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Dear Dr Fleming

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2017
HUNTERSTON MARINE CONSTRUCTION YARD**

I refer to the above and enclose our screening opinion regarding the proposal at Hunterston marine construction yard together with a copy of the consultation response from Scottish Natural Heritage as referred to therein.

As previously advised, you will require a marine licence and I look forward to receiving your application for consideration in due course. In this regard, I note that you have indicated within your Environmental Review that you will be completing desk based assessments. If you wish to provide an outline scope of the desk based assessments you intend to carry out in respect of the marine licence applications we can provide advice on this matter.

Please be advised that a European Protected Species ("EPS") licence may be required in respect of the proposed works. 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 EPS. If any activity is likely to cause disturbance or injury to an EPS, a licence is required to undertake the activity.

An EPS licence may only be granted to undertake such activities if the following strict criteria are met:

- There is a licensable purpose.
- There are no satisfactory alternatives.
- 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 Marine Laboratory, 375 Victoria Road, Aberdeen AB11 9DB
www.gov.scot/Topics/marine/Licensing/marine

information in relation to Scottish Inshore Waters.

I also draw your attention to the Water Framework Directive (2000/60/EC) ("WFD") which was introduced in the year 2000 to establish systems to manage Europe's water environment - rivers, lochs, estuaries and coastal waters. A WFD assessment must be provided to support your marine licence applications. Further information regarding WFD can be found online as noted below.

Finally, I advise that the proposed marine activity may also be of a class or description prescribed in the Marine Licensing (Pre-application Consultation) Regulations 2013 (PAC). To confirm if PAC is required please submit a formal PAC statement request, which must be accompanied by:

- a chart or map (or both) sufficient to identify the location of the project and of the regulated activity;
- a brief description (including a plan) of the nature and purpose of the project and the regulated activity and their possible effects on the environment;
- a statement of the working methods to be used in the course of the project and in carrying out the regulated activity; and
- such other information or representations as the applicant may wish to provide or make.

Legislation and guidance

The marine licensing requirements can be found in Part 4 of the Marine (Scotland) Act 2010, which can be accessed via:

<http://www.legislation.gov.uk/asp/2010/5/contents>

Further marine licensing information and guidance can be obtained from our website at:

<http://www.gov.scot/Topics/marine/Licensing/marine>

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 found at:

<http://www.scotland.gov.uk/Topics/marine/Licensing/marine/guidance/preappconsult>

Further information on the WFD can be found at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32000L0060&from=EN>

Guidance for Scottish Inshore Waters relative to the protection of Marine European Protected Species from injury and disturbance can be found at:

<http://www.gov.scot/Resource/0044/00446679.pdf>

The European Habitats Directive (Council Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna) can be accessed via:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>

The Marine Works (Environmental Impact Assessment) Regulations 2017 can be accessed via:

<http://www.legislation.gov.uk/ssi/2017/115/contents/made>

It is important that you are fully conversant with all of the rules that apply to your activity and your attention is drawn to the information and advice provided above.

If you have any queries, please do not hesitate to contact me.

Yours sincerely,



Mike Bland
Marine Licesning - Section Head
Marine Scotland – Licensing Operations Team

