

THE CONSERVATION (NATURAL HABITAT, &c.) REGULATIONS 1994 (AS AMENDED)

LICENCE TO DISTURB MARINE SPECIES

Public Case Handling Report for Licence Number: EPS/BS-00010894

Site	Inch Cape Offshore Windfarm Development Area and Export Cable Corridor
Company	Inch Cape Offshore Limited 5th Floor 40 Princes Street Edinburgh EH2 2BY
Brief Description of Project	UXO Clearance
Associated Licences	Marine Licence No. 00010883

Species	harbour porpoise (<i>Phocoena phocoena</i>); bottlenose dolphin (<i>Tursiops truncatus</i>); minke whale (<i>Balaenoptera acutorostrata</i>); Risso's dolphin (<i>Grampus griseus</i>); white sided dolphin (<i>Lagenorhynchus acutus</i>); short beaked common dolphin (<i>Delphinus delphis</i>); killer whale (<i>Orcinus orca</i>); white-beaked dolphin (<i>Lagenorhynchus albirostris</i>); humpback whale (<i>Megaptera novaeangliae</i>); fin whale (<i>Balaenoptera physalus</i>); long-finned pilot whale (<i>Globicephala melas</i>); sei whale (<i>Balaenoptera borealis</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>Is a specific need being addressed? The applicant states the proposed UXO clearance work is required for the development of the Inch Cape Offshore Wind Farm.</p> <p>What benefit does the activity provide or what need does it address – social, economic, environmental, health and safety etc? The activity is part of a larger project, which the applicant states will create employment during all phases for the population of the east of Scotland and wider UK.</p> <p>Why is the activity essential? The applicant states that in order to deliver the renewable energy generation in Scotland, UXO clearance is required so that construction of the Inch Cape OWF can be started. The proposed activity will achieve this by reducing the risk of UXO to as low as reasonably practicable (ALARP) status for personnel, vessels and the project infrastructure once installed.</p> <p>What public interest is served? This activity is part of a larger project, which the applicant states the installation of the Inch Cape windfarm will assist in meeting UK and Scottish Government climate change targets, which will provide long term economic and environmental benefits.</p> <p>Is the activity in relation to any government targets or policies? The activity is part of a larger project, which the applicant states will contribute to the Scottish Government's aims of achieving Net Zero by 2045 and make a significant contribution to meeting the targets set out in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. Contributing to meeting the aims of tackling climate change and reducing emissions will benefit the wider population. The applicant states this project is in accordance with Scotland's Offshore Wind Policy Statement (2020) and the Scottish Energy Strategy (2017). One of the targets outlined in this strategy is that 50% of the energy for Scotland's heat, transport and electricity consumption is to be supplied from renewable sources. Inch Cape OWF will contribute to the delivery of renewable energy generation in Scotland, and assist in meeting Scotland's climate change targets. As highlighted above, the delivery of the project will contribute to meeting the emissions reduction targets and the aims of achieving Net Zero, as set out in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019.</p> <p>Is the applicant undertaking a statutory function? n/a</p>	
Test 1 satisfied?	YES

TEST 2	Satisfactory alternatives
Comments	
<p>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? This activity is part of a larger project. The applicant has outlined 4 options in Section 7 of the application form.</p>	

- Option 1: Do not undertake the proposed work

This project will significantly contribute to the UK and Scottish Governments achieving their renewable energy targets. Without this development, the likelihood of achieving renewable energy targets will be negatively impacted. The UXO clearance work is key for the continued development of the Inch Cape OWF. There will be no effect on EPS from the proposed work if it is not undertaken. However, not undertaking the work is not a suitable option/satisfactory alternative because the work is required for the construction of the Inch Cape OWF. UXO clearance is required to reduce the risk of UXO to ALARP status for personnel, vessels and the project infrastructure once installed. Without UXO clearance where necessary it would not be safe to continue the development of the Project. The project therefore proposes to apply the mitigation outlined under option 4 while it undertakes the proposed work to negate and reduce potential effects on EPS (PTS and behavioural responses respectively).

- Option 2: Conduct the proposed work when marine EPS are not present

This is not a satisfactory alternative because marine EPS, e.g., harbour porpoise, are present in the North Sea year round. This is also the case for the dolphin (and seal) species. Minke whales are present seasonally (between April and October). Although basking sharks are also present seasonally, they occur very infrequently at this latitude in the North Sea. It will not be possible to use an alternative location because the location of the Plan Option Area is fixed, and this is the location from which work needs to be undertaken. The location of the cable corridor is driven by the location of suitable grid connection options, and is constrained by other factors. There is therefore no time of year when marine EPS are not present in the area surrounding the proposed work location (or any area within the North Sea). Therefore, conducting the proposed UXO clearance work when marine EPS are not present is not an option. The project therefore proposes to apply the mitigation outlined under option 4 while it undertakes the proposed work to negate and reduce potential effects on EPS (PTS and behavioural responses respectively).

- Option 3: Do not use UXO clearance methods which emit sound

Some UXO clearance methods produce less sound than others and will be used when possible. Ideally, all UXO will be cleared using micro-siting or relocation methods, with sound being produced only from a USBL (for the operation of ROVs). However, it is highly unlikely that all of the cUXO will be in adequate condition to be cleared in this way. Consequently clearance of the UXO (by either low or high order methods) will be required. Undertaking UXO clearance this way is industry standard and there are no suitable non-sound-emitting alternatives which could be used to undertake the same work. Therefore, not using work methods and equipment which emits sound is not an option. The project therefore proposes to apply the mitigation outlined under option 4 while it undertakes the proposed work to negate and reduce potential effects on EPS (PTS and behavioural responses respectively).

- Option 4: Restrict/reduce sound from the work

All UXO clearance work will be undertaken using the following mitigation to restrict/reduce sound from the work which might impact EPS:

- o Methods to avoid the need for UXO clearance (micro-siting or relocation) will be considered for every UXO in the first instance;
- o If UXO clearance is required then low order clearance methods will be used in the first instance. Three attempts will be made before moving to high order clearance methods. High order clearance will only be used by exception with evidence provided to demonstrate that low order clearance has not been successful;
- o For both low and high order clearance a pre-work search will be undertaken (by at least two MMOs and one PAM operator);
- o For high order clearance an ADD will be used (duration dependant on size of the UXO to be cleared);

- o A NAS will be used for high order UXO clearance >49 kg; and
- o USBLs will only be used with a maximum source pressure level of <202 dB re 1 μ Pa @ 1 m.

- In addition, watches for marine mammals, turtles and basking sharks will be conducted during all transits to and from work sites and actions in line with the Scottish Marine Wildlife Watching Code taken. This will reduce the potential for collisions with EPS and basking sharks.

Has the applicant explained what alternatives were considered and justification for considering they are unsatisfactory?

See above outlined options

They should always consider the 'do-nothing' alternative.

See above outlined Option 1

Possible alternatives may be equipment, methods, locations and timing.
See above outlined Option 3

Test 2 satisfied?	YES
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TEST 3	Favourable conservation status
Comments	
n/a	
Test 3 satisfied?	YES

Date application received: 26/07/2024

Consultation start date: 06/08/2024

Consultation end date: 26/08/2024

Notes

Date	title	Text
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National Marine Plan considerations:

The decision is: In accordance and no further action required

Comments: The UXO clearance activities are necessary to build out the Inch Cape windfarm project and align with the following NMP policies:

GEN1,2,3 – the Inch Cape windfarm is a sustainable development which will provide social and economic benefits for Scotland and these activities are necessary to secure these benefits

GEN4 – co-existence with other users of the sea will be carried out through appropriate notifications as conditioned on the marine licence

GEN5 – these activities are essential to the building of the wind farm which will mitigate the effects of climate change

GEN7 – there will be limited seascape, landscape and visual impacts of the boulder clearance activities and the impacts of these of the development as a whole have been assessed through the EIA Report

GEN13 – impacts on noise from the wider Inch Cape project have been assessed through the EIA Report. the noise impacts of these activities have been licenced through the EPS licence with appropriate conditions

attached to avoid AEOSI for protected sites.

REN5 – the application is in line with what was assessed in the EIA Report for the wider project. HRA was carried out for these activities and, through conditions on the licences, there will be no AEOSI.

The application aligns with the objectives of the Renewables section of the NMP as it is necessary to develop the Inch Cape wind farm which will contribute to Scotland's renewable energy targets.

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