

Mr R Gunn
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Date: 26 November 2020

Dear Mr R Gunn,

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

I refer to your letter dated 24 September 2020 regarding marine licence numbers 07068/20/0, 07069/20/0, which authorise the dredging and deposit activity and construction (respectively) associated with the development of the East Quay, Nigg Energy Park by Global Energy Nigg Ltd. Your letter requested a variation to the marine licences to extend the duration of the works and noted that the length of the proposed quay may be reduced (collectively referred to as “the Proposed Works”).

The Scottish Ministers consider the Proposed Works to fall under paragraph 13 of schedule 2 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the 2017 MW Regulations”), with the Proposed Works being carried out in a sensitive area, as defined by the 2017 MW Regulations. Consequently, the Scottish Ministers are obliged to adopt a screening opinion as to whether the Proposed Works are, or are not, an Environmental Impact Assessment (“EIA”) project under the 2017 MW Regulations.

Under regulation 10(5) of the 2017 MW Regulations, the Scottish Ministers have consulted with NatureScot (formerly Scottish Natural Heritage (“SNH”)). A copy of their consultation response is enclosed for your review (at Appendix 1).

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

Characteristics of works

The Proposed Works feature the following key changes:

- To change the start date from July 2020 to January 2021
- To change the duration of the licence from 12 to 24 calendar months, ending 31 December 2022.
- Potential to reduce the length of the quay from 250m to 225m, however this is not confirmed.

The need to change the commencement date and extend the duration of the licence has arisen primarily due to delayed pre-construction tender process in light of the COVID 19 pandemic.

The Proposed Works will lead to the following changes which have the potential to impact the environment beyond what was originally assessed:

- Increased timeframe within which works including dredging, vessel movements to and from the dredge spoil deposit area and construction including pilling will take place.

The increased timeframe of the Proposed Works could result in vessel movement occurring over a longer time frame having an impact on the cumulative vessel movement in the Cromarty Firth as it is already utilised by a diverse range of marine traffic. However, the total number of vessel movements will not increase. Cumulative vessel movement had been identified in the decision notice for a marine licence (dated 21 July 2020 as potentially having a negative impact on the Moray Firth SAC and the Dornoch Firth and Morrich More SAC. However there is a requirement to follow a Marine Mammal Mitigation Plan (“MMMP”) which includes consideration of vessel movements. Additionally mitigation against any adverse impacts from the vessel movements will be included in a Construction Environmental Management plan (“CEMP”) once a contractor is appointed. The CEMP must be submitted and approved by the regulatory authority prior to works beginning.

Impact on ornithology interests during the construction phase could occur over an increased duration, however this impact will be mitigated through a series of practical measures including a nesting bird check and consideration to timing of certain aspects of the works to avoid significant effects on birds during the construction phase to be included in the CEMP.

The Scottish ministers are of the opinion that the characteristics of the Proposed Works do not alter the significance of the environmental effects which have previously been assessed and do not introduce any additional significant environmental effects.

Location of the works

The Proposed Works are located adjacent to the established harbour at Nigg and at the nearby authorised Sutors dredge spoil deposit area. The proposed works are adjacent to the Moray Firth Special Area of Conservation (“SAC”) and adjacent to the Dornoch Firth and Morrich More SAC, while the spoil deposit area is within the Moray Firth SAC

SNH previously advised in August 2019 to the Highland Council that the works associated with the development of the East Quay, Nigg were likely to have a significant effect on the bottlenose dolphin protected feature of the Moray Firth SAC, and the harbour seal protected feature of the Dornoch Firth and Morrich More SAC.

In their response dated 28 October 2020 NatureScot advised that, subject to adherence to the existing licence conditions, they had no further comment to make in regard to the Proposed Works.

Based on the information above and the advice received, the Scottish Ministers are of the opinion that, providing the existing licence conditions are adhered to, the Proposed Works do not alter the significance of any of the environmental effects which have previously been assessed, and do not introduce any additional significant environmental effects, in relation to the location of the Proposed Works.

Characteristics of the potential impact

The Scottish Ministers are content that based on the information and advice provided, as detailed above, the Proposed Works do not alter the significance of any of the environmental effects which have previously been assessed, and do not introduce any additional significant environmental effects, in relation to the potential impact of the Proposed Works.

Conclusion

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

If you further increase, alter or extend the works associated with the Nigg East Quay Development, you are advised to contact Marine Scotland - Licensing Operations Team again to confirm if the screening opinion is still valid.

A copy of the screening opinion has been forwarded to The Highland Council planning department. The screening opinion has also been made publicly available through the Marine Scotland Information website at this link: <http://marine.gov.scot/ml/nigg-energy-park-east-quay>

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

Yours sincerely,

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Marine Scotland

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