

## MS-LOT European Protected Species Case Handling Report

**Licence Number:** 00010535

**Licensing Officer:** <Redacted>

<b>Site</b>	Cenos Offshore Windfarm and cable route
<b>Company</b>	Flotation Energy Ltd  12 Alva Street Edinburgh  United Kingdom EH2 4QG
<b>Applicant</b>	<Redacted>
<b>Brief Description of Project</b>	Geophysical surveys
<b>Associated Licences</b>	Marine Licence No. 00010419

<b>Species</b>	harbour porpoise ( <i>Phocoena phocoena</i> );bottlenose dolphin ( <i>Tursiops truncatus</i> );minke whale ( <i>Balaenoptera acutorostrata</i> );white-beaked dolphin ( <i>Lagenorhynchus albirostris</i> )
<b>Inshore/Offshore</b>	Inshore

<b>TEST 1</b>	<b>Purpose of licence</b>
	social, economic or environmental purpose

### **Comments**

With regard to Test 1 there are several different purposes for which an EPS licence can be granted including, under Regulation 44(2)(e) of the Habitat Regulations and Regulation 49(6)(1) of the Offshore Marine Regulations, for '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'.

NatureScot Guidance states that, when determining an EPS Licence application, it will be taken into account whether an activity or development is required to meet, or contribute to meeting, a specific need such as maintaining the environment of Scotland's people (including sustainable development and renewable or green energy), complying with national planning policies and supporting economic or social development (including nationally important infrastructure development projects and employment).

While the marine surveys associated with the proposed Cenosis Offshore Wind farm presents a temporary disturbance to a localised marine environment, the development of the Cenosis Offshore Windfarm project will allow an important addition to Scotland's growing contributions to the UK's renewable energy sector. The UK has an urgent need for new electricity generation capacity due to the closure of coal fired stations, the aging of thermal power stations and the closure of nuclear power programmes. 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.

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The UK and Scotland has committed to meeting national and international commitments to greenhouse gas reduction including the Paris Agreement (2016), which sets out a global action plan towards climate neutrality with the aims of stopping the increase in global average temperature to below 2 °C above pre-industrial levels, and to pursue efforts to limit global warming to 1.5 °C. A number of pieces of UK and Scottish legislation have also been enacted with a view to achieving these targets for reduction in greenhouse gasses, including, but not limited to:

- The Climate Change Act 2008, which the UK committed to a net reduction in GHG emissions by 2050 of 80% against the 1990 baseline;
- The Energy Act 2013 which makes provisions to incentivise investment in low carbon electricity generation, ensure security of supply, and help the UK meet its emission reduction and renewables targets. And
- The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 which amends the Climate Change (Scotland) Act 2009, and introduces binding targets on the Scottish Government to reduce net Scottish greenhouse gas emissions by at least 100% by 2045 from 1990 levels

Innovation and Targeted Oil & Gas (INTOG) is a leasing round for offshore wind projects that will directly reduce emissions from oil & gas production and boost further innovation. The Cenosis development were successful in their application and awarded a seabed lease agreement to develop a windfarm to generate a sustainable means of electricity to power Oil and Gas platforms thus reducing their reliance on fossil fuels. In order to reach net zero emissions by 2045, Scotland will need innovations in offshore wind which go beyond current technologies – so creating opportunities for developers to test new ideas is crucial. Decarbonising oil & gas installations will also play an important role in the transition to net zero. According to the North Sea Transition Authority (NSTA) power generation for oil & gas infrastructure in the UK, which comes primarily from the burning of fossil fuels, generates emissions equivalent to 10Mt every year: about the same amount generated by electricity use in nine million homes. These emissions could be eliminated by powering the installations with electricity from new wind farms instead.

As the UK follows these legislation and policies to meet its national and international commitments to greenhouse gas reduction. 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. The UK currently aims to reach their zero emissions target by 2050 and a new plan is aiming for at least 68% reduction in GHG emissions by the end of the decade, compared to 1990 levels. The UK has committed to reducing emissions by the fastest rate of any major economy and in doing so, aims to create and support 250,000 jobs whilst eradicating contributions to climate change.

The survey work will inform the design and cable routing of a 1.4GW windfarm which is being developed as part of the INTOG leasing round. It will provide power to oil and gas assets, helping to decarbonise fossil fuel

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production during the energy transition. In addition it will export excess renewable power to the grid helping to ensure UK supply of affordable renewable power. Once operational Cenoss will contribute towards limiting climate change, having long term benefits

<b>Test 1 satisfied?</b>	YES
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<b>TEST 2</b>	<b>Satisfactory alternatives</b>
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### **Comments**

Test 2: Satisfactory Alternatives

Regulation 44(3)(a) of the Habitat Regulations 1994 requires the Scottish Ministers to be satisfied that there is no satisfactory alternative before an EPS Licence can be issued for the Licensable Operations.

The developer considered alternative methods which would meet the required resolution of surface ground conditions. The only option considered to meet the requirements would involve an extensive geotechnical survey to obtain many core samples which would result in an extended survey duration subsequently resulting in further disturbance to marine mammals. The project would not be able to proceed without the SBP surveys.

The developer had considered the 'Do Nothing' alternative but this was not deemed appropriate as without the data obtained through the SBP surveys the windfarm cannot be designed. Surveys are required to inform the design and consenting (including Environmental Impact Assessment production) of the Cenoss windfarm and associated cable routing. Without the surveys there is a potential that infrastructure would be inappropriately sited and potentially over designed, giving rise to increased adverse impacts during construction, operation and decommissioning phases.

Alternative locations were considered however were not deemed appropriate as the sediment and seabed structure at locations adjacent to the survey area may not be representative of the locations in which the proposed infrastructure will be positioned. The proposed locations are selected to best inform the design and development of the windfarm, including micro-siting to minimise impacts on sensitive benthic habitats. Alternative survey locations adjacent or near to the proposed locations would not provide the specific geophysical detail needed for the project and would potentially lead to installation and project longevity risks and potentially higher impacts on benthic habitats. Therefore, alternative survey locations are not considered a feasible option.

The developer has considered alternative timings for the surveys and as harbour porpoise, which is the species most likely to be disturbed by the survey works, are present across the project area on year-round basis, as are the roving populations of coastal delphinids which occupy the region, alternative timings for the surveys would have no lesser impact on EPS.

<b>Test 2 satisfied?</b>	YES
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<b>TEST 3</b>	<b>Favourable conservation status</b>
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### **Comments**

The cable survey area has changed since the inshore EPS licence EPS/BS00010419 was issued. Cable corridor search area Route A is no longer being surveyed and Route B has been amended in response to the potential presence of *Sabellaria spinulosa* as per amended EPS Risk Assessment (Document number: 108\_REP\_02\_3; Date: 18/08/2023)

The geophysical survey programme will take place in offshore waters adjacent to the inshore waters 12 nm limit, hence why an inshore EPS licence has been applied for and will encompass both the project array area and

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export cable corridor. Scheduled to take place using one survey vessel, over approximately 120 days in summer and autumn 2023. The SBP survey activity within the proposed EPS Licence area will take up to 9 days including equipment calibration.

Provided the mitigation is conducted as proposed by the applicant, it is advised an EPS licence for injury is not required (inshore or offshore).

Mitigation measures to include the use of a Marine Mammal Observer (MMO) to carry out visual monitoring to ensure there are no marine mammals or basking sharks within 500m, for at least 30 minutes prior to works commencing, the use of Passive Acoustic Monitoring (PAM) during hours of darkness, poor visibility and in conjunction with visual monitoring, to ensure there are no marine mammals within 500m, for at least 30 minutes prior to works commencing and soft start procedure involving slowly ramping up to full power over a period of a minimum of 20 minutes and not exceeding 40 minutes, allowing any marine mammals to move away from the noise source. Adherence to the Scottish Marine Wildlife Watching Code (SMWWC) is recommended and these mitigation measures are in line with JNCC guidance.

The distance offshore and the short duration of the proposed use of the USBL equipment, that disturbance to EPS species is unlikely in offshore waters

The scale of the activity is such that there is a limited risk of significant disturbance that could result in a detrimental effect on favourable conservation status (FCS). Therefore this proposal is not capable of having an adverse impact on the FCS of any of the EPS concerned.

Basking sharks are unlikely to be present or in very low numbers in the proposed survey areas and the geophysical survey sound is unlikely to have a significant impact on basking sharks and based on this information a basking shark licence for disturbance is not required.

With regards to the East of Gannet and Montrose Fields nature conservation MPA, designated for the protection of ocean quahog, offshore subtidal sands and gravels and offshore deep sea muds. The proposed geophysical surveys will take place within this ncMPA. However, given that these qualifying features are not sensitive to geophysical noise the proposed activity is not capable of affecting the protected feature either directly or indirectly and further assessment is not required

The Buchan Ness to Collieston Coast SPA is designated for the protection of breeding seabirds. The proposed geophysical survey will take place more than 20km away from this breeding SPA and it will take place at a time when consideration of post colony auk dispersal is not required. Given the distance from the SPA and the timing of the survey, there is no connectivity between the proposal and Buchan Ness to Collieston Coast SPA. Therefore, the proposed geophysical survey will have no likely significant effect on this SPA.

There are no other protected sites which have connectivity to the proposal.

To summarise:

The applicant has correctly identified all of the species capable of being disturbed by the survey activity.

The applicant has correctly identified all of the equipment capable of disturbing the species.

Provided the proposed mitigation is adhered to, there is no risk of auditory injury under the 2017 offshore regulations.

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An EPS licence for disturbance under the 2017 offshore regulations is not required.  
An EPS licence for disturbance under the 1994 inshore regulations is required.  
The proposal is not capable of having an adverse impact on advice on the FCS of the EPS involved.

<b>Test 3 satisfied?</b>	YES
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**Date application received:** 25/08/2023

### Notes

Date	Text	Created By
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**Licence issue date:** 05/10/2023

**Date report due:** 31/07/2024

**Licence start date:** 06/10/2023

**Licence end date:** 30/06/2024

National Marine Plan considerations:

The decision is: In accordance and no further action required

Comments: The application accords to General Policies 1, 2, 3 and 5 of the NMP and takes account of general policies 4, 6,9 and 13.

Reviewed and signed by:

Signed: .....  
<Redacted>

Date: 05/10/2023