

MS-LOT European Protected Species Case Handling Report

Licence Number: 00010481

Licensing Officer: [Redacted]

Site	Moray West site and cable corridor
Company	Moray Offshore Windfarm (West) Limited C/O Shepherd And Wedderburn LLP Octagon Point 5 Cheapside London EC2V 6AA United Kingdom
Applicant	██████████
Brief Description of Project	Unexploded Ordnance (UXO) clearance activities
Associated Licences	Marine Licence No. 00010483

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>)
Inshore/Offshore	Inshore and Offshore

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TEST 1	Purpose of licence
	social, economic or environmental purpose
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 licensable purpose of the UXO clearance activity is essential to ensure the safe construction of the Moray West wind farm as the UXO may pose a hazard to construction, operation and maintenance activities and there is an increased risk of detonation occurring. The UXO clearance activity is part of the wider offshore wind farm development, contributing to the growth of offshore wind to reduce greenhouse gas emissions and for achieving net zero in Scotland.</p> <p>The licence application is to vary licence number EPS/BS-00010363 which was issued to allow injury and disturbance to EPS when undertaking UXO clearance.</p> <p>The UXO clearance activities are authorised under separate marine licences MS-00010360 and MS-00010366 to clear UXO targets through high order or low order techniques. Under the UXO marine licences, control measures were conditioned to ensure high order clearance techniques were only used where low order techniques failed.</p> <p>The licence variation (EPS/BS-00010481) is for low-order clearance, by deflagration only, for a UXO LMB Mine identified through boulder clearance activities.</p>	
Test 1 satisfied?	YES

TEST 2	Satisfactory alternatives
Comments	
<p>There is no satisfactory alternative (Regulation 44, 3a). Moray West has considered alternatives which includes relocation of the UXO to outside the OfTI corridor. However the device is not suitable for relocation due to the thin casing of the device which may not withstand even small impacts and poses a risk of detonation.</p> <p>An identification of a new cable route was considered, which would require wet storage, as well as a delay to UXO clearance works however both these options are not feasible as they do not remove the risk to sea users or EPS. Moray West determine the optimum solution is clearance by low order deflagration.</p>	
Test 2 satisfied?	YES

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TEST 3	Favourable conservation status
Comments	
<p>In respect of the licence variation application (EPS/BS-00010481), NatureScot confirmed there there will be no likely significant effects on the bottlenose dolphin qualifying feature of the Moray Firth SAC and on the harbour seal qualifying feature of the Dornoch Firth and Morrich More SAC.</p> <p>NatureScot also confirmed the Southern Trench ncMPA overlaps with the location of the UXO clearance activity, thus the activity is capable of affecting the minke whale protected feature of this ncMPA. However, these effects are likely to be insignificant. This takes into account the limited and temporary nature of the activity (using low-order deflagration), as well as the proposed mitigation, which will minimise disturbance to this species.</p> <p>Previous NatureScot advice in respect of licence EPS/BS-00010363, confirmed there was a residual risk of permanent auditory injury for harbour porpoise and minke whale should high order clearance be used, and therefore the licence was required to cover injury should high order approach be needed. Therefore a licence to cover injury to harbour porpoise and minke whale under the 1994 Regulations (as amended) and disturbance of all species, based on both high order and low order clearance methods was issued. This advice has also been applied to the licence variation (EPS/BS-00010481) which ensures all NatureScot advice has been attributed.</p> <p>To summarise, providing the proposed mitigation is put in place, NatureScot advise:</p> <ul style="list-style-type: none"> • With the proposed mitigation (including ADD use), the EPS licence variation (EPS/BS-00010481) does not require to cover injury. However, as the licence is to vary existing licence EPS/BS-00010363 covers injury and disturbance, the licence variation will be issued for both injury and disturbance. • An EPS licence under the 1994 Regulations (as amended) is required to cover disturbance for all species. • There will be no detrimental effect on favourable conservation status of any EPS species from disturbance. 	
Test 3 satisfied?	YES

Date application received: 13/07/2023

Consultation start date: 19/07/2023

Consultation end date: 02/08/2023

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: 30/08/2023

Date report due: 31/10/2023

Licence start date: 31/08/2023

Licence end date: 30/09/2023

National Marine Plan considerations:

The decision is: In accordance and no further action required

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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 there would be no risk of injury to European Protected Species (“EPS”) 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.

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 monitoring of the noise generated by the Licensed Activity is recorded in a manner suitable to provide for clear reports on underwater noise and the the JNCC 2017 Guidelines for minimising the risk of injury to marine mammals from using explosives dated August 2010 is followed at all times. The proposed activities have also been submitted to the JNCC Noise Registry.

Reviewed and signed by:

Signed:

[Redacted]

Date: 30/08/2023