

THE CONSERVATION (NATURAL HABITATS, &C.) REGULATIONS 1994

LICENCE TO DISTURB MARINE SPECIES

Licence Number: EPS/BS-00010903

This licence is granted under regulation 44(e) of the Conservation (Natural Habitats, &c.) Regulations 1994 by the Scottish Ministers who, after consultation with, and having been advised as to the circumstances in which they should grant such licences by NatureScot are satisfied as regards the purpose for which the licence is granted, namely, for (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; and that (a) there is no other satisfactory alternative and (b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range; and unless revoked by the Scottish Ministers is valid from **15 September, 2024** to **14 September, 2026** and authorises:

[Redacted]

Orbital Marine Power (Orkney) plc
Innovation Centre - Orkney
Hatston Pier Road
Kirkwall
KW15 1ZL

Or any person authorised in writing by him / her to disturb the European protected species of *harbour porpoise* (*Phocoena phocoena*); *minke whale* (*Balaenoptera acutorostrata*); *Risso's dolphin* (*Grampus griseus*); *killer whale* (*Orcinus orca*); *white-beaked dolphin* (*Lagenorhynchus albirostris*) at Berth 5, Fall of Warness Tidal Test Site, Orkney, as detailed in the application for a licence to disturb European Protected Species and supporting documents but only subject to the under-noted conditions:

PURPOSE AND CIRCUMSTANCES IN WHICH ACTION IS REQUIRED

This licence is granted for the purpose of permitting the disturbance of *harbour porpoise* (*Phocoena phocoena*); *minke whale* (*Balaenoptera acutorostrata*); *Risso's dolphin* (*Grampus griseus*); *killer whale* (*Orcinus orca*); *white-beaked dolphin* (*Lagenorhynchus albirostris*) at Berth 5, Fall of Warness Tidal Test Site, Orkney, for (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 in connection with the installation, operation and maintenance of the Orbital O2 tidal turbine and supporting infrastructure at the following location(s):

Berth 5, Fall of Warness Tidal Test Site, Orkney

59° 08.754' N 02° 49.165' W

59° 08.810' N 02° 48.997' W

59° 08.625' N 02° 48.770' W

59° 08.576' N 02° 48.958' W

This licence is granted for permitting disturbance of the above named species as a result of the following activities:

the installation, operation and maintenance of the Orbital O2 tidal turbine and supporting infrastructure

STATEMENT OF REASONS

A record of how a decision on the granting of this licence was reached can be found within the Case handling Report at Annex One.

LICENCE CONDITIONS

1. The Licensee must ensure that all licensed activities are carried out in strict accordance with the mitigation and working methods proposed in the application for this licence, together with supporting information and all licensed activities must be carried out within the timescale(s) given within the application and any subsequent written correspondence between Marine Directorate – Licensing Operations Team ("MD-LOT") and the applicant, but subject to the following modifications or amendments made within this licence.
2. The Licensee must ensure that all licensed activities are carried out in strict accordance with the Project Environmental Monitoring Programme, document reference: Orbital O2 Environmental Monitoring Programme (document code: O2-100) and any subsequent revisions thereto.
3. In the event of the Licensee becoming aware that any of the information on which the issue of this licence was based has changed, the Licensing Authority must be notified as soon as reasonably practicable.
4. Except where it is not relevant to the provisions of this licence, the Licensee must ensure that the Scottish Marine Wildlife Watching Code is adhered to at all times.
5. The Licensee must ensure that copies of the licence are available for inspection by any person authorised by the Scottish Ministers at the office of the Licensee and at all sites where licensed activities are taking place.
6. Any person authorised by the Scottish Ministers must be permitted to inspect the operations relating to the licence at any reasonable time. The Licensee must allow appropriate assistance to facilitate inspection.
7. The Licensee must, no later than one month after the expiry date of this licence, submit to MD-LOT, a written report detailing all actions taken in accordance with the specified terms and conditions of the licence. This report must detail the procedures, visual observations and include the original Marine Mammal Recording Form(s). Any difficulties encountered, or recommendations should also be noted.

Authorised on behalf of Scottish Ministers
By a member of staff of the Scottish Government

Signed: [Redacted]

Marine Directorate - Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB
13 September, 2024