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Marine Scotland - Licensing Operations Team Scoping Opinion

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

Dumfries and Galloway Council

Stranraer Marina Development

February 2023

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1. Introduction

1.1 Background

- 1.1.1 On 29 June 2021, the Scottish Ministers received a scoping report (“the Scoping Report”) from RPS on behalf of Dumfries and Galloway Council, “the Applicant”, as part of its request for a scoping opinion relating to Stranraer Marina Development (“the Proposed Works”). In accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“2017 MW Regulations”), the Scottish Ministers considered the content of the Scoping Report as sufficient.
- 1.1.2 This scoping opinion is adopted by the Scottish Ministers under the 2017 MW Regulations (“Scoping Opinion”) in response to the Applicant’s request and should be read in conjunction with the Scoping Report. The matters contained in the Scoping Report have been carefully considered by the Scottish Ministers and use has been made of professional judgment, based on expert advice from stakeholders and Marine Scotland in-house expertise and experience. This Scoping Opinion identifies the scope of impacts to be addressed and the method of assessment to be used in the Environmental Impact Assessment Report (“EIA Report”) for the Proposed Works.
- 1.1.3 The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the 2017 MW Regulations, taken into account the information provided by the Applicant, in particular, information in respect of the specific characteristics of the Proposed Works, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken.
- 1.1.4 In examining the EIA Report, and any other environmental information, the Scottish Ministers will seek to reach an up to date reasoned conclusion on the significant effects on the environment from the Proposed Works. This reasoned conclusion will be considered as up to date if the Scottish Ministers are satisfied that current knowledge and methods of assessment have been taken account of. For the avoidance of doubt, this Scoping Opinion does not preclude the Scottish Ministers from requiring the Applicant to submit additional information in connection with any EIA Report submitted with applications for marine licences under The Marine (Scotland) Act 2010 (“the 2010 Act”).
- 1.1.5 In the event that the Applicant does not submit applications for marine licences under the 2010 Act for the Proposed Works within 12 months of the date of this Scoping Opinion, the Scottish Ministers strongly recommend that the

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

2. The Proposed Works

2.1 Introduction

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

2.2 Description of the Proposed Works

2.2.1 The Proposed Works involve the expansion of the existing Stranraer Marina as part of the regeneration of Stranraer's waterfront. The site is located north of the town of Stranraer in Dumfries and Galloway, in the southern end of Loch Ryan. The Proposed Works consist of dredging, land reclamation, construction and the deposit and/or removal of substances or objects in the Scottish marine area. The existing quay for fishing boats and commercial vessels will be retained as part of the overall Stranraer Marina Development.

2.2.2 The Proposed Works include the installation of additional pontoons and fingers to provide new marina berths; increasing the total provision to a maximum of 223 berths. This will include facility for large vessel, including super yacht, berthing. A new fuel berth is proposed to be located as part of revisions to the existing marina berths.

2.2.3 The existing marina has a regular maintenance dredge regime, with the dredge material being deposited at sea. The Proposed Works include further dredging in order to establish the required depths in the channel. The proposed dredge will provide a general water depth of 2.5 metres ("m") with additional 0.5 m margin in all tide states. In the area where larger vessels will berth, this will increase to 4 m depth with a 0.5 m margin. The overall estimated dredge volume is 115,000 cubic metres which is proposed to be utilised in the breakwater construction and land reclamation aspects of the Proposed Works rather than being deposited at sea.

2.2.4 There is currently a breakwater immediately north of the existing marine berths. The Proposed Works include either an extension of 40 m to this existing breakwater or the construction of two new breakwaters, these are both proposed to be 80 m in length. The final configuration will be determined following wave modelling and detailed design works. The Applicant proposes to construct the breakwaters using dredge material as fill with a rock armour exterior.

- 2.2.5 Additionally, the Proposed Works comprise of approximately 18,200 square metres of land reclamation in the south east corner of the site. The land reclamation is proposed to be carried out by depositing dredged material behind a constructed rock armour revetment.
- 2.2.6 A new pedestrian bridge is proposed to be constructed between the existing Breastworks parking area and the proposed reclaimed area.
- 2.2.7 The Proposed Works are also to include provision of a renewable energy installation which is intended to be used in the marina. Section 2.2.1.11 outlines the options considered in a sustainable energy screening study commissioned by Dumfries and Galloway Council in 2020. The preferred solution will be selected following further consideration of the options listed.
- 2.2.8 The Proposed Works are part of a larger project which includes both terrestrial and marine aspects. The Applicant proposes that the larger project will be subject to a phased construction over a 5 year period, with this provisionally due to commence in 2023. It is anticipated that the landside elements, including land reclamation and breakwater construction will be undertaken first in Year 1 and the provision of pontoon berths phased over the remaining 4 years.

2.3 Onshore/Planning

- 2.3.1 The Scottish Ministers were advised by email on 21 April 2022 that the Applicant has sought a separate scoping opinion from Dumfries and Galloway Council for the associated onshore marina development works. It is essential that the EIA Report concerning onshore works will be available at the time that the EIA Report for the Proposed Works is being considered so that all the information relating to the project as a 'whole' is presented. The EIA Report for the Proposed Works must consider the cumulative impacts with the onshore works.
- 2.3.2 The Scottish Ministers advise that the EIA Report must be explicitly clear about what licensable marine activities are proposed to be carried out below Mean High Water Springs ("MHWS") during the Proposed Works and must also clearly detail which proposed activities could overlap with the Local Authority's remit.

2.4 The Scottish Ministers' Comments

Description of the Proposed Works

- 2.4.1 The Scottish Ministers note there is a lack of detail regarding the methodology of the construction activities and limited information on the type or quantities

of materials to be used in the Proposed Works. Additionally, the Applicant has not included much information detailing how any of the materials will get to site. The Scottish Minister's advice can only be based on the information provided.

- 2.4.2 The Scottish Ministers advise that the EIA Report should provide a full and detailed description and consideration of the nature and scope of the construction and operational phases, including the types of activities for which regulatory approval is required, how activities will be carried out, the frequency with which these will be undertaken, the type and quantities of materials to be used in the Proposed Works, and how materials will get to the site. If any specifics are not known at the time of submitting the EIA Report then the worst case scenarios should be included.
- 2.4.3 Section 11.3 of the Scoping Report proposes undertaking assessment of dredge sediments to ascertain suitability for use in land reclamation. The Scottish Ministers advise that if the suitability has not yet been assessed, or if there are any doubts as to the suitability of the dredge material for use in construction and/or land reclamation, the worst case scenario must be assessed whereby all of the dredged material requires to be deposited at sea (subject to no contamination issues being found and a suitable deposit site being identified), and all of the infill material requires to be sourced from an alternative location and transported to site. The Applicant must set out the best practicable environmental option for the dredge material and must clearly detail all options. The Scottish Ministers advise that the environmental impacts of whichever material is used must be assessed in the EIA Report including but not limited to the transport of materials to site.
- 2.4.4 Section 2.2 of the Scoping Report outlines various options for the breakwater. If the option of constructing two new breakwaters is selected then the EIA Report must include details of the removal of the existing breakwater. This must include details of the methodology and consideration of how to dispose of/use the removed material.
- 2.4.5 Section 2.2 of the Scoping Report also outlines options for renewable energy installation(s) as part of the wider project that are currently under consideration. The Scottish Ministers advise that any marine aspects of the proposed renewable energy installation must be included in the EIA Report. If a decision has not been made regarding which option(s) will be used at the date of submission of the EIA Report then, once the decision has been finalised, the Applicant must contact MS-LOT if the final decision includes marine aspects.

- 2.4.6 Sections 5 and 7 of the Scoping Report identify the potential for piling works, which, if required could have an impact on marine biodiversity. If the requirement of piles is unknown, the EIA Report must include details of the number of piles to be installed, installation method and duration of installation. If the exact details are not known, then a worst case scenario must be provided. Additionally, the EIA Report must include an assessment of the impact of potential piling works on relevant receptors during the construction stage of the Proposed Works, as well as an assessment of the significant effects and any mitigation proposed.

Design Envelope

- 2.4.7 The Scottish Ministers advise that if the details of the Proposed Works cannot be defined precisely, then a 'Design Envelope' approach should be adopted. If a Design Envelope approach is adopted then the Applicant must apply a worst case scenario in the EIA Report.
- 2.4.8 The Scottish Ministers advise that if the design envelope approach is adopted then the Applicant must make every attempt to narrow the range of options. Where flexibility in the design envelope is required, this must be defined within the EIA Report and the reasons for requiring such flexibility clearly stated. At the time of application, the parameters of the Proposed Works should not be so wide-ranging as to represent effectively different projects. To address any uncertainty, the EIA Report must consider the potential impacts associated with each of the different scenarios. The criteria for selecting the worst case and the most likely scenario, together with the potential impacts arising from these, must also be described. The parameters of the Proposed Works must be clearly and consistently defined in the application for the marine licences and the accompanying EIA Report.
- 2.4.9 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail may be further refined in a Construction Method Statement ("CMS") to be submitted to the Scottish Ministers, for their approval, before works commence. Please note however, the information provided in Section 7 below regarding multi-stage consent and regulatory approval. The CMS will 'freeze' the design of the project and will be reviewed by the Scottish Ministers to ensure that the worst case scenario described in the EIA Report is not exceeded.
- 2.4.10 It is a matter for the Applicant, in preparing the EIA Report, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. If the Proposed Works or any associated

activities materially change prior to the submission of the EIA Report, the Applicant may wish to consider requesting a new scoping opinion.

Alternatives

- 2.4.11 The 2017 MW Regulations require that the EIA Report include ‘a description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the Applicant, which are relevant to the proposed works and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects’. The Scottish Ministers acknowledge Section 1.3 of the Scoping Report briefly sets out the consideration of alternative design aspects however does not provide any depth of information for the chosen design.
- 2.4.12 For the avoidance of doubt, the Scottish Ministers advise that the EIA Report must include an up to date consideration of the reasonable alternatives studied as the parameters of the Proposed Works have been refined. The Scottish Ministers expect this to comprise a discrete section in the EIA Report that provides details of the reasonable alternatives studied across all aspects of the Proposed Works and the reasoning for the selection of the chosen option(s), including a comparison of the environmental effects.

3. Contents of the EIA Report

3.1 Introduction

- 3.1.1 This section provides the Scottish Ministers' general comments on the approach and content of information to be provided in the Applicant's EIA Report, separate to the comments on the specific receptor topics discussed in section 5 of this Scoping Opinion.

3.2 EIA Scope

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

3.3 Mitigation and Monitoring

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

3.3.5 the assessment. Any mitigation measures that will be employed to prevent, reduce or control significant effects should be included in the EIA Report.

4. Consultation

4.1 The Consultation Process

4.1.1 Following receipt of the Scoping Report, the Scottish Ministers, in accordance with the 2017 MW Regulations, initiated a 30 day consultation process, which commenced on 11 May 2022, following information from the Applicant regarding what is to be considered in the onshore and offshore Scoping Opinions. The following bodies were consulted, those marked in bold provided a response and those marked in italics sent nil returns or stated they had no comments:

- Crown Estate Scotland
- Defence Infrastructure Organisation (Ministry of Defence)
- District Salmon Fishery Board (River Stinchar)
- Dumfries and Galloway Council
- Fisheries Management Scotland
- Fishery Office: Ayr
- **Historic Environment Scotland (“HES”)**
- Inshore Fisheries Group (West Coast Region)
- Marine Safety Forum
- **Maritime and Coastguard Agency (“MCA”)**
- **NatureScot (operating name of Scottish Natural Heritage)**
- **Northern Lighthouse Board (“NLB”)**
- P&O Ferries
- Royal Society for the Protection of Birds
- **Royal Yachting Association (“RYA”)**
- **Scottish Environment Protection Agency (“SEPA”)**
- **Scottish Water**
- Scottish Wildlife Trust
- Stena Line
- Stranraer Harbour
- UK Chamber of Shipping
- Visit Scotland
- Whale and Dolphin Conservation

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

4.2 Responses received

- 4.2.1 From the list above a total of 7 responses were received, in addition to advice provided by MSS, MAU and Transport Scotland. The purpose of the consultation was to seek representations to aid the Scottish Ministers' consideration of which potential effects should be scoped in or out of the EIA Report.
- 4.2.2 The Scottish Ministers are satisfied that the requirements for consultation have been met in accordance with the 2017 MW Regulations. The sections below highlight issues which are of particular importance with regards to the EIA Report and marine licence applications. The representations and advice received are attached in Appendix I and each must be read in full for detailed requirements from individual consultees.

5. Interests to be considered within the EIA Report

5.1 Introduction

- 5.1.1 This section contains the Scottish Ministers' opinion on whether the impacts identified in the Scoping Report are scoped in or out of the EIA Report. The Scottish Ministers advise that the representations from consultees and advice from MAU, MSS and Transport Scotland must be considered in conjunction with the Scoping Opinion and with the expectation that recommendations and advice as directed through this Scoping Opinion are implemented.

5.2 Coastal Processes

- 5.2.1 The Applicant's consideration of the potential impacts of the Proposed Works on coastal processes is outlined in Section 3 of the Scoping Report. Table 18.1 of the Scoping Report highlights the Applicant's proposal to scope coastal processes in for both construction and operational stages. The Scottish Ministers agree that coastal processes are scoped in for further assessment in the EIA Report and broadly agree with the potential impacts proposed to be scoped in by the Applicant, as detailed in Section 3.3 of the Scoping Report.
- 5.2.2 The Scottish Ministers agree with the Applicant's proposal to include the alteration to the wave climate, the local flow regime and the sedimentation of the harbour and its adjoining areas within the assessment of coastal processes in the EIA Report. Additionally, the Scottish Ministers broadly agree with the proposed studies outlined in the Scoping Report, however, direct the Applicant to the MSS advice and advise that the dispersion and fate of sediment plumes from the dredging and reclamation aspects of the construction phase should be investigated irrespective of whether or not pollutants exist in the sediment.
- 5.2.3 The Scottish Ministers direct the Applicant to the MSS advice regarding the breakwater construction and advise that if possible, once the breakwater design has been finalised, further hydrodynamic modelling should be undertaken to compare current existing conditions with conditions once the new breakwater development is in place. The Scottish Ministers advise that the model should get validated appropriately.
- 5.2.4 The Scottish Ministers draw the Applicant's attention to the representation from SEPA regarding the potential for the Proposed Works to cause changes to coastal and sediment transport processes in the adjacent water body upon completion of the works. The Scottish Ministers advise that the Applicant must assess the significance of such alterations and discuss the implications of these with respect to shoreline and seabed morphology, and wider ecosystem health in line with SEPA's River Basin Management Plan objectives.

5.3 Flood Risk

- 5.3.1 The Applicant's consideration of the potential impacts of the Proposed Works on flood risk is outlined in Section 4 of the Scoping Report. The Scottish Ministers agree with the potential impacts scoped in for further assessment in the EIA Report, as detailed in Section 4.3, and the conclusion outlined in Table 18.1 of the Scoping Report and advise that flood risk must be scoped in for further assessment in the EIA Report for the operational stage only.
- 5.3.2 The Scottish Ministers direct the Applicant to the representation from SEPA regarding flood risk and advise that the Applicant must adhere to the guidance detailed therein and all other points SEPA raises in this regard.

5.4 Marine Biodiversity

- 5.4.1 The Applicant's consideration of the potential impacts of the Proposed Works on marine biodiversity is outlined in Section 5 of the Scoping Report. Specifically this includes consideration of potential effects on benthic ecology, fish ecology, Invasive Non-Native Species ("INNS") and marine mammals. Table 18.1 of the Scoping Report proposes to scope marine biodiversity in for further assessment in the EIA Report for both construction and operational stages.
- 5.4.2 The Scottish Ministers will consider benthic ecology, fish ecology and marine mammals as individual receptors within this Scoping Opinion in chapters 5.5 through 5.7. Benthic ecology and INNS will both be considered under the benthic ecology chapter within this Scoping Opinion.

5.5 Benthic Ecology

- 5.5.1 The Scottish Ministers agree with the potential impacts identified in Section 5.3 of the Scoping Report and proposed to be scoped in for further assessment in the EIA Report in relation to benthic species and habitats. In addition to these, the Scottish Ministers direct the Applicant to MSS advice and advise that habitat creation must also be scoped in.
- 5.5.2 The Scottish Ministers highlight representation from NatureScot and MSS advice regarding Priority Marine Features ("PMFs") and INNS, and advise that the EIA Report must consider the possible impacts of the Proposed Works on these. Additionally, the Scottish Ministers highlight the reference links provided by NatureScot as well as the SeagrassSpotter tool, the native oyster information and additional survey technique referenced in the MSS advice and encourage the Applicant to consider the inclusion of these in the EIA Report.

5.6 Fish Ecology

- 5.6.1 The Scottish Ministers agree with all the potential impacts proposed to be scoped in, as detailed in Section 5.3 of the Scoping Report, and advise these are appropriate for marine fish species and diadromous fish.
- 5.6.2 In terms of marine fish and diadromous fish, the Scottish Ministers draw the Applicant's attention to the MSS advice regarding spawning and foraging areas. In addition, the Scottish Ministers direct the Applicant to MSS advice and advise that the potential impacts of creation of new artificial habitat surrounding the new berths and the breakwater extension or new breakwaters on fish and shellfish species should be scoped in for further assessment in the EIA Report.
- 5.6.3 Specifically regarding diadromous fish, the Scottish Ministers highlight advice from MSS and encourage the Applicant to engage with the Stinchar District Salmon Fishery Board to determine if there are any salmon and sea trout netting rights which have the potential to be affected by the Proposed Works. Any potential impacts identified must be addressed in the EIA Report. Finally, the Scottish Ministers advise that, in addition to the effects of underwater noise arising from construction activities, the potential impact on diadromous fish from underwater noise and disturbance arising from the operation of the Proposed Works must also be scoped in for further assessment in the EIA Report.

5.7 Marine Mammals

- 5.7.1 The Scottish Ministers agree with the potential impacts identified to be scoped in, as detailed in Section 5.3 of the Scoping Report. However, the Scottish Ministers advise that due to the lack of specific detail regarding the construction works, it is difficult to assess if all potential impacts have been scoped in.
- 5.7.2 The Scottish Ministers advise that more detail on the distribution and abundance of marine mammals in the area of the Proposed Works must be presented in the desk-based study. Additionally, the Scottish Ministers advise that if piling is to be undertaken during the Proposed Works then noise assessment and a quantitative analysis of the species and number of individuals that could be affected must be undertaken. This must be presented in the EIA Report and be in line with NatureScot advice.
- 5.7.3 Moreover, the Scottish Ministers advise that the risks associated with direct dredge deposit onto marine mammals must be scoped in for assessment in the EIA Report. The Scottish Ministers direct the Applicant to MSS advice and

advise that the proposed mitigation measures are fully considered within the EIA Report.

5.8 Water Quality

- 5.8.1 The Applicant's consideration of the potential impacts of the Proposed Works on water quality is outlined in Section 6 of the Scoping Report. The Scottish Ministers agree with the proposal to scope in water quality for further assessment in the EIA Report for both construction and operational stages, as detailed in Table 18.1 of the Scoping Report.
- 5.8.2 The Scottish Ministers agree with the potential impacts proposed to be scoped in within Section 6.3 of the Scoping Report. Further, the Scottish Ministers acknowledge the Applicant's commitment to consider the Water Framework Directive ("WFD") and potential pollution events within this assessment and direct the Applicant to representation from SEPA which must be fully considered within the EIA Report.
- 5.8.3 The Scottish Ministers highlight the representation from Scottish Water regarding the potential impact of the Proposed Works on existing Scottish Water assets. The Scottish Ministers advise that these comments must be fully considered by the Applicant.

5.9 Terrestrial Biodiversity and Ornithology

- 5.9.1 The Applicant's consideration of the potential impacts of the Proposed Works on terrestrial biodiversity and ornithology is outlined in Section 7 of the Scoping Report. Table 18.1 of the Scoping Report proposes that these impacts are scoped in to the EIA Report for both construction and operational stages. To the extent that the effects relate to the marine licensable activities of the Proposed Works, the Scottish Ministers agree with the proposal to scope in terrestrial biodiversity and ornithology and are broadly content with the potential impacts proposed to be scoped in, as detailed in Section 7.3 of the Scoping Report.
- 5.9.2 The Scottish Ministers however, advise that underwater noise impacts on marine ornithology and temporary loss of foraging habitats on diving waterbirds due to dredging activities must also be scoped in for further assessment in the EIA Report for the construction phase. Additionally, the Scottish Ministers advise that vessel traffic disturbance on waterbirds during the operational phase, specifically within summer months must also be scoped in for further assessment in the EIA Report. The Scottish Ministers direct the Applicant to MSS advice and advise that it is fully addressed within the EIA Report.

- 5.9.3 The Scottish Ministers support the Applicant's proposal to consider the wider context of Loch Ryan to birds through utilising Royal Society of the Protection of Birds and British Trust for Ornithology held data, by collating WeBS survey data and data within Lawson *et al.* 2015. This is in line with the NatureScot pre-scoping advice dated November 2020.
- 5.9.4 Regarding nesting birds, the Scottish Ministers support the proposed breeding bird checks prior to any works beginning, and reminds the Applicant that bird nesting locations may occur in places other than those identified in the Scoping Report.
- 5.9.5 In Section 2.4 of the Scoping Report, the Applicant states that the Proposed Works will take place over a period of 5 years, however, there is little detail provided as to what activities are proposed to be carried out at what time of year. In line with MSS advice, the Scottish Ministers advise that further information must be provided in this respect and that steps are taken to minimise impacts to ornithology during key breeding and wintering periods.
- 5.9.6 The Scottish Ministers disagree with the Applicant's proposal to scope impacts on otter out of assessment in the EIA Report. Instead, the Scottish Ministers advise that impacts on otter are scoped in for further assessment in the EIA Report. This view is supported by NatureScot representation. Additionally, the Scottish Ministers request that the 'vicinity' is clearly defined in the EIA report.

5.10 Transportation

- 5.10.1 The Applicant's consideration of the potential impacts of the Proposed Works on transportation is outlined in Section 8 of the Scoping Report. Table 18.1 of the Scoping Report proposes that these impacts are scoped in to the EIA Report for both construction and operational stages. This Scoping Opinion will only address aspects below MHWS. However, the Scottish Ministers advise that all transport concerns must be addressed to the satisfaction of the consultees in the EIA Report. To the extent that the effects relate to the marine licensable activities of the Proposed Works, the Scottish Ministers agree with the Applicant's proposal to scope transportation in for further assessment in the EIA Report.

5.11 Air Quality and Climate Change

- 5.11.1 The Applicant's consideration of the potential impacts of the Proposed Works on air quality and climate change is outlined in Section 9 of the Scoping Report. Section 9.5 of the Scoping Report summarises the impacts that the Applicant proposes to scope in and out of the EIA Report for both construction and operational stages. To the extent that the effects relate to the marine licensable activities of the Proposed Works, the Scottish Ministers agree with

the proposal to scope in emissions from plant and vehicles and dust levels from construction activities and a climate assessment for both construction and operational phases. In addition, the Scottish Ministers agree with the proposal to scope out the effect of air pollutants emissions at the operational phase.

- 5.11.2 The Scottish Ministers agree with the Applicant's proposal to undertake the climate assessment using the Institute of Environmental Management and Assessment ("IEMA") Assessing Greenhouse Gas ("GHG") Emissions and Evaluating their Significance document, and further advise that the Greenhouse Gas Assessment should be based on a Life Cycle Assessment ("LCA") approach and note that the IEMA GHG Guidance provides further insight on this matter. The Scottish Ministers highlight however that this should include the pre-construction, construction, operation and decommissioning phases, including consideration of the supply chain as well as benefits beyond the life cycle of the Proposed Works, for both the construction and operational stages of the Proposed Works. The Scottish Ministers also agree that the effect of air pollutants during the operational stage can be scoped out of the EIA.

5.12 Noise and Vibration

- 5.12.1 The Applicant's consideration of the potential impacts of the Proposed Works on noise and vibration is outlined in Section 10 of the Scoping Report. Table 18.1 of the Scoping Report proposes that these impacts are scoped in to the EIA Report for both construction activities (including dredging) and operational stages (including increased vessel traffic). To the extent that the effects relate to the marine licensable activities of the Proposed Works, the Scottish Ministers agree with the Applicant's proposal to scope noise and vibration in for further assessment in the EIA Report.
- 5.12.2 The Scottish Ministers advise that the MSS advice in relation to noise impacts on fish, marine mammals and birds must be implemented in full in the relevant receptor chapters of the EIA Report. The Applicant is referred to chapters 5.6, 5.7 and 5.9 of this Scoping Opinion respectively for further clarity.

5.13 Soils, Geology and Contamination

- 5.13.1 The Applicant has assessed the potential impacts of the Proposed Works on soil, geology and contamination in Section 11.3 of the Scoping Report and proposes to scope in the impact on ground contamination and an assessment of the suitability of dredged sediments to be re-used for land reclamation, for further assessment in the EIA Report. Table 18.1 of the Scoping Report proposes that these impacts are scoped in to the EIA Report for the construction stage and scoped out of the EIA Report for the operational stage.

The Scottish Ministers are content that to the extent that the effects relate to the marine licensable activities of the Proposed Works, then the identified impacts are scoped in for further assessment within the EIA Report for the construction stage only.

- 5.13.2 The Scottish Ministers refer the Applicant to representation from SEPA and advise that it is fully addressed within the EIA Report with regards to the aspect of dredging, 'Modelling Discharges to Coastal and Transitional Waters' and pollution preventing and environmental management.

5.14 Cultural Heritage

- 5.14.1 The Applicant's consideration of the potential impacts of the Proposed Works on cultural heritage is outlined in Section 12 of the Scoping Report. Consideration of the potential effects proposed to be scoped in and out of the EIA Report is provided in Section 12.3 and Table 18.1. The Scottish Ministers are content that to the extent that the effects relate to the marine licensable activities of the Proposed Works, then the identified impacts are scoped in for further assessment within the EIA Report. The Scottish Ministers are also content with the Applicant's proposal to scope out the change in setting during the construction phase due to the short-lived and transitory nature of these changes.
- 5.14.2 The Scottish Ministers direct the Applicant to the HES representation and advise that it is fully addressed within the EIA Report including consideration of potential mitigation measures. The Scottish Ministers also highlight the recommendation from HES to seek advice from Dumfries and Galloway Council's archaeology and conservation service and note that Dumfries and Galloway Council did not provide a response to consultation. Therefore, this Scoping Opinion only covers the interest identified by HES and cannot comment on any interests that Dumfries and Galloway Council may have.

5.15 Landscape and Visual

- 5.15.1 The Applicant considers the impact of the Proposed Works on local landscape character and visual receptors in Section 13 of the Scoping Report. Section 13.3 details the potential effects and Table 18.1 considers that landscape and visual impacts are scoped in to the EIA Report for both construction and operational stages of the Proposed Works.
- 5.15.2 The Scottish Ministers are content that to the extent that the effects relate to the marine licensable activities of the Proposed Works, then the identified impacts are scoped in for further assessment within the EIA Report. In addition, the Scottish Ministers highlight representation from NatureScot

regarding the lighting associated with the Proposed Works, and advised this must be considered when assessing impacts on both land and seascape.

5.16 Population, Human Health and Socio Economics

- 5.16.1 The Applicant's consideration of the potential impacts of the Proposed Works on population, human health and socio economics is outlined in Section 14 of the Scoping Report and the potential effects to be scoped out of further assessment in the EIA Report are outlined in Section 14.3. The Applicant proposes to scope population and human health out of the EIA Report for both construction and operational stages, as detailed in Table 18.1 of the Scoping Report, on the basis that the potential impacts on population and human health will be assessed within other EIA chapters, specifically those focusing on air quality, noise and vibration, transportation, water quality and contamination. To the extent that the effects relate to marine licensable activities of the Proposed Works the Scottish Ministers are content that population and human health can be scoped out of the EIA Report as a standalone receptor.
- 5.16.2 With regards to socio economic impacts, the Applicant details the potential socio economic effects of the Proposed Works on the local area at Section 14.3.2 of the Scoping Report and proposes to scope these out of the EIA Report. The Scottish Ministers, however, do not agree with this approach and direct the Applicant to advice from the MAU, which advises that the Applicant has failed to justify reasons for scoping out impacts on this receptor and therefore recommends that a Socio-Economic Impact Assessment ('SEIA') considering both potentially positive and negative effects of the Proposed Works throughout all its life stages be scoped into the EIA Report. The Scottish Ministers agree with MAU advice and advise that socio economic impacts are scoped in for further assessment in the EIA Report for both construction and operational stages and a SEIA must be undertaken in line with MAU advice. The Scottish Ministers further direct the Applicant to MAU advice and advise that it must be fully addressed within the EIA Report, including evidence of stakeholder engagement.

5.17 Major Disasters and Accidents

- 5.17.1 Section 15 of the Scoping Report, titled 'Major Accidents and Disasters,' contains the Applicants consideration of the potential impacts of the Proposed Works from accidental discharge of dangerous substances and navigation of safety. Section 15.3 details that the potential impacts attributable to accidental discharge of substances on the natural environment, local land uses and human health during the construction and operational stages of the Proposed Works will be addressed elsewhere in the EIA Report through specialist

chapters on terrestrial and marine biodiversity, water quality and soils, geology and contamination . Section 15.3 also considers the impact of the presence, movement and navigation of vessels during both the construction and operational phases. However, the Scottish Ministers advise that navigation and safety and risk of major accidents and/or disasters must be addressed as two separate receptors in the EIA Report.

- 5.17.2 The EIA Report must include a description and assessment of the likely significant effects deriving from the vulnerability of the Proposed Works to major accidents and disasters. The Applicant should make use of appropriate guidance, including the recent Institute of Environmental Management and Assessment (“IEMA”) ‘Major Accidents and Disasters in EIA: A Primer’, to better understand the likelihood of an occurrence and the Proposed Works susceptibility to potential major accidents and hazards. The description and assessment should consider the vulnerability of the Proposed Works to a potential accident or disaster and also the Proposed Works potential to cause an accident or disaster.
- 5.17.3 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this. This should include the review of the identified hazards from your baseline assessment, the level of risk attributed to the identified hazards and the relevant receptors to be considered.
- 5.17.4 The assessment must detail how significance has been defined and detail the inclusions and exclusions within the assessment. Any mitigation measures that will be employed to prevent, reduce or control significant effects should be included in the EIA Report.
- 5.17.5 The Scottish Ministers do not agree with the proposal to scope navigation and safety out and advise that it must be scoped in for further assessment in the EIA Report for both construction and operational phases. The impacts on marine users from the construction works, revised layout design and new breakwaters must be assessed through the inclusion of an appropriate Navigation and Risk Assessment (“NRA”) in accordance with the Marine Safety Management System under the Port Marine Safety Code and its Guide to Good Practice. The Scottish Ministers direct the Applicant to representation from the MCA which advise that it is fully addressed in the EIA Report.
- 5.17.6 The Scottish Ministers acknowledge representation from the RYA which advises that recreational boating can be scoped out from further assessment within the EIA Report in relation to population, human health and socio-economics. The Scottish Ministers agree with representation from RYA,

however advise that recreational boating must be included in the NRA and is therefore scoped in for further assessment in the EIA Report in relation to navigation and safety. In addition, the Scottish Ministers acknowledge advice from MSS in relation to commercial fisheries , however advise that commercial fisheries should still be included in assessing impacts on marine users within the NRA. For the avoidance of doubt, the Scottish Ministers advise that recreational boating and commercial fisheries must be included within the NRA.

5.18 Material Assets and Land Use

- 5.18.1 The Applicant's consideration of the potential impacts of the Proposed Works on material assets and land use during the different phases of the Proposed Works is outlined in Section 16 of the Scoping Report. The Applicant has considered material assets under two categories; built assets and natural assets. Within Table 18.1 of the Scoping Report the Applicant proposes to scope out land use and material assets from the EIA Report for both construction and operational stages.
- 5.18.2 Section 16.3.2 details that impacts from the Proposed Works on certain material assets, such as features of the historic environment and the body of water within the marine area, will be considered under separate receptor chapters, namely cultural heritage, coastal processes, water quality and coastal flooding. The Scottish Ministers are content that to the extent that the effects relate to the marine licensable activities withing the Proposed Works, then the identified impacts can be scoped out from further assessment within the EIA Report in respect of both the construction and operational phases, provided the Applicant addresses consultee representation of the potential impact on the above receptors within the relevant chapters of the EIA Report.

5.19 Cumulative Impacts

- 5.19.1 The Applicant's approach to the assessment of potential cumulative impacts of the Proposed Works is outlined in Section 17 of the Scoping Report. The Applicant proposes to include consideration of cumulative impacts in the EIA Report when addressing each of the relevant receptors rather than include a standalone chapter on cumulative assessments. The Scottish Ministers are in agreement with this proposal.
- 5.19.2 The Scottish Ministers highlight representation from SEPA and MAU regarding cumulative assessment and advise that the Applicant must consider these comments when addressing the relevant receptor chapters.

6. Application and EIA Report

6.1 General

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

7. Multi-Stage Consent and Regulatory Approval

7.1 Background

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

Ben Walker

February 2023

Authorised by the Scottish Ministers to sign in that behalf.

Appendix I: Consultation Responses & Advice

Please refer to separate document provided alongside the Scoping Opinion

Appendix II: Gap Analysis

Applicant to complete:

Consultee	No.	Point for Inclusion	EIA Report Section	Justification
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