

## MS-LOT European Protected Species Case Handling Report

**Licence Number:** 00010944

**Licensing Officer:** [Redacted]

<b>Site</b>	EMEC Seabed Survey Area
<b>Company</b>	Aspect Land & Hydrographic Surveys Ltd  30 Ballot Road Irvine  United Kingdom KA12 0HW
<b>Applicant</b>	[Redacted]
<b>Brief Description of Project</b>	Multibeam Bathymetric & Geophysical Survey
<b>Associated Licences</b>	

<b>Species</b>	harbour porpoise ( <i>Phocoena phocoena</i> );minke whale ( <i>Balaenoptera acutorostrata</i> );Risso's dolphin ( <i>Grampus griseus</i> );short beaked common dolphin ( <i>Delphinus delphis</i> );killer whale ( <i>Orcinus orca</i> );white-beaked dolphin ( <i>Lagenorhynchus albirostris</i> );long-finned pilot whale ( <i>Globicephala melas</i> )
<b>Inshore/Offshore</b>	Inshore

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<b>TEST 1</b>	<b>Purpose of licence</b>
	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 survey is essential to assess the rockhead levels and sediment profiles for EMEC’s potential floating wind test site located off the coast of Orkney. Data provided by the survey will help to inform the planning and design of mooring systems.</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>The applicant has outlined that the proposed development will provide economic benefit to Scotland. Floating wind research and development will support future job creation and supply chain development. The proposed development will also aid in transition to green renewable energy.</p> <ul style="list-style-type: none"> <li>• Why is the activity essential?</li> </ul> <p>The proposed activity will inform the planning of a potential floating wind test site which will contribute to the advancement of offshore renewable energy technologies. The surveys will provide detailed insights into the seabed conditions, which can then be used to optimise the design of the mooring systems to minimise potential risks associated with shifting or unstable seabed conditions.</p> <ul style="list-style-type: none"> <li>• What public interest is served?</li> </ul> <p>The applicant states that the proposed development will support National Planning Framework 4 in terms of renewable energy and benefitting the environment at large. The proposed activity would also provide employment and benefit the UK economy.</p> <ul style="list-style-type: none"> <li>• Is the activity in relation to any government targets or policies?</li> </ul> <p>The activity aligns with the Regional Spatial Priorities for the Orkney Islands of NPF4. Energy Innovation Development on the Islands and surrounding waters is one of the key spatial strategies and supports developments in the Outer Hebrides, Shetland and Orkney Island groups, for renewable energy generation, renewable hydrogen production, infrastructure and shipping, and associated opportunities in the supply chain for fabrication, research and development.</p> <ul style="list-style-type: none"> <li>• Is the applicant undertaking a statutory function?</li> </ul> <p>No. Applicant has not stated this</p> <p>Test 1 has been satisfied based on the above.</p>	
<b>Test 1 satisfied?</b>	YES

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<b>TEST 2</b>	<b>Satisfactory alternatives</b>
<b>Comments</b>	
<p>Demonstration that reasonable effort has been made to consider alternatives that would achieve the same result but with less / no impact on EPS</p> <ul style="list-style-type: none"> <li>• The applicant has demonstrated that that reasonable effort has been made to consider alternatives.</li> </ul> <p>Alternatives considered and justification for considering they are unsatisfactory.</p> <ul style="list-style-type: none"> <li>• Alternative Equipment The Developer considered alternative equipment and identified an Applied Acoustic AA201 Boomer SBP as their preference due to the superior seabed penetration down to rockhead/ basement. Alternative equipment considered, the Innomar SBP, provides less effective penetration.</li> <li>• Alternative Method A possible alternative proposed by the applicant would be carrying out detailed ground investigation by taking numerous core samples from the seabed. This is unsatisfactory as it would increase costs significantly and result in extended survey durations and more repeated disruptions to marine mammals through vessel movements. In addition to this, geophysical surveys will not cause any physical disturbance to the seabed.</li> <li>• Alternative Location An alternative location is unsatisfactory due to the survey area informing the design of the grid-connected proposed floating wind test site in that area. Orkney is ideal due to the wind and wave conditions experienced there, which will represent real project locations in UK waters. Alternative locations considered would be within Orkney and potentially have increased impacts on EPS.</li> <li>• Alternative Timing The Developer has considered alternative timing and requested the licence cover an extended period of time for one days survey. The Developer will carry out the survey when the sea conditions are more likely to be suitable and minimise impact on EPS.</li> <li>• “No development” Alternative A geophysical survey is necessary for the implementation of the proposed developmental activities. Without the geophysical survey, it will not be possible for the applicant to proceed with the proposed development. Scotland needs to attain Net Zero Emissions by 2045 and wind farms plays a major role in it as more than 50 GW of bottom-fixed and floating offshore wind (FOW) projects are destined for UK waters over the coming decades and the floating wind turbine testing site would be needed for considering the associated technical risk.</li> </ul> <p>Test 2 has been satisfied based on the above.</p>	
<b>Test 2 satisfied?</b>	YES

<b>TEST 3</b>	<b>Favourable conservation status</b>
<b>Comments</b>	
<p>NatureScot advice – European Protected Species</p> <p>Auditory injury</p> <p>We note from the Marine Mammal Mitigation Plan included in Section 4 of the Marine Mammal Risk Assessment (and summarised within the Application Form) that JNCC (2017) mitigation measures are proposed. Provided these measures are secured, we agree that a licence for injury is not required in both inshore or offshore waters.</p> <p>Mitigation</p>	

## **MS-LOT European Protected Species Case Handling Report**

As detailed in Section 4 of the Marine Mammal Risk Assessment, JNCC (2017) mitigation measures are proposed, this includes:

- Marine Mammal Observer (MMO) / Passive Acoustic Monitoring (PAM) operators;
- 30 minute watch period;
- 500m mitigation zone;
- 20 minute delay period from last observation;
- 20 minute soft-start - power for the geophysical source will be built up slowly, where feasible;

These measures should be secured to avoid risk of auditory injury to marine mammals. We note that line changes are not referred to within the Marine Mammal Mitigation Plan and advise that during line changes, or delays in sound source, JNCC guidelines should also be followed.

Section 2.2 of the Risk Assessment refers to 'other cetaceans', we advise that any incidental species detected receive the same full JNCC (2017) mitigation and this should also apply to other species of megafauna including basking shark.

### **Disturbance**

We advise under the inshore regulations ((Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)) that an EPS licence is required for disturbance, as there is a risk of disturbance from the geophysical equipment (SBP) and no mitigation available that can eliminate that risk.

We advise under the offshore regulations (The Conservation of Offshore Marine Habitats and Species Regulations 2017) that an EPS licence for disturbance is not required as a disturbance offence under these regulations would be unlikely as a result of this survey.

Due to the scale of the activity, we agree this is unlikely to result in a detrimental effect on favourable conservation status (FCS) of any of the EPS concerned.

### **EPS advice summary**

Therefore, we advise:

- Provided the proposed mitigation is implemented, the risk of injury under both the Inshore and Offshore Regulations is negligible and an EPS licence for injury will not be required.
- An EPS licence for disturbance under the Offshore Regulations is not required.
- An EPS licence for disturbance under the Inshore Regulations is required.
- The proposal is not capable of having an adverse impact on the favourable conservation status of the European Protected Species concerned.
- Killer whale and long finned pilot whale are to be listed, as well as text to cover any incidental detections of marine megafauna.

### **NatureScot advice – basking shark**

In our view this activity is not capable of having an adverse impact on basking sharks, and therefore a basking shark licence is not required. As above, we advise that the mitigation measures outlined should also apply to basking shark.

### **NatureScot advice – protected sites and qualifying features**

#### **North West Orkney ncMPA**

The proposed survey work is located approximately 700 metres from the North-West Orkney ncMPA which is designated for sandeel and geomorphological features. Due to the short duration of the proposed surveys (taking place over one day) we confirm that the proposed surveys are not capable of affecting (other than insignificantly) the protected features of the North-West Orkney ncMPA.

We can also confirm that the proposed activity will have no likely significant effect on any other European site, nor is the activity capable of affecting (other than insignificantly) any nature conservation Marine Protected Area.

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Finally, vessel transit routes are not identified within the documents provided, we advise adherence to the guidance and principles within the Scottish Marine Wildlife Watching Code (SMWWC) including during transit to/from the survey location.

<b>Test 3 satisfied?</b>	YES
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**Date application received:** 23/08/2024

**Consultation start date:** 09/10/2024

**Consultation end date:** 06/11/2024

### 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:** 28/11/2024

**Date report due:** 31/10/2025

**Licence start date:** 28/11/2024

**Licence end date:** 30/09/2025

National Marine Plan considerations:

The decision is:

Comments:

Reviewed and signed by:

Signed: .....

[Redact

Date: 09/12/2024