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## **Marine Scotland - Licensing Operations Team Scoping Opinion**

**Kilfinichen Estate (per Affric), Kilfinichen Pier  
Development, Isle of Mull**

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

**SCOPING OPINION FOR THE PROPOSED MARINE LICENCE APPLICATION TO  
CONSTRUCT WORKS WITHIN THE SCOTTISH MARINE AREA.**

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## 1. Executive Summary

This is the scoping opinion adopted by the Scottish Ministers, under regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the 2017 MW Regulations”), as to the scope and level of detail of information to be provided in the Environmental Impact Assessment report (“EIA report”) for the proposed pier works at Kilfinichen, Isle of Mull (“the proposed works”). The scoping opinion has been requested by Affric Limited on behalf of the applicant, Kilfinichen Estate (“the applicant”).

This scoping opinion is based on the information provided in the applicant’s request, dated 13 December 2017, for the Scottish Ministers to adopt a scoping opinion. The request included the submission of a [scoping report](#). The Scottish Ministers have consulted on the scoping report and the responses received have been taken into account in adopting this scoping opinion. The matters addressed by the applicant in the scoping report have been carefully considered and use has been made of professional judgment (based on expert advice from stakeholders and Marine Scotland in-house expertise) and experience in order to adopt this opinion.

Detailed information is provided in the specialist topic sections. Matters are not scoped out unless specifically addressed and justified by the applicant and confirmed as being scoped out by the Scottish Ministers. Table 1 summarises the Scottish Ministers’ advice on whether topics are to be scoped in or out.

**Table 1: The Scottish Ministers’ opinion as to whether topics are to be scoped in or out.**

Topic	Reason for scoping in / out
<b>Air Quality &amp; Climate Change</b>	Scoped OUT. The Scottish Ministers agree impacts from greenhouse gas emissions are expected to be insignificant, provided that dust control is mitigated through a Schedule of Mitigation (“SoM”).
<b>Archaeology &amp; Cultural Heritage</b>	Scoped OUT. Lack of vulnerable marine features. The Scottish Ministers agree no likely significant impacts. A protocol for archaeological discoveries to be included within the Construction Environmental Management Plan (“CEMP”).
<b>Biodiversity &amp; Nature Conservation - Benthic</b>	Scoped IN. Lack of knowledge on likely impacts and their significance. Studies to be undertaken to establish a baseline.
<b>Biodiversity &amp; Nature Conservation – Marine Mammals</b>	Scoped OUT. The Scottish Ministers and Scottish Natural Heritage (“SNH”) agree unlikely to have a significant impact.

<b>Topic</b>	<b>Reason for scoping in / out</b>
<b>Biodiversity &amp; Nature Conservation – Fish</b>	Scoped OUT. Lack of sensitive receptors. The Scottish Ministers agree no likely significant impacts.
<b>Biodiversity &amp; Nature Conservation - Otters</b>	Scoped IN. Lack of knowledge on otter presence. Studies to be undertaken to establish a baseline.
<b>Biodiversity &amp; Nature Conservation – Ornithology</b>	Scoped IN. Lack of knowledge on ornithological presence. Studies to be undertaken to establish a baseline.
<b>Landscape, Seascape &amp; Visual</b>	Scoped OUT. Unlikely to have a significant effect and mitigation to be incorporated in a SoM.
<b>Land &amp; Soil Quality</b>	Scoped OUT. Assessed as part of planning permission and the Scottish Ministers agree unlikely to have a significant impact.
<b>Population, Human Health &amp; Socio-economy</b>	Scoped OUT. Assessed as part of planning permission and the Scottish Ministers agree unlikely to have a significant impact.
<b>Noise &amp; Vibration</b>	Scoped OUT. The Scottish Ministers agree impacts from underwater noise on marine mammals and fish are potentially insignificant due to the mitigation proposed. The mitigation is to be incorporated in a SoM/CEMP.
<b>Natural Resource Usage &amp; Waste</b>	Scoped OUT. The Scottish Ministers agree impacts are insignificant and mitigation to be incorporated in a SoM/CEMP.
<b>Traffic, Access</b>	Scoped OUT. Assessed as part of planning application and the Scottish Ministers agree unlikely to have a significant impact.
<b>Navigation</b>	Scoped IN. Navigation risk to other vessels. The Scottish Ministers agree potential significant impacts and Navigational Risk Assessment relative to scale of works to be undertaken.
<b>Water Quality &amp; Coastal Processes</b>	Scoped OUT. The Scottish Ministers agree impacts are insignificant due to work methods and mitigation to be incorporated in a SoM/CEMP.
<b>Major Accidents and Disasters</b>	Scoped OUT. No additional risk expected from transport accidents or disasters.
<b>Cumulative Impacts</b>	Scoped IN. New planning permissions and/or marine licences may be granted subsequent to the adoption of this scoping opinion, therefore up to date cumulative impact assessment to be carried out at the point of application.

For the avoidance of doubt, the adoption of this scoping opinion by the Scottish Ministers does not preclude the Scottish Ministers from requiring the applicant to submit additional information in connection with any EIA report submitted with their application for a marine licence relative to the proposed works.

In the event that an application is not submitted by the applicant for the proposed works within 12 months of the date of this scoping opinion, the Scottish Ministers recommend that the applicant seeks further advice from them regarding the potential to update the scoping opinion.

## **2. Introduction**

### **2.1 Background to scoping opinion**

2.1.1 We refer to your email of 13 December 2017 requesting a scoping opinion from the Scottish Ministers, under Regulation 14 of the 2017 MW Regulations. Your request included a [scoping report](#), which contained a description of the location of the works, including a plan sufficient to identify the area in which the works are proposed to be sited, and a description of the nature and purpose of the proposed works and their likely impact on the environment. The Scottish Ministers consider that they have been provided with sufficient information to adopt a scoping opinion.

### **2.2 The requirement for Environmental Impact Assessment**

2.2.1 Under the 2017 MW Regulations, the Scottish Ministers, as the consenting authority, must not grant a regulatory approval for an EIA project unless an environmental impact assessment has been carried out in respect of that project and in carrying out such assessment the Scottish Ministers must take the environmental information into account. The works described in your scoping report fall under Schedule 1, paragraph 8(2) of the 2017 MW Regulations and therefore the works are automatically subjected to an EIA because their environmental effects are presumed to be significant.

### **2.3 The content of the scoping opinion**

2.3.1 In regards to your request for a scoping opinion on the proposed content of the required EIA report, the Scottish Ministers have, in accordance with the 2017 MW Regulations, considered the documentation provided to date and consulted with the appropriate consultation bodies (see Appendix I) in reaching their scoping opinion.

2.3.2 The EIA process is vital in generating an understanding of the biological, chemical and physical processes operating in and around the proposed works' location and those that may be impacted by the proposed activities. We would however state that references made within the scoping opinion with regard to the significance of impacts should not prejudice the outcome of the EIA process. It is therefore expected that these processes will be fully assessed in the EIA report unless scoped out.

### **3. Description of works**

#### **3.1 Background to the works**

3.1.1 The proposal by the applicant to construct a timber loading pier in the centre of the Ardmeanach Peninsula on the west coast of the Isle of Mull, will allow the transportation of timber produced on the peninsula via sea. The project comprises of the following main components:

- Stacking area and reclaimed pier;
- Floating linkspan and barge; and
- Pontoon.



## **4. Aim of this scoping opinion**

### **4.1 The scoping process**

4.1.1 Scoping provides the first identification, and likely significance, of the environmental impacts of the proposal and the information needed to enable their assessment. The scoping process is designed to identify which impacts will or will not need to be addressed in the EIA report. This includes the scope of impacts to be addressed and the method of assessment to be used. The scoping process also allows consultees to have early input into the EIA process, to specify their concerns and to supply information that could be pertinent to the EIA process. In association with any comments herein, full regard has been given to the information contained within the documentation submitted with the scoping opinion request.

4.1.2 The Scottish Ministers have also used this opportunity to provide advice in relation to the licensing requirements, in addition to the EIA requirements (see Appendix II).

## **5. Consultation**

### **5.1 The consultation process**

5.1.1 On receipt of the scoping opinion request documentation, the Scottish Ministers, in accordance with the 2017 MW Regulations, initiated a 30 day consultation process, which commenced on 18 December 2017. The following bodies were consulted:

- Argyll and Bute Council.
- Argyll District Salmon Fishery Board (“ADSFB”).
- Association of Salmon Fishery Boards (“ASFB”).
- Executive Health and Safety (“HES”).
- Hebridean Whale and Dolphin Trust (“HWDT”).
- Historic Environment Scotland (“HES”).
- Marine Safety Forum (“MSF”).
- Maritime and Coastguard Agency (“MCA”).
- Ministry of Defence (“MOD”).
- Mull and Iona Community Trust.
- Mull Community Council.
- Northern Lighthouse Board (“NLB”).
- Oban Fishery Office.
- Royal Society for the Protection of Birds Scotland (“RSPB”).
- Royal Yachting Association Scotland (“RYA”).
- Scottish Environment Protection Agency (“SEPA”).
- Scottish Fishermen’s Federation (“SFF”).
- Scottish Fishermen’s Organisation (“SFO”).
- Scottish Natural Heritage.
- Scottish Water.
- Scottish Wildlife Trust (“SWT”).
- The Crown Estate.
- Transport Scotland.
- UK Chamber of Shipping.
- Visit Scotland.
- West Coast Inshore Fisheries Group (“WCIFG”).
- Whale and Dolphin Conservation (“WDC”).

### **5.2 Responses received**

5.2.1 From the list above a total of 10 responses were received. The purpose of the consultation was to obtain advice and guidance from each consultee or advisor as to which potential effects should be scoped in or out of the EIA.

5.2.2 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 application. Full consultation responses are attached in Appendix I and each should be read in full for detailed requirements from individual consultees. The Scottish Ministers expect all consultee concerns to be addressed in the EIA report unless otherwise stated.

## **6. Contents of the EIA report**

### **6.1 Requirements of the 2017 MW Regulations**

6.1.1 An EIA report must be prepared in accordance with regulation 6 of the 2017 MW Regulations.

6.1.2 The 2017 MW Regulations require that the EIA report is prepared by competent experts and must be accompanied by a statement from the applicant outlining the relevant expertise or qualifications of those experts.

6.1.3 The EIA report must be based on this scoping opinion and must include the information that may be reasonably required for reaching a reasoned conclusion, which is up to date, on the significant effects of the works on the environment, taking into account current knowledge and methods of assessment.

6.1.4 A gap analysis template is attached at Appendix III 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.

### **6.2 Non-Technical Summary**

6.2.1 The EIA report must contain a Non-Technical Summary (“NTS”) which should be concise and written in a manner that is appealing to read and easily understood. The NTS should highlight key points set out in the EIA report and must include (at least) the following:

- a description of the works comprising information on the site, design, size and other relevant features of the works;
- a description of the likely significant effects of the works on the environment;
- a description of the features of the works and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
- a description of the reasonable alternatives studied by the applicant, which are relevant to the works and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the works on the environment; and
- a summary of the information provided under paragraphs 1 to 9 of Schedule 4 of the 2017 MW Regulations.

### **6.3 EU Guidance**

6.3.1 [EU guidance on the preparation of an EIA Report](#) identifies the following qualities of a good EIA report:

- A clear structure with a logical sequence, for example describing existing baseline conditions, predicted impacts (nature, extent and magnitude), scope for mitigation, agreed mitigation measures, significance of unavoidable/residual impacts for each environmental topic.
- A table of contents at the beginning of the document.
- A description of the consent procedure for the works and how EIA fits within it.
- Reads as a single document with appropriate cross-referencing.
- Is concise, comprehensive and objective.
- Is written in an impartial manner without bias.
- Includes a full description and comparison of the alternatives studied.
- Makes effective use of diagrams, illustrations, photographs and other graphics to support the text.
- Uses consistent terminology with a glossary.
- References all information sources used.
- Has a clear explanation of complex issues.
- Contains a good description of the methods used for the studies of each environmental topic.
- Covers each environmental topic in a way which is proportionate to its importance.
- Provides evidence of effective consultations (if some consultations have already taken place).
- Provides basis for effective consultations to come.
- Makes a commitment to mitigation (with a programme) and to monitoring.
- Has a NTS which does not contain technical jargon.
- Contains, where relevant, a reference list detailing the sources used for the description and assessments included in the report.

## **6.4 Mitigation**

6.4.1 Within the EIA report it is important that all mitigating measures are:

- clearly stated;
- accurate;
- assessed for their environmental effects;
- assessed for their effectiveness;
- fully described with regards to their implementation and monitoring, and;
- described in relation to any consents or conditions.

6.4.2 The EIA report should contain a mitigation table providing details of all proposed mitigation discussed in the various chapters. Refer to Appendix I for consultee comments on specific baseline assessment and mitigation.

6.4.3 Where potential environmental impacts 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;
- what this has shown i.e. what impact, if any, has been identified; and
- why it is not significant.

## **6.5 Design Envelope**

6.5.1 The exact nature of the work that is needed to inform the EIA may vary depending on the design choices. 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. 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, along with the potential impacts arising from these, must also be described. The Scottish Ministers will determine the application based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail will 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 10 below regarding multi-stage regulatory consent. 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.

## **7. Interests to be considered within the EIA report**

### **7.1 Introduction**

7.1.1 The scoping report considered the likely impacts on the environment under the headings and topics addressed below. This section also contains a summary of the main points raised by consultees and the Scottish Ministers' opinion on whether EIA topics should be scoped in or out. The consultation responses are contained in Appendix I and the applicant is advised to carefully consider these responses and use the advice and guidance contained within them to inform the EIA report.

### **7.2 Air Quality and Climate Change**

7.2.1 The applicant proposes that air quality and climate change is scoped out of the EIA report on the basis that, although the proposed works have the potential to produce dust and greenhouse gas emissions during the construction and operation of the pier, due to the size of the area, limited material movement and the short duration of the construction works, any potential impacts can be effectively mitigated via the measures outlined in the scoping report.

7.2.2 Argyll and Bute Council's consultation response did not include any concerns with regards to air quality or climate change which is also confirmed by their granting of planning permission for the proposed works.

7.2.3 The Scottish Ministers agree that air quality and climate change is scoped out of the EIA report, providing that pollution and emissions associated with the proposed works are effectively mitigated through a Schedule of Mitigation ("SoM") and detailed site plans and/or Construction Environmental Management Plan ("CEMP").

### **7.3 Archaeology and Cultural Heritage**

7.3.1 The applicant proposes that Archaeology and Cultural Heritage is scoped out of the EIA report given that there are no known features of archaeological importance within the proposed works area, with no scheduled monuments, conservation areas, world heritage sites or inventory battlefields within 2km of the site.

7.3.2 The consultation responses received from HES and Argyll and Bute Council did not express any concerns regarding archaeological interests and confirmed there were no features of archaeological importance nearby.

7.3.3 The Scottish Ministers agree that archaeology and cultural heritage is scoped

out of the EIA report and welcome the applicant's commitment to producing a Protocol for Archaeological discoveries to be included within a CEMP and utilised in the unlikely event of an archaeological find.

## **7.4 Biodiversity and Nature Conservation**

7.4.1 The applicant proposes that construction and operational impacts on marine biodiversity resulting from the proposed works are scoped out of the EIA report based on a lack of significant impacts and the implementation of effective mitigation measures as detailed in the scoping report.

7.4.2 In terms of benthic habitats, the scoping report states that less than 0.3% of the seabed is predicted to be degraded by organic disposition, although very little is known about the status of benthic organisms in the site.

7.4.3 SNH advised that the impact of the proposed works upon the immediate and adjacent benthic habitats needs to be considered as part of the EIA process, noting that without knowing what is present one cannot understand the likely impacts and their significance. Consequently, SNH does not agree with the applicant that benthic impacts should be scoped out of the EIA report and has advised that benthic studies be undertaken to inform the decision making process.

7.4.4 The Scottish Ministers agree with SNH that the impact of the proposed works on the immediate and adjacent benthic habitats is scoped in to the EIA report and that benthic studies be undertaken and the results presented within the EIA report.

7.4.5 With regards to marine mammals, the scoping report makes reference to the Inner Hebrides and the Minches Special Area of Conservation ("SAC"), designated for harbour porpoise (*Phocoena phocoena*), which lies 7.2km from the proposed works and notes that several other species of cetaceans occur regularly around the Isle Of Mull, with populations of both grey and harbour seals also being present. To avoid impacts to marine mammals the applicant has committed to avoiding pile driving and dredging works, along with other mitigation in the form of minimising the height from which rocks are placed for the pier. Further mitigation measures include restricting the import of material via marine transport during construction in order to reduce the potential for interaction between vessels and marine mammals, along with having all vessels coming from outside the UK, operate under the Wildlife and Countryside Act 1981. Finally, mitigation in the form of visible inspection for marine mammals prior to depositing material on the seabed is also proposed, with the intention of ceasing operations should marine mammals be sighted.

7.4.6 SNH advised that the proposed works could affect the Inner Hebrides and Minches SAC, however is content that, should the construction techniques detailed in the scoping report remain unchanged, the proposed works are unlikely to have a



significant effect upon the SAC. SNH further advised that any significant changes to the proposed construction techniques that would result in increased noise within the water column would have to be subject to a Habitat Regulations Appraisal and subsequently would require to be considered as part of any EIA report supporting a marine licence application.

7.4.7 The Scottish Ministers agree with SNH's conclusions and deem that the marine mammal interests of biodiversity and nature conservation are scoped out of the EIA report providing that the construction techniques and mitigation outlined in the scoping report are included in a SoM and detailed site plans and/or CEMP to ensure successful implementation.

7.4.8 The applicant does not expect any significant impacts to fish during construction and operation, with the same mitigation as for marine mammals being proposed.

7.4.9 SNH's consultation response did not make reference to fish and no concerns were presented to the Scottish Ministers by the ADSFB, the ASFB or the WCIFG.

7.4.10 The Scottish Ministers agree that the fish interests of biodiversity and nature conservation during construction and operation are scoped out of the EIA report, providing that the mitigation outlined in the scoping report is included in a SoM and detailed site plans and/or CEMP to ensure successful implementation.

7.4.11 With regards to otters, the scoping report states that an otter survey carried out at the location of the proposed works in 2014 found no evidence of their presence. However, if otters are present within or in close proximity to the location of the proposed works, they have the potential to be impacted on during construction activities. The applicant has therefore, committed to undertaking otter surveys and is of the opinion that otter interests during construction should be scoped in to the EIA report.

7.4.12 The applicant does not expect any significant impacts to otters during operation, nonetheless, precautionary mitigation measures proposed include limiting the operating activity to daytime hours (7am to 7pm) and introducing vehicle speed limits within the site boundary.

7.4.13 SNH's consultation response did not make reference to otters and no concerns were presented to the Scottish Ministers.

7.4.14 The Scottish Ministers agree that the otter interests of biodiversity and nature conservation during construction are scoped in to the EIA report and that otter interests during operation are scoped out of the EIA process, providing that the mitigation outlined in the scoping report is included in a SoM and detailed site plans

and/or CEMP to ensure successful implementation.

7.4.15 In terms of ornithology, the applicant proposes that construction impacts are scoped in to the EIA report. The scoping report confirms that the proposed works location lies 200m north of the Cnuic agus Cladach Mhuile Special Protection Area, designated for Golden eagle (*Aquila chrysaetos*). The applicant states that construction works have the potential to impact on ornithological interests through loss of habitat, loss of foraging area and disturbance. In addition, light pollution has the potential to impact on bird movement and feeding habitats. To mitigate impacts, the applicant has committed to limiting construction activity to daytime hours (7am to 7pm). The applicant does not anticipate operation activities to impact ornithology but has proposed to restrict operating hours and vehicle speed limits as precautionary mitigation.

7.4.16 As a result of the lack of baseline data around ornithological interests, the applicant proposes to undertake a baseline assessment consisting of two surveys of the site and the surrounding area to determine the presence of significant ornithological sites. The first survey (in winter) will inform whether an in-depth breeding bird survey is required to be undertaken. A vantage point survey has also been proposed to be undertaken at different tidal states to assess diurnal usage of the area, directly at the proposed works location.

7.4.17 SNH's consultation response did not make reference to ornithological interests and no concerns were presented to the Scottish Ministers. RSPB did not provide a consultation response. Therefore, the Scottish Ministers consider that there are currently no ornithological concerns associated with the proposed works or the proposed mitigation.

7.4.18 The Scottish Ministers agree that the ornithological interests of biodiversity and nature conservation during construction are scoped in to the EIA report and anticipate that the data collected as part of the ornithological studies proposed in the scoping report will be included in the EIA report. Providing that the mitigation outlined in the scoping report is included in a SoM and detailed site plans and/or CEMP the Scottish Ministers agree that the ornithological interests during operation are scoped out of the EIA report.

## **7.5 Landscape, Seascape and Visual**

The applicant proposes that landscape, seascape and visual impacts are scoped out of the EIA report as they are not considered to be significant, taking into account the baseline information and the mitigation outlined in the scoping report.

7.5.1 SNH's consultation response did not make reference to landscape, seascape and visual impacts and no concerns were presented to the Scottish Ministers. Argyll

and Bute Council are content with the proposed works, which have already been granted planning permission and any potential visual impacts already assessed as part of that. Therefore, the Scottish Ministers consider that there are currently no significant landscape, seascape and visual concerns associated with the proposed works or the proposed mitigation.

7.5.2 The Scottish Ministers agree that landscape, seascape and visual impacts are scoped out of the EIA report, providing that the mitigation outlined in the scoping report is included in a SoM and detailed site plans and/or CEMP to ensure successful implementation.

## **7.6 Land and Soil Quality**

7.6.1 The applicant proposes that land and soil quality impacts are scoped out of the EIA report as they are not considered to be significant, taking into account the baseline information and the mitigation outlined in the scoping report. The applicant notes that the construction of the pier has the potential to affect land and soil quality through rock and sand deposition, however the lack of dredging, piling or blasting activities minimises the impacts. No significant impacts during operation are expected.

7.6.2 SNH's consultation response did not make reference to land and soil quality impacts and no concerns were presented to the Scottish Ministers. Argyll and Bute Council are content with the proposed works, which have already been granted planning permission. Therefore, the Scottish Ministers consider that there are currently no significant land and soil quality concerns associated with the proposed works or the proposed mitigation.

7.6.3 The Scottish Ministers agree that land and soil quality impacts are scoped out of the EIA report, providing that the mitigation outlined in the scoping report is included in a SoM and detailed site plans and/or CEMP to ensure successful implementation.

## **7.7 Population, Human Health and Socio-Economy**

7.7.1 The applicant proposes that population, human health and socio-economy impacts are scoped out of the EIA report as they are not considered to be significant. In addition, the proposed works are considered to positively impact on the population in terms of providing employment opportunities and will allow the harvest and transportation of approximately 1000ha of commercial woodland, which is currently not financially contributing to the area due to the difficulties currently associated with transportation.

7.7.2 Mull and Iona Community Trust and Mull Community Council did not provide

a consultation response. Argyll and Bute Council are content with the proposed works, which have already been granted planning permission. Therefore, the Scottish Ministers consider that there are currently no significant population, human health or socio-economic concerns associated with the proposed works or the proposed mitigation.

7.7.3 The Scottish Ministers agree that population, human health and socio-economic impacts are scoped out of the EIA report, providing that the mitigation outlined in the scoping report is included in a SoM and detailed site plans and/or CEMP to ensure successful implementation.

## **7.8 Noise and Vibration**

7.8.1 Due to the lack of sensitive receptors not associated with the estate, the lack of potential impacts identified and the mitigation measures outlined in the scoping report, the applicant proposes that noise and vibration impacts are scoped out of the EIA report.

7.8.2 SNH provided advice regarding the potential impacts on marine mammals as a result of noise and vibration and this has been presented in Section 7.4.6. Argyll and Bute Council are content with the proposed works, which have already been granted planning permission. Mull and Iona Community Trust and Mull Community Council did not provide a consultation response. Therefore, the Scottish Ministers consider that there are currently no significant noise and vibration concerns associated with the proposed works or the proposed mitigation.

7.8.3 The Scottish Ministers agree that noise and vibration impacts are scoped out of the EIA report, providing that the construction techniques detailed in the scoping report remain unchanged and the mitigation outlined in the scoping report is included in a SoM and detailed site plans and/or CEMP to ensure successful implementation.

## **7.9 Natural Resource Usage and Waste**

7.9.1 The applicant proposes that natural resource usage and waste impacts are scoped out of the EIA report due to the lack of significant potential impacts associated with the proposed works and the mitigation measures outlined in the scoping report to further reduce impacts.

7.9.2 SEPA's consultation response confirmed they had no comments to make on the proposed works. SNH's consultation response did not make reference to natural resource usage and waste impacts and no concerns were presented to the Scottish Ministers. Argyll and Bute Council are content with the proposed works, which have already been granted planning permission. Therefore, the Scottish Ministers consider that there are currently no significant natural resource usage and waste

concerns associated with the proposed works or the proposed mitigation.

7.9.3 The Scottish Ministers agree that natural resource usage and waste impacts are scoped out of the EIA report, providing that the mitigation outlined in the scoping report is included in a SoM and detailed site plans and/or CEMP to ensure successful implementation.

## **7.10 Traffic, Access and Navigation**

7.10.1 The applicant proposes that traffic, access and navigation impacts are scoped out of the EIA report due to the lack of significant potential impacts associated with the proposed works.

7.10.2 Argyll and Bute Council are content with the proposed works, which have already been granted planning permission. In their consultation response, Transport Scotland indicated they had no concerns regarding traffic and access impacts associated with the proposed works. Therefore, the Scottish Ministers consider that there are currently no significant traffic and access concerns associated with the proposed works or the proposed mitigation

7.10.3 The Scottish Ministers agree that traffic and access impacts are scoped out of the EIA report, providing that the mitigation outlined in the scoping report is included in a SoM and detailed site plans and/or CEMP to ensure successful implementation

7.10.4 In terms of navigation, the applicant states that there will be a slight increase in marine transport (8 vessels per year), however they do not consider this to be significant.

7.10.5 The MCA, however, has requested that a Navigational Risk Assessment relative to the scale of the works is undertaken in order to demonstrate the impact of the proposal on the range of vessels operating in the area and the measures taken to reduce any potential impacts. NLB did not express any navigational concerns.

7.10.6 The Scottish Ministers concur with the MCA's comments and agree that navigational impacts are scoped in to the EIA report. The applicant is thus directed to refer to Appendix I for further information on the relevant requirements, as per MCA's consultation response.

## **7.11 Water Quality and Coastal Processes**

7.11.1 Due to the lack of potential impacts and the mitigation measures outlined in the scoping report, the applicant proposes that water quality and coastal process impacts are scoped out of the EIA report.

7.11.2 SEPA's consultation response raised no specific concerns in relation to the proposed works. A Morphological Impact Assessment System (MImAS) check was undertaken by Marine Scotland – Licensing Operations Team to assess whether the proposed engineering activities would cause a risk to the waterbody achieving Good Ecological Status ("GES"). The assessment did not predict a change in the waterbody's GES following the works. Therefore, the Scottish Ministers consider that there are currently no significant water quality or coastal process concerns associated with the proposed works or the proposed mitigation.

7.11.3 The Scottish Ministers agree that water quality and coastal process impacts are scoped out of the EIA report, providing that the mitigation outlined in the scoping report is included in a SoM and detailed site plans and/or CEMP to ensure successful implementation.

## **7.12 Impacts from Major Accidents and Disasters**

7.12.1 The applicant proposes that major accidents are scoped out of the EIA report, as it is not anticipated that the proposed works will increase the likelihood and/or consequences of a major accident or disaster occurring.

7.12.2 The consultation responses received from SNH, SEPA, MCA, NLB, Argyll and Bute Council, and Transport Scotland did not make reference to major accidents and disasters and no concerns were presented to the Scottish Ministers. Therefore, the Scottish Ministers consider that there are currently no significant major accident or disaster concerns associated with the proposed works or the proposed mitigation.

7.12.3 The Scottish Ministers agree that impacts from major accidents and disasters are scoped out of the EIA report and welcome the applicant's commitment to utilise a Safety Management System throughout the construction and operation of the proposed works to manage incidents and risk.

## **7.13 Cumulative Impacts**

7.13.1 Taking into account current planning permissions and marine licences for other activities in the vicinity of the proposed works, due to the scale and location of the activities, the applicant considers it unlikely that they will have cumulative impacts with the proposed works.

7.13.2 No cumulative impact concerns were raised by any of the consultees.

7.13.3 Considering the activities currently permitted and/or licensed in the vicinity of the proposed works, the Scottish Ministers agree with the applicant that there is unlikely to be a cumulative impact with the proposed works.

7.13.4 Given, however, that new planning permissions and/or marine licences may be granted subsequent to the adoption of this scoping opinion, the Scottish Ministers confirm that cumulative impacts are scoped in to the EIA report to ensure an up to date cumulative impact assessment is carried out at the point of application.

## **8. Marine Planning**

### **8.1 Background**

8.1.1 The development of projects subject to EIA should be in accordance with the UK Marine Policy Statement and the National Marine Plan (“NMP”).

### **8.2 The UK Marine Policy Statement 2011**

8.2.1 The UK Administrations share a common vision of having clean, healthy, safe, productive and biologically diverse oceans and seas. Joint adoption of a UK-wide Marine Policy Statement provides a consistent high-level policy context for the development of marine plans across the UK to achieve this vision. It also sets out the interrelationship between marine and terrestrial planning regimes. It requires that when the Scottish Ministers make decisions that affect, or might affect, the marine area they must do so in accordance with the Statement.

### **8.3 Scotland’s NMP 2015**

8.3.1 Developed in accordance with the Marine (Scotland) Act 2010 and the Marine and Coastal Access Act 2009 (as amended), the NMP provides a comprehensive statutory planning framework for all activities out to 200 nautical miles. This includes policies for the sustainable management of a wide range of marine industries. The Scottish Ministers must make authorisation and enforcement decisions, or any other decision that affects the marine environment, in accordance with the NMP. The NMP sets out a presumption in favour of sustainable development and use of the marine environment when consistent with the policies and objectives of the Plan.

### **8.4 Application and EIA Report**

8.4.1 It should be noted that any changes produced after the EIA report is submitted may require further environmental assessment and public consultation.



## 9. Multi-Stage Regulatory Approval

### 9.1 Background

9.1.1 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 an 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 principal decision, assessment must be undertaken at the subsequent stage.

9.1.2 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*”.

9.1.3 A marine licence, if granted, by the Scottish Ministers for your works at Kilfinichen, Isle of Mull, may have several conditions attached requiring approvals etc. which fall under this definition, for example the approval of a CMS.

9.1.4 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. In doing so, the applicant must account for current (meaning at the time of the multi-stage application) knowledge and methods of assessment which address the likely significant effects of the works on the environment so to enable the Scottish Ministers to reach a reasoned conclusion which is up to date.

9.1.5 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.

## **10. Judicial review**

All decisions may be subject to judicial review. A judicial review statement should be made available to the public.

## **11. Gaelic Language**

If the proposed works are located in an area where Gaelic is spoken, the applicant is encouraged to adopt best practice by publicising details of the proposed works in both English and Gaelic.

Signed

[Redacted]

**20 March 2018**

Authorised by the Scottish Ministers to sign in that behalf.

## **Appendix I: Consultee Responses**

Argyll and Bute Council

[Redacted]

---

**From:** [Redacted] @argyll-bute.gcsx.gov.uk>  
**Sent:** 25 January 2018 15:07  
**To:** MS Major Projects  
**Subject:** RE: Kilfinichen Estate (per Affric) - Kilfinichen Pier Development, Isle of Mull -  
Scoping consultation - Responses by 16 January 2018

Dear [Redacted]

Thank you for your e-mail and I apologise for the delay in my response.

We have reviewed the scoping report submitted in terms of the Marine Works (EIA) Regulations 2017. The development has planning permission (our ref: 17/01937/PP) which has a range of conditions attached to safeguard our interests and we have not identified any other issues which we would wish to see addressed. We are content with the contents of the report in that respect and therefore we have no further comments to make.

Should you wish to discuss further please do not hesitate to contact me.

Kind regards

[Redacted]

Planning Officer (Oban,Lorn and the Isles)  
Development Management  
Planning, Housing and Regulatory Services  
Argyll and Bute Council

t: [Redacted]  
e: [Redacted] [@argyll-bute.gov.uk](mailto:[Redacted]@argyll-bute.gov.uk)  
w: [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

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Historic Environment Scotland



HISTORIC  
ENVIRONMENT  
SCOTLAND

ÀRAINNEACHD  
EACHDRAIDHEIL  
ALBA

By email to [Redacted] [@gov.scot](mailto:[Redacted]@gov.scot);  
[ms.majorprojects@gov.scot](mailto:ms.majorprojects@gov.scot)

[Redacted]  
Marine Licensing Casework Officer  
Marine Scotland (Aberdeen Office)

Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

Enquiry Line: 0131-668-8716  
[HMConsultations@hes.scot](mailto:HMConsultations@hes.scot)

Our ref: AMN/16/SA  
Our case ID: 300025395

15 January 2018

Dear [Redacted]

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017  
Kilfinichen Pier Development, Isle of Mull  
Scoping Report**

Thank you for your consultation which we received on 18 December 2017 about the above scoping report. We have reviewed the details in terms of our historic environment interests. This covers world heritage sites, scheduled monuments and their settings, category A-listed buildings and their settings, inventory gardens and designed landscapes, inventory battlefields and historic marine protected areas (HMPAs).

The Argyll and Bute Council's archaeological and cultural heritage advisors will also be able to offer advice on the scope of the cultural heritage assessment. This may include heritage assets not covered by our interests, such as unscheduled archaeology, and category B- and C-listed buildings.

**Proposed Development**

I understand that the proposed pier development comprises a stacking area and reclaimed pier; floating linkspan and barge and pontoon at Ardmeanach Peninsula, Kilfinichen Estate, Isle of Mull.

**Scope of Assessment**

I note from the scoping report that historic environment is to be scoped out of any EIA assessment to be undertaken. In this case, we are content that there are no nationally important heritage assets within the boundary or in proximity of the proposed development and agree that our interests can be scoped out of any future EIA assessments.



HISTORIC  
ENVIRONMENT  
SCOTLAND

ÀRAINNEACHD  
EACHDRAIDHEIL  
ALBA

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at [www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/](http://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/). Technical advice is available through our Technical Conservation website at [www.engineshed.org](http://www.engineshed.org).

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Urszula Szupczynska and they can be contacted by phone on 0131 668 8653 or by email on [Urszula.Szupczynska@hes.scot](mailto:Urszula.Szupczynska@hes.scot).

Yours sincerely

**Historic Environment Scotland**



Maritime and Coastguard Agency

[Redacted]

---

**From:** [Redacted] mcga.gov.uk>  
**Sent:** 13 February 2018 13:36  
**To:** MS Major Projects  
**Cc:** [Redacted]  
**Subject:** RE: Kilfinichen Estate (per Affric) - Kilfinichen Pier Development, Isle of Mull - Scoping consultation - Responses by 16 January 2018

[Redacted]

Thank you for your email.

That is correct. I would stress that the Navigation Risk Assessment is relative to the scale of the works, in that it demonstrates the impact the proposed works has on the range of vessels operating in the area has been considered, with appropriate risk mitigation measures such (i.e. local Notices to Mariners, appropriate marking etc.).

Kind regards

[Redacted]



[Redacted] **Offshore Renewables Advisor**  
Navigation Safety Branch, Bay 2/25  
Maritime & Coastguard Agency  
Spring Place, 105 Commercial Road, Southampton, SO15 1EG  
Tel: [Redacted]  
Mobile [Redacted]  
Email:

Please note I currently work Tuesdays, Wednesdays and Thursdays.

---

**From:** ms.majorprojects@gov.scot [mailto:ms.majorprojects@gov.scot]  
**Sent:** 13 February 2018 11:46  
**To:** [Redacted] mcga.gov.uk>  
**Cc:** [Redacted] @mcga.gov.uk>  
**Subject:** RE: Kilfinichen Estate (per Affric) - Kilfinichen Pier Development, Isle of Mull - Scoping consultation - Responses by 16 January 2018

Dear [Redacted]

Thank you for your email of 16 January 2018.

Following our discussion just now, I can confirm that you require the applicant to undertake a navigation risk assessment and include it in the EIA report. As discussed, the risk assessment need not be extensive, but rather

relative to the scale of the works and should assess the risks to navigation as part of both construction and operation. This would therefore, allow for any interests around volume of traffic and recreational use to be identified and analysed.

Please let me know if any of the above is incorrect or there is a requirement for more information.

Kind Regards,

[Redacted]

Marine Licensing Casework Officer  
**Marine Scotland** - Marine Planning & Policy

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

**PLEASE NOTE THE CHANGE IN TELEPHONE CONTACT NUMBERS.**

Direct Line: [Redacted]  
Email: [Redacted]  
[ms.majorprojects@gov.scot](mailto:ms.majorprojects@gov.scot)  
Website: <http://www.scotland.gov.uk/marinescotland>



---

**From:** [Redacted] [@mcga.gov.uk](mailto:[Redacted]@mcga.gov.uk)  
**Sent:** 16 January 2018 15:32  
**To:** MS Major Projects  
**Cc:** [Redacted]  
**Subject:** RE: Kilfinichen Estate (per Affric) - Kilfinichen Pier Development, Isle of Mull - Scoping consultation - Responses by 16 January 2018

[Redacted]

Thank you for the opportunity to comment on the scoping report for the pier development at Kilfinichen, Isle of Mull.

We have an interest in the works proposed in the marine environment and their impact on the safety of navigation. I note that there will be a new pier, with a floating link span, barge and a pontoon as part of the works. There are existing swing moorings in situ, which will be effected by the proposals, and I understand that the marine traffic is limited to estate and other vessels that have access to the swinging moorings and existing stone slipway.

It appears that the intention is for navigation to be scoped out of the EIA. The works will however require a marine licence and we will be consulted at the marine licence stage to ensure that the safety of navigation is maintained.

At the marine licence stage, I would expect to see consideration given to any potential impact the works may have on vessels operating in the area and proposed risk mitigation methods. For example I would expect the developers to notify the UK Hydrographic Office for consideration of updates to nautical charts and publications. The local coastguard and local MCA Marine Office should also be notified of the proposed works.

I am content that any navigation safety concerns can be addressed by suitably worded conditions at the formal marine licence stage, but I would expect some consideration to be given to the impact on the safety of navigation perspective in the EIA, albeit relative to the scale of the works. For example, what are the plans for the development in relation to navigation in the area,

what are the proposed impact, how will the developers ensure that vessels operating in the area are aware of the works, and how will any associated risk be mitigated?

Kind regards

[Redacted]

Acting OREI Advisor  
Maritime and Coastguard Agency  
Bay 2/25 Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG

Tel: 0203 8172426  
Mobile [Redacted]  
Email:

Please note I currently work Tuesdays, Wednesdays and Thursdays.

Ministry of Defence

[Redacted]

---

**From:** DIO-Safeguarding-Offshore (MULTIUSER) <DIO-Safeguarding-Offshore@mod.uk>  
**Sent:** 16 January 2018 07:45  
**To:** MS Major Projects  
**Subject:** RE: 20180116-Kilfinichen Estate (per Affric) - Kilfinichen Pier Development, Isle of Mull - Scoping consultation-DIO 10042322-O

Good Morning,

Further to your e-mail below and after our investigation regarding the Kilfinichen Pier Development, I can confirm that the MOD has No Objection to this activity in the location specified. I hope this information is sufficient for your purposes.

Regards

**Please note that my email address is due to change to michael.billings950@mod.gov.uk between 08-13 February 2018 . During this time period could any emails be sent to my existing email address and my new email address to ensure receipt. From the 14 Feb 2018 onwards all emails can be sent to michael.billings950@mod.gov.uk.**

[Redacted]

Environment & Planning Support – Safeguarding

**DIO Safety Environment & Engineering**

**Defence Infrastructure Organisation**

Kingston Road, Sutton Coldfield, West Midlands, B75 7RL

---

**MOD telephone:** [Redacted] **Telephone:** [Redacted] **Fax:** [Redacted] **Email:** **DIOSEE-EPSSG2A1A@MOD.UK**  
**Website:** <https://www.gov.uk/government/publications/wind-farms-ministry-of-defence-safeguarding>

Release-Authorised:

Recipient(s):

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Northern Lighthouse Board

# Northern Lighthouse Board

Your Ref: EIA e-mail from Marine Scotland  
Our Ref: GB/OPS/ML/PJMS\_030\_17

84 George Street  
Edinburgh EH2 3DA  
Switchboard: 0131 473 3100  
Fax: 0131 220 2093  
Website: [www.nlb.org.uk](http://www.nlb.org.uk)  
Email: [enquiries@nlb.org.uk](mailto:enquiries@nlb.org.uk)



[Redacted]

Marine Licensing Casework Officer  
Marine Scotland – Marine Planning & Policy  
Scottish Government  
Marine Laboratory  
375 Victoria Road  
ABERDEEN  
AB11 9DB

03 January 2018

Dear [Redacted]

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 (AS AMENDED) ("THE EIA REGULATIONS") – KILFINICHEN ESTATE (PER AFFRIC) – CONSTRUCTION OF TIMBER PIER AND PONTOON – KILFINICHEN, LOCH SCRIDAIN, ISLE OF MULL**

Thank you for your e-mail correspondence dated 18 December 2017 regarding the proposal by **Kilfinichen Estate (per Affric)** to construct a pier and pontoon for the extraction of timber at Kilfinichen, Loch Scridain, Isle of Mull.

Northern Lighthouse Board has no objections to the proposed construction and advise the following:

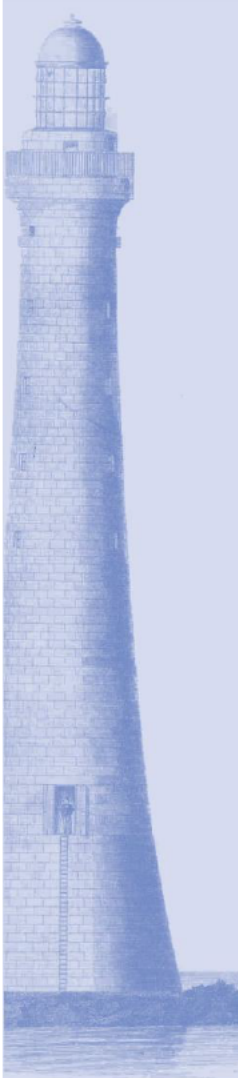
- No navigational lighting or marking is required.
- UK Hydrographic Office ([sdr@ukho.gov.uk](mailto:sdr@ukho.gov.uk)) should be notified of the 'as-built' drawings in order that chart BA 2771 can be revised accordingly.

Yours sincerely  
[Redacted]

Navigation Manager

**For the safety of**

Certified to: ISO 9001:2000 · The International Safety Management Code (ISM) · OHSAS





Royal Yachting Association Scotland

[Redacted]

---

**From:** [Redacted] ryascotland.org.uk>  
**Sent:** 21 December 2017 16:19  
**To:** MS Major Projects  
**Subject:** RE: Kilfinichen Estate (per Affric) - Kilfinichen Pier Development, Isle of Mull -  
Scoping consultation - Responses by 16 January 2018

Hi [Redacted]

I write to inform you that RYA Scotland has no objections to this application.

Kind Regards

[Redacted]

**Senior Administrator**

**Tel:** [Redacted]

**Royal Yachting Association Scotland**

**T: 0131 317 7388**

**E:** [Redacted] [ryascotland.org.uk](http://ryascotland.org.uk)



RYA Scotland, Caledonia House, 1 Redheughs Rigg, South Gyle, Edinburgh, EH12 9DQ

[Redacted]



Scottish Environment Protection Agency

Our ref: PCS/156629  
Your ref:

If telephoning ask for:  
[Redacted]

[Redacted]  
Marine Licensing Casework Officer  
Marine Scotland – Marine Planning & Policy  
The Scottish Government  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB

09 January 2018

By email only to: [ms.majorprojects@gov.scot](mailto:ms.majorprojects@gov.scot)

Dear Madam

**Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended)**

**Construction of a timber loading pier at Kilfinichen, Isle of Mull - Scoping Report  
Kilfinichen, Isle of Mull, Ardmeanach Peninsula**

Thank you for your consultation email which SEPA received on 18 December 2017, in respect of the above proposal.

**Advice for the planning authority**

We have **no objection** to this proposed development. Please note the advice provided below.

**1. New timber loading pier**

- 1.1 Under the Marine Scotland Act 2010 the Scottish Ministers are responsible for the marine licensing system for activities carried out in the Scottish inshore regions of UK Waters Marine from 0-12 nautical miles. We also acknowledge that the Marine Scotland Licensing Operations Team (MS LOT) acts on behalf of the Scottish Ministers and is the primary regulator for these activities.
- 1.2 In our standing advice note Land Use Planning System Guidance Note 13 (LUPS-GU13), *SEPA standing advice for the Department for Business, Energy and Industrial Strategy and Marine Scotland on marine consultation* we have advised Marine Scotland that we should not be consulted on EIA at any stage and instead we would refer you to our standing advice as detailed in Section 3 and Table 1 of LUPS-GU13.

- 1.3 No bespoke comments to offer as primary concerns relate to the potential impacts to otters/birds and SEPA would defer to SNH to lead on these matters.

If you have any queries relating to this letter, please contact me by telephone on 01698-839336 or e-mail at [planning.sw@sepa.org.uk](mailto:planning.sw@sepa.org.uk)

Yours faithfully

[Redacted]

Senior Planning Officer  
Planning Service

*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).*

Scottish Natural Heritage



## Scottish Natural Heritage Dualchas Nàdair na h-Alba

All of nature for all of Scotland  
Nàdar air fad airson Alba air fad

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

OUR Ref: CEA148743

12 January 2018

Dear [Redacted]

### **Kilfinichen Estate (per Affric) - Kilfinichen Pier Development, Isle of Mull Environmental Impact Assessment (Scotland Regulations) 2017 -Scoping Consultation**

Thank you for your consultation dated 18<sup>th</sup> December 2017 requesting comment regarding the above scoping exercise. Having reviewed the submitted scoping report I provide the following comments for your consideration.

#### **1. Inner Hebrides and Minches SAC**

The proposal could affect the Inner Hebrides and Minches Special Area of Conservation (SAC) selected for its Harbour Porpoise qualifying interest. The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, Marine Scotland is required to consider the effect of the proposal on the SAC before it can be consented (commonly known as Habitats Regulations Appraisal).

Kilfinichen Pier will be located within Loch Scridain, which lies directly adjacent to the Inner Hebrides and Minches SAC. The development footprint is located approximately 6 miles from the SAC boundary at the loch entrance, and at this distance, with the development being located near to the head of the loch, there is the possibility that significant construction noise could travel through the water column and result in temporal displacement to harbour porpoise, both within the Loch and potentially within localised areas of the SAC. The applicant does however confirm that construction disturbance will be minimised and that no pile driving will occur as a consequence of development construction, whilst all rock material will be placed, and not dropped, onto the sea bed. We are supportive of these less disruptive construction techniques as these will present minimal noise disturbance to cetaceans.

**1 Kilmory Industrial Estate, Kilmory, Lochgilphead, Argyll, Scotland, PA31 8RR**  
Tel: 01546 603611 [www.snh.org.uk](http://www.snh.org.uk)

**1 Raon Gniomhachais Chille Mhoire, Chille Mhoire, Ceann Loch Gilb, Earra-Ghàidheal, Alba, PA31 8RR**  
Fòn: 01546 603611 [www.snh.org.uk](http://www.snh.org.uk)



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Where these construction techniques remain unchanged to that detailed in the scoping report we would advise that the proposal would be unlikely to have a significant affect upon the Inner Hebrides and Minches SAC. Any significant changes to the proposed construction techniques that would result in increased noise within the water column would have to be subject to a Habitat Regulation Appraisal and must be considered as part of any Environment Statement supporting a licence application.

## 2. Benthic Impact

The impact of the development upon the immediate and adjacent benthic habitats needs to be considered as part of the EIA process. The applicant wishes to 'scope out' this matter from the process however without knowing what is present one cannot understand the likely impacts and their significance. We would advise that benthic studies be undertaken to inform the decision making process.

If you require any further information regarding the above, please do not hesitate to contact me at the address above.

Yours sincerely

[Redacted]  
Operation Officer  
Scottish Natural Heritage



Scottish Water



22 December 2017

Marine Scotland

**SCOTTISH WATER**

The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Stepps  
G33 6FB

By email to: [ms.majorprojects@gov.scot](mailto:ms.majorprojects@gov.scot)

[www.scottishwater.co.uk](http://www.scottishwater.co.uk)  
[EIA@scottishwater.co.uk](mailto:EIA@scottishwater.co.uk)

Dear Sir/Madam,

**Kilfinichen Pier Development – EIA Scoping consultation**

Thank you for consulting with Scottish Water regarding the above proposed development.

***Drinking Water Protected Areas***

A review of our records indicates that there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposed development.

***Scottish Water Assets***

The location of Scottish Water assets (including water supply and sewer pipes, water and waste treatment works etc.) should be confirmed through obtaining detailed plans from our Asset Plan Providers. Details of our Asset Plan Providers are included in Annex 1.

All Scottish Water assets potentially affected by the development should be identified, with particular consideration being given to access roads and pipe crossings. If necessary, local Scottish Water personnel may be able to visit the site to offer advice. All of Scottish Water's processes, standards and policies in relation to dealing with asset conflicts must be complied with.

In the event that asset conflicts are identified then early contact should be made with the Scottish Water Asset Impact Team (AIT) at [service.relocation@scottishwater.co.uk](mailto:service.relocation@scottishwater.co.uk). All detailed design proposals relating to the protection of Scottish Water's assets should be submitted to the AIT for review and written acceptance. Works should not take place on site without prior written acceptance by Scottish Water.

Annex 1 includes a list of precautions to be taken when working within the vicinity of Scottish Water assets. This list of precautions is not exhaustive but should be taken into account as the development progresses through the planning and development process.

If you have any questions relating to the above, or in relation to the information presented in Annex 1, please do not hesitate to contact me.

Yours sincerely

[Redacted]

Strategic Planner – Environmental Impact Assessment  
[EIA@scottishwater.co.uk](mailto:EIA@scottishwater.co.uk)

# Annex 1: Precautions to protect drinking water and Scottish Water assets during development activities

## General requirements

1. The proposed timing of the works, including planned start and completion dates, should be submitted to Scottish Water in advance of any activities taking place on-site. This information should be submitted to **EIA@scottishwater.co.uk**.
2. If a connection to the water or waste water network is required, a separate application must be made to the Scottish Water Development Operations Team for permission to connect. It is important to note that the granting of planning consent does not guarantee a connection to Scottish Water assets. The Development Operations Team can be contacted by telephone on **0800 389 0379** or via email at **developmentoperations@scottishwater.co.uk**.
3. In the event of an incident occurring that could affect Scottish Water we should be notified without delay using the Customer Helpline number **0800 0778 778** and the local contact if known.

## Protecting drinking water quality

### Regulatory requirements

4. Scottish Water is required to ensure that any activity within a drinking water catchment does not affect the ability of Scottish Water to meet its regulatory requirements.
5. Water Treatment Works are designed to treat the specific parameters of the raw water source they receive (i.e. the specific chemical, biological and other characteristics of natural, untreated water). If the characteristics of the raw water change or deteriorate, it can affect the ability of the works to supply drinking water to customers at the required standards.
6. The regulations relating to the quality of drinking water supplied by Scottish Water are the Public Water Supplies (Scotland) Regulations 2014 as amended. Quality Standards are derived from the European Drinking Water Directive 98/83/EC.
7. Drinking water catchments feed Scottish Water abstractions which supply water to water treatment works. Under Article 7 of the Water Framework Directive, waters used for the abstraction of drinking water are designated as Drinking Water Protected Areas (DWPA). The objective of the Water Framework Directive is to ensure that no activity results in the deterioration of waters within the DWPA. If an activity falls within a DWPA or drinking water catchment, it is essential that water quality and quantity are protected

### Specific precautions for drinking water protection

8. A detailed, site specific Construction Method Statement including e.g. Construction Environmental Management Plan, Risk Assessment, Pollution Prevention and Contingency Plan must be submitted to Scottish Water at least three months prior to the works commencing. This should be agreed with Scottish Water prior to any operations taking place. Any other associated documents (e.g. Drainage Plan, Peat Management Plan etc.) should also be submitted and agreed with Scottish Water at least three months prior to works commencing. In the first instance, this information should be supplied to **EIA@scottishwater.co.uk**.
9. Where possible, infrastructure and activities should be located outside of the drinking water catchment. If this can be demonstrated to be impracticable then all infrastructure and activities should be located 50m from any watercourse where possible, and a minimum of 10m distant where 50m can be demonstrated to be undeliverable. This does not apply to infrastructure or activities associated with the watercourse, for example, surface water discharge points, watercourse crossings, etc.
10. Any potential effect on the hydrology of the area resulting from the construction and operation of the proposed development should be assessed and the findings presented in the Environmental Statement or environmental appraisal accompanying the planning application. This should include consideration of natural drainage patterns, base flows/volume, retention/run-off rates and potential changes to water quantity. Any required mitigation measures and proposed monitoring should also be detailed in the Environmental Statement or environmental appraisal accompanying the planning application.
11. When constructing roads, drainage ditches and trenches, drainage should not be directed into adjacent catchments but retained within the existing catchment.
12. Any potential pollution risk which could affect water quality should be considered and mitigation measures implemented to prevent deterioration in water quality and pollution incidents. This includes sediment run-off, soil or peat erosion, management of chemicals and oils, etc. (see also point **Error! Reference source**

**not found.** below). This should be considered for operations at all stages of development including pre- and post-construction.

13. Mitigation measures to prevent pollution to watercourses should be outlined in the Environmental Statement or environmental appraisal accompanying the planning application, and adopted in the Construction Method Statement/Construction Environmental Management Plan prior to work starting onsite. Any measures implemented should be regularly checked, maintained and improved if pollution occurs.
14. Watercourses that feed into any watercourses or reservoirs that Scottish Water abstracts from should be considered when developing new road or access infrastructure. Any crossing of these watercourses should be kept to a minimum. Pollution prevention measures should be put in place at each crossing point and silt traps, or equivalent, should be installed at regular intervals to minimise the risk from pollution.
15. Once constructed, site roads and access routes should be regularly maintained to ensure minimal erosion, and hence run-off and pollution, from the road surface. Avoid using material resulting in metallic, sulphide-rich or strongly acidic polluted water run-off, ideally using inert materials with low erodibility
16. No refuelling or storage of fuel or hazardous materials should take place within the drinking water catchment area. If this can be demonstrated to be impracticable, then the appropriate Pollution Prevention Guidelines (PPGs) or updated Guidance for Pollution Prevention (GPPs) should be followed. This includes, GPP 2: Above ground oil storage tanks, GPP 5 Works and maintenance in or near water, PPG 6: Working and Construction and Demolition Sites, GPP 8: Safe storage and disposal of used oils, GPP 21: Pollution incident response planning and PPG 22: Incident response – dealing with spills. Rather than 10m buffers from watercourses, we would recommend 50m buffers are applied to watercourses and 50m applied to spring, well or borehole. Oil storage should be in accordance with The Water Environment (Oil Storage) Regulations (Scotland) 2006. There should be dedicated oil storage areas created. Spill kits should be located within all vehicles, plant and high risk areas.
17. Waste storage, concrete preparation and all washout areas should not be within the drinking water catchment area. If this can be demonstrated to be impracticable then this should be in dedicated areas 50m from a watercourse where possible and should be designed to be contained and to prevent escape of materials/run-off to the environment.
18. Welfare/waste water facilities should preferably be located outside the drinking water catchment. If not practicable, then portable toilets should be used and waste disposed of off-site. Alternatively secondary treatment and soakaways should be used and, if required, a sampling chamber installed and sampling programme agreed. The proposed method of managing welfare and waste water facilities should be detailed in the Environmental Statement or environmental appraisal accompanying the planning application. If sampling is required, Scottish Water should be contacted via **EIA@scottishwater.co.uk** in the first instance.
19. Any proposed abstractions for activities such as welfare facilities or cement batching plants should be detailed in the Environmental Statement or environmental appraisal accompanying the planning application.
20. Induction training should be given to all personnel on-site and should include Scottish Water site sensitivities in relation to drinking water catchments and assets (see below), as well as spill response as outlined in PPG 22: Dealing with spills.
21. Construction and Environmental Management Plans, Pollution Prevention and Contingency Plan and associated documents should include the Scottish Water Customer Helpline Number **0800 0778 778** and the local contact details.

### **Protecting drinking water in peatland areas**

22. When peat is present within the proposed area of activity the Environmental Statement or environmental appraisal accompanying the planning application should include an assessment on the potential release of colour and dissolved organic carbon quality as a result of changes to hydrology and/or physical disturbance. This should cover the construction and post construction phases.
23. Excavations and ground disturbance in areas of deep peat should be avoided. Deep peat is considered to be peat greater than 0.5m deep.
24. The natural hydrology within peat should be maintained and/or restored. Any necessary measures to maintain natural drainage of peat and sub-surface hydrology, such as tailored drain spacing on access tracks, should be implemented as part of the design of the development.
25. Scottish Water requests that, where possible, access tracks in the drinking water catchment are constructed as floating tracks with adequate provision for maintaining existing drainage patterns.
26. Exposed soils and peat can release sediment, colour and dissolved organic carbon. The use of geotextiles, turf replacement and/or reseeded, should be undertaken as soon as possible.

27. Restoration of any degraded peat should be considered for areas within the drinking water catchment.

### **Protecting drinking water due to forestry activity**

28. An assessment of any forestry activity, including felling, planting or other activity, likely to affect the drinking water catchment should be included in the Environmental Statement or environmental appraisal accompanying the planning application. Any specific mitigation measures should be identified and incorporated into the Construction Environmental Management Plan for the site prior to works commencing.
29. The Environmental Statement or environmental appraisal accompanying the planning application should include details on the harvesting/clearance process for any felling/woodland removal. The least disturbing method/s should be selected where possible.
30. Any historic drains and ditches within the site boundary that discharge directly to a watercourse in the drinking water catchment, these should be blocked and slowly discharged to a buffer area in line with current Forestry Commission Forest and Water Guidelines. Where possible, this should be undertaken in advance of any work being carried out on site, to provide protection for watercourses during site activities.

### **Monitoring requirements to protect drinking water quality**

31. During construction, a programme of daily visual inspection of the watercourses, flow conditions (i.e. high, medium, low, or no flow), prevailing weather and any other pertinent observations, will be required to be implemented. The results should be recorded and the information submitted to Scottish Water (i.e. in a monthly progress report). This should be undertaken when water quality samples are taken. In the first instance proposals for monitoring should be provided to [EIA@scottishwater.co.uk](mailto:EIA@scottishwater.co.uk).
32. Depending on the vulnerability of the public water supply, Scottish Water may request that a water sampling programme shall be established and agreed with Scottish Water. This should assess the baseline water quality for a minimum of one year prior to any activities commencing on-site where possible, including ground investigations and any felling activities, to allow an accurate understanding of baseline conditions at the site. Water sampling should continue during construction and then post-construction for a minimum of one year. Following completion of one year of sampling post-construction, this should be reviewed to determine whether this should continue for a further agreed period. The parameters, frequency and sampling locations will also need to be agreed with Scottish Water. This monitoring will establish if any decline in water quality can be attributed to the development. It may also be necessary to establish trigger levels to determine when any potential issues should be reported to Scottish Water.
33. The appointed Contractor/Site Foreman or Ecological or Environmental Clerk of Works should have relevant knowledge and experience to provide advice and monitor compliance with measures for the protection of water quality in relation to abstractions for water supply.
34. Depending on the vulnerability of the public water supply, Scottish Water may request that a dedicated Environmental Manager be appointed and present on-site to assess and monitor any effects caused by the development.

### **Guidance documents**

35. Please ensure that appropriate Guidance Documents are followed:
- Floating Roads on Peat. Forestry Civil Engineering and SNH. (August 2010).
  - Planning Advice Note 61: Planning and Sustainable Urban Drainage Systems. Scottish Government (2001)
  - Planning Advice Note 79: Water and Drainage. Scottish Government (2007).
  - Water Assessment and Drainage Guide, SUDS Working Party (2016).
  - Sewers for Scotland 3<sup>rd</sup> Edition, Scottish Water (2015)
  - Water for Scotland 3<sup>rd</sup> Edition, Scottish Water (2015)..
  - Forests and water UK Forestry Standard Guidelines, 5<sup>th</sup> Edition. Forestry Commission (2011).
  - General Binding Rules under the Controlled Activities Regulations (see The Water Environment (Controlled Activities) Scotland Regulations (as amended) A Practical Guide, Version 7.2, SEPA (March 2015)).

- SEPA Pollution Prevention Guidance (<http://www.sepa.org.uk/regulations/water/guidance/>).

## Protecting Scottish Water assets

36. If an activity associated with a development proposal is located within close proximity to Scottish Water assets, including water and waste water pipe infrastructure, treatment works and reservoirs etc., it is essential that these assets are protected from damage. To this end, the developer will be required to comply with Scottish Water's current process, guidance, standards and policies in relation to such matters.
37. Copies of Scottish Water's relevant record drawings can be obtained from the undernoted Asset Plan Providers. This is distinct from the right to seek access to and inspect apparatus plans at Scottish Waters area offices, for which no charge is applied.

### Site Investigation Services (UK) Ltd

Tel: 0333 123 1223  
Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)  
[www.sisplan.co.uk](http://www.sisplan.co.uk)

### National One-Call

Tel: 0844 800 9957  
Email: [swplans@national-one-call.co.uk](mailto:swplans@national-one-call.co.uk)  
[www.national-one-call.co.uk/swplans](http://www.national-one-call.co.uk/swplans)

### Cornerstone Projects Ltd

Tel: 0151 632 5142  
Email: [enquiries@cornerstoneprojects.co.uk](mailto:enquiries@cornerstoneprojects.co.uk)  
<http://www.cornerstoneprojects.co.uk/index.php/scottishwaterplans>

38. It should be noted that the site plans obtained via the Asset Plan providers are indicative and their accuracy cannot be relied upon. It is therefore recommended that the developer contacts the **Scottish Water Asset Impact Team** at [service.relocation@scottishwater.co.uk](mailto:service.relocation@scottishwater.co.uk) for further advice if assets are shown to be located in the vicinity of the proposed development, and where the exact location and the nature of the infrastructure shown could be a key consideration for the proposed development. An appropriate site investigation may be required to confirm the actual position of assets in the ground. Scottish Water will not be liable for any loss, damage or costs caused by relying upon plans or from carrying out any such site investigation.
39. Prior to any activity commencing, all known Scottish Water assets should be identified, located and marked-out.
40. Scottish Water expects method statements, safe systems of work and risk assessments to be prepared and submitted in advance to Scottish Water for formal review and acceptance. These documents shall consider and outline in detail how existing Scottish Water assets are to be protected and/or managed for the duration of any construction works and during operation of the development if relevant. These documents must be submitted to Scottish Water's Asset Impact team for formal prior written acceptance.
41. The developer shall obtain written acceptance from Scottish Water's Asset Impact Team where any site activities are intended to take place in the vicinity of Scottish Water's assets. The Asset Impact Team can advise on any potential risk mitigation measures that may be required.
42. Scottish Water and its representatives shall be allowed access to Scottish Water assets at all times for inspection, maintenance and repair. This will also ensure that the Scottish Water assets are protected and that any Scottish Water requirements are being observed.
43. Any obstruction or hindrance of access to Scottish Water assets should be avoided. The prompt and efficient use and manipulation of valves, hydrants, meters or other apparatus is required at all times. There should also be no interference with the free discharge from water main scours or sewer overflows.
44. In the event of an incident occurring that could affect Scottish Water, including any damage to assets, Scottish Water should be notified without delay, using the Customer Helpline number **0800 0778 778**, and the local contact if known. Scottish Water apparatus should not be interfered with or operated by anyone other than Scottish Water personnel.
45. The 'offset distance' is the distance between any Scottish Water asset and adjacent properties and structures. Scottish Water reserves the right to ask for an offset distance in accordance with its own current policy and standards and to suit specific circumstances. The details of this requirement should be confirmed with Scottish Water as an early part of the design process.
46. Stationary plant, equipment, scaffolding, construction or excavated material, etc. should not be placed over, or close to, any Scottish Water assets without the prior written consent of Scottish Water which may be withheld depending on circumstances on-site.

47. Special care should be taken to avoid the burying of Scottish Water assets or the obstruction of sewers or manholes with fill or other material. Arrangements for altering the level of any chambers should be agreed in advance with Scottish Water and these should be constructed in accordance with Scottish Water requirements. The cost of any work to Scottish Water assets will be met by the project developer.
48. Excavation works (e.g. of wind turbine foundations) should not be carried out in the proximity of a water or waste water main without due notice having been given to Scottish Water and prior written acceptance obtained. The developer will comply fully with any Scottish Water specific site requirements.
49. Any tree planting associated with the development (e.g. compensatory planting or screening etc.) should be undertaken in line with Water for Scotland 3<sup>rd</sup> Edition (April 2015) to ensure that Scottish Water assets are not put at risk by future growth of tree roots.
50. Vibration in close proximity to Scottish Water pipelines or ancillary apparatus should be managed in accordance with British Standard 5228-1:2009 (Code of practice for noise and vibration control on construction and open sites). The predicted levels of vibration should be agreed in advance with Scottish Water as part of the risk assessment and method statement and agreed vibration monitoring arrangements will be required.
51. The developer will consider the possibility of increased loading on Scottish Water apparatus and measures will be taken to eliminate or mitigate increased loading on assets. Care should be taken to identify any assets which may be crossed by vehicles on the access route to the site and crossing points will be engineered to the requirements of Scottish Water. Any pipe crossing proposals are subject to prior written acceptance by Scottish Water.
52. Scottish Water will not accept liability for any costs incurred in fulfilling any of the above requirements during the development planning, construction or operational phases, either by the developer, the developer's associates, contractors or any other person or organisation involved in the project.
53. If the developer damages any Scottish Water asset they will be held liable for any costs resulting from this.
54. Scottish Water may require costs associated with the development to be reimbursed by the developer or the developer's agents.

Transport Scotland



[Redacted]

Your ref:

Scottish Government  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB

Our ref:  
TS00538

Date:  
22/12/2017

[MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot)

Dear Sirs,

**MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)  
REGULATIONS 2017**

**KILFINICHEN ESTATE - SCOPING REPORT FOR PIER DEVELOPMENT AT KILFINICHEN,  
ISLE OF MULL**

With reference to your recent correspondence on the above development, we acknowledge receipt of the Scoping Report prepared by Affric Limited in support of the above development.

This information has been passed to SYSTRA Limited for review in their capacity as Term Consultants to Transport Scotland – Trunk Road and Bus Operations (TRBO). Based on the review undertaken, we would provide the following comments.

**Proposed Development**

The Scoping Report (SR) has been prepared in support of an application for the construction of a timber loading pier in the centre of the Ardmeanach Peninsula on the west coast of the Isle of Mull. The development will be utilised to transport timber produced on the peninsula via sea.

We understand that works for the pier above the mean high-water springs (MHWS) level were consented under the Town and Country Planning (Scotland) Act 1997 (Ref. No: 17/01937/PP) in October 2017. The current application has been submitted under Part 4, Regulation 14 (2) of the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) and is for the works below the MHWS level.

This application does not impact on the trunk road network and consequently, Transport Scotland has no objection to the application in terms of potential environmental impacts associated with increased traffic on the trunk road network.

I trust that the above is satisfactory but should you wish to discuss in greater detail, please do not hesitate to contact [Redacted] at SYSTRA's Glasgow Office on [Redacted] .

[Redacted]

**Transport Scotland  
Trunk Road and Bus Operations**

CC [Redacted] SYSTRA Ltd.



## **Appendix II: Licensing Process**

### Application

The application letter must detail how many licences are being sought, what marine licensable activities are proposed and what legislation the application is being made under.

Applicants are required to submit two hard copies of the EIA report together with an electronic copy in a user-friendly PDF format which will be placed on the Scottish Government website. If requested to do so by the Scottish Ministers, the applicant must send to the Scottish Ministers such further hard copies of the EIA report as requested. Applicants may be asked to issue the EIA report directly to consultees and in which case consultee address lists should be obtained from the Scottish Ministers.

### Requirement for Public Pre-Application Consultation ("PAC")

From 6<sup>th</sup> April 2014, applications received for certain activities are subject to a public pre-application consultation requirement. Activities affected will be large projects with the potential for significant impacts on the environment, local communities and other legitimate uses of the sea. This requirement allows local communities, environmental groups and other interested parties to comment on proposed works in their early stages and before an application for a marine licence is submitted.

The Marine Licensing (Pre-application Consultation) (Scotland) Regulations 2013 can be accessed via:

<http://www.legislation.gov.uk/ssi/2013/286/made>

Guidance on marine licensable activities subject to Pre-application Consultation can be obtained at:

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

The licensing authority reserves the right not to accept an application in the absence of an acceptable PAC report.

### Pre-Dredge Sampling

Please note that if it is intended to dispose of any dredged material at sea, adequate pre-dredge sample analysis must be submitted in support of the EIA report and marine licence dredging application. The licensing authority reserves the right not to accept an application in the absence of acceptable sediment analysis data.

Please refer to the pre-dredge sampling guidance provided in Appendix IV.

### Ordnance Survey ("OS") Mapping Records

Applicants are requested at application stage to submit a detailed OS plan showing the site boundary and location of all deposits and onshore supporting infrastructure in a format compatible with The Scottish Government's Spatial Data Management

Environment ("SDME"), along with appropriate metadata. The SDME is based around Oracle RDBMS and ESRI ArcSDE and all incoming data should be supplied in ESRI shape file format. The SDME also contains a metadata recording system based on the ISO template within ESRI ArcCatalog (agreed standard used by The Scottish Government); all metadata should be provided in this format.

### Advertisement

Where the applicant has provided the Scottish Ministers with an EIA report, the applicant must publish their proposals in accordance with Regulation 16 of the 2017 MW Regulations and ensure that a reasonable number of copies of the EIA report are available for inspection at any place named in the publication. Licensing information and guidance, including the specific details of the adverts to be placed in the press, can be obtained from the Scottish Ministers. If additional information is submitted further public notices will be required.

### EPS licence

European Protected Species ("EPS") are animals and plants (species listed in Annex IV of the [Habitats Directive](#)) that are afforded protection under [The Conservation \(Natural Habitats, &c.\) Regulations 1994](#) (as amended) and [The Offshore Marine Conservation \(Natural Habitats, &c.\) Regulations 2007](#) (as amended). All cetacean species (whales, dolphins and porpoise) are European Protected Species. If any activity is likely to cause disturbance or injury to a European Protected Species a licence is required to undertake the activity legally.

A licence may be granted to undertake such activities if certain strict criteria are met:

- there is a licensable purpose;
- there are no satisfactory alternatives, and;
- the actions authorised will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range.

Applicants must give consideration to the three fundamental tests and should refer to the [guidance on the protection of marine European Protected Species](#) for more detailed information in relation to Scottish Inshore Waters. Applicants may choose to apply for an EPS licence following the determination of the EIA application and once construction methods have been finalised, however it is useful to include a shadow EPS assessment within the EIA report.

Please note that basking sharks are also afforded protection under the Wildlife & Countryside Act 1981 (as Amended by the Nature Conservation (Scotland) Act 2004).

### **Appendix III: Gap Analysis**

Applicant to complete:

Consultee	No.	Point for inclusion	EIA report Section	Justification
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