Gavia Environmental Ltd
Auld Bond Road
Perth
PH1 3FX

Tel: 01738 718 685
E-mail: molly.turner@gavia-environmental.co.uk
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NatureScot
Cameron House
Albany Street
Oban
Argyll
PA34 4AE

Re: P23099 Eilean Loch Oscair Development: Review of Construction Notes for Harbour Seal Mitigation

Dear Whom it May Concern,

Introduction

Gavia Environmental Ltd. (Gavia) was comissioned by The Estates Office ('the Client') to provide a review of the construction notes to be submitted to planning for a proposed development on Eilean Loch Oscair, Isle of Lismore, and recommend mitigation measures for the consideration of the harbour seal population in the neighbouring Eileanan agus Sgeiran Lios mor Special Area of Conservation (SAC). The information provided within this report will be used to support planning application 22/02100/PP.

Background Information

The proposed Site lies is located on Eilean Loch Oscair, c. 640m south-west of Port Aolnais in the north-west of the Isle of Lismore, Argyll and Bute, approxiamte National Grid Reference NM 86273 45433. The proposed development incldues the erection of short-term holiday let accomodation, outbuilding, pontoon and installation of a small sewage treatment plant.

The Site is c. 250m north-east of the island of Dubh Sgeir and the Isle of Oronsay, both of which are located within the Eileanan agus Sgeiran Lios mor SAC, designated for its population of harbour seals *Phoca vitulina* (see Appendix A for legislation). Following consultation with NatureScot (Ref: CDM169632; dated 14th February 2023) it has been recommended that further information regarding constuction is supplied in order to determine whether the proposal is likely to have a significant effect on the harbour seal qualifying interest of the SAC. The following information should be obtained as recommended by NatureScot:

"Further information regarding construction, i.e. timescales, anticipated duration of activity, vessel activity (bringing material to the island), an indiciaton of in-air noise levels from drilling, digging, mahcinery, equipment etc."

Mitigation Measures

Based on the the initial construction notes provided by the Client's architect, Moving Still Architecture (see Appendix B), and NatureScot's consultation response, the following outline mitigation measures

should be taken into consideration when producing the final construction plan in order to minimise disturbance to the local harbour seal population and qualifying feature of the Eileanan agus Sgeiran Lios mor SAC.

It is recommended that all construction acitivites occur outwith the pupping season between June and July (inclusive) and the moult period in August. During the months of June-July females will return to haul-out sites to give birth to pups, and their annual molt will occur between the end of July and mid-August, during which seals need to spend the majority of time ashore.

Piling Mitigation Measures

Piling and drilling activities or activities that involve a high level of in-air noise should only to be undertaken between 8am and 5pm and duration of these activites should be minimised where possible.

A pre-piling watch for marine mammals should be undertaken following the standard JNCC 'Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise' (JNCC Protocol)[1]:

- For a period of at least 30 minutes prior to piling
- To be undertaken by fully qualified and experienced Marine Mammal Observer (MMO)
- Pre-piling monitoring zone of 250m should be monitored;
- If marine mammals are detected within the monitoring zone, the commencement of piling should be delayed until the marine mammal is outside of the monitoring zone for 20 minutes, and the full 30 minute pre-piling watch has been completed.

Soft-start protocol

Each piling event shouldl commence with a hammer energy at as low as is reasonably practical, followed by a gradual ramp-up to full hammer energy.

If a marine mammal enters the monitoring zone during the soft-start and ramp-up procedure, then, if possible, the piling energy will not increase until the marine mammal exits the monitoring zone. The soft start procedure is only required where there has been no piling for the preceding 10 minutes (i.e. if piling continues at a new location within 10 minutes of a pile being installed, as is expected, then this soft-start and ramp-up protocol would not be required).

Breaks in piling

If piling activity is stopped for more than 10 minutes, the MMO will a check within the monitoring zone for any marine mammal presence before piling can recommence. If a marine mammal is present within the monitoring zone, the full mitigation procedure should be undertaken prior to piling recommencing.

In the event that piling activity is stopped for more than 10 minutes, the pre-piling watch, soft-start and ramp-up procedure (if possible) is conducted prior to piling re-commencing.

Vessels Management Measures

The use of vessels will be required to transport construction equipment and materials to the island and therefore the following good practice vessel measures should be taken into consideration during transportation:

- Within 300m of a marine mammal vessels will maintain a steady speed, and direction, at all times, to allow any marine mammal to predict where the vessel may be headed, and to

[1] Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise, 2010 https://data.jncc.gov.uk/data/31662b6a-19ed-4918-9fab-8fbcff752046/JNCC-CNCB-Piling-protocol-August2010-Web.pdf

move out of the way. Vessels should use the defined anchorage area and shipping channel at all times.

- Vessels should not approach within 600m of known seal haul-out sites.
- Keep a well-maintained engine and propellor to minimise underwater noise.
- Vessels should turn off 'noisy' equipment when close to marine mammals (e.g. engines, propellors (within the anchorage area), and echo sounders) if possible.

It is considered that the implementation of the mitigation measures descirbed above will aid in the reduction of any potential disturbance to the local harbour seal population as a result of the proposed development.

I hope that you find the information within this report acceptable. Please do not hesitate to contact me if you require further information.

Yours sincerely,

Molly Turner
Senior Ecological Consultant
Gavia Environmental Ltd

Appendix A Legislation

Under the Marine (Scotland) Act 2010 is is and offence to intentionally or recklessly kill, injure or take a seal at any time of the year except:

- To alleviate suffering;
- Where Marine Scotland has issued a licence to do so.

The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) also prohibits certain methods of catching or killing seals.

It is also an offence to intentionally or recklessly harass seals at significant haul-out sites under the Protection of Seals (Designation of Haul-out Sites) (Scotland) Order 2014.

Appendix B Construction Notes

*"**Timescales** - It's likely a contractor would be required to really firm this up, but given the extent of prefabrication / lightweight construction which is anticipated, I suspect the time on site would be relatively short - perhaps two / three months - but that's just a very rough guess, and would depend on the final level of prefabrication that was achieved within the detailed design.*

***Logistics** – I've spoken with Ferguson Shipping (they have experience in this area - both technically and geographically and have carried out similar projects). We didn't confirm the specification (size) of the vessel that would be required, but did confirm that the principle of delivery of large prefabricated elements to the site was feasible.*

***Piling / Drilling** - This would be kept to a minimum, and would be much less of an issue than on a conventional build of similar scale. This is a result of the proposed use of screw piles, which would remove the need for the kind of mass excavations which would be required for conventional strip or slab foundations. This would apply across the full extent of the proposed building. The exception would be the treatment plant (Klargester) which is anticipated as the means of handling foul drainage; this would have to be located in a hole - which would require digging of the ground - but this would likely be limited to a day or two in working time.*

***Noise / Construction Method** - The design is proposed on the basis of significant levels of prefabrication - effectively meaning that pre-finished volumes would be delivered to site, leaving a minimum of time (and noise) required on site to finish junctions in external cladding, and form the roof membrane etc on site. As noted above, these are relatively small amounts of work (including less need for larger, noisy equipment) to be carried out on site when compared to a conventionally designed building. The principles behind the architectural design include a desire to minimise any impact on the landscape and wildlife on the island."*