



T: +44 (0)300 244 5046

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Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)

Application for a licence to disturb or injure marine European protected species (EPS) for one of the following purposes

- For preserving public health or public safety
- For an imperative reason of overriding public interest (including those of a social or economic nature and beneficial consequences of primary importance for the environment)
- For preventing the spread of disease
- For preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property, or to fisheries.

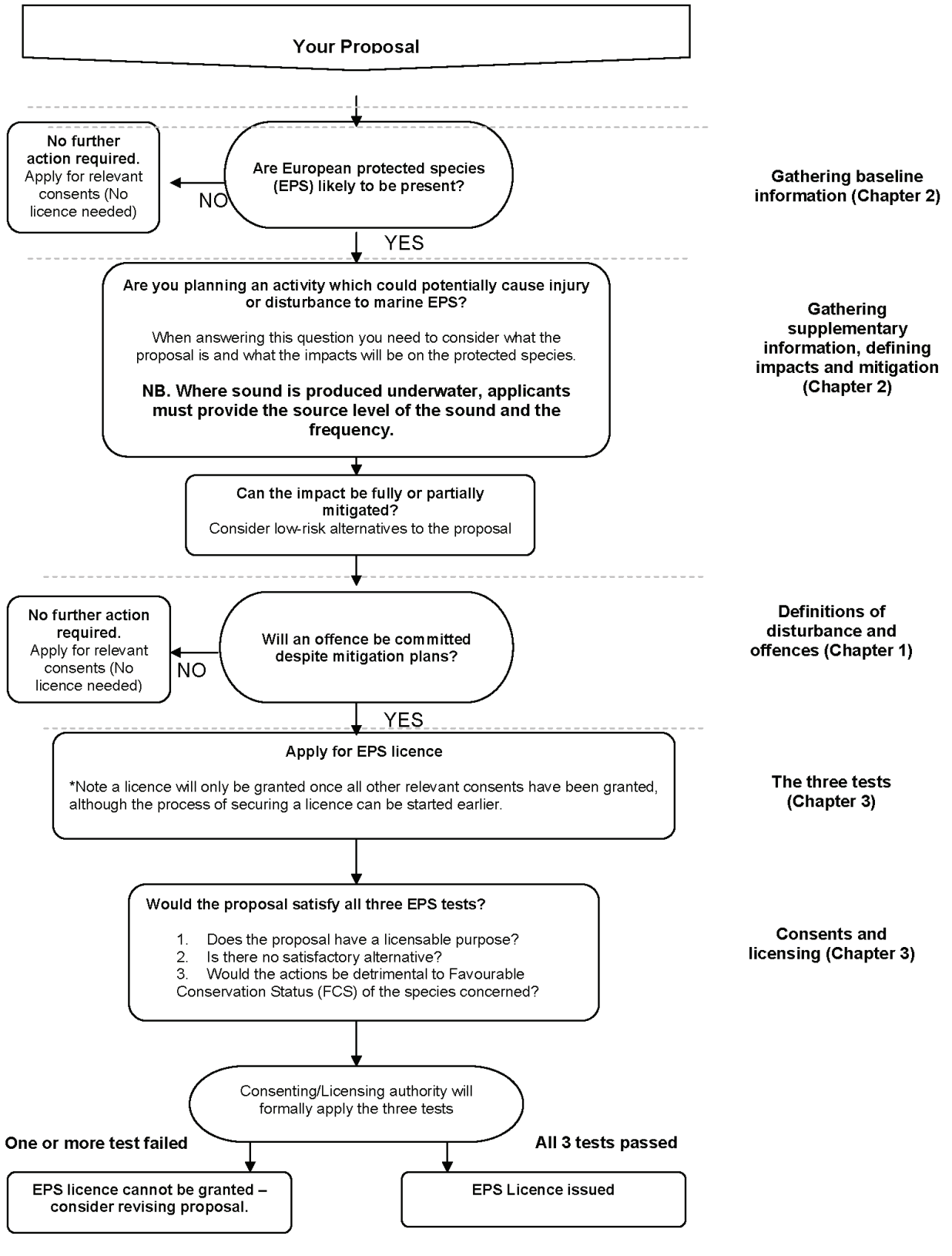
Please use this application form if you wish to undertake works/activities that would affect European protected species in the Scottish inshore marine area (0 – 12nm).

IMPORTANT: Before completing this form, please read these notes carefully

Applicants are advised to read these notes in conjunction with [The Protection of Marine European Protected Species from injury and disturbance: Guidance for Scottish Inshore Waters](#). If further clarification is needed please contact Marine Scotland Licensing Operations Team (MS-LOT) on 0300 244 5046 or email: ms.marinelicensing@gov.scot

Flowchart showing the decision-making process

Please refer to the relevant chapter of [The Protection of Marine European Protected Species from injury and disturbance: Guidance for Scottish Inshore Waters](#)



Please complete all relevant sections of the form.

Please ensure that you answer questions fully in order to avoid delays.

The completed application should be sent to Marine Scotland Licensing Operations Team (MS-LOT) at the address below or emailed to ms.marinelicensing@gov.scot.

We will not process unsigned application forms.

Please ensure that you provide appropriate information to support your application. Applicants can provide this supporting information in the form of an EPS Risk Assessment. Guidance can be found in [The Protection of Marine European Protected Species from injury and disturbance: Guidance for Scottish Inshore Waters](#). Please contact MS-LOT if you wish to discuss the level of supporting documentation required for your application. Failure to provide sufficient supporting information may delay the consultation and licensing process.

MS-LOT will aim to determine whether a licence should be issued **within 6 to 8 weeks of acceptance of a completed application**. However, please note that for large scale or complex projects, the determination period may be longer.

If you experience any problems filling in this form, please contact MS-LOT.

Please use this application form if you wish to undertake works/activities that would affect European protected species in the Scottish marine area (0 – 12nm).

Please note that European protected species are also protected in the offshore marine environment (between 12 and 200 nautical miles). Species in this area are protected under The Conservation of Offshore Marine Habitats and Species Regulations 2017.

Do not use this form if your application relates to scientific, research, conservation or educational purposes. Please contact Scottish Natural Heritage (SNH Licensing, Great Glen House, Leachkin Road, Inverness IV3 8NW, Telephone 01463 725000, email licensing@snh.gov.uk or visit [their website](#)) for a licence application for these purposes. SNH also issues licences for the purposes of marking animals or plants in relation to conservation or introducing them to particular areas for conserving natural habitats, and for protecting zoological or botanical collections.

Before a licence can be granted, it is essential that other relevant licences or consents have been secured for the proposed activity (eg Marine licence).

It is the responsibility of the applicant to obtain any other consents or authorisations that may be required.

Part A

Section 1 Personal details

Please provide details of the individual, company or partnership you wish to be named on the licence. The licensee is responsible for ensuring compliance with the licence and its conditions. Under the Conservation (Natural Habitats) Regulations 1994 (as amended) it is an offence to fail to comply with the terms and conditions of a licence.

Section 2 Previous applications

Please provide details of any previous relevant licences.

Part B

Section 3

Species

Please provide details of the species that will be affected by the work, the number likely to be affected and a description of how this number was determined. This information can be described in detail in your supporting information. You will need to provide detailed proposals (to be included in the 'Supporting information') of all the mitigation work that you plan to carry out which will affect European protected species.

Location

Describe the location of the proposed works. Include a list of the latitude and longitude co-ordinates (WGS84) of the boundary points of the proposed project. WGS84 is the World Geodetic System 1984 and the reference co-ordinate system used for marine licence applications. Co-ordinates taken from GPS equipment should be set to WGS84. Coordinates taken from recent admiralty charts will be on a WGS84 compatible datum. Ordnance survey maps do not use WGS84. In a few cases, (e.g. laying of cables or pipelines) it may only be practicable to supply co-ordinates for the start and end points.

Example: For positions read from charts the format should be as in the example: 55°55.555'N 002°22.222'W (WGS84). The decimal point specifies that decimals of minutes are used and the datum is stated explicitly. If seconds are used then the format should be as in the example: 55°55'44"N 2°22'11"W (WGS84).

It is important that the correct positions, in the correct format, are included with this application, as any errors will result in the application being refused or delayed.

Section 4 Consideration of designated sites

Please provide details of any designated sites affected by your proposals. You are advised to consult Scottish Natural Heritage, or other appropriate regulator, if the work you propose to do affects a Natura site, an MPA or a Site of Special Scientific Interest.

Section 5 Activities to be licensed

Please indicate the activities you intend to undertake that would otherwise be unlawful. Provide details of the proposed commencement and completion dates of the activities. **The licence start date will not be backdated, since to commence a project for which a licence has not been obtained may constitute an offence resulting in appropriate legal action.**

It is the licensee's responsibility to apply for any further licences or an extension prior to the expiry of the initial licence.

Section 6 Purpose of the licence application

Please indicate the purpose of the licence application, the first of the legal tests.

Please complete the relevant Annex to provide justification for the licensing purpose. This is the [legal basis of the application](#).

Section 7 Satisfactory alternatives

Please provide your consideration of why there is no satisfactory alternative. This must include all other options that have been evaluated, the alternative sites that were considered by you and why they were rejected (if no other sites were considered, you must provide the reasons why), as well as all alternative methods of carrying out the work and alternatives dates / timings.

In relation to each alternative considered, please provide an explanation of why you consider it to be satisfactory or unsatisfactory. In respect of any alternative sites please provide the location(s) and details of the alternative site(s), or your views on how the activity/proposal might have been achieved differently, and any other helpful information; e.g., pros and cons of alternative sites, or whether there is likely to be demand for all suitable sites to be used to meet an identified need. Please explain how this conclusion was reached.

Section 8 Summary of the planning / licensing position

Detail all consents and licences required for the proposed project and indicate those that you have applied for or received.

Section 9 Noise Monitoring

Under the Marine Strategy Regulations (2010), there is now a requirement to monitor loud, low to mid frequency (10Hz to 10kHz) impulsive noise. This includes use of seismic airguns, other geophysical surveys (<10kHz), pile driving, explosives and certain acoustic deterrent devices. This monitoring requires completion of a form at the application stage (giving details of the proposed work) as well as completion of a 'close-out' form (giving details of the actual dates and locations where the activities occurred). The close-out form should be returned within 12 weeks of completing the 'noisy' activity or, in the case of prolonged activities such as piling for harbour construction or wind farms, at quarterly intervals or after each phase of foundation installation.

These forms are available at: <https://mnr.jncc.gov.uk/>

Section 10 Privacy notice

This section briefly describes the Scottish Ministers responsibilities in relation to Data Protection based on the requirements of the data protection laws and the Environmental Information (Scotland) Regulations 2004 and the Freedom of Information (Scotland) Act 2002.

Part D

Section 11 Declaration and warning

It is important to read the Declaration and Warning sections before signing the application form.

Site visits and compliance checks

It is possible that the licensing authority may undertake a site visit prior to the issue of a licence. The majority of site visits will be arranged several days in advance and will be conducted in the presence of the licensee (or applicant) however there may be occasions when a site visit will be made at short notice.

Licensees should be aware that they may receive a request for a site visit by the licensing authority, or a person authorised by the licensing authority, to assess site conditions against the conditions of the licence. It is essential that if any of the agreed mitigation measures contained in the application and supporting information are changed for any reason, the licensing authority is informed as soon as possible.

The Licensing authority will monitor compliance with licences issued based on the information included in licence reports.

Where to seek further information

Further information can be obtained from Licensing Operations Team at the address below.

If your proposal relates to one of the purposes for which SNH is the licensing authority, please contact your local office of SNH.

Licensing Operations Team
Marine Scotland
375 Victoria Road
Aberdeen
AB11 9DB

Tel: 0300 244 5046
Email: MS.marinelicensing@gov.scot

Disclaimer

While every effort has been made to ensure the information contained in this document is accurate, nothing in this document should be taken to replace the current legislation in force at this time. You are advised to obtain qualified legal advice in relation to your rights and responsibilities under the 1994 Regulations and other legislation.

Part A. The Applicant: Personal details

These questions relate to the person who will be the **named licensee**. The licence can be issued to an individual or a company or a partnership and the licensee will be responsible for ensuring compliance with the licence and the conditions of the licence. Under the Conservation (Natural Habitats) Regulations 1994 (as amended) it is an offence to fail to comply with any condition imposed by a licence.

1. Name of applicant

Title: [Redacted] Forename(s): [Redacted] Surname: [Redacted]

Company Name: Moray Offshore Windfarm (West) Limited

Business Title (if Appropriate): Moray West Project Director

Address: 5th Floor, Atria One, 144 Morrison Street, Edinburgh, EH3 8EX

Tel no. (inc. dialling code): + 44 (0) 131 556 7602

Email address: [Redacted] @oceanwinds.com

2. **The Applicant: Previous applications:**

Have you previously held a wildlife licence issued in the UK? (please tick as appropriate)

Yes No (If yes, please complete below, if no, please go to Part B)

Who issued the licence? Marine Scotland

Licence number (most recent licence) EPS/BS-00010423

Year in which the licence was issued. 2023

What species were covered by the licence? harbour porpoise (*Phocoena phocoena*);
bottlenose dolphin (*Tursiops truncatus*);
minke whale (*Balaenoptera acutorostrata*);
short beaked common dolphin (*Delphinus delphis*);
white-beaked dolphin (*Lagenorhynchus albirostris*)

What activity was covered by the licence e.g. disturb, injure? The EPS licence was granted for the purpose of permitting the disturbance of the species listed above

Part B. The Application

3. Species

(a) Please indicate which species is / are affected by the proposed works.

Common name(s):

Harbour porpoise
Bottlenose dolphin
Common dolphin
White-beaked dolphin
Minke whale

Scientific name(s)

Phocoena phocoena
Tursiops truncatus
Delphinus delphis
Lagenorhynchus albirostris
Balaenoptera acutorostrata

(b) How many individual animals will be affected by licensed work?

The implementation of the UXO-specific Marine Mammal Mitigation Protocol (MMMP) will reduce the risk of PTS, resulting in negligible risk to EPS of physical or permanent auditory injury. The residual risk of PTS on harbour porpoise and minke whale would be reduced by using low-order clearance such as deflagration which is the only disposal method to be applied by Moray West for the clearance of the LMB UXO.

Potential for temporary disturbance from UXO low order clearance by deflagration has been assessed based on the maximum predicted impact ranges for TTS (SPLpeak) for a 150 gr donor charge and up to three deflagration attempts in 24 hour period. The maximum number of animals that could be temporarily disturbed would be:

- 12.3 harbour porpoise (0.004% of North Sea MU) based on site survey density of 1.468/km2;
- 0.0001 bottlenose dolphin (0.00005% of CES MU) based on the density estimate of 0.0037/km2;
- 0.003 white-beaked dolphin (0.00008% of CGNS MU) based on the density estimate of 0.123/km2;
- 0.002 common dolphin (0.00002% of CGNS MU) based on the density estimate of 0.074 /km2;
- 0.006 minke whale (0.00003% of CGNS MU & 0.002 of the Moray Firth population) based on the density estimate of 0.023/km2.

The risk of TTS would be reduced by using low-order clearance such as deflagration which is the primary disposal method for the clearance of the UXOs. The impact significance for any TTS in marine mammals has been assessed for deflagration clearance (for a single attempt and for three attempts at low order deflagration clearance) with a negligible magnitude of effect in all cases

Please provide a description of how this number was calculated / estimated

Following assumed successful completion of the UXO clearance (by deflagration) activities in the OfTI Corridor in May 2023, a new UXO (LMB Mine) of 705kg NEQ was identified in June 2023, 11m from the planned location of one of the two export cables, and therefore within the OfTI Corridor.

A risk assessment for low-order clearance with a donor charge of 0.15kg has been assessed for all marine mammals for a single clearance event and three attempts in a 24-hour period. The updated EPS risk assessment (8460005-DG0207-MWW-REP-000005) uses the impact ranges from the underwater noise modelling carried out with the donor charge of up to 150 gr that will be used during the deflagration process of the LMB UXO item that has been found at the Moray West OfTI Corridor. The potential impacts for low-order clearance with a donor charge of 0.15kg has been assessed for all marine mammals based on the density and abundance of the cetacean species which regularly occur in the Moray Firth.

(c) **Location of proposed licensed action**

Latitude and Longitude co-ordinates (WGS84) defining the extent of the project. Please continue on a separate sheet if necessary.

LATITUDE								LONGITUDE								
		°			.		'N				°			.		'W
		°			.		'N				°			.		'W
		°			.		'N				°			.		'W
		°			.		'N				°			.		'W
		°			.		'N				°			.		'W
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		°			.		'N				°			.		'W
		°			.		'N				°			.		'W

- (d) Provide a brief description of the proposed activity and the methods to be used.
 Detailed information should be included in your Supporting Information
Please provide details of the source levels and frequencies of underwater noise if relevant

UXO Disposal Operations (low order clearance by deflagration): 1 - 30 September 2023.
 Given the location of the LMB UXO, avoidance is not possible. Moray West has considered alternative options such as the re-location of the LMB UXO. However, due to safety concerns the Moray West UXO clearance Consultant has advised that this option is not recommended as the outer aluminium casing of the LMB Mine is thin and not suitable for grabbing or stable for even small impacts. Additionally, re-location of this UXO does not remove the risk for all sea users. Therefore, Moray West's only option is to dispose of the LMB UXO using its preferred method of low order clearance by deflagration.
 UXO low order clearance removes any further risk to all sea users and renders the site safe for subsequent construction activities.
 A vessel will undertake the clearance activities and will navigate to the confirmed UXO target, and the geodetic position of the item will be correlated and confirmed with the Client Representative, survey team and EOD Superintendent, at which point the EOD chamber will be deployed by the ROV and placed in the optimum firing position. A cone will then penetrate the UXO and burn the explosive material to achieve the low order deflagration. As the LMB has three chambers containing UXO, three successful low order deflagrations must be carried out.

The deflagration process is as follows:

- A plastic casing would be attached directly to the UXO by hand by a diver or an uncrewed vehicle, containing the materials used to make-safe the UXO.
- Once environmental and safety mitigation has been applied, the initiation of the Deflagration will begin with the contents of the plastic casing causing a 'rapid burning' through the UXO.
- This begins the incineration of the UXOs contents which in-turn builds up a gas pressure whilst consuming the UXOs explosive contents.
- Once the contents ignite and the UXO reaches a critical pressure, the case bursts and the UXO is made safe.
- The methodologies employed by EODEX allow for all the remains of the UXO to be concentrated at its original location.
- Once considered safe to do so, the remains of the UXO will be recovered for final safe disposal at an environmentally accredited site ashore, meaning that all parts of the neutralised UXO will be removed from its identified location on the seabed following deflagration action.

The deflagration process will produce an increase in internal pressure as the burning consumes the UXOs explosive fill. When the internal pressure reaches its peak the outer casing of the UXO will fracture and the burning process will cease due to the ingress of seawater. There will be residual UXO explosive fill remaining, some of which will remain within the UXO and some scattered around the item out to a distance of 1-2 m. The remnants within the UXO will be brought back to the vessel deck along with the UXO carcass, this will be recovered using the vessel crane and grab system. Any scattered remnants will be scooped up by the WROV using EODEX's fine mesh net and also brought to the vessel deck. The recovery of the UXO fill within a short space of time will limit the release of any small amounts of the UXOs contents to the marine environment. The recovered explosives are to be dealt with by storing them inside one of the EODEX explosive magazines held onboard the vessel. When the vessel arrives in port the explosives will be transported to a licensed incinerator facility for burning.

- (e) Briefly state how you will minimise the impact of your proposed work on European protected species.
 Detailed information should be included in your Supporting Information.

Embedded mitigation measures are proposed for a number of environmental receptors, which will be implemented for the UXO clearance activities to reduce the potential for certain impacts. A 500 m radius safety distance has been implemented around the confirmed LMB UXO, the position noted, and all relevant authorities notified. The location is currently being monitored by a Moray West chartered guard vessel to warn passing vessels of the presence of the UXO and associated risks to safety in the event that they are unaware of the notifications issued.
 The following mitigation will be adopted in relation to the UXO clearance works:

All vessel operators will use good practice to reduce any risk of collisions with marine mammals as outlined in the Scottish Marine Wildlife Watching Code.

A UXO-specific Marine Mammal Mitigation Protocol (MMMP) has been prepared for the UXO clearance works, which details the proposed mitigation to avoid or reduce the potential for auditory injury in marine mammals during UXO clearance:

- Low-order clearance by deflagration as the method to dispose of the LMB UXO;
- All UXO clearance to take place in daylight and in favourable conditions with good visibility (sea state 3 or less);
- Establishment of a monitoring area with minimum of 1 km radius.
- The observation of the monitoring area will be by dedicated and trained Marine Mammal Observers (MMOs) during daylight hours and suitable visibility;
- The deployment of Passive Acoustic Monitoring (PAM) devices, if required, and if the equipment can be safely deployed and retrieved;
- The activation of Acoustic Deterrent Device (ADD); and

4. Consideration of designated sites

Designated Areas: National Nature Reserves (NNR), Sites of Specific Scientific Interest (SSSI), Special Protection Area (SPA), Special Areas of Conservation (SAC), Ramsar sites, Marine Protected Areas (MPA). Information on designated sites is available on Scottish Natural Heritage website (<http://gateway.snh.gov.uk/sitelink/>) or from your local SNH office.

- (a) Will any part of the proposed activity fall within /or adjacent to an area covered by a designated site eg SSSI, SAC, MPA? Yes No
- (b) Please give the name of the designated site(s) and either the outcome of your consultations or the reason why you have not consulted (see note 4). Please enclose any relevant correspondence.

1. Moray Firth SAC (approximately 17 km from the Development Site). The implementation of the MMMP for UXO clearance at the Development Site will reduce the risk of PTS in bottlenose dolphin and therefore there would be no potential for any significant effects. The first and preferred option for any UXO that require clearance is low-order clearance such as deflagration. There could be the potential for the proposed UXO clearance in the Development Site to disturb bottlenose dolphin. Through the application of mitigation as outlined in the there is no potential Adverse Effect on Site Integrity (AEoSI) of the Moray Firth SAC in relation to the conservation objectives for bottlenose dolphin as a result of any disturbance from underwater noise during UXO clearance

2. Southern Trench NCMPA; overlaps with the Moray West export cable corridor. The implementation of the MMMP for UXO clearance at the Development Site will reduce the risk of PTS for minke whale and therefore there would be no potential for any significant effects. The first and preferred option for any UXO that require clearance is low-order clearance such as deflagration.
 The assessment indicates that through the application of mitigation as outlined in the MMMP there is no potential AEoSI of the Southern Trench NCMPA in relation to the conservation objectives for minke whale as a result of any disturbance from underwater noise during the LMB UXO clearance by deflagration.

5. Activities to be Licenced

Proposed Methods

(a) Please complete all relevant columns in the table below to indicate the methods you propose to use, the activity involved and the time period in which you propose to use each method. This information will be used when preparing the licence to cover activities that would otherwise be unlawful, and failure to give full details may result in an inappropriate licence being issued.

Activity to be licensed (please tick)					Method to be used, (e.g. piling)	Time period	
Capture	Kill (exceptional circumstances only)	Injure	Transport	Disturb/ Harass		From	To
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	UXO Clearance	1 September 2023	30 September 2023
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Use of ADD	1 September 2023	30 September 2023
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			

6. Purposes of the licence application (tick one box only)

A licence can only be issued if 3 specific legal tests are met. The section below relates to the first of these tests. The options shown are taken from the **Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)**.

Please indicate which purpose relates to the proposed works

(a) Preserving public health or public safety (we will require evidence that there is a risk to public health or public safety e.g. an imminent risk of flooding) Regulation 44(2)(e)

Complete Annex A

(b) Imperative reasons of overriding public interest (including those of a social or economic nature and beneficial consequences of primary importance for the environment) Regulation 44(2)(e)

Complete Annex B

(c) Preventing the spread of disease Regulation 44(2)(f)

Complete Annex C

(d) Preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property, or to fisheries Regulation 44(2)(g).

Complete AnnexD

7. Satisfactory alternatives

This relates to the second of the legal tests which must be satisfied. Please explain why there is no satisfactory alternative to carrying out the proposed work affecting the species. You must describe all possible alternatives which were considered and why they were considered unsuitable. You must also consider the option of not undertaking the work. **It is not acceptable to state that 'there is no alternative'.**

UXO represent a material risk to the safe construction of the Moray West offshore wind farm and, therefore, the identification, assessment and clearance of the unavoidable UXO is essential. Wherever possible, potential UXOs (pUXOs) are avoided through re-routing of cables or micrositing of infrastructure. Where pUXOs avoidance is not possible, as in this case, a detailed inspection was carried out by a remote underwater vehicle (ROV), to confirm whether the target is UXO and, therefore, a hazard to construction, operation or maintenance activities. Moray West will clear the UXO using low order deflagration.

Moray West has considered a number of alternatives to the UXO clearance activities (such as a relocation of the UXO to outside the OfTI corridor, avoidance through identification of a new cable route and delay to the UXO clearance requiring wet storage) which have been presented to Marine Directorate and selected nature conservation stakeholders. However, Moray West determine the optimum solution is clearance by low order deflagration in September 2023.

A specific UXO clearance contractor has been undertaking UXO clearance using low-order deflagration disposal with a 100% success rate on the project to date. Low-order methods aim to neutralise the UXO without detonation of the main charge and, therefore, the energy generated should relate to the detonation of the donor charge only. Consequently, for a given size of UXO, the potential for impacts to marine life from low-order disposal are considerably less than would be expected from a high-order disposal.

The UXO clearance work is essential for the viability of the Development and is required to be completed by September 30 to enable the safe commencement of offshore construction works in the nearshore area of the OfTI and within the Moray West Wind Farm Site. Conducting UXO clearance works outside the proposed period (beyond September 30) would be detrimental to the Development construction programme.

8. Other Licences / Consents

Please detail below all licences / consents you have applied for or received. **Before a licence can be granted, it is essential that other relevant licences or consents have been secured for the proposed activity (eg Marine licence).**

Type of Licence / Consent (e.g. Marine Licence, Local Planning Authority, Local Works Licence)	Date Applied for	Reference no.	Date of issue of licence / consent
Marine Licence for UXO Clearance	21 April 2022	MS-00010366	9 June 2023
Section 36 Consent for the construction and operation of the Moray West Offshore Wind Farm	July 2018	012/OW/MORLW – 8)	14 June 2019
Moray West Wind Farm Marine Licence	July 2018	MS-00009774	14 June 2019 Marine Licence variation issued on 12 April 2022
Moray West OfTI Marine Licence	July 2018	MS-00009813	14 June 2019 Marine Licence variation issued on 12 April 2022
Marine Licence for UXO Clearance (single LMB UXO)	17 July 2023		

9. Noise Monitoring

Please indicate if any of the following noise generating activities will be taking place during the operations:

Use of explosives Piling Use of Acoustic Deterrent Devices
Survey equipment operating in the range 10 Hz – 10kHz

If you have ticked any of the above boxes please complete a Proposed Activity form in the Marine Noise Registry at: <https://mnr.jncc.gov.uk/>.

Please note the form must only be completed once for each activity. If you have already completed a form for this activity (eg through the marine licensing process) please give details.

3191 (Explosives)
3399 (ADDs) - linked to parent activity 3191
3526 (Explosives) - LMB Mine within OfTI Corridor
3527 (ADDs) - linked to parent activity 3527

EPS licence applications will not be accepted until this form has been completed and submitted.

11. **Privacy notice**

The Scottish Government’s Marine Scotland Licensing Operations Team (MS-LOT) has a range of statutory responsibilities including determining applications for licences to disturb or injure marine European protected species (EPS) under the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and The Conservation of Offshore Marine Habitats and Species Regulations 2017 and Basking shark licences under the Wildlife and Countryside Act 1981 (as amended).

MS-LOT will, where necessary, process personal information including: names, addresses, email addresses and telephone numbers to determine a licence application. Personal information will be stored securely in the Scottish Government’s official corporate record.

A full privacy notice can be found at: <http://www.gov.scot/Topics/marine/Licensing/marine/PrivacyNotice>. If you are unable to access this, or you have any queries or concerns about how your personal information will be handled, contact MS-LOT at: Marine Scotland - Licensing Operations Team, Marine Laboratory, 375 Victoria Road, Aberdeen, AB11 9DB. Email: ms.marinelicensing@gov.scot

Have you remembered to enclose Supporting Information with your application, as described in the accompanying guidance? Please check

- | | |
|---|-------------------------------------|
| Completed Application form | <input checked="" type="checkbox"/> |
| Completed Annex | <input checked="" type="checkbox"/> |
| Map / Chart | <input checked="" type="checkbox"/> |
| Correct co-ordinates | <input checked="" type="checkbox"/> |
| Additional information / EPS risk assessment | <input checked="" type="checkbox"/> |

Part C. Declarations

11. I have read and understand the guidance provided in this application form. I declare that the particulars given are correct to the best of my knowledge and belief, and I apply for a licence in accordance with these particulars.

I authorise employees or representatives of the Scottish Ministers to enter the site which is subject to this application for the purpose of monitoring and inspecting the permitted works.

Warning

Under the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) it is an offence to fail to comply with the conditions imposed by a licence. The licensee is responsible for ensuring compliance with the licence.

The Scottish Ministers can modify or revoke a licence at any time, provided there are good reasons. Any licence that may be issued is likely to be revoked immediately if it is discovered that false information was provided and resulted in the issue of a licence.

Under the Conservation (Natural Habitats, &c.) Regulations 1994, any person who in order to obtain a licence knowingly or recklessly makes a statement or representation, or furnishes a document or information which is false in a material particular, shall be guilty of an offence and may be liable to criminal prosecution. Any person found guilty of such offences is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale (currently £5,000), or to both imprisonment and a fine.

Note: Previous convictions for wildlife offences will be taken into account and in some cases may mean that the Scottish Ministers do not consider it appropriate to grant a licence.

Signature of the Applicant

[Redacted]

Date 17/07/2023

(The person named at part 1)

Name in BLOCK LETTERS

[Redacted]

Note – If signing on behalf of a company, please append your signature with “on behalf of *Company Name*”.

The completed application should be signed and sent to Marine Scotland Licensing Operations Team (MS-LOT) at the address below or emailed to MS.Marinelicensing@gov.scot

Please remember to include all supporting information.

Licensing Operations Team
Marine Scotland
EPS Division
375 Victoria Road
Aberdeen
AB11 9DB

Disclaimer

While every effort has been made to ensure the information contained in this document is accurate, nothing in this document should be taken to replace the current legislation in force at this time. You are advised to obtain qualified legal advice in relation to your rights and responsibilities under the 1994 Regulations and other legislation.

Marine Laboratory, 375 Victoria Road,
Aberdeen AB11 9DB
<http://www.gov.scot/Topics/marine/Licensing/marine>



Annex A

Only to be completed if you selected for *Preserving public health or public safety* in Question 6 of the application form

Please complete all questions

Give details of the risk to public health or safety

UXO, particularly WWII UXO, is extant in the marine environment in unknown locations and at a sufficiently high abundance to pose a significant threat to activities interacting with the seabed in the marine environment.

How has the risk been identified. Please give details of any expert advice received.

The potential for UXO to exist within the Moray West Development Site has been assessed through a desktop risk assessment carried out by UXO Consultant, which has identified the following key UXO threats that may be encountered across the Development:

- Aerially delivered High Explosive (HE) bombs
- Projectiles (naval and anti-aircraft artillery (AAA))
- Torpedoes
- Naval mines
- Shipwreck related munitions

The likelihood of encountering these UXO sources within the Development, as assessed through the desktop study, is presented in the UXO Clearance EPS Risk Assessment report.

UXO surveys in the Development Site were completed in February 2023, and these provided up-to-date and precise information to inform UXO clearance activities. As this information was not available at the time of preparing the EPS Licence application, the EPS risk assessment report was informed by the Unexploded Ordnance Threat and Risk Assessment (6 Alpha, 2022), which in turn draws upon 6 Alpha's UXO database, and is benchmarked using the number of confirmed UXO found during the installation works at the nearby Moray East Offshore Wind Farm. From the above sources, on a precautionary basis, it was estimated that a maximum of 30 detonations of UXO may be required within the Development Site during UXO clearance activities.

Following assumed successful completion of the UXO clearance (by deflagration) activities in the OfTI Corridor in May 2023, a new UXO (LMB Mine) of 705kg NEQ was identified in June 2023 during OfTI boulder clearance works by an ROV 11m from the planned location of one of the two export cables, and therefore within the OfTI Corridor, which also overlaps with the Southern Trench MPA.

How will the proposed activity address the identified risk

UXO represent a material risk to the construction of the Moray West Offshore Wind Farm and the proposed UXO clearance activities are required to ensure the safe construction of the Moray West Offshore Wind Farm; therefore their identification, assessment and clearance is essential to reduce the risk of a UXO detonation occurring during the construction and installation activities of the Moray West offshore wind farm to As Low As Reasonably Practicable (ALARP).

A 500 m radius safety distance has been implemented around the confirmed LMB UXO, the position noted, and all relevant authorities notified. The location is currently being monitored by a Moray West chartered guard vessel to warn passing vessels of the presence of the UXO and associated risks to safety in the event that they are unaware of the notifications issued.

The UXO is considered to present an elevated risk to safety for all sea users and in order to undertake the necessary prerequisite clearance activity, a Marine Licence and EPS Licence is required from Marine Directorate Licensing Operations Team (MD-LOT) to undertake the UXO clearance within the Moray West OfTI Corridor.

Given the location of the LMB UXO, avoidance is not possible. Moray West has considered alternative options such as the re-location of the LMB UXO. However, due to safety concerns the Moray West UXO clearance Consultant has advised that this option is not recommended as the outer aluminium casing of the LMB Mine is thin and not suitable for grabbing or stable for even small impacts. Additionally, re-location of this UXO does not remove the risk for all sea users. Therefore, Moray West's only option is to dispose of the LMB UXO using its preferred method of low order clearance by deflagration.

UXO low order clearance removes any further risk to all sea users and renders the site safe for subsequent construction activities.

Annex B

Only to be completed if you selected for *Imperative reasons of overriding public interest (including those of a social or economic nature and beneficial consequences of primary importance for the environment)* in Question 6 of the application form

Please complete all questions

What benefits will be provided by the proposed activity? Give details and indicate if they are social, economic or environmental. Please indicate if the benefits are short or long term.

The presence of this specific UXO creates a significant safety hazard for all sea users, particularly as the area is actively used as commercial fishing grounds, and is routinely crossed by recreational sailing craft, and commercial scale vessels.

Offshore wind is a key growth sector in Scotland, and the generation and development of offshore wind infrastructure is a key component for reaching Scotland's target to reduce greenhouse gas emissions (by 75% by 2030), and for being net-zero by 2045. Part of the next round of offshore wind development in Scotland (ScotWind allocated projects) is to ensure that 25% of the offshore wind industry is provided by local business.

There is an overarching European, UK and Scottish policy requirement for sustainable energy supply from renewables. This need is the subject of national planning and energy policy. The proposed UXO clearance activities are required to ensure the safe construction of the Development. UXO represent a material risk to the safe construction of the project and therefore their identification, assessment and clearance is essential.

What public interest will be served? Who will benefit from the proposed activity? Does the proposed activity address a need?

Clearance of this UXO will remove the safety hazard for all sea users.

The construction of the Moray West Offshore Wind Farm will not only provide for the need of the Scottish and wider British population, in terms of clean energy generation - and thus confer a reason of overriding public interest - the works will also contribute to mitigating/reducing the potential for climate change. In addition, the development of the Moray West Offshore Wind Farm will benefit local communities through job and input to the local economy, as well as support development of the wider supply chain and UK offshore renewables industry.

Why is it imperative the proposed activity goes ahead?

In order to meet the policy objectives set out above, the UXO clearance works must be undertaken for health and safety reasons of all sea users and the personnel working on construction works for the Moray West Offshore wind farm. As we approach poorer weather in October onwards, clearance in September is expected to provide the safest working conditions in which to clear this UXO by deflagration.

Given the location of the LMB UXO, avoidance is not possible. Moray West has considered alternative options such as the re-location of the LMB UXO. However, due to safety concerns the Moray West UXO clearance Consultant has advised that this option is not recommended as the outer aluminium casing of the LMB Mine is thin and not suitable for grabbing or stable for even small impacts. Additionally, re-location of this UXO does not remove the risk for all sea users. Therefore, Moray West's only option is to dispose of the LMB UXO using its preferred method of low order clearance by deflagration.

UXO low order clearance removes any further risk to all sea users and renders the site safe for subsequent construction activities.

Does the proposed activity support any local regional or national policies? Please give details. Are you fulfilling a statutory role?

Through the production of renewable energy, the proposed activity supports the long-term Scottish and UK Government's 2050 targets under the Climate Change (Scotland) Act and the Climate Change Act (2008) respectively, to reduce net emissions. In addition, the Development will contribute to meeting Scottish Government's 2030 Targets to generate 50% of the Scotland's overall energy consumption from renewable sources, and by 2050 to have decarbonised the energy system almost completely.

Annex C

Only to be completed if you selected for *Preventing the spread of disease* in Question 6 of the application form

Please complete all questions

What disease(s) is / are at risk of being spread if the proposed activity does not go ahead? Please give details of any expert advice received.

How will the proposed activity prevent the spread of disease? Please give details of any expert advice received.

Annex D

Only to be completed if you selected for *Preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property, or to fisheries in Question 6 of the application form.*

Please complete all questions

What serious damage has occurred or will occur if the proposed activity does not go ahead. Please give details of any expert advice received.

How will the proposed activity prevent serious damage? Please give details of any expert advice received.