



Annexation iii

Response to Further Information requested by Scottish Ministers
dated 23 August 2017

Stuart Hartil
Scottish Government Community Land Team
D Spur
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Dear Mr Hartil

**The Executors of the late Mrs J M Howard
Mr H J Howard
Isle of Ulva, associated islands and Ulva Ferry, Isle of Mull, Argyll ("Ulva")
Notice by The Scottish Ministers Under Section 37(5) of the Land Reform (Scotland) Act 2003**

Thank you for your letter of 10 August requesting further clarification on points raised by our letter of 7 August. Please find responses to your queries below.

Q1

A small part of Ulva has been transferred to Mr Howard, namely the Ferry Islands and the Geasgill Islands. The formal date of entry (date of transfer) was 30 June 2017, with the application being submitted to the Registers of Scotland on 7 July 2017 (for completeness the application has been allocated the provisional Title Number of ARG24402).

A copy of the signed Disposition and digital viewing plans showing these areas are enclosed for reference. The remainder of Ulva (under exception of Ardalum, which has been in the ownership of Mr Howard as an individual since 1990) is held by Mr Howard and Mr Robin Morton as executors of the late Mrs Jean Howard. Please note that the third executor, Christopher Parnell, died on 11 December 2015.

Q2

There were no such conditions in Mrs Howard's will

Q3

Consideration was first given to a sale of Ulva by Mr Howard and myself as managing agent in February 2015. Although no final decision to sell was taken at that time, it was determined that any outstanding land management matters should be tidied up. To that end, and as a first step it was agreed that attempts should be made to formalise the informal arrangement for use of the Pier with the Mull Fishermen's Association. A copy of a letter to Steven Paterson of the Mull Fishermen's Association of 25th February 2015 is enclosed, for reference.

Subsequently, a programme of works was finalised with Mr Howard with the intention of marketing Ulva in the summer of 2016. A general tidy up of Ulva was undertaken and photography commissioned for sales particulars. A copy of the email communication with the photographer dated 8th April 2015 and 16th September 2015 and relative invoice dated 5th October 2015 are enclosed, for reference. The photographer made no secret of his presence on Ulva where he stayed for two nights.

Bell Ingram was formally instructed in October 2015 to market Ulva for sale and a copy of their Quality Plan is attached for reference. A sales brochure was then prepared and the extent of the subjects to be sold agreed with Mr Howard, noting that he wished to retain the Ferry Islands and Geasgill Islands for sentimental reasons.

Mr Howard's wife, Tessa Howard, became seriously ill in 2016 and as a consequence, the plans to sell Ulva were put on hold. Regrettably, Mrs Howard died in January 2017.

The plans to sell Ulva were revived following Tessa Howard's death, and Morton Fraser were formally instructed to act as solicitors in the proposed sale.

A programme of further works of landscaping and general tidying were commissioned from March 2017 onwards, with a renewed effort to formalise the Pier Users Agreement (referred to above) and establish a formal lease of the Boathouse Restaurant. A landing craft was also chartered to assist with waste disposal off the island.

Angus Cheape of Langley Taylor, consultants to Knight Frank and a well known Muileach visited the island on 9th May to discuss the sale. Ran Morgan and Tom Stewart-Moore of Knight Frank subsequently visited Ulva during which they were formally instructed as joint selling agents. Bell Ingram's agency team also visited the island in May with the photographer Richard Kellett, who is well known on Mull for property sales brochure photography.

An initial email was received from Colin Morrison, the Chair of The Community Body on 22 May 2017 to which Paul Nicoll of Bell Ingram responded on 25 May, inviting the Community Body to a meeting. The Community Body suggested a meeting on 5 June which was agreed and Ran Morgan and Paul Nicoll met with representatives of the Community Body on that evening. Subsequent to the meeting a follow up email was sent by Paul Nicoll on 9 June to Colin Morrison, advising that the owner and the agents were happy to continue to negotiate with the Community Body. The Community Body made no response.

On the 12 June, Ran Morgan met with an agent acting for a potential purchaser. Ulva was advertised by Bell Ingram at their stand at the Scottish Game Fair on the 30 June. On 4 July Tom Stewart-Moore was approached privately by a buying agent to organise a viewing, which took place on 6 July and that individual subsequently noted formal interest and requested a further viewing.

Articles covering Ulva appeared in The Sunday Times on the 9 July, the Times on 10 July and the Daily Telegraph on 14 July. Ulva was specifically advertised for sale on 12 July in Country Life. On the same day, it was launched on Bell Ingram and Knight Frank's own websites, as well as appearing on a number of property portals.

A further potential purchaser viewed on 16 July and confirmed serious interest in the property and asked to be kept informed.

Ulva was further advertised on 20 July in The Field magazine.

On the 21 July the letter from The Scottish Ministers intimating the Community Body's application was received. The advertisement which was due to be placed in the Oban Times was cancelled, as were four individual arranged viewings. A significant number of enquiries regarding Ulva and from those specifically wishing to view for which arrangements had not yet been made, were placed on hold.

Q4

It could not have been reasonably anticipated by Mr Howard that a community body based in Dervaig would seek to register an interest. The context for our statement was in relation to the immediate community on Ulva, being Mr Howard's tenants on the island itself.

Mrs Jean Howard died on 13 February 2014 and the funeral was a community event. An obituary appeared in the Ulva School Community newsletter reporting her death, with the observation that Ulva would be much the poorer for her passing, and recognising that her death marked a turning point in the history of Ulva. This might suggest that following a respectful period for mourning, an opportune moment for an approach from a community body had arrived. No approach was made.

At least two articles appeared in the national press in January 2015, reporting the terms of Mrs. Howard's will and providing background to her finances and the management of Ulva. These articles were widely read and we recall also reported in the local Oban Times, but again no approach was made.

Over the years, both Mr Howard and Paul Nicoll as managing agent, have fostered an open dialogue with the local community and the tenants on Ulva, who have always made their views known. At no time prior to the application in question did the community express any interest or enquire as to whether Ulva may be available for sale, despite it having been made quite clear on numerous occasions through such dialogues that the finances of the operations on Ulva were unsustainable.

Our response to Q3 is also referred to for its terms under this response to Q4, insofar as the steps which were taken in relation to the sale would have come to the notice of the community and were clearly indicative that Ulva would in due course be marketed for sale.

Q5

Our response to Q1 refers.

Q6

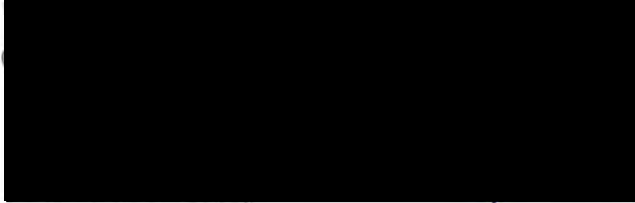
Parts of the foreshore and bed of the sound of Ulva forming the area in question at Ulva Ferry was acquired by the Rt. Honourable Edith Mary Palmer from the Crown Estate Commissioners by virtue of a Feu Disposition recorded 31 March 1978. A copy of this deed is enclosed. The plan is of poor quality and the original has been lost but the area of ground is narrated within this deed as being the area "occupied by the existing pier or jetty", which is what is represented on the plan copied in our response to you. The late Mrs Howard acquired ownership of this area through the 1985 Disposition in her favour, described at subjects (FIFTH) and title is held by Mr Howard and Mr Robin Morton as aforementioned.

Q7

The Standard Security is a "third party security". Ulva was previously farmed in partnership by Ulva Farm Partnership and borrowing facilities were granted to them by Clydesdale Bank plc. As the heritable title to Ulva was held by Mrs Jean Howard the partnership had no title or ability to grant a Standard Security in security of those facilities. The Standard Security was therefore granted by Mrs Howard (in her capacity as an individual, rather than as partner) in security of the obligations incumbent upon the partnership.

Please note that as a consequence of the recent death of Mr Howard's wife, the partnership terminated. Clydesdale Bank are fully aware of the circumstances. The intention is to repay the borrowings that may be due from the sale proceeds of Ulva so that the Security can be discharged.

If I can provide any further information or clarification please do not hesitate to contact me.



Paul Nicoll MRICS
Consultant

Direct Line: 01631 567793
Paul.Nicoll@bellingham.co.uk

DISPOSITION

by

HENRY JAMES HOWARD AND
ROBIN JAMES SCOTT MORTON, as
Executors Nominate

in favour of

HENRY JAMES HOWARD

Subjects: Cluster of islands extending
to 46.64 ha and forming part of the
Isle of Ulva, Isle of Mull, Argyll

2017
MB6/JHR/HO648X002

MORTON FRASER 
LAWYERS

We, HENRY JAMES HOWARD, residing at Ulva House, Isle of Ulva, Isle of Mull, Argyll, PA73 6LZ, and ROBIN JAMES SCOTT MORTON, Writer to the Signet, Quartermile Two, 2 Lister Square, Edinburgh, EH3 9GL, as Executors nominate of the late The Honourable Mrs Jean Margaret Howard, late of The Old Manse, Ulva Ferry, Isle of Ulva, Isle of Mull, Argyll, PA73 6LZ, conform to the Certificate of Confirmation issued by the Commissariat of North Strathclyde, at Dumbarton, on 27 November 2014, and as such Executors nominate uninfert proprietors of the subjects and others hereinafter disposed IN CONSIDERATION of CERTAIN GOOD AND ONEROUS CAUSES we DO HEREBY DISPONE to and in favour of the said Henry James Howard, as an individual, and to his executors, assignees and disponees whomsoever heritably and irredeemably ALL and WHOLE those cluster of islands lying generally to the North and South of the Isle of Ulva, in the County of Argyll and extending in total to 46.65 hectares or thereby, which cluster of islands are shown delineated in red on the plan number 1 and the plan number 2 annexed and executed as relative hereto, which subjects form PART and PORTION of the Lands and Islands of Ulva and Ormaig and the Estate of Ulva in the County of Argyll being more particularly described in the Disposition by James Maclean, the Right Honourable Christopher Patrick Parnell, Baron Congleton, and Sir Hugo Baldwin Huntington-Whiteley, as trustees of the late The Honourable Edith Mary Palmer, Lady Congleton in favour of the said The Honourable Mrs Jean Margaret Howard dated 18, 23, and 26 February and recorded in the Division of the General Register of Sasines applicable to the County of Argyll 1 March, both months 1985; TOGETHER WITH (One) the heritable fittings and fixtures in and upon the subjects so far as belonging to us as Executors foresaid; (Two) the whole rights, common, mutual and otherwise; (Three) the parts, privileges and pertinents, (Four) the foreshore lying *ex adverso* the subjects hereby disposed, (Five) the right to the salmon and other fishings pertaining to the subjects hereby disposed, shown delineated in red on the plan number 1 and the plan number 2 annexed and executed as relative hereto and (Six) our whole right, title and interest as Executors foresaid, present and future in and to the said subjects; WITH ENTRY and actual occupation as at the last date of signing hereof; Which subjects were last vested in the said The Honourable Mrs Jean Margaret Howard and whose title thereto is recorded in the said Division of the General Register of Sasines 1 March 1985 and from whom we acquired right as Executors foresaid by virtue of (1) the said Confirmation in favour of the Executors nominate of the said The Honourable Mrs Jean Margaret Howard, being us and Christopher Patrick Parnell, The Lord Congleton, late of West End Cottage,

Ebbesbourne Wake, Salisbury, SP5 5JW, favour, and (2) the death of the said Christopher Patrick Parnell, The Lord Congleton on 11 December 2015 without any additional Executor being assumed; And we grant warrandice from our own facts and deeds only but bind the Executry estate under our charge in absolute warrandice: IN WITNESS WHEREOF these presents together with the plans annexed are executed by us as follows:-

Place ISLE OF ULVA PAIS 602

Date 25/6/17

WITNESS:

Signature:

Full Name:

Address:



Henry James Howard

Place EDINBURGH

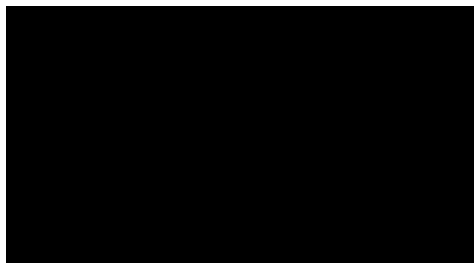
Date 30/6/17

WITNESS:

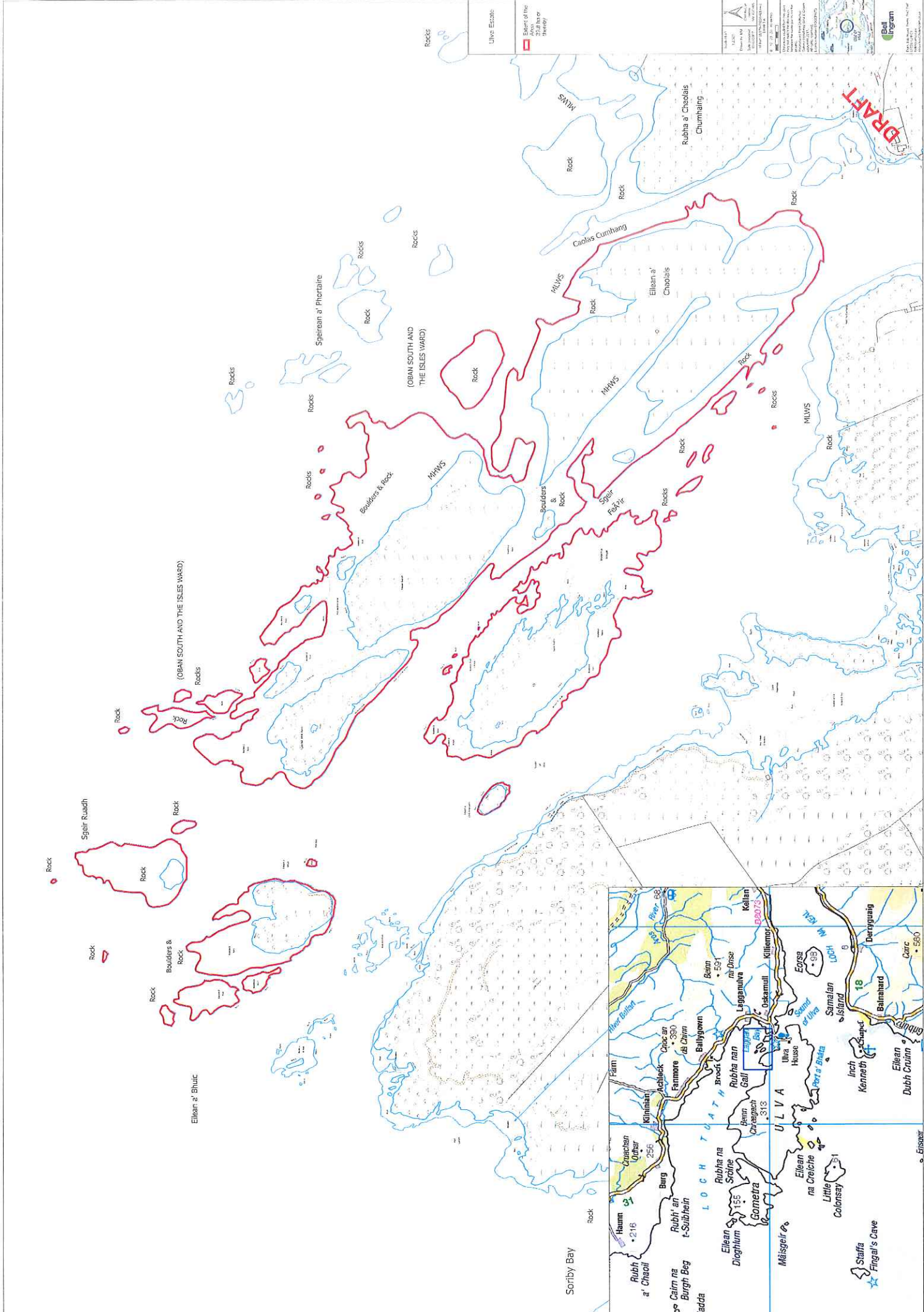
Signature:

Full Name:

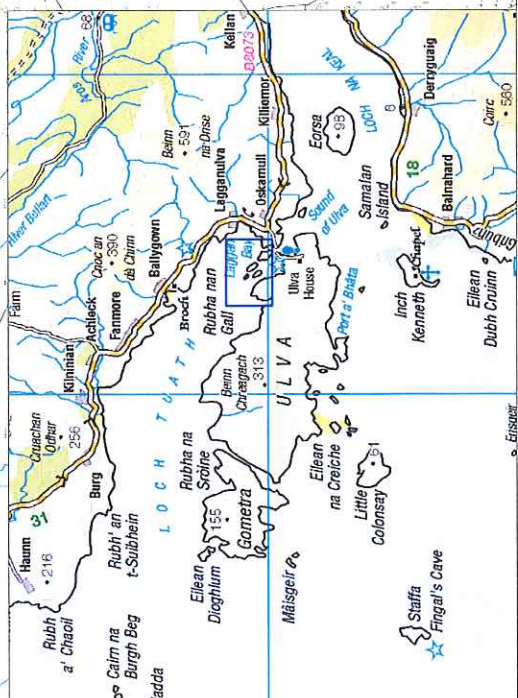
Address:



Robin James Scott Morton



DRAFT



(OBAN SOUTH AND THE ISLES WARD)

(OBAN SOUTH AND THE ISLES WARD)

Eilean a' Bhuit

Sorby Bay

Staffa
Fingal's Cove

Eniscart

Dubh Cruinn

Eilean

Bainnhard

Derryquig

Carr

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LOCH

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WE, THE CROWN ESTATE COMMISSIONERS acting in exercise of the powers of the Crown Estate Act, 1961 on behalf of the Queen's Most Excellent Majesty (who acting and on behalf as aforesaid are hereinafter called "the said Commissioners") in consideration of the sum of ONE HUNDRED POUNDS Sterling paid by THE RIGHT HONOURABLE EDITH MARY PALMER, LADY CONGLETON, formerly of Minstead Lodge, Lyndhurst, Hampshire and now of Isle of Ulva, Ulva Ferry, Mull in the County of Argyll, of which we the said Commissioners hereby acknowledge receipt and also in consideration of the other prestations hereinafter specified do hereby GIVE, GRANT and in FEU FARM DISPONE to and in favour of the said The Right Honourable Edith Mary Palmer, Lady Congleton, (hereinafter called "the disponsee") and her executors and assignees whomsoever, heritably and irredeemably, (FIRST) ALL and WHOLE that piece of land being part of the foreshore and bed of the Sound of Ulva below high water mark of Ordinary Spring Tides otherwise known as Mean High Water Springs situated at the Island of Ulva in the County of Argyll occupied by the existing pier or jetty, and (SECOND) ALL and WHOLE that piece of land being part of the foreshore and bed of the Sound of Ulva below high water mark of ordinary spring tides otherwise known as Mean High Water Springs, situated at Ulva Ferry on the Island of Mull in the County of Argyll each occupied by the existing pier or jetty which pieces of land (hereinafter called "the subjects hereby disposed") are delineated and coloured red and marked "Jetties" on the plan annexed and signed as relative hereto and which expression "the subjects hereby disposed" shall (except where the context otherwise requires) be held to include any buildings or works erected thereon; Excepting and Reserving to Her Majesty and Her Successors and for all persons by Her or Their permission and for all members of the public, full and free right to exercise all rights to which /

REGISTERS OF SCOTLAND.
GENERAL REGISTER OF SASINES.
COUNTY OF ARGYLL.
Book 1503 Folio 25
Presented and Recorded on 31st March 1978

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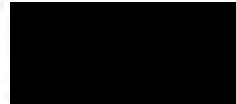
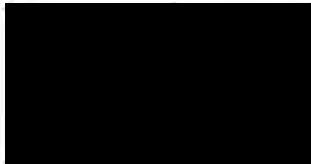
which they may be entitled and all privileges which they may enjoy from and over the subjects hereby disposed but so that the erections or works placed on the subjects hereby disposed shall not be prejudiced or interfered with by this exception and reservation; And also excepting and reserving to Her Majesty and Her Foresaids the whole mines, metals, minerals and fossils in so far as belonging to Her and Them within or under the subjects hereby disposed with full power and liberty to Her Majesty and Her Foresaids or any persons authorised by Her or Them to search for, work, win, raise, calcine and carry away the said mines, and others and to do everything necessary for all or any of these purposes but upon payment always to the disponee or her foresaids of all loss or damage which they may sustain from the exercise of the said power, as the said loss or damage shall be ascertained by arbitration; Provided also and it is hereby agreed and declared (a) that the disponee or her foresaids shall not alter or extend the said piers constructed on the subjects hereby disposed without the consent and approval in writing of us the said Commissioners or our foresaids having been first obtained; and (b) that the disponee or her foresaids shall keep the subjects hereby disposed in a good and substantial state of repair, and in proper condition, all to the satisfaction of us the said Commissioners or our foresaids; WITH ENTRY as at the date hereof; TO BE HOLDEN the subjects hereby disposed of and under Her Majesty and Her Foresaids as immediate Superiors thereof in feu farm, fee and heritage forever; And we the said Commissioners grant warrandice from our own facts and deeds only; And we the said Commissioners certify that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds Fifteen Thousand /

AR1503

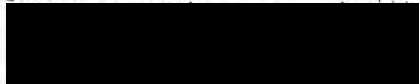
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PAGE THIRD.

Thousand Pounds; And we the said Commissioners consent to registration hereof for preservation: IN WITNESS WHEREOF these presents consisting of this and the two preceding pages are, together with the Plan annexed hereto under the declaration that the word "Ulva" where it occurs in the seventeenth line from the top of Page First hereof is typed on erasure before subscription, in terms of Act of Parliament signed by Denis Thomas Hunt authorised by us the said Crown Estate Commissioners to act on behalf of a Secretary of the Office of us the said Commissioners at Edinburgh on the Sixteenth day of March Nineteen hundred and Seventy-eight before these witnesses Dorothy Young and Ian Gibson Kerr, both Civil Servants in the Crown Estate Office, Edinburgh.



REGISTER on behalf of the within-named THE RIGHT HONOURABLE EDITH MARY PALMER, LADY CONGLETON, in the Register of the County of ARGYLL.



Agents.

AR1503