

## MS-LOT European Protected Species Case Handling Report

**Licence Number:** 00010635

**Licensing Officer:** <Redacted>

|                                     |   |
|-------------------------------------|---|
| <b>Site</b>                         | Muir Mhòr Windfarm Offshore Survey Corridor   |
| <b>Company</b>                      | Muir Mhòr Offshore Windfarm Limited<br><br>C/O Fred Olsen Seawind Regional Office Ochil House Springkerse Business Park<br>Stirling<br><br>United Kingdom FK7 7XE |
| <b>Applicant</b>                    | <Redacted>  |
| <b>Brief Description of Project</b> | Muir Mhòr Offshore Wind Farm Geotechnical Surveys within the array area and export cable corridor   |
| <b>Associated Licences</b>          |   |

|                         |  |
|-------------------------|--|
| <b>Species</b>          | harbour porpoise ( <i>Phocoena phocoena</i> ); bottlenose dolphin ( <i>Tursiops truncatus</i> ); minke whale ( <i>Balaenoptera acutorostrata</i> ); white sided dolphin ( <i>Lagenorhynchus acutus</i> ); short beaked common dolphin ( <i>Delphinus delphis</i> ); white-beaked dolphin ( <i>Lagenorhynchus albirostris</i> ) |
| <b>Inshore/Offshore</b> | 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) |
| <b>Comments</b>   |   |
| <ul style="list-style-type: none"> <li>• Is a specific need being addressed?</li> </ul> <p>The proposed geotechnical surveys are directly linked with the development of the Muir Mhor Offshore Wind Farm which is a long-term development that will contribute to ensuring the security of Scotland's contribution to the UK's renewable energy supply, with long-term environmental, economic and social benefits. The geotechnical surveys are necessary to refine the foundation and landfall design, marine cable routing and associated installation methodologies for the Project.</p> <ul style="list-style-type: none"> <li>• What benefit does the activity provide or what need does it address – social, economic, environmental, health and safety etc? (they should give some details)</li> </ul> <p>While the proposed marine survey associated with the Muir Mhòr Offshore Wind Farm presents a temporary disturbance to a localised marine environment, this work will allow an important addition to Scotland's growing contributions to the UK's renewable energy sector in the long term. Offshore wind provides the opportunity to deliver this new capacity, not only from a renewable, low carbon resource, but a resource which is indigenous and does not depend upon the geo-economic and geo-political risks attendant with importing fuels, a vital point</p> |   |

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given the UK's current energy crisis.

- Why is the activity essential?

Public safety is paramount, and it is not possible to safely construct a wind farm without understanding ground conditions to enable appropriate design and installation of foundation structures or subsea cables, or ensuring there is no UXO present within the area. Should the work not proceed, the completion of the Muir Mhòr OWF would not be possible, therefore the activity is essential to address the need outlined above.

- What public interest is served?

The Offshore Wind Farm offers the opportunity to deliver a low-cost, low-carbon supply of electricity at a time when the UK urgently needs new generation capacity to maintain a secure, affordable supply of power. The development of the wind farm (as a result of the proposed activity) will benefit the public socioeconomically, as Muir Mhòr Offshore Windfarm Limited is uniquely placed, through our project and financial support to the supply chain, to contribute significantly towards national climate change policies, deliver multi-billion pound investments and thousands of jobs locally. We aim to establish globally competitive fabrication facilities in Scotland, position the country as a world leader in exportable innovation, and address wider sector opportunities around skills and diversity for current and future generations.

- Is the activity in relation to any government targets or policies?

The proposed activity is required to develop the offshore wind farm, the development of which supports the Scottish Government's Offshore Wind Policy - "the Scottish Government plans to ensure that Scotland's long and positive association with renewables continues to go from strength to strength and is central to our green recovery. Scotland's people will be key to this, which will mean ensuring local communities can participate in, and benefit from Scotland's transition to net zero emissions" (2020). As the UK follows policies to meet its national and international commitments to greenhouse gas reduction, additional demands will be placed on domestic electricity supply as use of, for example, electric vehicles, increases. The project will provide additional support to the UK government's national and international commitments to reduce greenhouse gases, which will bring long-term benefits. This project is also in line with the Scottish National Marine Plan objectives in Section 11. Offshore Wind and Marine Renewable Energy (2015), and supports the targets set in the Scottish Government's 'Securing a green recovery on a path to net zero: climate change plan 2018–2032' (3.1 Electricity, 2020) by producing renewable energy to aid the transition to net zero.

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- Is the applicant undertaking a statutory function?

The applicant is not undertaking a statutory function during the routine survey activities.

**Test 1 satisfied?**

YES

### **TEST 2**

### **Satisfactory alternatives**

#### **Comments**

- Has the applicant demonstrated that reasonable effort has been made to consider alternatives that would achieve the same result but with less / no impact on EPS?
- They should explain what alternatives were considered and justification for considering they are unsatisfactory.
- They should always consider the 'do-nothing' alternative.
- Possible alternatives may be equipment, methods, locations and timing.

The applicant has advised there is no satisfactory alternative method as using alternative equipment may limit the effectiveness of the geotechnical surveys and survey results which are fundamental to the project to safely refine the foundation and landfall design, marine cable routing and associated installation methodologies for the Project.

The 'do nothing' approach has been considered by the applicant. The applicant has determined that this is not a satisfactory alternative as the information gathered from the geotechnical surveys are fundamental to execution of the project. The surveys are necessary to refine the foundation and landfall design, marine cable routing and associated installation methodologies for the Project. It is not possible to safely construct a wind farm without understanding ground conditions to enable appropriate design and installation of foundation structures or subsea cables, or ensuring there is no UXO present within the area. Should the work not proceed, the completion of the Muir Mhòr OWF would not be possible.

Additionally, the EIA assessment requires the results of the survey to inform baseline data, information on seabed stratigraphy, rock formations, the mechanical strength, and an indication of soil strength. This information is used by Scottish Ministers to determine the s36 wind farm consent application.

The applicant has considered and is applying to carry out the activity with the proposed equipment, which includes Ultra Short Base Line (USBL) acoustic positioning systems, but incorporate mitigation. The mitigation includes operation of the USBL at the lowest possible sound levels and over the shortest period to reduce the risk of disturbance to EPS. The survey will also be undertaken within as localised area as possible to reduce the potential extent and duration of any possible disturbance to allow any marine mammals within the potential range to disperse.

**Test 2 satisfied?**

YES

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|   |                                       |
|---|---------------------------------------|
| <b>TEST 3</b>   | <b>Favourable conservation status</b> |
| <b>Comments</b>   |                                       |
| <p>ultation response received from NatureScot 10/01/2024 and clarification 31/01/2024.</p> <p>Initial advice from NatureScot advised of likely significant effect on bottlenose dolphin qualifying feature of the Moray Firth SAC. However, on review, NatureScot later clarified that the proposed geotechnical activities including use of USBL will not have a likely significant effect on a Special Area of Conservation (SAC), Special Protection Area (SPA), proposed SPA (pSPA) or Ramsar site and the activity is not capable of affecting (other than insignificantly) a Marine Protected Area (MPA) or proposed MPA (pMPA).</p> <p>Due to the scale of the activity, NatureScot agree that there is a limited risk of significant disturbance that could result in a detrimental effect on Favourable Conservation Status (FCS), concluding that this proposal is not capable of having a detrimental effect on the FCS of any of the EPS concerned.</p> <p>If the USBL is operated above 210 dB re 1 <math>\mu</math>Pa SPLpk, NatureScot advised that mitigation will be required (following the JNCC 2017 guidelines) to minimise the risk of injury. However, if the USBL is operated below 210 dB re 1 <math>\mu</math>Pa SPLpk, mitigation will not be needed. NatureScot suggested MD-LOT seek clarification of USBL sound level.</p> <p>In summary, NatureScot concluded that:</p> <ul style="list-style-type: none"> <li>• an EPS licence for injury is not required, provided either the USBL is operated below 210 dB re 1 <math>\mu</math>Pa SPLpk or mitigation is implemented as per JNCC (2017);</li> <li>• an EPS licence under the Conservation (Natural Habitats, &amp;c.) Regulations 1994 (as amended) to cover EPS disturbance is required. All species capable of being disturbed by the activity and all equipment capable of disturbing the species have been correctly identified;</li> <li>• an EPS licence under the Conservation of Offshore Marine Habitats and Species Regulation 2017 to cover disturbance is not required;</li> <li>• there will be no detrimental effect on favourable conservation status of any EPS species from disturbance under these Regulations.</li> </ul> <p>On 07/02/2024 the developer confirmed the sound pressure for the specific USBL equipment will be below 210 dB re 1 <math>\mu</math>Pa SPLpk. Therefore, as per NatureScots advice, an EPS licence for injury is not required.</p> |                                       |
| <b>Test 3 satisfied?</b>  | YES                                   |

**Date application received:** 21/11/2023

**Consultation start date:** 06/12/2023

**Consultation end date:** 17/01/2024

### Notes

| Date       | Text  |
|------------|---|
| 05/12/2023 | Please paste URL below into browser - <a href="https://gridreferencefinder.com/#gr=NK7633744730 57.48638333_s_c_s_-0.728366667 1,NK76592451">https://gridreferencefinder.com/#gr=NK7633744730 57.48638333_s_c_s_-0.728366667 1,NK76592451</a> |

### Awaiting Information

Duration

Waiting on

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| Start date | End date   | (days) | Waiting for   | Information From |
|------------|------------|--------|---|------------------|
| 27/11/2023 | 04/12/2023 | 7      | Update application: Co-ordinates and Test 2 'do nothing' as alternative | Applicant        |
| 19/01/2024 | 07/03/2024 |        | USBL sound level  | Applicant        |

**Licence issue date:**

**Date report due:** 30/11/2024

**Licence start date:** 01/03/2024

**Licence end date:** 31/10/2024

National Marine Plan considerations:

The decision is: In accordance and no further action required

Comments:

Reviewed and signed by:

Signed: .....

<Redacted

Date: 19/02/2024