

MS-LOT European Protected Species Case Handling Report

Licence Number: 00010673

Licensing Officer: [Redacted]

Site	Moray West site and cable corridor
Company	Moray Offshore Windfarm (West) Limited C/O Shepherd And Wedderburn LIP Octagon Point 5 Cheapside London EC2V 6AA United Kingdom
Applicant	[Redacted]
Brief Description of Project	construction activities and post installation geophysical surveys associated with the Moray West Offshore Wind Farm
Associated Licences	

Species	harbour porpoise (<i>Phocoena phocoena</i>); bottlenose dolphin (<i>Tursiops truncatus</i>); minke whale (<i>Balaenoptera acutorostrata</i>); short beaked common dolphin (<i>Delphinus delphis</i>); white-beaked dolphin (<i>Lagenorhynchus albirostris</i>); humpback whale (<i>Megaptera novaeangliae</i>); long-finned pilot whale (<i>Globicephala melas</i>)
Inshore/Offshore	Inshore

TEST 1	Purpose of licence
	Imperative reasons of overriding public interest (including those of a social or economic nature and beneficial consequences of primary importance for the environment)
Comments	
<p>The Scottish Government can only issue licenses under Regulation 44(2) of the Regulations for specific purposes. These purposes include:</p> <ul style="list-style-type: none"> • 44(2)(e) preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; (Marine Scotland 2012). <p>The piling of turbine generators and offshore substation foundations and associated activities are an essential part of the Moray West offshore wind farm construction.</p> <p>The Moray West wind farm project will confer long-term environmental and economic benefits and a higher degree of short-term economic benefits during construction. The key environmental benefit of the wind farms is the generation of electricity from a renewable energy source that will reduce or avoid the use of fossil fuels in thermal power plants and contribute to Scotland becoming net zero.</p> <p>Economic benefits will occur through investment to develop, install, and operate the facility, the creation of jobs and the development of supporting industries along the supply chain.</p>	
Test 1 satisfied?	YES

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TEST 2	Satisfactory alternatives
Comments	
<p>There is no satisfactory alternative (Regulation 44, 3a). Within the EIA Report the developer outlined the foundations that were under consideration; piled monopile, pin-pile jacket, suction caisson, and gravity base foundations. Design and cost analysis has been undertaken in the development of Moray West Offshore Windfarm to minimise environmental impacts whilst remaining economically viable, and alternative foundations that would not require piling were found not feasible. The Developer has committed to the following mitigation measures within the Risk Assessment for Construction at Moray West Offshore Wind Farm and Associated Offshore Transmission Infrastructure (Document Name: 8460005-DG0214-MWW-REP-000001) to reduce the possible impacts to EPS from monopile installation.</p> <p>The Developer proposes to use acoustic deterrent devices (ADDs) to displace mammals beyond the impact range predicted for death or physical injury. The Developer has provided details of their ADD protocol and justification for use in their Piling Mitigation Protocol (PMP) 2023 which states ADD will be deployed for piling locations where vibro piling is not used. After the use of ADD the developer proposes soft start piling for 15 minutes and, following this a ramp up of hammer energy to a suitable level for piling is reached. For breaks in piling <6 hours, pile driving will recommence with a full soft-start and ramp-up in hammer energy, wherever this is safe to do so, but without the need for pre-piling ADD deployment.</p> <p>To reduce the amount of time impact pile driving, the Developer proposes to use vibro impact piling in some locations where it is identified by further installation engineering that this is possible.</p> <p>The Developer considered alternative timing of the works and has committed to install monopile locations with low or moderate risk of pile refusal, determined through modelling, outside of the summer months, when there are less sightings of minke whales in the Southern Trench NCMPA.</p> <p>The Developer has reduced the amount of piling activity from what was originally proposed in the 2018 EIA submission. This includes a reduction of the number of WTGs to be installed and the number of active piling vessels from 6 to 2.</p> <p>There is a risk of collision between vessels and EPS and disturbance of EPS from vessels. To mitigate this the Developer proposes to use regular vessel routes, following the Scottish Marine Wildlife Code (SNH, 2017), and maintain appropriate buffers between vessels and visible EPS.</p> <p>To undertake the surveys a Multibeam Echosounder (MBES) and a Side Scan Sonar (SSS) may be required to image the seabed. The Developer has considered the potential impact to EPS from both the MBES and the SSS. The Developer has determined that, in line with JNCC advice, MBES surveys in shallower waters (<200 m) at higher frequencies (<100 kHz) are not subject to mitigation requirements as this falls outside the hearing frequencies of cetaceans. And similarly, for SSS operating at higher frequencies, no mitigation is required.</p> <p>The planned work is an integral part of the Moray West offshore wind farm installation programme. The construction activities to be licensed are essential to the successful completion of the project, and the methods have been carefully chosen to balance practical solutions while minimising the potential for environmental effects.</p>	
Test 2 satisfied?	YES

TEST 3	Favourable conservation status
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Comments

Due to increased sightings of humpback whales and long finned pilot whales, NatureScot advised including these on the list of species to be covered under the EPS licence.

Moray Firth SAC – Bottlenose Dolphin:

NatureScot commented that the installations of monopiles could cause auditory injury and/or disturbance to bottlenose dolphins as they are regularly sighted in the Moray Firth SAC and they transit along the east coast from this SAC. Therefore, the activity is likely to have a significant effect on the bottlenose dolphin qualifying interest of the Moray Firth SAC.

NatureScot advised that based on the Interim Population Consequences of Disturbance (“iPCOD”) model, the proposed activities will not affect the population of bottlenose dolphins and therefore there is no adverse effect on site integrity. Furthermore, evidence from Moray East Offshore WindFarm and Beatrice Offshore Wind farm has shown that piling in the Moray Firth has not impacted bottlenose dolphin transiting along the southern coast of the Moray Firth.

NatureScot commented that the proposed monopiles will be louder and closer to shore, however given the number of piles to commence with vibropiling and the short term of piling activity, NatureScot advised no adverse effect on site integrity.

Dornoch Firth Morrich Mhor SAC:

The installation of the monopiles could cause disturbance to harbour seals and therefore is likely to have a significant effect on the Harbour seal qualifying interest of this SAC. Therefore, NatureScot advised that MD-LOT are required to carry out an appropriate assessment in view of the sites conservation objectives for the harbour seal qualifying interest.

However, as the activities are within, or less than, the level of activity that was previously assessed, since the Moray West application, NatureScot stated the conclusion of the original AA is still applicable and there will be no adverse effect on site integrity.

Seal Haul Outs:

As stated in the EPS risk assessment, vessels will remain 500m from seal haul outs, will use existing shipping lanes and transit routes while applying the Scottish Marine Wildlife Watching Code. Therefore, NatureScot are content there will be low risk of disturbance to protected seal haul outs.

Southern Trench nc MPA – Minke Whale Feature:

The construction activities and timeframes have reduced since the Moray West application. Furthermore, the construction is now from September to spring 2024, which NatureScot advised falls out with the peak period of minke whale sightings within the Southern Trench nc MPA, therefore there will be no impact to sight integrity other than insignificantly.

To summarise, providing the proposed mitigation is put in place NatureScot advise:

- the risk of injury would be minimal and would not require a licence,
- an EPS licence under the 1994 Regulations is required to cover disturbance,
- an EPS licence under the 2017 Regulations is not required,
- there will be no detrimental effect on favourable conservation status of any EPS species from disturbance.

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NatureScot clarified that if Multibeam Echosounders (MBES) and Side Scan Sonar (SSS) of operating frequencies over 200 kHz do not usually require an EPS licence for disturbance in either inshore or offshore waters. Therefore, the use of MBES and SSS, as well as vessel activity, during the 'post installation surveys' does not require either an inshore or offshore EPS licence.

If sub-bottom profilers or any other noise producing equipment needs to be used as part of 'post installation surveys' in addition to SSS and MBES this would potentially need to be covered for disturbance by an EPS

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licence. The developer has stated in part 6.6 of the EPS risk assessment that if this were to occur they will carry out further assessments to determine if a further EPS licence is required for this activity. The use of MBES and SSS and the associated vessel activity has therefore not been included in this EPS licence.

Test 3 satisfied?	YES
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Date application received: 13/07/2023

Notes

Date	Text	Created By
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Awaiting Information

Start date	End date	Duration (days)	Waiting for	Waiting on Information From
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Licence issue date: 15/01/2024

Date report due: 31/01/2025

Licence start date: 16/01/2024

Licence end date: 31/12/2024

National Marine Plan considerations:

The decision is: In accordance and no further action required

Comments: • GEN 1 – General planning principle – renewable energy activities is one of the key growth activities in Scotland. The construction of the Moray West Offshore Wind Farm contributes to Scotland’s net zero emissions target.

• GEN 9 – Natural heritage – During the consultation process, the Marine Directorate – Licensing Operations Team (“MD-LOT”) requested comments from NatureScot in relation to the impact on protected sites and protected species from the proposed activities. NatureScot confirmed the risk of injury to European Protected Species (“EPS”) would be minimal and there will be no detrimental effect on the favourable conservation status of any EPS species from disturbance. NatureScot also advised no adverse effect on site integrity for the Moray Firth Special Area of Conservation (“SAC”), the Dornoch Firth Morrich Mhor SAC and the Southern Trench Marine Protected Area. Furthermore, as per NatureScot advice, MD-LOT carried out an Appropriate Assessment.

• Gen 13 – Noise – NatureScot were consulted to give comment on the effect of the noise generated by the activity on EPS. NatureScot commented that, provided the proposed mitigation within the EPS risk assessment is put into place, there will be no detrimental effect on the favourable conservation status of any EPS species from disturbance. Furthermore, the licence conditions aid in mitigating against the noise capable of affecting EPS, for example using soft start procedures where possible, adhering to the 2017 JNCC Guidelines and the Scottish Marine Wildlife Watching Code. The proposed activities have also been submitted to the JNCC Noise Registry.

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Reviewed and signed by:

Signed: [Redacted]

Date: 15/01/2024