

THE CONSERVATION (NATURAL HABITATS, &C.) REGULATIONS 1994 THE CONSERVATION OF OFFSHORE MARINE HABITATS AND SPECIES REGULATIONS 2017

LICENCE TO INJURE MARINE SPECIES AND DISTURB MARINE SPECIES

Licence Number: EPS/BS-00010032

This licence is granted under regulation 44(e) of the Conservation (Natural Habitats, &c.) Regulations 1994 and regulation 55(6)(e) of the Conservation of Offshore Marine Habitats and Species Regulations 2017 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 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 **23 December, 2022** to **31 March, 2023** and authorises:

Moray Offshore Windfarm (West) Limited
C/O Shepherd And Wedderburn Llp
Octagon Point
5 Cheapside
London
EC2V 6AA

Or any person authorised in writing by him / her to injure the European protected species of *harbour porpoise* (*Phocoena phocoena*) and *minke whale* (*Balaenoptera acutorostrata*) and to disturb the European protected species of *harbour porpoise* (*Phocoena phocoena*); *bottlenose dolphin* (*Tursiops truncatus*); *minke whale* (*Balaenoptera acutorostrata*); *short beaked common dolphin* (*Delphinus delphis*); *white-beaked dolphin* (*Lagenorhynchus albirostris*) at Moray West Site & Cable Corridor, 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 injury of *harbour porpoise* (*Phocoena phocoena*) and *minke whale* (*Balaenoptera acutorostrata*) and disturbance of *harbour porpoise* (*Phocoena phocoena*); *bottlenose dolphin* (*Tursiops truncatus*); *minke whale* (*Balaenoptera acutorostrata*); *short beaked common dolphin* (*Delphinus delphis*); *white-beaked dolphin* (*Lagenorhynchus albirostris*) at Moray West Site & Cable Corridor, 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 in connection with Unexploded Ordnance (UXO) clearance activities at the following location(s):

Moray West Site & Cable Corridor

Moray West Site

58° 03.946' N 02° 54.796' W
 58° 05.426' N 02° 52.017' W
 58° 06.918' N 02° 50.583' W
 58° 08.780' N 02° 49.983' W
 58° 10.551' N 02° 50.450' W
 58° 11.729' N 02° 51.382' W
 58° 12.588' N 02° 52.468' W
 58° 12.223' N 02° 53.279' W
 58° 10.482' N 02° 55.851' W
 58° 08.825' N 02° 59.258' W
 58° 07.380' N 03° 03.768' W
 58° 06.413' N 03° 08.237' W
 58° 04.496' N 03° 10.472' W
 58° 02.650' N 03° 13.068' W
 58° 00.237' N 03° 12.986' W

Cable Corridor

57° 41.573' N 02° 46.238' W
 57° 42.512' N 02° 47.675' W
 57° 48.070' N 02° 53.945' W
 57° 58.663' N 03° 00.854' W
 58° 00.237' N 03° 12.986' W
 58° 03.946' N 02° 54.796' W
 57° 59.012' N 02° 57.866' W
 57° 48.245' N 02° 50.819' W
 57° 41.676' N 02° 43.047' W
 57° 40.914' N 02° 44.315' W

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

Unexploded Ordnance Clearance up to up to a maximum of 30 and the use of Passive Acoustic Monitoring ("PAM") and Acoustic Deterrent Device ("ADD") equipment.

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 Scotland – Licensing Operations Team ("MS-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 mitigation and working methods and timescales(s) proposed in the application and detailed in Moray West Environmental Report (document reference: 8460005-DG0207-MWW-REP-000001) and the European Protected Species Risk Assessment (document reference: 8460005-DG0207-MWW-REP-000002) dated 19 December 2022 but subject to the conditions of this licence.

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. The Licensee must ensure that, if any aspects of the proposed activities differ from the detail submitted in the Noise Registry - Initial Registration Form, a new Initial Registration Form must be completed and submitted to the Scottish Ministers and the JNCC no later than one week prior to commencement of the licensed activities.
5. 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.
6. 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.
7. 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.
8. The Licensee must, no later than one month after the expiry date of this licence, submit to MS-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.
9. The Licensee must, no later than 12 weeks after completion of the noisy activity, complete a 'close-out' noise registry form. This is available from the JNCC website <https://mnr.jncc.gov.uk/>.
10. The Licensee must ensure that low order techniques for UXO clearance are used only when it is not possible to avoid or relocate the UXO.
11. The Licensee must ensure that where any UXO encountered exceeds 365kg, this is left in situ with no clearance to take place until an appropriate protocol for disposal has been approved, in writing, by the Licensing Authority in consultation with NatureScot and any other advisors as required..
12. The Licensee must ensure that high order detonation techniques for UXO clearance are used only when it is not possible to undertake UXO clearance using low-order deflagration techniques. All possible opportunities to undertake clearance using low order deflagration techniques must have failed before use of high order detonation techniques.
13. The Licensee must carry out noise monitoring for in-situ underwater measurement of explosive ordnance disposal for UXO (including low order deflagration and high order techniques) in line with National Physical Laboratory guidance V2 available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/955204/NPL_2020_-_Protocol_for_In-Situ_Underwater_Measurement_of_Explosive_Ordnance_Disposal_for_UXO.pdf and the UXO monitoring methodology named "NM UXO overview and methodology V2" submitted to the Licensing Authority on 22 December 2022. The Licensee must ensure that monitoring of the noise generated by the Licensed Activity is recorded in a manner suitable to provide for clear reports on underwater noise to be submitted to the Licensing Authority within 28 days of the Completion of the Licensed Activities.
14. The Licensee must provide a report based on the noise monitoring to the Licensing Authority no later than 28 days following completion of the licensed activities. This report must clearly detail the underwater noise levels generated by the licensed activities.
15. The Licensee must ensure that the JNCC 2017 Guidelines for minimising the risk of injury to marine mammals from using explosives dated August 2010 is followed at all times in connection with the undertaking of such activities as far as it is practical to do so. These are available from the JNCC website <http://data.jncc.gov.uk/data/24cc180d-4030-49dd-8977-a04ebe0d7aca/JNCC-Guidelines-Explosives-Guidelines-2010>
16. The Licensee must ensure that the mitigation measures for high order detonation detailed within the in the MMMP (Appendix B of the UXO Clearance Environmental Report and UXO Clearance European Protected Species – Risk Assessment, both dated 19 December 2022) is implemented for low order deflagration and high order detonation methods.

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

Signed:

Marine Scotland
Marine Planning and Policy
Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB
23 December, 2022