islay Skerries SAC, designated for its Harbour seal (*Phoca vitulina*) population, lies 4.3km from the Proposal site. (Cetaceans are referred to within our advice as there is crossover regarding impacts although they are not a feature of the South – East Islay Skerries SAC)

The works are intended to take 30 weeks which involves the construction of an extended pier and dredging. The key pressures on seals and cetaceans will be from the piling activities, and potentially the dredge disposal. The documents suggest that there will be approximately 19 weeks of piling within a 22 week period, and 27 weeks of dredging.

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

HRA

In this document, the risk of disturbance is highlighted, but the assertion is that the noise will be short-term and intermittent and so unlikely to provoke a response. Given the relative proximity of this project to the SAC, we recommend that this is explored in more detail. Bailey et al, 2010, is cited which highlights that piling disturbance for seals could be elicited up to 14km but this work was in relation to offshore wind piling so is likely on a different scale to the piling suggested here.

The point regarding the seals being used to background noise in the Port Ellen area is valid, however this will be primarily from vessels. Vessel noise is of a continuous type, whereas impact piling is isolated loud sudden noise, so may not be directly comparable. It would be a better comparison if the piles were to be installed using vibropiling. Therefore the applicant needs to confirm whether the piling will be impact or vibro and be clear about the type and size of piles, together with the hammer energy likely to be used.

One previous study, also in the Moray Firth (Graham et al, 2017[1]) highlighted that bottlenose dolphin and harbour porpoises were likely disturbed by the impact and vibro piling at Nigg, but not enough to exclude them. This is likely to be the case here, but some more work needs to be done to evidence the degree of disturbance to seals from the SAC. This could include a more thorough literature review, together with appropriate noise modelling to predict the noise levels in the area, which is important given the relative proximity to the SAC.

I may have missed when the piling is planned to take place, but it may be possible for the applicant to timetable the piling outside the breeding season (June/July).

Pre-piling mitigation available includes marine mammal observations/passive acoustic monitoring (MMO/PAM), soft starts and noise abatement systems (NAS). MMO/PAM and soft start are most suitable for the avoidance of injury, as these check animals are not in the vicinity at the onset of the noise. However, NAS can reduce the overall noise into the environment and therefore can reduce the disturbance risk. Therefore, another option is that deploying NAS could be explored if selective timing was not possible, but I suspect this may not be practicable given the Port will still be in operation throughout these works.

If subsurface explosives are required to crack the rock, the applicant will need to supply supporting information for consideration. This should include appropriate underwater noise modelling that considers the sub surface detonations, together with appropriate mitigation. Most likely bubble curtains.

For the in-combination assessment, all activities within a 15km search area have been considered to identify any other plans or projects which could affect the site integrity. However we recommend a buffer (search area) of 50km be used to scope in activities potentially impacting a harbour seal

[1] <https://esajournals.onlinelibrary.wiley.com/doi/full/10.1002/ecs2.1793>

SAC. This is because harbour seals are loyal to their preferred haul out and typically foraging ranges are within 40-50km of the site (SCOS 2020[2]) and so we use 50km to determine connectivity to the harbour seal SAC population.

Piling mitigation

The only mitigation proposed is a soft start. Where the noise levels are gradually increase to full power to allow any animals in the area to move away. This is useful to avoid injury. We agree that soft start is used for both impact and vibro piling.

In addition, if the piling is to be done using an impact hammer (percussive), then the mitigation should also include MMO (marine mammal observations). This should follow JNCC protocol (2010) piling guidance [3]. This guidance will reduce any risk of injury for any marine mammal, seal or cetacean. The applicant states that percussive (impact) piling will be done in daylight hours 0700-1800 and so it may be that MMO cover is all they need, but this will need to be discussed and agreed.

Disposal of dredged spoil

Any disturbance from the dredging within the port, is likely to be highly localised, and therefore we would not be overly concerned about the impacts to seals or cetaceans. The applicant will however need to confirm the method on application for us to be content.

The location of the disposal site is not identified and it would be useful if they could give more information on the disposal method (e.g split hopper barge) because then we could consider if we need pre deposit mitigation so that no seal or cetacean is at risk of collision with spoil. The mitigation need not be onerous, and could be that a crew member is tasked with doing a visual search around the vessel to ensure no animals are close.

2.2 Other Designated Areas

We agree that the Proposal will have no LSE on the conservation objectives of The Oa SPA or Ardmore, Kildalton and Callumkill Woodlands SSSI and therefore do not need to be considered further.

3. Priority Marine Features

We have a good degree of confidence that there is maerl bed habitat present in the bay with mearl being recorded in 2019 on a transect around 650 from the dredging site. However, there is no other data available between that point and the proposed works, so we can't be sure how close the maerl bed habitat extends towards the works zone.

As such further assessment of possible impacts on maerl bed habitat would be needed. This should probably involve further survey work to better understand the distribution of the maerl bed habitat in the area and to establish how close it extends to the proposed works. This information will allow the assessment of the potential for any impacts as a result of sedimentation arising from increased sediments in the water column due to the dredging work. Again, the location of where the dredged material is to be deposited would be useful to know.

[2] <http://www.smru.st-andrews.ac.uk/scos/scos-reports/>

4. European Protected Species

It is likely that the piling activity and possibly the disposal of dredged material will need an EPS licence for disturbance. The mitigation as suggested above will minimise the risk of injury, but individual cetaceans may be disturbed by this activity as highlighted above. Therefore an EPS risk assessment should be done and the requirement for an EPS licence should be discussed with MS-LOT.

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

Yours sincerely,

[by email]

Sally Weaser

Operations Officer – Argyll and Outer Hebrides

sally.weaser@nature.scot


From: [Sally Weaser](#)
To: [MS Marine Licensing](#)
Subject: RE: Harbour Refurbishment Works - Port Ellen - Screening request - CMAL Ltd (perJacobs Uk Ltd) - NatureScot Response - 6 August 2021 (A3522407)
Date: 18 August 2021 12:26:26
Attachments: [Harbour Refurbishment Works - Port Ellen - Screening request - CMAL Ltd \(perJacobs Uk Ltd\) - NatureScot Further Response - 18 August 2021 \(A3530832\).pdf](#)

Dear Judith,

Apologies for the delay, please find attached my further response, sorry for the earlier confusion.

Kind regards
Sally

Sally Weaser | Operations Officer – Argyll and Outer Hebrides

NatureScot | Cameron House, Albany Street, Oban, PA34 4AE | t: 0300 244 9360 | 
[nature.scot](#) | [@nature_scot](#) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>
Sent: 11 August 2021 14:54
To: Sally Weaser <Sally.Weaser@nature.scot>
Cc: Erica Knott <Erica.Knott@nature.scot>; Anni.Makela@gov.scot
Subject: RE: Harbour Refurbishment Works - Port Ellen - Screening request - CMAL Ltd (perJacobs Uk Ltd) - NatureScot Response - 6 August 2021 (A3522407)

Good afternoon Sally,

Thank you for your advice. Under regulations 10(5) and 10(6) of The Marine Works (Environmental Impact Assessment)(Scotland) Regulations 2017, NatureScot must give its view to the Scottish Ministers on whether the proposed works are an EIA project. While we welcome the extensive comments provided by NatureScot on the proposal, MS-LOT would be grateful if a view could be provided to us at earliest convenience on if NatureScot considers that an EIA is needed as per the requirements of the regulations.

Kind regards,

Judith

Judith Horrill
Marine Licensing Casework Officer
Marine Scotland - Marine Planning & Policy

Scottish Government | Marine Laboratory | 375 Victoria Road | Aberdeen | AB11 9DB

Email: Judith.Horrill@gov.scot
Website: <http://www.gov.scot/Topics/marine/Licensing/marine>

COVID-19: Marine Scotland - Licensing Operations Team(MS-LOT) is working from home and as a result determination of applications may take longer than our stated timelines. In addition MS-LOT is unable to respond to phone enquiries, please communicate with MS- LOT

via email. Email addresses are MS.MarineRenewables@gov.scot for marine renewables correspondence or MS.MarineLicensing@gov.scot for all licensing queries.

From: Sally Weaser <Sally.Weaser@nature.scot>

Sent: 06 August 2021 16:12

To: MS Marine Licensing <MS.MarineLicensing@gov.scot>

Subject: Harbour Refurbishment Works - Port Ellen - Screening request - CMAL Ltd (perJacobs Uk Ltd) - NatureScot Response - 6 August 2021 (A3522407)


Good afternoon,

Please find attached our response to the above screening request.

Kind regards

Sally

Sally Weaser | Operations Officer – Argyll and Outer Hebrides

NatureScot | Cameron House, Albany Street, Oban, PA34 4AE | t: 0300 244 9360 | 
nature.scot | [@nature_scot](https://twitter.com/nature_scot) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

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Marine Planning and Policy
Marine Scotland
Scottish Government

By email only: ms.marinelicensing@gov.scot

18 August 2021

Our ref: A3530832

To whom it may concern,

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

CMAL Ltd (Per Jacobs UK Ltd) - Harbour Repair Works – Port Ellen, Islay, Argyll

Thank you for your email received on the 11th August 2021 in response's to my reply to your request for comment from NatureScot regarding repair works to the existing harbour at Port Ellen, Islay (hereafter referred to as the Proposal).

Generally NatureScot's role is to provide the relevant competent authority with advice relating to the likely environmental effects of a proposal as we are advised to avoid giving an opinion on whether or not an EIA is required. However I now understand that the one exception to this is when we are asked for screening advice on proposals subject to The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (As Amended). In these cases NatureScot is required to give a view 'on whether the proposed works are an EIA project'. Apologies for my misunderstanding and please find below our view on whether the proposed works are an EIA project

As outlined in my original response of the 6th August 2021 our view is that the Proposal **is likely to have a significant effect** on the qualifying features of the South-East Islay Skerries SAC but at this stage it is not clear whether the proposal will have adverse effects upon the integrity of the site. In addition the Proposal may cause disturbance to European Protected Species (EPS) and have adverse impacts on Priority Marine Features (PMF).

In our view it is likely the issues identified can be addressed by seeking the information discussed in our initial response therefore this is **not an EIA project**.

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

Yours sincerely,

Sally Weaser

Operations Officer – Argyll and Outer Hebrides
sally.weaser@nature.scot

SEPA Response

From: [Planning SW](#)
To: [MS Marine Licensing](#)
Subject: 2025 CMAL Ltd (Per Jacobs UK Ltd) - Harbour Refurbishment Works - Port Ellen, Argyll and Bute - Screening Request - Consultation - Response Required by 26 July 2021
Date: 04 August 2021 14:19:03

OFFICIAL – BUSINESS

Dear Marine Scotland

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

From SEPA's perspective (issues within SEPA's remit only), I can confirm that it is not necessary to undertake an EIA.

However, we would like to emphasize the importance of undertaking a comprehensive biosecurity plan for these works, in line with the guidance which can be found via this link:

[Marine Biosecurity Planning.pdf \(nature.scot\)](#)

With regard to the existing *Biosecurity Management Plan during preconstruction & construction*, and any revised or updated biosecurity plans, please note that attention should be made to ensure that all on-site equipment, including dredge barges, is included in the plans.

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

The content of this email and any attachments may be confidential and are solely for the use of the intended recipient(s). If you have received this message by mistake, please contact the sender or email info@sepa.org.uk as soon as possible then delete the email.

In line with government guidance a number of SEPA's SW planning service are now home working. Please do not leave telephone messages but email planning.sw@sepa.org.uk, not individual email addresses, and we will respond where possible by email. Please note that due to revised working arrangements because of the Covid -19 (Corona virus) outbreak we may take longer to respond to your email than usual.

Kind regards

Peter Minting
SEPA Planning Officer

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Registered office: Strathallan House, Castle Business Park, Stirling FK9 4TZ. Under the Regulation of Investigatory Powers Act 2000, the email system at SEPA may be subject to monitoring from time to time.

Dh'fhaodadh gum bi am fiosrachadh sa phost-d seo agus ceanglachan sam bith a tha na chois dìomhair, agus cha bu chòir am fiosrachadh a bhith air a chleachdadh le neach sam bith ach an luchd-faighinn a bha còir am fiosrachadh fhaighinn. Chan fhaod neach sam bith eile cothrom fhaighinn air an fhiosrachadh a tha sa phost-d no a tha an cois a' phuist-d, chan fhaod iad lethbhreac a dhèanamh dheth no a chleachdadh arithist. Mura h-ann dhuibhse a tha am post-d seo, feuch gun inns sibh dhuinn sa bhad le bhith cur post-d gu postmaster@sepa.org.uk.

Oifis chlàraichte: Taigh Srath Alain, Pàirc Gnothachais a' Chaisteil, Sruighlea FK9 4TZ.
Fo Achd Riaghladh nan Cumhachdan Rannsachaidh
2000, dh'fhaodadh gun tèid an siostam puist-d aig SEPA a sgrùdadh bho àm gu àm.

OFFICIAL – BUSINESS

From: MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>

Sent: 05 July 2021 07:30

To: argyll_outerhebrides@nature.scot; mark.steward@argyll-bute.gov.uk; Planning.North <Planning.North@sepa.org.uk>; hmconsultations@hes.scot

Subject: CMAL Ltd (Per Jacobs UK Ltd) - Harbour Refurbishment Works - Port Ellen, Argyll and Bute - Screening Request - Consultation - Response Required by 26 July 2021

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Dear Sir/Madam,

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT)
(SCOTLAND) REGULATIONS 2017 (AS AMENDED) ("the EIA Regulations")
CONSULTATION UNDER PART 2, REGULATION 10(5) OF THE EIA
REGULATIONS**

CMAL Ltd (Per Jacobs UK Ltd) - Harbour Refurbishment Works - Port Ellen, Argyll and Bute

CMAL Ltd (Per Jacobs UK Ltd) have requested the Scottish Ministers adopt a screening opinion in relation to the above proposed works under regulation 10(1) of the EIA Regulations. Details can be found [here](#).

I should be grateful if you would please review the associated information and, as required by regulation 10(5) of the EIA Regulations, provide your view as to whether the above proposed works are an EIA project as defined in the EIA Regulations.

In accordance with regulation 10(6) of the EIA Regulations, please ensure you provide your view no later than 26 July 2021.

Kind regards,
Marc

General Queries: +44 (0)300 244 5046

Email: ms.marinelicensing@gov.scot

Website: <http://www.gov.scot/Topics/marine/Licensing/marine>

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