

**Finance and Constitution Committee – Burntisland Fabrication Ltd (BiFab)
Wednesday 20 November 2019**

Additional Q&A

Q. Will JV Driver/DF Barnes benefit from this contract?

[redacted].

JV Driver have stated that they remain committed to the long term best interests of BiFab and have noted that this approach is acceptable in principle.

In addition the Scottish Government will charge BiFab a fee for arranging the guarantee, which paid to Scottish Ministers and held in the Scottish Reserve.

Q Why are JV Driver not providing a guarantee as they did for the Moray East Pin Piles

JV Driver has provided support to BiFab since its acquisition of a majority shareholding in April 2018. This has included guarantee support and the provision of management services.

However, JV Driver advised Scottish Government last month that it has reflected on its risk appetite towards BiFab and, whilst remaining committed to BiFab's long term success, does not want to incur further financial exposure in respect of BiFab at the current time, and thus will not support the guarantee ask of Saipem.

JV Driver's reasons for this change in position have been driven by several factors – I would draw Committee members attention to Paragraph 2.8 of the paper for this detail.

Q. [redacted]



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COMMERCIAL IN CONFIDENCE

14 November 2019

Dear Bruce,

Further to my letter of 6th November 2019, I thank the Committee for agreeing to hold a private session so that I can present on a commercially confidential basis the ask of the Scottish Government to guarantee an assurance package on a new contract award to BiFab.

As you are aware, the written agreement between the Scottish Government and the Parliament requires Committee approval for guarantees that do not fall within the normal run of Government business, and where the exposure exceeds £2.5 million. The ask under consideration requires Committee approval.

I attach a paper setting out details of the proposed contingent liability, the benefits and risks associated, mitigations and protections designed to ensure BiFab's long-term viability and realisation of further industrial employment opportunities.

The material attached identifies the parties involved, and the commercial positions of the Scottish Government as well as third party operators engaged in business in Scotland, and is highly commercially sensitive. It is therefore of critical importance that the content of this paper, and the discussions of the Committee on the ask, is kept strictly confidential: the release of any material would cause severe detriment and, consequently, I am grateful for your agreement to consider the matter in private.

This information is confidential and should be treated as sensitive and not for disclosure under the Freedom of Information (Scotland) Act 2002. It was provided in circumstances which imposed an obligation on the Scottish Government to maintain that confidentiality and unauthorised disclosure would be to the detriment of those who provided the information.

I welcome the opportunity to discuss this with the Committee on 20th November 2019.

DEREK MACKAY

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



MINISTERIAL ENGAGEMENT BRIEFING: DEREK MACKAY

Engagement title	Private session - Finance & Constitution Committee to discuss BiFab	
Engagement timings	Wednesday 20 November 2019, 10:00-11:00	
Organisation	The Scottish Parliament - Finance & Constitution Committee	
Venue and full address	Committee Room 6 The Scottish Parliament	
Background/Purpose (including invitation history)	To provide details to the Committee regarding the proposed contingent liability relating to the NnG jacket contract secured by BiFab	
Relevance to core script	<p>It is critical that BiFab secures a fabrication award on NnG in order to build its reputation to deliver structures for the offshore renewables sector.</p> <p>BiFab is seen as a key business in the Scottish renewables supply chain as we continue to build a strong, vibrant and diverse economy that promotes wellbeing and attracts investment.</p>	
Supplementary information	<p>Annex A: Covering Letter to Committee Annex B: Committee Paper Annex C: Further background to the Committee paper Annex D: Contracts for Difference (CfD) update Annex E: Offshore wind summit Annex F: Financial Intervention in Private Companies</p>	
Official support:	<p>Andy Hogg, Deputy Director Energy Industries Division [redacted]. [redacted].</p>	

Cabinet Secretary for Finance, Economy and Fair Work
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**BURNTISLAND FABRICATIONS LTD
PAPER TO THE FINANCE AND CONSTITUTION COMMITTEE
15 NOVEMBER 2019**

1 Introduction

- 1.1 Burntisland Fabrications Ltd (BiFab) is a fabricator of oil and gas and offshore wind structures. BiFab is one of the last few large scale fabrication yards working in the UK energy sector. When operating at near full capacity, and with a pipeline of potential orders, BiFab can be a major source of sustainable and high-value employment across its three sites: Burntisland and Methil in Fife and Arnish on the Isle of Lewis.
- 1.2 The Scottish Government currently holds a 32.4% equity stake in BiFab. In addition, the following financial support has been extended to BiFab as:
- a loan facility of up to £10 million (the Restructuring Loan), of which £9 million has been drawn down by BiFab to date; and
 - **[redacted]**.
- 1.3 As part of its long term commitment to BiFab, the Scottish Government continues to work to secure the long-term viability of the business, and to realise further industrial and employment opportunities in this strategically important sector.
- 1.4 BiFab is now in the latter stages of negotiation on the award of fabrication of eight jackets (steel structures to support the offshore wind turbines) with Saipem, EDF's Tier 1 contractor on the Neart na Gaoithe (NnG) project **[redacted]**.
- 1.5
- 1.6 In line with market practice, Saipem is seeking an **[redacted]** as one of the conditions to BiFab being awarded the contract. Whilst typically expected to be guaranteed by the shareholder(s), the Scottish Government has been asked to act as sole guarantor for the assurance package.
- 1.7 **[redacted]**
- 1.8 The Committee's approval is required before any commitment can be made by the Scottish Government to provide the assurance package. This paper provides further detail in relation to the ask.

2 Ask of the Scottish Government

Overview

- 2.1 BiFab must provide an assurance package that is agreeable to Saipem in order to secure the contract to fabricate eight jackets on the NnG project, [redacted].
- 2.2 [redacted]
- [redacted].
- 2.3 The Committee previously approved the Scottish Government's role as guarantor on the Moray East pin piles contract. Key differences of the current ask can be summarised as:
- Per Scottish Government's discussions with Saipem, [redacted].
 - [redacted] rather than JV Driver's group bond scheme provider, Liberty Insurance.
 - JV Driver will not provide a shareholder guarantee in favour of Saipem (for reasons set out below).
 - The Scottish Government will provide [redacted] in order for BiFab to secure the bonds.
- 2.4 Saipem has acknowledged that the Scottish Government will be providing [redacted].
- 2.5 [redacted].
- 2.6 The Scottish Government's assurance package will be in the form of a [redacted]. BiFab will be required to take all possible steps to (i) prevent government exposure, underpinned by quality & assurance measures in place on site, and, in the event of a call on the guarantee, (ii) mitigate government's exposure, e.g. through an active role in negotiations with Saipem..

JV Driver risk appetite & requirement for government guarantee

- 2.7 JV Driver has provided support to BiFab since its acquisition of a majority shareholding in the business in April 2018. This has included guarantee support and provision of management services to bolster the existing local management team.
- 2.8 However, JV Driver advised Scottish Government last month that it has reflected on its risk appetite towards BiFab and, whilst remaining committed to BiFab's long term success and JV Driver's management support role, does not want to incur further financial exposure in respect of BiFab at the current time, and thus will not support the guarantee ask of Saipem. JV Driver's reasons for this change in position have been driven by several factors, including:
- [redacted]
- 2.9 [redacted]
- 2.10 In order to secure the NnG contract for BiFab, the Scottish Government has considered whether or not provision of a shareholder guarantee was possible, and if so, on what terms. Provision of a shareholder guarantee by the Scottish Government is seen as the only current way of meeting Saipem's requirements. The assurance package has been built on a Market Economy Investor Principle (MEIP)-compliant basis, as further expanded upon in Section 3.
- 2.11 While JV Driver is unwilling to increase its risk exposure to BiFab, the Scottish Government has received assurances from management that it remains committed to ensuring BiFab succeeds, and that it will not stand in the way of investment prospects in future, even if it requires changes in shareholding.

2.12 [redacted]

Risk considerations: lessons from Beatrice and Moray East

2.13 In assessing the assurance package Grant Thornton, our commercial advisors, was instructed to assess key risk areas of BiFab's cost report for the NnG jacket fabrication.

2.14 The cost report sets out BiFab's expectation of what it will cost it to fabricate the eight jackets [redacted].

2.15 This assessment of the reasonableness of BiFab's assumptions has, where possible, compared assumed labour hours, costs, etc to those BiFab actually incurred on the Beatrice and current Moray East pin piles contract. A summary of the commercial advisor's risk assessment against is contained in [redacted].

2.16 The key risk highlighted is that of execution risk. This is in relation to management's ability to ensure that the NnG contract is delivered on time with efficient project management.

2.17 The external advice is for the Scottish Government to monitor performance of the NnG contract closely, noting:

- complexity of the contract (when compared to pin pile fabrication);
- BiFab's past history of cost overruns; and
- exposure the Scottish Government has been asked to commit to.

Risk considerations: exposure in the event of BiFab non-performance

2.18 [redacted]

2.19 Whilst no such situation is expected, it is considered prudent to have obtained external advice on possible scenarios. An important point highlighted in this advice: the Beatrice contract (a large scale jacket fabrication award to BiFab, now complete) was complex, and ultimately triggered intervention by the Scottish Government in order for BiFab to avoid insolvency due to the quantum of cost overruns incurred, yet the overruns were not 100% of contract value.

2.20 On the current Moray East pin piles contract, on which the Scottish Government acts as guarantor, no call on the guarantee provided has been made, nor is one expected. This is a current example, particularly BiFab's productivity rates at Methil which are exceeding production targets, of BiFab's ability to deliver contracts without stakeholder intervention.

2.21 Thus, the commercial advisor report confirms that [redacted]

Guarantee premium

2.22 BiFab as beneficiary of the guarantee will pay the Scottish Government an appropriate market premium for the benefit gained from the guarantee, consistent with MEIP advice obtained.

2.23 The guarantee premium will be priced as follows:

- [redacted]
- [redacted]

2.24 [redacted]

2.25 [redacted]

2.26 In line with our previous approach on guarantees, the fees would be paid to the Scottish Ministers and held in the Scottish Reserve.

2.27 Under current assumptions, BiFab will be required to pay the annual premium set out above to ensure the Scottish Government is acting in a State aid compliant manner.

2.28 Whilst this pricing is MEIP-compliant for the Scottish Government, [redacted]

2.29 [redacted], to positively re-establish its reputation in the offshore structure fabrication sector, thus putting BiFab in a significantly stronger position to capitalise on upcoming pipeline opportunities (summary given in Annex B).

2.30 [redacted]the current assessment of risk and potential exposure.

2.31 [redacted].

3 Basis of Scottish Government support

Prior considerations

3.1 The Committee will recall that a prior paper submitted in January 2019 (on the Moray East pin piles ask) set out three key reasons for Government support:

- alignment with Scottish Government policy
- existing contract awards; and
- future fabrication opportunities.

3.2 Each of the above matters continue to be key to the Scottish Government's long term support of BiFab, and are further detailed in **Annex B**

3.3 We emphasise that the provision of a Scottish Government-backed assurance package ensures the Scottish Government, as a shareholder, is taking the necessary steps to protect its investment and deliver on its wider ambitions for the Scottish supply chain.

Additional considerations

3.4 The Scottish Government also recognises that it is necessary to assess its ongoing support of BiFab in the current context.

3.5 The business still has a number of challenges which it is working to overcome, such as its ability to be considered globally competitive and ability to diversify its income streams, but also that its key sector, the renewables sector, continues to offer significant, as yet largely untapped opportunities.

3.6 Scotland's Climate Change Bill passed in September 2019¹ legally commits Scotland to a target of net-zero emissions of all greenhouse gases by 2045, in line with the advice of the Scottish Government's independent expert advisors, the UK Committee on Climate Change.

3.7 As part of this the Scottish Government has adopted an ambitious new target to reduce emissions by 75% by 2030. This is the toughest statutory target of any country in the world for this date going above and beyond what the Intergovernmental Panel on Climate Change said is required worldwide to limit warming to 1.5 degrees. As part of the evidence-based approach to develop policies and proposals in support of this target, the Scottish Government is undertaking a review of the renewables market and deployment consistent with a net zero energy system.

¹ Amends the Climate Change (Scotland) Act 2009

3.8 Given the likely future quantum and scale of renewable projects in Scotland and the UK, the Scottish Government believes that a strong, competitive indigenous supply chain remains a strategic priority. BiFab is considered critical to this, given its sector expertise and strategic location.

Legal authority

3.9 The Scottish Government has the necessary power to enter into this transaction under Section 7 of the Industrial Development Act 1982, which enables selective financial assistance to be given to promote industry which will safeguard or develop jobs. The provision of guarantees is one of the ways in which assistance can be given.

3.10 It must also be demonstrated that the proposal is State aid compliant. The proposal is considered to be in line with MEIP, as further set out below.

3.11 To note that, given the timescales dictated by Saipem and EDF, we have instructed legal due diligence **[redacted]** to review the contracts, which is running in parallel to Committee approval being sought. This will need to be concluded satisfactorily, in addition to receipt of Committee approval, before any guarantees can be signed on behalf of the Scottish Government.

- 3.12 Government support must fall within the realms of State aid. The proposal set out in this paper is not considered State aid as it is being transacted on a MEIP compliant basis.
- 3.13 The proposal is considered to be what a commercial operator would agree to, and the Scottish Government's risk exposure priced at commercial rates.
- 3.14 Taking in to account the government's existing financial exposure to BiFab, its recognition that support of BiFab is for a long term period, and its wish to deliver a return on sums invested, our advisors are of the view that a commercial operator in the same position would enter into a shareholder guarantee of up to **[redacted]**.
- 3.15 Further to the above considerations, without the Scottish Government's support the NnG opportunity will fall away, which would:
- materially reduce BiFab's pipeline of work for 2020;
 - increase BiFab's expected 2020 losses; and
 - having not secured jacket fabrication awards on the prior Moray East or Kincardine opportunities, BiFab would lose its 2020 opportunity to re-established its market credibility.
- 3.16 **[redacted]**, the Scottish Government is acting here in its position as an active, supportive shareholder seeking to ensure the future of offshore fabrication in Scotland and protect its existing investment. A guarantee of this quantum can be provided in accordance with the MEIP.

4 Current company position

Moray East pin piles

- 4.1 Work on the Moray East pin piles contract is currently ongoing. **[redacted]**.
- 4.2 No call on the Scottish Government-provided shareholder guarantee has been made to date, nor is one expected.
- 4.3 The Scottish Government currently **[redacted]** under the commercial agreement reached in order for it to provide the shareholder guarantee. BiFab is up to date with payments on these.

Other existing contracts & pipeline

- 4.4 Since our last update to the Committee, BiFab has also been successful in securing a fabrication contract for the oil & gas sector **[redacted]**. Fabrication work, due to complete in December 2019, is currently ongoing at BiFab's Burntisland facility. Whilst a small contract, this is a positive step.
- 4.5 BiFab was able to secure this contract without a shareholder guarantee or performance bond requirement.
- 4.6 Further consideration to pipeline is given in **Annex B**.

Funding

- 4.7 The Scottish Government made a Restructuring Loan facility available to BiFab in April 2018 of up to £10 million. As at 15 November 2019, BiFab has drawn down £9 million of this facility.

4.8 We remain in dialogue with Management about the terms and quantum of a new working capital facility which may be agreed post-NnG award..

Current financial position

4.9 For completeness of reporting to the Committee, we note that due to BiFab not currently being able to generate sufficient profits from the quantum of work secured to date to cover its overheads, the company is currently loss making. It is also forecast to be loss making in 2020.

4.10 This has resulted in BiFab's balance sheet reporting a net liabilities position. This will remain for some time.

5 Committee ask

5.1 Specific details within the assurance package will be agreed once Committee sign-off has been secured, but is expected to take the form of a [redacted].

5.2 [redacted].

5.3 This summarises out our expectations based on discussions with BiFab, JV Driver, Saipem, [redacted] and external advisors to date. We therefore request the Committee's approval to proceed on this basis, charging an appropriate guarantee premium aligned to the external commercial advice obtained.

5.4 To allow maximum flexibility for the Scottish Government in what is expected to be a tight timeline in the run up to a contract award to BiFab in the next 2-4 weeks, we request that the Committee, in recognising that a government-backed assurance package is crucial to BiFab securing an NnG award:

- [redacted].
- In the event of a change in Saipem and/or [redacted] position as negotiations progress, allows the Scottish Government to, subject to necessary commercial and legal approval:
 - [redacted].
 - [redacted].

5.5 Whilst the exact contract value is not yet finalised, the Scottish Government does not expect its exposure [redacted]. If the exposure is set to exceed this amount, the Scottish Government will re-engage with the Committee.

6 Conclusion

6.1 The Scottish Government seeks the Committee's agreement to a Government-supported assurance package being offered to Saipem on the NnG contract.

6.2 External commercial and legal advice has been obtained on the ask prior to approaching Committee, to ensure the proposal is State aid compliant.

6.3 The Scottish Government's support of the NnG assurance package is required in order for BiFab to secure the contract. This is a significant contract in BiFab's 2020 outlook, and key to the business re-establishing its market reputation.

6.4 BiFab continues to be of strategic importance to Scotland. Against a backdrop of Climate Emergency and Scotland's ambitious net zero targets, we recognise that the renewables sector will play a hugely significant role in the response, and Scotland needs a strong fabrication and manufacturing presence in the indigenous supply chain to maximise economic benefit of this.

[redacted].

[redacted].

Alignment with government policy

- The Scottish Government is committed to increasing the rate of sustainable economic growth, as outlined in the Government Economic Strategy², the Manufacturing Action Plan³, Labour Market Strategy⁴ and our Economic Action Plan⁵. The Government's support of BiFab aligns with its commitment to Scotland's industrial and commercial infrastructure.
- Scotland's industrial sector boosts national productivity, sustains high-skilled and well-paid employment and produces positive local and national economic spill-over effects and supply chain linkages. The continued operation of the fabrication yards and associated investment on-site would provide a critical manufacturing anchor in Fife and the Western Isles, with opportunities for further related development in the local and national economy.
- A key part of our industrial and economic objectives is to support Scotland transition into a world leading low carbon economy, and to increase our energy productivity by 30% across the Scottish economy by 2030. In order for this to be achieved, the deployment of renewable energy, such as offshore wind, will be critical.
- The Scottish Offshore Wind Energy Council (SOWEC), was recently formally launched and part of its Vision for the sector includes the delivery of 8GW of offshore wind in Scotland by 2030.
- Furthermore, it is forecast that the UK will be the largest offshore wind market globally, closely followed by Germany and Denmark, who are also within close proximity to Scotland's supply chain. The CCC states that the UK will need 75GW of offshore wind to reach net zero. The yards from which BiFab operate have characteristics which make them strategic in both their location and infrastructure.
- The Scottish Government's approach seeks to maximise the economic benefit from the low carbon transition, utilising the competitive advantages of Scotland's skilled workforce. Our forthcoming Offshore Wind Policy Statement. will set out our ambitions for the future of the sector in Scotland, assessing its potential contribution in a net zero economy, and reemphasising our support for floating offshore wind.
- Within this context, maintaining capacity in the offshore renewables supply chain is vital. This will be economically advantageous to Scotland. It will also protect our existing investment in BiFab, and will enable the company to re-establish a reputation as a credible supply chain company and develop a track record of successful contract completions.

Existing Contract Awards

- BiFab has two contracts ongoing:
 - Fabrication of 150 pin piles for Deme, due to complete in January 2020
 - Fabrication of a jacket & mid-water arch for First E&P, due to complete in December 2019

² Scotland's Economic Strategy, <http://www.gov.scot/Topics/Economy/EconomicStrategy>

³ Manufacturing Action Plan, <http://news.gov.scot/news/manufacturing-plan-to-boost-industry>

⁴ Scotland's Labour Market Strategy, <http://www.gov.scot/Publications/2016/08/2505>

⁵ Economic Action Plan, <https://economicactionplan.mygov.scot/>

- Since its change in ownership, BiFab is yet to be awarded a significant jacket fabrication award. NnG presents that opportunity.

Future Fabrication Opportunities

- BiFab maintains an enquiry register of opportunities it is tendering for across the renewables and oil and gas sectors.
- In addition, the recent Contract for Difference (CfD) has provided a number of offshore renewables fabrication opportunities. Both the 1,045MW Seagreen project in the Firth of Forth and the 3,600MW Dogger Bank project off East coast of England will shortly commence the tender process to build-out, plus those offshore wind projects such as Inch Cape, Moray West, Hornsea 3 and East Anglia 3 are considering their options to potentially to build-out on a merchant basis rather than wait for the next CfD auction in Q3 2021.
- It continues to be the case that the strategic location of the yards provides BiFab with the opportunity to bid for future UK or European offshore wind projects and potentially future oil and gas or decommissioning projects.

**1. Scottish Government current exposure to BiFab can be summarised as:
[redacted].**

- The Scottish Government acknowledges the carrying value of its equity stake in BiFab will be below the sums invested to ensure completion of the Beatrice works for some time.
- Our investment in, and commitment to, BiFab is a long term one, and we remain of the view that BiFab will have a prosperous future as a key business in Scottish renewables sector supply chain.
- The write down of our equity value to its current carrying value has been fully disclosed in the Scottish Government's annual accounts to 31 March 2019, published in September 2019.
- The Scottish Government's support for private companies has protected hundreds of jobs and ensured key economic assets have been saved from closure.
- We do not accept Audit Scotland's claim that we have not developed a clear framework to guide our approach to financial interventions in private companies.
- On the contrary, there is an extensive framework of legislation, economic policy, procedures, practice and expertise that guides and supports sound decision-making on financial interventions involving private companies.
- We have also published new guidance this year that specifically relates to investment in businesses by Scottish Ministers.
- As our accounts make clear, where Scottish Ministers decide to make investments directly through the Scottish Government, Accountable Officers must ensure that appropriate diligence and consideration is carried out before any commitment is made to invest.

2. If asked about other NnG opportunities:

- BiFab remains in discussions with Saipem for further awards on NnG, including pin pile fabrication (45) and pin pile handling (storage).
- If BiFab is successful in securing a further work award on NnG (eg, pin pile fabrication) then we expect there would be a further assurance package ask of the Scottish Government. In such a circumstance, you would come back to the Committee with an ask.
- BiFab management advises that it would expect pin pile fabrication to commence in February 2020, ie, a contract award decision needs to be made soon.
- You are looking to speak directly with Saipem to encourage an award of pin piles to BiFab.

3. If asked about other pipeline opportunities:

- The UK has the largest offshore wind programme anywhere in the world with a number of projects on in close proximity to the Fife.
- BiFab have an enquiry register which target both offshore renewables and Oil & Gas contracts. For example they recently secure a fabrication contract for a Nigerian oil & gas company [redacted].
- The recent Contract for Difference (CfD) provides a number of offshore renewables fabrication opportunities. Both the 1,045MW Seagreen project in the Firth of Forth and the 3,600MW Dogger Bank project off East coast of England will shortly commence the tender process to build-out. In addition those project that weren't successful - Inch Cape,

Moray West, Hornsea 3 and East Anglia 3 - are considering their options to potentially to build-out on a merchant basis.

4. If asked about NnG impact on communities:

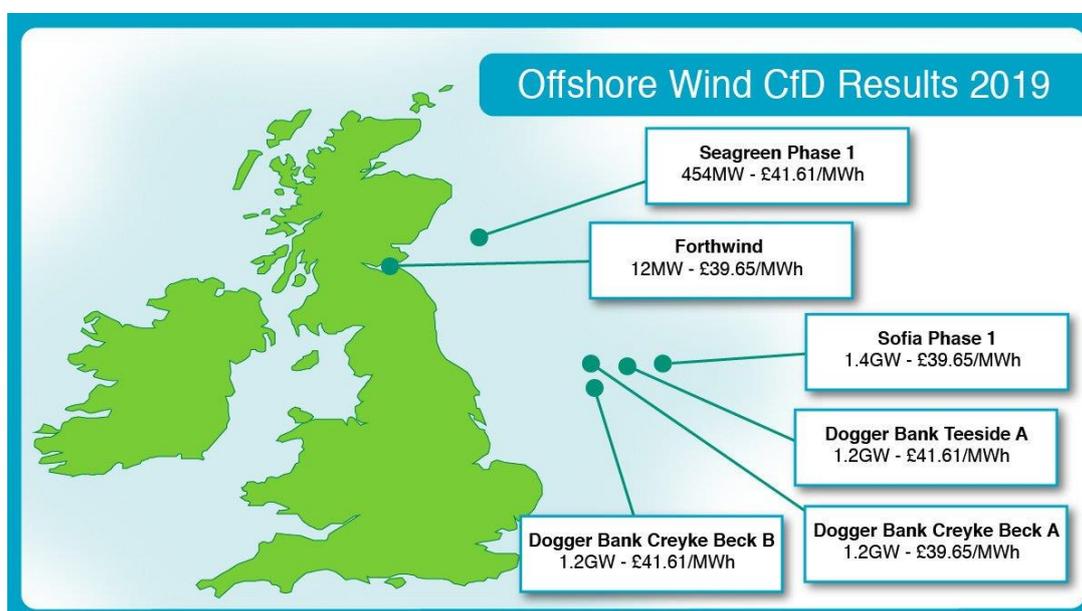
- Estimate of at least 200 agency workers engaged.
- Fabrication will take place in 2020 (May – December).
- **[redacted]**.
- Note: BiFab has not yet confirmed what yard(s) would be engaged in the work in addition to Methil. This will be determined shortly via its discussions with Saipem.

[redacted].

5. If asked about the timescales on Moray East pin piles production:

- At the time of contract award, it was expected that the works would be carried out at the Arnish yard only, completing in October 2019.
- However, due to a number of factors beyond BiFab's control (client-instructed variations to scope and continued late delivery of steel), together with lower than expected productivity rates at Arnish at commencement, BiFab's delivery schedule was extended.
- It is now expected to complete delivery of all pin piles in January 2020.

1. The results of the 3rd CfD allocation round was announced on 20th September 2019 with the UK Government awarded contracts to six offshore wind projects with a cumulative awarded capacity of 5500MW, - 3600MW (3x1200MW) awarded to Dogger Bank (Equinor and SSE), 1400MW for Sofia (Innogy), 454MW at Seagreen (SSE) and the 12MW Forthwind project in the Firth of Forth.
2. The auction cleared at an incredibly low price (£39.65/MWh & £41.61/MWh) effectively making the projects subsidy free (based on UK Government electricity price forecasts).
3. The successful projects now have 12 months from signing their CfD contract in October 2019 to demonstrate that they have already spent 10% of the total project cost. Thereafter all projects will finalise procurement and construction plans to meet their delivery years either 2023/24 and 2024/25. So far Dogger Bank have chosen GE as their turbine supplier, with Seagreen preferring Mitsubishi Vestas. All projects will announce their Tier 1 suppliers over the course of the next 12 months, who in turn will selected lower tiers of the supply chain to provide the balance of plant to construct the offshore wind farm.



1. On 2 May 2019 Mr Mackay and Mr Wheelhouse, held a supply chain summit to discuss the best way forward for the supply chain in the context of current low levels of local content.
2. Senior figures in the industry from the developer community, tier 1s, and trade unions were invited to have a frank discussion about the challenges facing the industry and what they think is the best way to tackle these challenges.
3. Ministers stated that current content levels are unacceptable when considered alongside the substantial government subsidies that developers receive for projects, and the promises that have been made in Environmental Impact Assessments.
4. The Scottish Government has, as a result of the summit, promised to explore:
 - The options open for attaching supply chain conditions and incentives to Crown Estate Scotland Leases.
 - Ways in which the Scottish Parliament reviews and approves decommissioning plans
5. Offshore Wind Growth Partnership committed to undertaking a strategic capability assessment of fabrication in the UK and to identify the areas with the highest potential for growth. It was also agreed that work was required to review conditions and processes for contracting and risk allocation to consider opportunities for improving supply chain outcomes.
6. In light of the recent Contract for Difference allocation round the UK Government are undertaking a review of the Supply Chain Plan process, to ensure the commitment of the UK Offshore Sector Deal to deliver UK content of 60% for projects commissioning from 2030 onwards.
7. The next Summit will be held on Thursday 16th January 2019, when these levers and proposals will be discuss further.

[redacted].

Background

Legislation:

- One example of the domestic legislative framework, the Industrial Development Act, enables various forms of selective financial assistance, e.g.: (i) to maintain or safeguard employment; (ii) to promote the development or modernisation of industry; (iii) to promote the efficiency of an industry; (iv) to create, expand or sustain productive capacity; and (v) to promote the reconstruction, reorganisation or conversion of an industry or business.
- The Public Finance and Accountability (Scotland) Act 2000 requires of Accountable Officers the need to demonstrate the regularity and propriety of the finances under their stewardship and for the economic, efficient and effective use of all related resources. This latter consideration should also take into account the sustainability of the proposal in the context of the wider public finances, that is, the extent to which it affects cumulative future financial commitments and risk.
- European legislation is also relevant to interventions involving private companies. The Treaty on the Functioning of the European Union requires neutrality in the treatment of public and private undertakings and one of the implications of that provision is that public authorities are free to invest in undertakings and extend loans, guarantees, inject capital, subscribe to shares or purchase outright any company. Equally, they must behave in the same way as a private investor would behave in similar circumstances to avoid there being any distortion of competition.

Policy and guidance:

- The Scottish Government has published new guidance this year that specifically relates to investment in businesses by Scottish Ministers. This guidance which is contained in the Scottish Public Finance Manual consolidates and reinforces the existing extensive framework of legislation, economic policy, procedures, practice and expertise that guides and supports sound decision-making on financial interventions involving private companies.

<https://www.gov.scot/publications/scottish-public-finance-manual/borrowing-lending-and-investment/annex-a-investment-in-businesses-by-scottish-ministers/>

- The Scottish Government's Economic Strategy provides the strategic policy context and the Medium Term Financial Strategy sets out the approach to consideration of economic intervention and investment. The Scottish Public Finance Manual (SPFM) makes clear proportionate due diligence should be undertaken with regard to any proposed loan to the private sector culminating in a formal assessment of the borrower's financial standing and whether or not the borrower is likely to be in a position to satisfy the terms of the loan.
- The establishment of a Scottish National Investment Bank (SNIB) will serve businesses who wish to innovate and grow but find the traditional routes to finance challenging. By providing a single point of access to investment, and adopting a strategic focus and risk appetite that is different, the SNIB can fuel the economy and catalyse additional private sector investment. The Scottish Government is providing £2 billion over 10 years to initially capitalise the Bank and draft legislation will be laid next year following analysis of pre-legislative consultation responses.

Operations

- Operating predominately through the Enterprise Agencies or third parties, fund managers appointed following a full public procurement process, the Scottish Government is actively investing in businesses across Scotland in support of Ministers' objectives. A few examples of such schemes are the Scottish Growth Scheme, the Scottish Co-Investment Fund, the Scottish Venture Fund, and the Low Carbon Infrastructure Transition Programme. Each standing scheme has rigorous rules, diligence and risk management and monitoring procedures. The Scottish Government's procedures are equally rigorous in relation to bespoke loans to individual businesses and in each instance the diligence package is tailored to the specific circumstances of the situation.



The Scottish Parliament
Pàrlamaid na h-Alba

Finance and Constitution Committee

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20 November 2019

COMMERCIAL IN CONFIDENCE

Dear Derek,

Thank you for giving evidence to the Committee today in relation to a proposed contingent liability. The Committee is content to approve the terms of the contingent liability as set out in your letter dated 14 November 2019.

Yours sincerely,

Bruce Crawford MSP
Convener

**Finance and Constitution Committee – Burntisland
Fabrication Ltd (BiFab)**

Wednesday 20 November 2019

Suggested Opening Remarks

Good morning and thank you for agreeing to hold this private session on BiFab.

Firstly, I would like to thank Committee members for their flexibility in securing a date to discuss this important matter.

It is important to stress at the outset that the information we discuss today must be kept strictly confidential.

The release of any information would severely impact on the company's commercial position.

Not only could it jeopardise the immediate opportunity to secure the NNG contract and the hundreds of jobs associated with that work, but it could also stymie future contract negotiations, which would undoubtedly result in the demise of BiFab and the ability to retain a strategic supply chain presence in Fife.

I am sure that you are aware of the challenging conditions BiFab are operating in and therefore can count on your sensitive handling of this matter.

Background

As you will know from our initial intervention to secure the completion of the Beatrice offshore wind contract, through the subsequent acquisition of the company by DF Barnes, to the present day the Scottish Government has been committed to BiFab's long-term viability and realisation of further industrial employment opportunities.

You as a Committee have also played your part in supporting the company[redacted]A contract that remains and ongoing, has secured important early activity in Arnish and Methil [redacted]

NNG Contract

I appear in front of you today, to seek your approval on an assurance package associated with the next contract BiFab have secured from EDF's Neart na Gaoithe (NnG) offshore wind project in the Firth of Forth.

As set out in my paper to the Committee, BiFab must provide an assurance package that is agreeable to the Tier 1 contractor, Saipem, in order to secure the contract to fabricate eight jackets on the NnG project, consisting of [redacted].

The paper sets out in detail the specific ask of committee and the context in which that ask is being brought forward.

However, I will take this opportunity to briefly summarise the main points.

This contract is expected to be worth approximately [redacted], therefore the entire contract value represents direct activity at the Methil yard.

The assurance package to secure the contract to fabricate eight jackets on the NnG project, consists of [redacted]. This requires a Scottish Government-backed guarantee [redacted].

The reason why we have been asked to guarantee the lion share, is because JV Driver have reflected on their risk appetite towards BiFab and, whilst remaining committed to the long term success of the company, they do not want to incur further financial exposure at the current time, and thus will not support the guarantee ask of Saipem.

Discussions continue between BiFab, JV Driver, Saipem and RBS. We currently are awaiting EDF announcing financial close, at which point they will publically announce all of the work packages and contract awards. They cannot include BiFab within that announcement without assurances that the appropriate guarantees are available. I therefore appreciate your timely consideration of this matter.

Benefits of this contact

It is worth briefly highlighting the strategic importance of the NnG contract.

At its peak the NnG contract will create 200 direct jobs and support around 500 full time equivalent Scottish jobs in the wider economy in the second half of 2020. Giving a real boost to the community of Methil and surrounding area.

However, this contract is also a vital building block in the rejuvenation of BiFab's reputation in the renewables and Oil & Gas sectors. It will be the first opportunity BiFab will have to restart offshore wind jacket fabrication since the Beatrice contract.

Whilst there is a substantial pipeline of future work that could provide significant employment and economic opportunities - there are no other contracts in the early part of next year that would provide this opportunity.

Future Pipeline

The UK has the largest offshore wind programme anywhere in the world with a number of projects on their doorstep that they are engaging with.

SSE's Seagreen project recently secured a Contract for Difference in the UK Government auction process, as did their Dogger Bank project who they will build in partnership with Equinor.

Those that weren't successful in Scottish waters – Moray West and Inch Cape – are currently considering their option but are still keen to build-out in the near future.

Looking further into the next decade, the Scottish Offshore Wind Energy Council (SOWEC), was recently formally launched and part of its Vision for the sector includes the delivery of 8GW of offshore wind in Scotland by 2030.

Plus our forthcoming Offshore Wind Policy Statement will set out our ambitions for the future of the sector in Scotland, assessing its potential contribution in a net zero economy, and reemphasising our support for floating offshore wind.

However, with the CCC estimating that 75GW of offshore wind will be required by 2050 if net zero targets are to be achieved – it is clear that this market is strategically important for Scotland.

As I am sure will be the case for every member of this Committee, I am determined that BiFab and the wider supply chain in Scotland will benefit from this pipeline of future opportunity. I also continue to explore what policy levers are at my disposal to ensure this comes to fruition, and we will explore this further at the next Offshore Wind Summit early in the New Year.

Conclusion

To conclude. We always stated that the long term future of BiFab wouldn't be resolved overnight but a journey with each contract secured providing an incremental step to success.

It is therefore essential that we collectively do all we can to ensure NnG is secured and keeps us on that pathway to success.

I am happy to take any of your questions.

Ends: 1048 words @ 140/minute = 7 1/2 minutes