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Date: **25 October 2023**

Dear Gavin,

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

Thank you for your screening opinion request and associated Screening Report dated 18 August 2023 in regards to the proposed temporary installation of a cofferdam at Cockenzie (“the Proposed Works”), associated with the Inch Cape Offshore Wind Farm (“the Project”). The proposed temporary installation of the cofferdam is to facilitate the additional landfall works and the installation of the export cable.

The Project is an Environmental Impact Assessment (“EIA”) project therefore the Scottish Ministers consider the Proposed Works to fall under paragraph 13 of schedule 2 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 MW Regulations”), with the Proposed Works meeting the corresponding threshold described in column 2 of schedule 2. Consequently, the Scottish Ministers are obliged to adopt a screening opinion as to whether the Proposed Works are an Environmental Impact Assessment (“EIA”) project under the 2017 MW Regulations.

Under regulation 10(5) of the 2017 MW Regulations, the Scottish Ministers have consulted with NatureScot (operating name of Scottish Natural Heritage), the Scottish Environment Protection Agency (“SEPA”), the relevant local planning authorities (Aberdeenshire Council, Angus Council, Dundee City Council, East Lothian Council (“ELC”), Fife Council, and Scottish Borders Council) and Historic Environment Scotland (“HES”) as to their view on whether the Proposed Works are an EIA project. Copies of the consultation responses received are attached for your review (at Appendix I).

When making a determination as to whether schedule 2 works are an EIA project, the Scottish Ministers must provide their reasons in a written statement, taking into account the selection criteria set out in schedule 3 of the 2017 MW Regulations, as are relevant to the Proposed Works. This is set out below.

Characteristics of the works

Inch Cape Offshore Limited (“the Applicant”) was awarded a marine licence for the construction of two export cables on 17 June 2019 that will transmit electricity from the Project. This was subsequently varied on 14 June 2023. The Applicant has identified that a temporary cofferdam is required to facilitate additional landfall works and the installation of the export cables. The cofferdam is necessary to enable the intertidal elements of the work to be completed to provide protection for the works and to ensure a safe working area.

The cofferdam is anticipated to be a traditional box structure constructed from a perimeter of steel sheet-piles in the seabed, supported by horizontal waling beams, props, and tie-rods for stability. The estimated footprint of the cofferdam is up to 40 x 40 metres (“m”) and the estimated working area below mean high water springs will be 43 x 46 m, plus working tolerance. To prepare for the piling work, the excavation of a narrow trench around the footprint of the cofferdam is proposed and, where rock or difficult driving conditions are encountered, it is anticipated that the ground will be prepared by pre-drilling. A 120 m perimeter crushed rock level platform, up to 3 m wide, will be required for the piling operations. The steel-piles are likely to be set into drilled “slots” on the seabed and vibrated, rather than percussively piled. The Applicant intends to seal the cofferdam against the sea defence wall to limit water ingress and this will likely require grout/concrete to seal the toes of the sheet-piles and voids against/within the sea defence.

Installation will be undertaken during low tide, following clearance of the foreshore and upon completion of the outfall diversion, prior to breaking through the seawall. The estimated timescale for installation is 10 to 12 weeks. It is anticipated the cofferdam will be in place for up to 18 months, until installation of both export cables and all backfilling works have been completed. The commencement date of the Proposed Works will be no earlier than January 2025 and completion no later than December 2028.

It is the Applicant’s intention to completely remove the cofferdam upon completion. However, the Applicant anticipates that the grouted steel piles may be difficult to remove and could be cut 1 m below the seabed level, remaining in-situ. The Applicant intends to reuse excavated rock armour material from the original beach deposits for scour protection. Allowance has been made for the import of additional material and the Applicant proposes that the scour material would be the same as original material as far as practicable.

Location of the works

The Proposed Works are located within the consented export cable corridor for the Project, near the onshore substation site to the west of Cockenzie, East Lothian. The Proposed Works are not within any designated site, however the Screening Report identifies a number of designated sites which lie within the vicinity that the Applicant considers relevant to the screening request. Within the Screening Report the Applicant has considered the potential impacts to benthic ecology, fish and shellfish ecology, marine mammal features, ornithological receptors, and cultural heritage receptors. The Screening Report concludes that due to the temporary nature and small spatial scale of the Proposed Works it is not anticipated that any significant effects will arise.

NatureScot advises that there is likely to be connectivity to several designated sites that are in close proximity to the Proposed Works, and there is likely to be significant effects upon these sites. However, NatureScot anticipates that the conclusions of the previous Appropriate Assessment carried out for the Project of no adverse effects on site integrity on any designated site are likely to apply to the Proposed Works.

With regards to the identified receptors, NatureScot agrees with the conclusions set out in the Screening Report, that the Proposed Works are small-scale, temporary, and the magnitude of their impacts fall within existing consented parameters previously assessed as not significant. NatureScot support the Applicant’s position that the Proposed Works can be screened out of EIA.

The Scottish Ministers agree with NatureScot and are content that any impacts to designated sites from the Proposed Works can be managed through the Habitats Regulations Appraisal process which will be carried out as part of the marine licensing and consenting processes.

HES is content with the conclusion of the Screening Report and agrees that, with the proposed measures detailed in Section 4.5.4 of the Screening Report, there will be no significant impacts on its interests from the Proposed Works and has no further comment to make. ELC was also content that as the Proposed Works fall within an area of previously reclaimed land there will be limited heritage implications.

Characteristics of the potential impact

ELC advised that whilst the Proposed Works would not result in permanent impacts on the transport network of sufficient significance to require an EIA there would be some temporary impacts on the local road network as a result of the construction and dismantling phases. In addition, it highlighted potential flood risk from the Proposed Works during the construction phase but added that the risk does not constitute the level required to need an EIA. Scottish Ministers' anticipate that temporary impacts on the local road network and potential flood risks from the Proposed Works can be addressed through the development of a Construction Management Plan submitted alongside any application for a marine licence. ELC recommended that greenhouse gas emissions from the Proposed Works should be considered, however, concluded that it does not consider that the impact of the Proposed Works are likely to be significant on any of the identified receptors within its remit.

Aberdeenshire Council advised the Proposed Works are unlikely to have any direct or indirect impact upon the Aberdeenshire Council area due to the distance of the development from the council boundary and had no comment to make.

SEPA, Angus Council, the Scottish Borders Council, Dundee Council and Fife Council had no comment to make.

Conclusion

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

If you increase, alter or extend the Proposed Works, you are advised to contact Marine Directorate - Licensing Operations Team again to confirm if the screening opinion is still valid.

A copy of the screening opinion has been forwarded to relevant local authorities' planning departments. The screening opinion has also been made publicly available through the Marine Scotland Information website.

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

Yours sincerely,

Lauren Cowan
Marine Directorate - Licensing Operations Team