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Marine Scotland - Licensing Operations Team Scoping Opinion

**Nigg Energy Park East Quay (per Envirocentre),
construction and formation of new East Quay and laydown
area, Nigg Energy Park, Cromarty Firth**

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

**SCOPING OPINION FOR THE PROPOSED MARINE LICENCE APPLICATIONS
TO CONSTRUCT WORKS, TO CARRY OUT DREDGING AND TO DEPOSIT
DREDGE SPOIL 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 construction of Nigg East Quay, Cromarty Firth (“the proposed works”). The scoping opinion has been requested by Envirocentre on behalf of the applicant, Global Energy Group (“the applicant”).

This scoping opinion is based on the information provided in the applicant’s request, dated 05 February 2019, 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 judgement (based on expert advice from stakeholders) 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
Landscape & Visual	No marine consideration however assessment in EIA report required for planning.
Terrestrial Ecology (Including bats)	Not a marine concerns however assessment of bats will be required in the EIA report for planning.
Marine Ecology	Scoped IN. Assessment required of impacts on designated sites, priority marine features and cetacean species which may be present in the vicinity of the works.
Ornithology	Scoped IN. Assessment required of potential indirect impacts on designated sites.
Cultural Heritage and Archaeology	Scoped IN. Uncertainty about the potential impacts of the proposed works on marine archaeology means that further assessment is required.
Airborne Noise	No marine concerns however this is to be included to assess terrestrial impacts required for planning.

Water Environment and Coastal Processes	Scoped IN. Potential for impacts on the local water environment and coastal processes, including tidal current, wave action, and associated sediment transport processes.
Traffic and Transport	Scoped IN. Issues raised by Transport Scotland require to be addressed through a transport assessment.
Population and Human Health	No marine concerns however this is to be included to assess socio-economic impacts required for planning
Climate Change	Scoped OUT. The Construction Environmental Management Plan ("CEMP") and Water Environment and Coastal Processes chapter will cover climate change effects.
Natural Disaster	Scoped OUT. The proposed development is not located in an area of high natural disaster potential.
Air Quality	Scoped OUT. Effect on air quality from transport movements covered in Traffic and Transport chapter.
Navigation and Vessel Movements	Scoped IN. High amount of vessel traffic in the area which requires further assessment.
Cumulative Impacts	Scoped OUT. Cumulative impacts to be assessed for each receptor in the specialist chapters of the EIA report.

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 05 February 2019 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 2, paragraphs 1(e) and 10(g) of the 2017 MW Regulations. The works exceed the threshold for paragraph 1(e) described in column 2 of schedule 2 of the MW Regulations. On consideration of the selection criteria set out in schedule 3 of the MW Regulations you determined that the environmental effects of the works were likely to be significant and thus should be subjected to an EIA.

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 is to construct a new quay, carry out land reclamation and associated dredging and dredge spoil deposit activities as part of the redevelopment of the East quay within Nigg harbour. The project comprises of the following main components in the Scottish marine area:

- Construction of a new east quay, plan area 250m by 50m (0.88ha), constructed using perimeter piling to create a new quay wall;
- Associated fendering and rock armouring;
- Dredging of approximately 140,000m³ to achieve a minimum sea bed level at the main west facing berth of 12m below chart datum to facilitate the proposed development;
- Sea water extraction for fire-fighting capability
- Re-use of approximately 70,000m³ of dredged materials within the quay structure;
- Deposit of dredged material (approximately 70,000m³) within the Sutors licenced disposal site;

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 July 2018. The following bodies were consulted:

- Association of Salmon Fishery Boards
- *Cromarty Forth Port Authority*
- Ministry of Defence
- Fisheries Office Aberdeen
- *Historic Environment Scotland (“HES”)*
- *Highland Council*
- Marine Safety Forum
- Marine Planning and Policy
- Maritime and Coastguard Agency
- Moray Firth Partnership
- *Northern Lighthouse Board (“NLB”)*
- Royal Society for the Protection of Birds Scotland
- *Royal Yachting Association Scotland (“RYA”)*
- *Scottish Environment Protection Agency (“SEPA”)*
- Scottish Fishermen’s Federation
- Scottish Fishermen’s Organisation
- *Scottish Natural Heritage (“SNH”)*
- *Scottish Water*
- Scottish Wildlife Trust
- The Crown Estate
- Nigg and Shandwick Community Council
- Kilmurie and Logie Easter Community Council
- *Transport Scotland*
- UK Chamber of Shipping
- Visit Scotland
- Whale and Dolphin

5.2 Responses received

5.2.1 From the list above a total of 9 responses were received from those listed in italics. 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 Landscape and Visual

7.2.1 The applicant assesses the site and setting of the proposed development and identifies key visual receptors that require consideration. Following an assessment of each, they conclude that the only significant adverse effects during the construction phase could be to passengers on the Nigg Ferry however these effects would be short term. The applicant proposes that the operational effects of the development would result in smaller magnitude effects than those during the construction phase and so are not likely to be significant. The applicant therefore concludes that landscape and visual interests should not be subject to assessment as part of an EIA.

7.2.2 SNH advise there are no national landscape designations relevant to this proposal although the sea and coast are within the East Ross Special Landscape Area (SLA) and the site is a major feature within the SLA. They understand that advice on landscape aspects will be provided by The Highland Council. The consultation response received from the Highland Council regarding the marine aspect of the works did not refer to landscape and visual impacts.

7.2.3 The Scottish Ministers are content that there will be no significant impact on landscape and visuals from a marine perspective but understand that this will be considered in the EIA report from a terrestrial planning perspective.

7.3 Terrestrial Ecology

7.3.1 The applicant proposes that based on the baseline data gathered from the ecological survey and desk study carried out, terrestrial ecology should be scoped out of the EIA report. The scoping report includes mitigation measures which have been identified as part of the design which will further reduce impacts on terrestrial habitat. Further targeted assessments will be undertaken for bats, which will accompany the application to the Council. A standalone report on bats will however be included within the EIA 'Other Issues' chapter.

7.3.2 In their consultation response, SNH have stated that all bat species found in Scotland are classified as European Protected Species (“EPS”). Dunskeath House provides a suitable habitat for bats and the building maybe supporting roosting bats. They have recommended that a bat survey of Dunskeath house is included in the EIA report and that if bats are present there will be a need to apply for an EPS licence from SNH.

7.3.3 The disturbance of bats is related to the terrestrial aspect of the works and not the marine works. The Scottish Ministers are content that it will be considered by the Highland Council through the planning process.

7.4 Marine Ecology

7.4.1 The applicant has sub-divided marine ecology into designated sites, marine mammals, fish and intertidal and benthic ecology to assess the baseline condition. They have then assessed the potentially significant effects during construction and post-completion. The applicant concludes that the Moray Firth Special Area of Conservation (“SAC”) and the Dornoch Firth and Morrich More SAC should be scoped in. Based on the assessment, they also propose to scope in marine mammals and migratory fish species but scope out marine fish species and intertidal and benthic ecology.

7.4.2 In their consultation response SNH agree with the applicant that the proposed works could affect the bottlenose dolphin and subtidal sandbank features of the Moray Firth SAC and the common seal feature of the Dornoch Firth and Morrich More SAC. They identify the potential impacts on each of the sites and the points which are required to be addressed in the EIA report. The SNH consultation response is included in appendix one. All points identified in this response should be addressed in the EIA report. In addition to the designated sites, they also identify that in addition to bottlenose dolphins, there may be other species of cetacean present. The EIA report must address the potential of underwater noise to impact bottlenose dolphins, harbour porpoise and minke whale. SNH highlight that an EPS licence is likely to be required from Marine Scotland for disturbance to cetaceans.

7.4.3 The Highland Council support the need for an assessment of the potential impacts on the Moray Firth SAC. They also identify that there are a number of priority marine features in the area including horse mussel beds as well as the Cromarty Firth Ramsar site and site of special scientific interest (“SSSI”) that should be assessed.

7.4.4 The Scottish Ministers concur with the view that marine ecology should be scoped in to the EIA report to address marine mammals, migratory fish and also

benthic ecology to address the points raised by the consultees.

7.5 Ornithology

7.5.1 In the scoping report, the applicant has provided detailed data on the bird population as a baseline and has identified the potential for displacement or disturbance of birds during construction activities. The applicant asserts that by applying the proposed mitigation they consider that there would be no likely significant effects on the bird populations. Based on this they conclude that ornithology should not require further assessment in the EIA however, as part of the Habitat Regulations Appraisal the Cromarty Firth Special Protection Area (“SPA”) and Moray Firth proposed SPA (“pSPA”) (and its qualifying species) will be assessed to ensure that none of the designations or their qualifying species would be negatively impacted by the proposed development.

7.5.2 SNH comment in their consultation response that they do not anticipate any direct impacts and they do not consider that the proposed development will lead to significant additional disturbance or disruption to feeding and roosting birds in the Cromarty Firth SPA and Ramsar site. It is possible, however, that various indirect effects could arise, such as the construction of the quay wall and dredging and disposal operations could affect local sediment movements with implications for the intertidal habitats of Nigg Bay. This in turn could affect feeding potential for the qualifying bird interests. Similarly, lighting at the work site may affect bird movements to and from the adjacent intertidal areas. They provide a list of topics which should be addressed within the EIA report. This list is available within the SNH response in Appendix I.. SNH also identify that there could be an impact on the Moray Firth pSPA and that the EIA report should consider the effects of the proposed works on long-tailed ducks, eiders and divers (red throated and great northern) which are qualifying interests of the pSPA.

7.5.3 The Highland Council also require consideration of the Cromarty Firth SPA Ramsar Site and SSSI and the Moray Firth pSPA. On this basis, they recommend that ornithology should be scoped in.

7.5.4 The Scottish Ministers agree with the opinion of SNH and the Highland Council that ornithology should be scoped in to the EIA report to address the impacts identified.

7.6 Cultural Heritage and Archaeology

7.6.1 The applicant identifies two known heritage assets within the site and considers the potential impact on these. The applicant concludes that the site is of low archaeological potential, and suggests that no significant effects are anticipated

upon any designated heritage assets. On this basis, the applicant suggests that that cultural heritage and archaeology can be scoped out of the EIA report.

7.6.2 In their consultation response, HES state that in this instance they are uncertain about the potential impacts of the proposal on marine and terrestrial cultural heritages assets. They identify a number of terrestrial heritage assets within their remit in close proximity to the development but suggest that consideration should also be given to potential impacts on marine archaeology. Any bathymetric, seabed survey or investigations carried out within the development area should be assessed for heritage interests. Therefore, they recommend that cultural heritage and archaeology be scoped in to the EIA report.

7.6.3 Although the identified heritage assets are terrestrial and therefore will be covered by the Highland Council through the planning process, the absence of consideration of marine archaeology means that the Scottish Ministers agree with HES that cultural heritage and archaeology should be scoped in.

7.7 Airborne Noise

7.7.1 The applicant proposes to include a noise assessment as part of the EIA and will consider the potential for noise generated by the proposed development to impact upon existing residential receptors during both the construction and operational phases.

7.7.2 There were no specific references to airborne noise in any of the consultation responses with regards to the marine works however the Scottish Ministers understand that this will be included in the EIA report to be assessed by the Highland Council through the planning process.

7.8 Water Environment and Coastal Process

7.8.1 The applicant acknowledges that although the proposed development is similar to the South Quay extension and West Finger Jetty developments, the current proposal raises the potential for impacts on the local water environment and coastal processes, including tidal current, wave action, and associated sediment transport processes. Although information from earlier developments may form the basis of the assessment water environment and coastal processes should be scoped in to the EIA. The findings of the assessment should be used to develop appropriate mitigation plans.

7.8.2 In their consultation response, the Highland Council support the need for a coastal process assessment to look at coastal squeeze in the Cromarty Firth. This assessment should include detailed modelling of the level of change with regard to

coastal squeeze. They also request that modelling of the dredge impacts be carried out to assess the impact on nearby shellfish aquaculture sites. SEPA highlight that the land reclamation has the potential to alter wave direction and local geomorphology characteristics such as increasing erosion which in turn may increase flood risk. They request that this is assessed in the EIA report along with proposed mitigation measures for pollution prevention.

7.8.3 The Scottish Ministers concur with the assessments proposed by the applicant in the scoping report and the requirements of the consultees that water environment and coastal process assessments should be scoped in to the EIA report.

7.9 Traffic and Transport

7.9.1 The applicant has identified potential impacts to traffic and transport from a desktop study and further informed by a site visit in January 2019. They have concluded that further studies and traffic surveys are required to demonstrate that there will be no significant effects from the proposed works. The applicant proposes to include these assessments in the EIA report however considers that it is unlikely that a full transport assessment would be required.

7.9.2 In their consultation response, Transport Scotland support the view of the applicant with regards to the inclusion of traffic and transport within the EIA report. They specifically request that the following are considered in the assessment:

- All construction and demolition activities associated with the proposed development including details of anticipated traffic associated with the operational phase
- Traffic should be assessed in percentage terms against existing traffic patterns.
- Cumulative impacts from committed developments should be considered.
- All HGV's transporting construction material to and from the site should be sheeted and require passing through a wheel washing facility prior to exiting the proposed development site
- A worst case scenario of trunk road network impacts in relation to the quantity of re-usable dredge material and the source of any additional material.
- IEMA guidelines, guidelines from the Institution of Highway Engineers and Transport Scotland should be followed.
- Impacts on the A9(T)/B9175 junction should be considered. Baseline traffic count data should be requested from Transport Scotland to inform this assessment.
- For the assessment of accidents, baseline data should be requested from Transport Scotland. If necessary, an assessment of any abnormal loads
- The CEMP should include the following information:

- Envisaged number and type of vehicle movements associated with each phase of development
- Proposed construction programme, including anticipated number of vehicles per day by vehicle type
- Proposed site operating hours during the construction period
- Outcomes and detailed plans from any required swept paths assessment
- Proposed mitigation measures supported by detailed plans as necessary

7.9.3 The Scottish Ministers agree with the applicant and Transport Scotland that traffic and transport should be scoped in to the EIA report and that the assessments identified by Transport Scotland in their consultation response should be undertaken. This will be considered by the Local Authority through the planning process.

7.10 Population and Human Health

7.10.1 The applicant asserts that Human health is a loose and wide term for a number of components that influence public health including pollution, amenity and opportunities gained or lost by direct land-take. Given noise assessment is scoped in to the EIA and a landscape and visual appraisal will be carried out, it is considered that the impacts upon human health can be derived from the outcomes of these assessments, and that the overall health of the local population is not likely to be significantly affected by the proposed development.

7.10.2 Population and human health were not specifically identified by the consultees in their responses. The Scottish Ministers agree with the view of the applicant that any marine aspect of population and human health will be assessed as part of other receptors however assessment of the socio-economic impact will be included in the EIA report for planning purposes.

7.11 Climate Change

7.11.1 The applicant proposes that the development would not result in a significant effect upon climate given the nature of the development. Any increase in emissions will be contained within a detailed CEMP. Discussion of the vulnerability of the project to climate change concerned with the water environment, including flood risk and wave overtopping due to increases in sea level, will be covered within the Water Environment and Coastal Processes chapter.

7.11.2 The Scottish Ministers support the view of the applicant that climate change will be covered in the water environment and coastal processes chapter and can be scoped out of the EIA report as a specific chapter.

7.12 Natural Disasters

7.12.1 The applicant states that the proposed development is not located within an area of significant seismic activity, nor are climatic factors prone to creating disasters such as tsunamis, hurricanes or catastrophic flooding. Accordingly, consideration of natural disasters is scoped out of the EIA.

7.12.2 The Scottish Ministers are content with the assessment provided by the applicant in their scoping report and in light of the fact that no concerns were raised by the consultees, have concluded that natural disasters can be scoped out of the EIA report.

7.13 Air Quality

7.13.1 The applicant has stated in the scoping report that a qualitative discussion of air quality would form part of the Other Issues chapter, with particular reference to dust and its management via the CEMP.

7.13.2 In their consultation response, Transport Scotland comment that air pollution is covered in section 4.9 of the scoping report. As such the Scottish Ministers are content that air quality is included in the Traffic and Transport chapter and therefore have concluded that air quality can be scoped out of the EIA report.

7.14 Navigation and Vessel Movements

7.14.1 The applicant has proposed that a standalone chapter on navigation and vessel movements is scoped out of the EIA report. Discussion of navigation would be included within the Other Issues chapter. This would include an assessment of the impacts of dredging upon vessel movements, and protocol including notices to mariners, updates of admiralty charts and exclusion areas during construction.

7.14.2 In their consultation response, the NLB request regular communications to be maintained with regards to marking and lighting during both construction and operational stages of the proposed development.

7.14.3 The Scottish Ministers are of the opinion that due to the already busy nature of the Nigg basin within which the proposal is located, navigation and vessel movements should be scoped in.

7.15 Cumulative Assessment

7.15.1 The applicant acknowledged that there may be cumulative interactions with

other terrestrial and marine based developments which are committed through the planning and marine licencing system. The developments identified in the scoping report are Ardersier, Invergordon Phase 4 and Nigg Bay Aberdeen. However, they propose to address this under each of the relevant receptors and have determined that cumulative assessment should be scoped out of the EIA report.

7.15.2 In their consultation response, SNH specifically note the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the “Habitats Regulations”) require proposals to be considered “in combination with other plans or projects” SNH highlight there maybe cumulative impacts of vessel movements for example and that the EIA should therefore take into account other marine developments in the area, in particular Invergordon.

7.15.3 The Scottish Ministers advise that the applicant contacts SNH, in addition to the approaches listed in the scoping report, to identify projects with potential cumulative effects. In general however, the Scottish Ministers are supportive of the applicants approach to assess cumulative impacts for each receptor in each chapter of the EIA and thus conclude that a standalone chapter on cumulative assessment can be scoped out of the EIA report.

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 principle 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 Nigg Energy Park East Quay, 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 May 2019

Authorised by the Scottish Ministers to sign in that behalf.

Appendix I: Consultee Responses

Cromarty Forth Port Authority

Redacted

From: Redacted
Sent: 27 March 2019 16:08
To: MS Marine Licensing
Cc: Redacted
Subject: Nigg Energy Park EIA Scoping

To whom it may concern

Although we were not given the pleasure of being consultees for the EIA scoping document provided for the Nigg Energy Park development, from what we have seen of the report there is was nothing we wish to add.

As the statutory Harbour Authority, it would be very much appreciated if we could be included within any future circulation of documents for the proposed development at Nigg Energy Park as part of the consultation process.

Should you wish to discuss, please give me a call.

Kind regards

Redacted



Redacted | General Manager

Port Office, Shore Road, Invergordon IV18 0HD

tel: Redacted | fax: Redacted | mob: Redacted | web: www.cfpa.co.uk

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Historic Environment Scotland



HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

By email to:

MS.MarineLicensing@gov.scot

Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Redacted

Our case ID: 300035852

25 March 2019

Dear Sir/Madam

Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017
Nigg Energy Park, East Quay
EIA Scoping Report

Thank you for your consultation which we received on 26 February 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 Highland Council's archaeology and conservation advisory service 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

We understand that the proposals are for the construction and formation of a new East Quay and associated laydown area, situated at Nigg Energy Park near Cromarty.

Scope of Assessment

We have reviewed the EIA Scoping Report for the proposals and, in this instance, are uncertain about the potential impacts of the proposals on marine and terrestrial cultural heritage assets. We would therefore recommend that further assessment is undertaken in order to inform the scope of the Environmental Impact Assessment (EIA).

We note, for example, that a number of terrestrial heritage assets within our remit are located in proximity to the proposed development. These include *Dunskeath Castle* (Scheduled Monument, Index no. 3319), *Cromarty House* (Inventory Designed Landscape, GDL120) and Category A listed buildings located in north Comarty. We would therefore recommend that further assessment should be informed by a considered analysis of the setting of each heritage asset, and underpinned by visualisations where impacts have the potential to be significant.

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH

Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**



Consideration should also be given to the potential for impacts on marine archaeology. We would recommend that any desk-based assessment and survey work undertaken should inform the scope of an EIA. We would also expect that any bathymetric, seabed survey or investigations carried out within the development area should be assessed for heritage interests.

We would welcome further engagement with the developer as the proposals progress.

Further information

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.

Guidance about the EIA process, including a link to our EIA Handbook, can also be found online at <https://www.historicenvironment.scot/advice-and-support/planning-and-guidance/environmental-assessment/environmental-impact-assessment/>.

Technical advice is available on our Technical Conservation website at <http://conservation.historic-scotland.gov.uk/>.

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Redacted and they can be contacted by phone on Redacted or by email on Redacted

Yours faithfully

Historic Environment Scotland

Highland Council

Email response:MS.MarineLicensing@gov.scot

Please ask for:

Direct Dial:

E-mail:

OurRef:

Date:

Redacted

Redacted

Redacted

19/00929/MAR

4 March 2019

Dear Sir/Madam

MS-LOT Licensing Development Works at Nigg Energy Park, East Quay – Scoping Report

Thank you for consulting us on 26th February 2019 regarding the scoping report for the above works.

Coastal Planner response: 27/02/2019

The extensive scale of the proposal will require very careful consideration regarding impacts on the various designated sites within or adjacent to it, as well as on wider biodiversity. In particular, the Moray Firth SAC, especially around the mouth of the Suters as a key transit area for the dolphins. A detailed Appropriate Assessment will be required.

The proposal lies adjacent to the proposed Moray Firth SPA (pSPA) and the Cromarty Firth SPA. Section 4.5.3. notes that “from the data obtained, the proposed development is considered unlikely to cause significant effects....”. This data and any accompanying assessment should be supplied which outlines the justification for this conclusion; this can then be used to inform the Appropriate Assessment.

Table 4.7 should include the Moray Firth pSPA.

The proposal lies adjacent to the Cromarty Firth Ramsar site, as well as the SSSI. Section 4.5 does not appear to include any information regarding the baseline or likely impacts on the Ramsar; this is a concern given the potential for significant disturbance, therefore it's of the opinion that ornithology should not be scoped out.

There are also a number of PMFs in the area (e.g. horse mussel beds); assessment of the impact upon these designated sites/species and appropriate mitigation will likely mirror those for the SPA, pSPA and SAC in some cases. However, as these wider biodiversity aspects (i.e. Ramsar, SSSI, PMFs) may not be considered in the information provided to inform the AA, they should be assessed in the EIAR. It would be helpful if the EIAR also includes a summary of the information to inform the AA, but the information for inform the AA should be a separate, stand-alone document.

The area of land claimed from the sea will add to further coastal squeeze in the Cromarty Firth. The cumulative impacts with recent and any proposed works current within the planning/licencing system with Cromarty Firth ports should be considered. The dimensions of the quay do not appear to be included therefore the EIAR should include detailed modelling of the level of change with regard to coastal squeeze.

The dredge disposal site should be clarified and modelling of dredge impacts should include an assessment of any potential impacts on the relatively nearby large shellfish sites.

Appendix B appears to only focus on terrestrial species and does not include the qualifying features in the numerous adjacent designated sites. Whilst the summary notes there are no statutory designated sites within the proposal area, Natura requirements include the need to consider the potential impacts, not matter how far away they are. Given the potential for significant disturbance and thus likely significant effects, this appears to be a significant omission.

Yours faithfully

Redacted
Case Officer

Northern Lighthouse Board

Northern Lighthouse Board

Your Ref: Nigg Energy Park – East Quay
Our Ref: AL/OPS/ML/C8_03_089

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Marine Scotland – Marine Planning & Policy
Scottish Government
Marine Laboratory
375 Victoria Road
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AB11 9DB

26 February 2019

PART 4, REGULATION 14 (2) OF THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 (AS AMENDED) ('THE EIA REGULATIONS')

Thank you for your e-mail correspondence dated 26 February 2019 regarding the Scoping Report submitted by **Envirocentre Limited** on behalf of **Global Energy Nigg Limited**, in relation to their proposed development of East Quay, at the Nigg Energy Park, Cromarty Firth.

Northern Lighthouse Board has no objections to the scoping report and recommends the following:

- **Global Energy Nigg Ltd** maintain regular communication with NLB with regard to navigational marking and lighting covering both the construction and operational stage of the development.

Yours sincerely
Redacted

Redacted
Navigation Manager

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5 March 2019

Marine Scotland Licensing Operations Team
Scottish Government
Marine Laboratory,
375 Victoria Road,
Aberdeen,
AB11 9DB

MS.MarineLicensing@gov.scot

Dear Madam/Sir,

Global Energy Nigg (Per Envirocentre Ltd) - Development Works at Nigg Energy Park, East Quay

I have read the scoping report on the above project on behalf of RYA Scotland and can confirm that recreational boating can be scoped out of the EIA.

Yours faithfully,

Redacted

PP

Redacted

Planning and Environment Officer, RYA Scotland

Scottish Environmental Protection Agency

Our ref: PCS/164102
Your ref:

If telephoning ask for:
Redacted

20 March 2019

Marine Scotland
Scottish Government
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

By email only to: ms.marinelicensing@gov.scot

Dear Sir/Madam

**Marine (Scotland) Act 2010
Development Works
East Quay, Nigg Energy Park, Nigg**

Thank you for consulting SEPA on the scoping opinion for the above development proposal which SEPA received on 26 February 2019. We would welcome engagement with the applicant at an early stage to discuss any of the issues raised in this letter.

We would welcome the opportunity to comment on the draft Environmental Impact Assessment Report (EIAR). Please note that we can process files only of a maximum size of 25MB and therefore, when the EIAR is submitted, we would ask that it be divided into appropriately sized and named sections.

1. Works below Mean High Water Springs

- 1.1 For works below Mean High Water Springs, we generally do not provide site specific advice on works that will be regulated under The Marine (Scotland) Act 2010 or Harbours Acts. Instead, please refer to our standing advice on marine consultations within guidance document [SEPA standing advice for The Department of Energy and Climate Change and Marine Scotland on marine consultations](#).
- 1.2 We note the proposals to re-use dredging spoil within the quay and possible onshore. We would specifically highlight our advice in Section 3.3 and 3.4 within the guidance document [SEPA standing advice for The Department of Energy and Climate Change and Marine Scotland on marine consultations](#) with regards the re-use of dredged material and remind the applicant to consider the potential risk of contaminants being present in the spoil.

2. Site layout



Chairman
Bob Downes

Chief Executive
Terry A'Hearn

SEPA Dingwall Office
Graesser House, Fodderty Way,
Dingwall Business Park, Dingwall IV15 9XB
tel 01349 862021 fax 01349 863987
www.sepa.org.uk • customer enquiries 03000 99 66 99

- 2.1 All maps must be based on an adequate scale with which to assess the information. This could range from OS 1: 10,000 to a more detailed scale in more sensitive locations. Each of the maps below must detail all proposed upgraded, temporary and permanent site infrastructure. This includes all temporary or permanent access tracks, excavations, buildings, borrow pits, pipelines, site compounds, laydown areas, storage areas and any other built elements.
- 2.2 Existing built infrastructure must be re-used or upgraded wherever possible. The layout should be designed to minimise the extent of new works on previously undisturbed ground. A comparison of the environmental effects of alternative locations or layouts may be required.

3. Surface water drainage

- 3.1 Surface water runoff must be treated by sustainable drainage systems (SUDS) therefore it is important to ensure that adequate space to accommodate SUDS is incorporated within the site layout.
- 3.2 The proposals should meet the treatment requirements of [CIRIA C753](#). A site plan showing the proposed SUDS treatment train for both temporary and permanent works must be submitted. Different areas of the development will require different levels of treatment. For example, run-off from car parking or marshalling areas will require greater treatment than roof run-off.
- 3.3 The Simple Index Approach calculation (Section 26.7.1 of the guidance) should be used for the lower risk areas within the site. For yard areas, refuelling areas or areas where there is a higher pollution risk, a detailed risk assessment (Section 26.7.3 of CIRIA C753) must be submitted. We are likely to regulate discharges from high risk areas under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (As Amended) (CAR).
- 3.4 In addition there may be existing surface water drainage outfalls in the locality. Any redevelopment provides an opportunity to upgrade the treatment of these discharges and bring them in line with current practice. All existing surface water discharges and their treatment systems must be shown on a site map.
- 3.5 Comments on the acceptability of post-development runoff rates for flood control should be sought from the local authority flood prevention unit, and not from SEPA. Comments from Scottish Water should be sought where the SUDS proposals would be adopted by them. We encourage the design of SUDS to Sewers for Scotland Second Edition standards and the adoption of SUDS features by Scottish Water as we are of the view that this leads to best standards and maintenance.

4. Flood risk

- 4.1 All of the proposed sites lie within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Maps and may therefore be at medium to high risk of flooding. However as these proposals are for the redevelopment and extension of the existing yard area then we would consider these as being a water compatible use, and have to be located within the functional floodplain for operational reasons.
- 4.2 We noted that there may be some form of land reclamation to increase the quay area. Due to the low vulnerability of the proposed land use we would be unlikely to have any issue with the marshalling area being situated on reclaimed land.

- 4.3 However land reclamation has the potential to alter wave direction and local geomorphology characteristics such as increasing erosion. These changes may increase flood risk, and therefore the risk of increasing flood risk should be assessed. Whilst Marine Scotland will advise on the coastal geomorphic aspects of these assessments we can provide flood risk advice.
- 4.4 All new development, including development on reclaimed land, should be above the estimated 1 in 200 year flood level for the area, unless that particular aspect of the proposal needs to be lower for operational reasons. This will enable the developments to be more resilient during times of flood or storm events. We would also recommend the use of water resistant materials and forms of construction as appropriate.
- 4.5 The estimated 1 in 200 year flood level is 3.37mAOD based on extreme still water level calculations using the Coastal Flood Boundary (CFB) Method. This does not take into account the potential effects of wave action, funnelling or local bathymetry at this location. We would recommend a minimum 600mm freeboard is added to the CFB levels to allow for modelling uncertainties.

5. Existing waste water outfalls

- 5.1 There may be existing waste water outfalls at the site. All existing outfalls should be identified and details of how each will be accommodated included on the site plans.

6. Pollution prevention during construction

- 6.1 *One of our key interests in relation to developments is pollution prevention measures during the periods of construction, operation, maintenance, demolition and restoration. All proposed mitigation should be detailed within a suitably robust schedule of mitigation.*
- 6.2 The schedule of mitigation should be supported by the above site specific maps and plans. These must include reference to best practice pollution prevention and construction techniques (for example, limiting the maximum area to be stripped of soils at any one time) and regulatory requirements. They should set out the daily responsibilities of ECOWs, how site inspections will be recorded and acted upon and proposals for a planning monitoring enforcement officer. Please refer to the [Guidance for Pollution Prevention \(GPPs\)](#).
- 6.3 During the Major Pre-Application meeting, the applicant sought our advice on how to protect the water quality of the Cromarty Firth in relation to this development. Provided the above pollution prevention measures are implemented then the firth's water quality should not be significantly impacted.

7. Regulatory advice for the applicant

- 7.1 Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) for any discharges or engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).
- 7.2 Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012.

7.3 A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which:

- is more than 4 hectares,
- is in excess of 5km, or
- includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25°

7.4 See SEPA's [Sector Specific Guidance: Construction Sites \(WAT-SG-75\)](#) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

7.5 Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the operations team in your local SEPA office at: Graesser House, Fodderty Way, Dingwall Business Park, Dingwall IV15 9XB Tel: 01349 862021.

If you have any queries relating to this letter, please contact me by telephone on 01349 860353 or e-mail at planning.dingwall@sepa.org.uk.

Yours sincerely

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

Planning Ref:	18/01459/PREAPP
Proposal Name	Construction of new quay with associated dredging and change of use of adjacent countryside land including Dunskeath House
Date of Meeting	4 th April 2018
Date of Response	18 th April 2018

Response

DESIGNATED SITES

The proposal could affect the Moray Firth Special Area of Conservation (SAC), the Dornoch Firth and Morrich More SAC, the Cromarty Firth Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI), the proposed Moray Firth SPA and European Protected Species (EPS). Information on the special features and conservation objectives for these designated sites can be found [here](#).

The requirements of the Conservation (Natural Habitats, &c.) Regulations 1994, as amended, (the "Habitats Regulations") will apply in this case. See [here](#) for a summary of the legislative requirements.

Moray Firth SAC – dolphins

Impacts

- The Sutors area is the most used location for the most dolphins within the SAC and the wider North East Scotland dolphin population.
- The proposal has the potential to affect the dolphins through underwater noise and disturbance associated with the construction and operation of the port.
- The main activities likely to result in noise or disturbance are piling, dredging and disposal activities and vessel movements.

What the ES/HRA should address

- We recognise that this is a design and build proposal however the ES should still describe in as much detail as possible at this time what is envisaged regarding piling. Specifically, what type of piling will be deployed (impact and/or vibro) and the relative split between these, the size and number of the piles, the time of the year when piling is likely to occur and for how long. Underwater sound profiles showing how noise will propagate into the waters of the surrounding SAC should be provided. Previous sound modelling carried out for the South quay development in 2013/14 will be helpful in this regard.
- The ES should describe in as much detail as possible what is envisaged regarding the dredge and disposal operations, in terms of the volumes of material involved and the timing of the works.
- The ES should describe the expected increase in vessel movements associated with

both the construction and operational phases. Previous modelling on vessel movements carried out by the University of Aberdeen in 2011¹ will be helpful. The ES should clarify whether anticipated increased vessel movements are broadly in line with the assumptions made in the 2011 model and, if not, then additional modelling may be required.

Possible mitigation/enhancement

- We recommend that a Marine Mammal Protection Plan is drawn up. This should include:
 - A robust noise assessment which looks at the likely source levels, their range and likely impacts on the various marine mammals likely to be present.
 - Planned monitoring and mitigation, for example use of Marine Mammal Observers, soft starts, bunds, vessel movements, etc. This should identify mitigation options including compliance with the '[Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise](#)'.
- All disposal of dredged material associated with the works should be undertaken in accordance with the standard dredging best practice protocol applied by Marine Scotland for all dredging operations in the Moray Firth.
- We encourage the applicant to liaise with the University of Aberdeen on monitoring noise levels and cetacean presence/absence during the construction phase in particular. The University have expertise and equipment that will be useful for the applicant - a better understanding of the nature and consequences of the proposal will help to both inform this and future port developments at Nigg.

Moray Firth SAC – subtidal sandbanks

Impacts

- The potential impacts on marine habitats and the associated benthic communities relate to dredging and disposal operations and coastal construction works including:
 - Risk of pollution from mobilising contaminated sediments or site run-off.
 - Potential alteration to extent, distribution and composition of marine habitats and species as a result of changes in hydrographic/coastal processes.
 - Smothering/increases in suspended sediment.

What the ES/HRA should address

- The ES should describe in as much detail as possible the proposed dredge and disposal operations. This should include a BPEO providing an analysis of all disposal options available, including the potential for beneficial use in the East Quay development and/or the wider area.
- Sediment modelling to assess potential alteration to extent, distribution and composition of marine habitats and species as a result of changes in hydrographic/ coastal processes. We advise that the previous sediment modelling carried out for the South Quay development, together with any monitoring data held by Marine Scotland, should be sufficient for this application.
- The qualifying habitats and species associated with the subtidal sandbank feature and the [Priority Marine Features](#) that are associated with these habitats should be the focus of the assessment.

¹ SNH Commissioned Report 468: The development of a framework to understand dolphin behaviour and from there predict the population consequences of disturbances for the Moray Firth bottlenose dolphin population.

Possible mitigation/enhancement

- The applicant may wish to prepare a dredging plan integrated within the construction environmental management plan and the operational environment management plan, reflecting industry best practice. This would set out how dredge/disposal operations will take place in relation to the subtidal sandbanks and the other designated features.
- We recognise that any dredging plan should be considered in context with the long history of dredging and disposal operations at the Sutors and that past disposal at this location does not appear to have had any lasting adverse impacts.

Dornoch Firth and Morrich More SAC - common seal

Impacts

- Common seals occur in the Cromarty Firth, particularly at haul outs near Foulis. This is less than 50km from the Dornoch Firth and Morrich More SAC and common seals are a qualifying interest of that site. There is therefore connectivity between that SAC and the common seals that occur in the Cromarty Firth and the waters around Nigg.
- The proposal has the potential to affect common seals through underwater noise and disturbance associated with the construction phase of work.

What ES needs to address

- The ES needs to consider the likely impact of underwater noise and disturbance associated with the construction phases on common seals.

Possible mitigation/enhancement

- The Marine Mammal Protection Plan (see 'mitigation/enhancement section of the Moray Firth – SAC Dolphins' section above) should include the common seal interest.

Cromarty Firth SPA and Ramsar site – birds

Impacts

We do not anticipate any direct impacts and we do not consider that the proposed development will lead to significant additional disturbance or disruption to feeding and roosting birds in the SPA. It is possible, however, that various indirect effects could arise, including:

- The construction of the quay wall and dredging and disposal operations could affect local sediment movements with implications for the intertidal habitats of Nigg Bay. This in turn could affect feeding potential for the qualifying bird interests.
- Lighting at the work site may affect bird movements to and from the adjacent intertidal areas.

What the ES/HRA should address

- The ES should include sediment modelling studies to assess the possible effect of reduced bird feeding habitat available on Nigg Bay from changes in sedimentation as a result of maintenance and capital dredging. There should be sufficient information in terms of sediment dynamic assessments and/or mitigation measures to demonstrate that the proposals will not adversely affect the integrity of the SPA. We advise that the

previous sediment modelling carried out for the South Quay development, together with any monitoring data held by Marine Scotland, should be sufficient for this application.

- The ES should consider the effects of lighting at the work site and how this may affect bird movements to and from the adjacent intertidal areas.
- The ES should consider the effects on common terns. The actions that would be taken by the developers should terns become a problem for the work force should be described. Terns can become highly territorial and protective of their nests and young from April through to July inclusive and this has been a significant issue for Global Energy Nigg and other energy-related facilities in the past.

Possible mitigation/enhancement

- Tight zonation of construction and operational activities, coupled with screening, directional lighting etc.
- Arrangements for disposal of spoil to avoid enhanced erosion/accretion of and damage to intertidal foraging areas used by waders. Re-use of dredged material should be deployed as far as possible.

Cromarty Firth Ramsar site – habitats

Impacts

- The potential for capital and maintenance dredging to result in changes in sedimentation patterns affecting intertidal habitats (and bird food supplies).

What the ES/HRA should address

- See comments under 'Cromarty Firth SPA and Ramsar site – birds'.

Possible mitigation/enhancement

- See comments under 'Cromarty Firth SPA and Ramsar site – birds'.

Proposed Moray Firth SPA

Impacts

- The dredge disposal element of the proposal is within the pSPA and there is therefore the potential for this to disturb the qualifying, wintering bird species.
- The main species that occur within the vicinity, from October through to March, are long-tailed ducks, eiders and divers (red throated and great northern). Whilst these species do occur in the Sutors area, they are generally further out to sea and their abundance is low at the disposal site.

What the ES/HRA should address

- The ES should consider the effects of disposal operations on long-tailed ducks, eiders and divers (red throated and great northern).

Cromarty Firth SSSI

Impacts

- The Cromarty Firth is designated for its wintering bird interests (addressed under the 'Cromarty Firth SPA and Ramsar site – birds' section above) and for the mudflat, sandflat and saltmarsh habitats present. [Priority Marine Features](#) may also be associated with these habitats. Dredging and disposal may smother these coastal habitats and disrupt the processes on which they depend.

What the ES/HRA should address

- The ES should describe how the mudflat, sandflat and saltmarsh habitats might be affected by the dredging and disposal activities. The comments above under 'Moray Firth Ramsar site – habitats' are pertinent.

Possible mitigation/enhancement

- See comments in the 'Moray Firth Ramsar site – habitats' section above.

European Protected Species

Cetaceans

Impacts

- There are a number of cetacean EPS species present in the Moray Firth. In addition to bottlenose dolphins, the main species that are likely to be affected by this proposal are porpoise and minke whale. Others may be in the vicinity but are likely to be transient in nature, occur in low numbers and any impacts could be reduced through following mitigation identified for bottlenose dolphin.
- Construction activities can cause disturbance to cetaceans.

What ES needs to address

- The ES should assess the potential impact of underwater noise on bottlenose dolphins, harbour porpoise and minke whale.

Possible mitigation/enhancement

- An EPS license is likely to be required from Marine Scotland.

Bats

Impacts

- All bat species found in Scotland are classed as EPS. The protection extends to bat roosts. A bat roost is any structure or place that a bat, or group of bats, uses for shelter or protection. As bats return to the same places every year, a bat roost is protected even if no bats are present. Dunskeath House provides a suitable habitat for bats and the building may support roosting bats.

What ES needs to address

- The ES should include a bat survey of Dunskeath house.

Possible mitigation/enhancement

- If bats are present then the applicant will need to apply for a licence from us to permit development to proceed that might otherwise result in an [offence in relation to bats](#).

Landscape

- There are no national landscape designations relevant to this proposal although the sea and coast are within the East Ross Special Landscape Area (SLA) and the site is a major feature within this SLA. We understand that advice on landscape aspects will be provided by The Highland Council.

Cumulative effects

- The [Conservation \(Natural Habitats, &c.\) Regulations 1994 as amended, \(the "Habitats Regulations"\)](#) require proposals to be considered "in combination with other plans or projects".
- There may be cumulative impacts of vessel movements associated with this proposal in combination with other development proposals close by. The ES should therefore take into account other marine developments in the area which use the same waters as the vessels associated with this development, in particular vessels associated with the proposed harbour development at Invergordon. Collaboration between the applicant and the Port of Cromarty Firth to look at vessel movements associated with these two proposals together would provide a useful way forward.

Key Points	Assessments to be carried out and/or submitted with application
<ul style="list-style-type: none"> • The key natural heritage issues are likely to be impacts on designated features of European importance especially bottlenose dolphins and potentially subtidal and intertidal habitats and the knock on effects of this for wintering birds. • Establishing the potential implications for the integrity of the features will depend, in particular, on the quality and outcome of further assessments of the dredging and disposal of materials, underwater noise from piling and other activities and vessel movements. • It is likely that the impacts on these features can be addressed through design and mitigation. • Further information is required on cumulative effects and how the impacts of the proposed development will be assessed in combination with other existing or proposed developments. 	<ul style="list-style-type: none"> • Assessment of the type and duration of piling to be deployed. • Underwater sound profiles showing how noise from piling activities will propagate into the surrounding waters. • Assessment of the dredge and disposal operations, in terms of the volumes of material and the timing of the works. This should include a BPEO. • Sediment modelling to assess potential alteration to extent, distribution and composition of marine habitats and species as a result of changes in hydrographic/ coastal processes. • Assessment of a change in vessel movements associated with both the construction and operational phases of the proposal. • Assessment of the effects of lighting at the work site and how this may affect bird movements to and from the adjacent intertidal areas. • Assessment of how to deal with common terns should they become a problem for the work force. • EPS licenses will/may be required for

	cetacean species and bats. <ul style="list-style-type: none"> Assessment of cumulative effects, especially in relation to vessel movements.
--	--

Organisation	Scottish Natural Heritage
Name	Redacted
Position	Operations Officer
Email	Redacted
Phone	Redacted

Please attach any additional information as a separate file and send to majorpreapps@highland.gov.uk

Redacted

From: Redacted
Sent: 27 March 2019 14:46
To: MS Marine Licensing
Subject: Consultation Response – Nigg Energy Park – Construction of new East Quay including dredging and piling
Attachments: Major Pre-Application Advice Service - 4 April 2018 - Global Energy Nigg - South Quay - SNH Response - 18 April 2018.docx

Dear MS-LOT

Consultation Response – Nigg Energy Park – Construction of new East Quay including dredging and piling

Thank you for consulting us on the above proposal. We have previously provided pre-application advice, and responded to a screening request (19/00632/SCRE) and scoping request (19/00629/SCOP) for the planning application.

Our pre-application advice (attached) dated April 2018 is still applicable. We outlined the likely significant effects to the environment with regards to our interests. The screening and scoping information provided by the applicant demonstrates this advice has been considered. As stated previously in our pre-app advice the applicant should consider the impacts of the development on the following designated sites:

- Moray Firth Special Area of Conservation (Bottlenose dolphins and sub-tidal sandbanks)
- Dornoch Firth and Morrich More SAC (Common Seal)
- Cromarty Firth Special Protection Area (all species)
- Cromarty Firth Ramsar site (habitats)
- Proposed Moray Firth SPA (all species)
- Cromarty Firth Site of Special Scientific Interest (intertidal habitats)

The development should consider the following European protected species:

- All species of cetacean
- Bats

Our pre-application advice contains details of specific issues the ES should address, and possible mitigation/enhancement that could be included.

Should you have any further questions please feel free to contact me.

Kind regards,

Redacted

N.B. my email address has now changed to Redacted

Redacted

Scottish Natural Heritage | Fodderty Way | Dingwall Business Park | Dingwall | IV15 9XB | t: 01463 701610
Dualchas Nàdair na h-Alba | Slighe Fhodhraitidh | Pairc Gnothachais Inbhir Pheofharain | Inbhir Pheofharain | IV15 9XB
[nature.scot](#) – Connecting People and Nature in Scotland – [@nature_scot](#)

Scottish Water

5th March 2019

Marine Scotland
Scottish Government 375 Victoria Road
Aberdeen
AB11 9DB



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

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk

Dear Sir Madam

IV19 Cromarty Nigg Energy Park Site At
OUR REFERENCE: 773727
PROPOSAL: Development Works at Nigg Energy Park

Please quote our reference in all future correspondence

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

- There is sufficient capacity at our water treatment works to service this development. However, a water impact assessment may be required to understand what impact the proposed new development will have on existing services. Should the impact assessments identify network mitigation measures, these must be funded and carried out by the developer(s).
- We would ask that the developer completes a Pre Development Enquiry (PDE), providing some more specific detail of any commercial development. Early engagement with Scottish Water is advised.
www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms/pre-development-application

The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

Infrastructure within boundary

According to our records, the development proposals impact on existing Scottish Water assets.

The applicant must identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team directly at service.relocation@scottishwater.co.uk.

The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.

Scottish Water Disclaimer

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

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 activity.

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will **not** accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification taking account of various factors including legal, physical, and technical challenges. However it may still be deemed that a combined connection will not be accepted. Greenfield sites will not be considered and a connection to the combined network will be refused.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is proposed, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- **Scottish Water asset plans can be obtained from our appointed asset plan providers:**

Site Investigation Services (UK) Ltd
Tel: 0333 123 1223
Email: sw@sisplan.co.uk
www.sisplan.co.uk

- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections department at the above address.
- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
- **Please find all of our application forms on our website at the following link <https://www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms>**

Next Steps:

- **Single Property/Less than 10 dwellings**
For developments of less than 10 domestic dwellings (or non-domestic equivalent) we will require a formal technical application to be submitted directly to Scottish Water or via the chosen Licensed Provider if non domestic, once full planning permission has been granted. Please note in some instances we will require a Pre-Development Enquiry Form to be submitted (for example rural location which are deemed to have a significant impact on our infrastructure) however we will make you aware of this if required.

- **10 or more domestic dwellings:**
For developments of 10 or more domestic dwellings (or non-domestic equivalent) we require a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

- **Non Domestic/Commercial Property:**
Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider

to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

- **Trade Effluent Discharge from Non Dom Property:**

Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.

If you are in any doubt as to whether or not the discharge from your premises is likely to be considered to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found using the following link <https://www.scottishwater.co.uk/business/our-services/compliance/trade-effluent/trade-effluent-documents/trade-effluent-notice-form-h>

Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.

For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on 0800 389 0379 or at planningconsultations@scottishwater.co.uk

Yours sincerely

Redacted

Transport Scotland

A9 - Nigg Energy Park East Quay - Scoping - Highland

PREPARED FOR: Redacted – Transport Scotland
PREPARED BY: Redacted
REVIEWED BY: Redacted
APPROVED BY: Redacted
DATE: March 2019
PROJECT NUMBER: 650718

Introduction

The pre-application consultation request, dated 28 February 2019, associated with the proposed Nigg Energy Park has been passed to Jacobs as Development Planning and Management Advisor and Auditor to Transport Scotland.

The comments provided within this response are based on the supporting documentation available via the South Lanarkshire planning portal, particularly the EIA Scoping Report prepared by Global Energy Nigg Limited, dated February 2019.

Planning History

In regard to the planning history associated with the proposed development site, the EIA Scoping Report advises the following development since the approval of the Nigg Development Masterplan (dated March 2013) by the Council:

- “In May 2013, an application to MSLOT and the Council (reference 13/01825/FUL and amended by 13/04695/FUL) was submitted regarding an extension to the south quay harbour and berthing facilities at Nigg Energy Park, to accommodate large rig structures and floating production, storage and offloading vessels (FPSOs). The South Quay development was subject to a full EIA and was duly approved. Construction was completed in 2015 and the facility is now fully constructed and fully utilised, and in great demand with the Applicant’s North Sea oil and energy sector clients”; and
- “Subsequent applications have come forward in the intervening period between May 2013 and time of writing in January 2019, including:
 - “Extension of Assembly Shop 7 (17/05176/FUL);
 - “Extension to Assembly Shop 4 to join Fabrication Shop 7 including erection of new buildings (17/03411/FUL); and
 - “Installation of hardstanding, compound area and welfare area, fuel tanks and delivery pipes (15/02216/FUL), as amended by 15/03325/FUL”.

Jacobs acknowledge that these applications have been decided by the Council with decision of Application Permitted given in each case. Additionally, Jacobs note that the EIA Scoping Report advises that “the concept of an East Quay was identified within the Nigg Masterplan as a potential access option to the sea”.

Development Proposals

The EIA Scoping Report advises that the proposed development consists of the following elements:

- “A proposed east quay of plan area 250m by 50m (0.88ha) constructed using perimeter piling to retain locally dredged material as infill;

- “Associated fendering and rock armouring;
- “Dredging (method to be determined) of approximately 140,000m³ to achieve a minimum sea bed level at the main west facing berth of 12m below chart datum to facilitate the proposed development;
- “High level lighting to quayside in accordance with Port Regulations;
- “Sea water extraction for fire-fighting capability;
- “Re-use of approximately 70,000m³ of dredged materials within the quay structure (quantities to be determined and material characterisation and sampling to be agreed with MSLOT);
- “Disposal of excess suitable dredged material (approximately 70,000m³) within The Sutors licenced disposal site;
- “Demolition and removal of buildings on site associated with the former Dunskeath House;
- “Preparatory groundwork and associated landscaping for provision of a laydown area for handling and temporary storage of plant and renewable energy components;
- “Access provision from the B1975; and
- “Security lighting and fencing associated with the laydown area”.

Development Access

Access to the proposed development from the trunk road network will be provided via the A9(T)/B9175 junction. In regard to construction traffic associated with the proposed development, the EIA Scoping Report advises that “road access to construct the quay would be limited as, apart from the concrete for the cope and the final crushed rock topping, the materials would probably arrive at the site by sea”. In consideration of this Jacobs note that the preferred source for crushed rock is the Castle Craig Quarry located to the east of the site, which would not require trunk road or B9175 access for the transport of material to the proposed development site.

Jacobs also note that in addition to the transport of material for the construction of the proposed East Quay, it is advised that “following Building Warrant approval the existing buildings and stonework walls would be demolished and unsuitable materials would be removed off site to an approved disposal site”.

Jacobs would advise that the transport and traffic assessment should consider all construction and demolition activities associated with the proposed development and include details of anticipated traffic associated with the operational stage. Additionally, all HGVs transporting construction material to and from the site should be sheeted and require passing through a wheel washing facility prior to exiting the proposed development site and that this should be conditioned as part of any consent awarded by the Council.

Assessment Methodology

Study Area

Section 4.9.2 of the EIA Scoping Report advises that the study area for the proposed development will encompass the public road network in the vicinity of the East Quay in addition to the site access route connecting to the wider strategic road network. This includes the B9175 and the A9(T) and is considered appropriate by Jacobs.

Impact Significance

In regard to the assessment of the significance of any impacts associated with the proposed development, Jacobs would advise that IEMA Guidelines should be followed, in addition to appropriate guidelines from the Institution of Highways and Transportation and Transport Scotland.

Jacobs acknowledge that Section 4.9 of the EIA Scoping Report advises that the assessment will consider the following aspects in regard to the effects of construction traffic on the public road network:

- Noise and Vibration;
- Air pollution;
- Severance;
- Driver delay;
- Pedestrian delay and amenity;
- Accidents and safety;
- Dust and dirt; and
- Hazardous loads.

Jacobs acknowledge that it is envisaged that approximately 70,000m³ of dredged material may be reused in the construction of the quay and that required crushed rock may be sourced from the nearby Castlecraig Quarry. However, Jacobs note that the quantities of reusable dredged material are to be confirmed and Castlecraig Quarry is noted as a preferred source. In the absence of confirmation that sufficient material can be sourced from Castlecraig Quarry and sufficient evidence to support the anticipated volume of reusable dredged material, Jacobs would advise that a worst-case scenario should be adopted in the assessment of trunk road network impacts.

In regard to this, it is advised that traffic associated with the proposed development should be assessed in percentage terms against existing traffic patterns to determine where further assessment may be required. This assessment should also consider cumulative impacts from committed developments utilising the same public road network. Committed developments to be considered should be agreed with the Council.

The following IEMA Guidance rules should be adopted in the traffic and transport assessment:

- Rule 1: Include highway links where flows are predicted to increase by more than 30% (10% if affecting a sensitive area) or where the number of heavy goods vehicles (HGVs) is predicted to increase by more than 30%; and
- Rule 2: Include any other specifically sensitive area where traffic flows are predicted to increase by 10% or more.

Jacobs acknowledge that these rules are referenced within the EIA Scoping Report and that “mitigation measures will be identified and incorporated into the development proposals where an effect is deemed to be Significant (prior to any mitigation)”. Considering this, the following assessment methodology is advised:

- “The magnitude of effects arising from the increase in traffic volumes is categorised as follows:
 - “Substantial: above 90% increase in existing traffic levels (or 70% at sensitive receptors);
 - “Moderate: between 60% and 90% increase in existing traffic levels (or between 40% and 70% at sensitive receptors);
 - “Slight: between 30% and 60% increase in existing traffic levels (or 10% and 40% at sensitive receptors); and
 - “Negligible: under 30% increase in existing traffic levels (or under 10% at sensitive receptors)”.
- “The determination of the magnitude of the effects will be undertaken by reviewing the characteristics of the proposed development, establishing the parameters of the road traffic that has the potential to cause an effect, and quantifying these effects against the criteria set out above”.

- “For the purposes of this assessment, the sensitivity of the road links within the study area to changes in traffic levels will be evaluated on a scale of “low”, “medium” and “high”, based on their usage by pedestrians and cyclists and the size of communities through which the road section passes”

The proposed methodology is considered appropriate by Jacobs.

Baseline Data

The EIA Scoping Report advises that “in order to establish the baseline traffic flows, new traffic surveys will be undertaken to supplement existing data and accident records will be sought for route within the study area. A review of the road capacities within the study area will also be undertaken by reference to the DMRB”, and that it is proposed “to commission two automatic traffic counts (ATCs) along the B9175 and make use of publicly available annual average daily traffic (AADT) flows from the Department for Transport (DfT) traffic counts and / or Transport Scotland traffic counters (along the trunk road network). The ATCs will record the traffic volumes, classifications and speeds during a neutral week for the road link(s) within the identified study area”.

Jacobs would advise that the assessment should consider impacts on the A9(T)/B9175 junction impacts and that DfT traffic count data is not considered to be a sufficient source for the assessment of trunk road impacts. Baseline traffic count data informing the assessment should be requested from Transport Scotland or additional surveys to be commissioned by the applicant.

In regard to the assessment of accidents, it is advised that www.crashmap.co.uk is not considered to be an adequate resource by Transport Scotland and that baseline data to be use in the assessment of trunk road network accidents should be requested from Transport Scotland via accidentdatarequests@transport.gov.scot.

Traffic Management Plan

The EIA Scoping Report proposes the inclusion of a draft Construction Environmental Management Plan (CEMP) within the EIA Report in addition to a Schedule of Mitigation highlighting mitigation measures committed to by the applicant. It is advised that the Schedule of Mitigation will inform the draft CEMP and that “the draft CEMP would be closely linked to the Schedule of Mitigation and provide regulators with the site-specific details of how the mitigation measures would be implemented. Should the applications be approved, this would then be cross-checked by the contractor and further detail added, and it is anticipated that a final CEMP would be secured by condition”. Jacobs consider the proposed approach appropriate.

Jacobs would advise that while the CEMP is focused on the management of construction traffic, reference should be made to anticipated operational traffic and any associated measures required to support this. The following details, though not exclusively, should be provided within the CEMP:

- Envisaged number and type of vehicle movements associated with each phase of development;
- Proposed construction programme, including anticipated number of vehicles per day by vehicle type;
- Proposed site operating hours during the construction period;
- Outcomes and detailed plans from any required swept paths assessment; and
- Proposed mitigation measures supported by detailed plans as necessary.

Abnormal Loads

Jacobs note that the EIA Scoping Report does not discuss the need for abnormal loads associated with the proposed development but would advise that should any such loads be required, these are required to be appropriately assessed. The anticipated route for any envisaged abnormal loads from port of entry (PoE) to the proposed development site should be provided for approval by the Council in consultation with Transport Scotland.

It is advised that the following elements should be provided within any required abnormal loads assessment:

- Establish number and dimensions of abnormal loads and transporting vehicle, i.e. weight limits, length etc.;
- Establish all trunk roads to be used by abnormal load vehicles;
- Undertake a route review considering the horizontal and vertical alignment of the preferred route(s), defining locations where a detailed swept path assessment is required;
- Identified key organisations to be consulted along the proposed routes;
- Initial consideration of: The maximum axle loading on structures in consultation with the relevant roads agencies; clear heights in consultation with utility providers and transport agencies; roadworks or closures that could affect the passage of the loads; underground services on the proposed route; satisfaction of Police Scotland and local authorities to the proposed route(s); lay-by areas that can be utilised for temporary parking; and lay-bys that can be used to let traffic pass slow moving abnormal loads;
- Any other obstruction that may restrict transportation of abnormal loads;
- Supporting Swept Path Assessment;
- Details of measures to mitigate abnormal load movements;
- Drawings required for proposed improvements;
- Geometry and visibility at access point(s) to/from trunk road, if direct access is required;
- Accident record at access point(s) to/from trunk road, if direct access is required; and
- Abnormal load management plan introducing measures that could help reduce the impact of abnormal load convoys.

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 6th 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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