

E: ms.marinerenewables@gov.scot

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

LICENCE TO INJURE A MARINE SPECIES LICENCE TO DISTURB MARINE SPECIES

This licence is granted under regulation 44(2)(e) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) by the Scottish Ministers who, after consultation with, and having been advised as to the circumstances in which they should grant such licences by Scottish Natural Heritage, are satisfied as regards the purpose for which the licence is granted, (namely, for an imperative reason of public health and safety or overriding public interest including that of a social or economic nature and beneficial consequences of primary importance for the environment); and that (a) there is no satisfactory alternative and (b) that the action authorised will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range and, unless revoked by the Scottish Ministers, is valid from **1 May 2020 to 30 June 2020** and authorises:

Ms Claire Gilchrist
Near na Gaoithe Offshore Wind Limited
EDF Renewables
Atria One, 144 Morrison Street
Edinburgh
EH3 8BE

Or any person authorised in writing by her

To injure the European protected species of harbour porpoise (*Phocoena phocoena*) and to disturb the European protected species of harbour porpoise (*Phocoena phocoena*), minke whale (*Balaenoptera acutorostrata*), white-beaked dolphin (*Lagenorhynchus albirostris*) and bottlenose dolphin (*Tursiops truncatus*) at the site of the proposed Near na Gaoithe Offshore Wind Farm including the export cable corridor and a 500 metre buffer around the site, as detailed in the application for a licence and supporting documents but only subject to the undernoted conditions:

PURPOSE AND CIRCUMSTANCES IN WHICH ACTION IS REQUIRED

This licence is granted for the purpose of permitting injury of harbour porpoise (*Phocoena phocoena*) and disturbance of harbour porpoise (*Phocoena phocoena*), minke whale (*Balaenoptera acutorostrata*), white-beaked dolphin (*Lagenorhynchus albirostris*) and bottlenose dolphin (*Tursiops truncatus*) for Unexploded Ordnance Clearance activities in connection with the Neart na Gaoithe Offshore Wind Farm Project at the following location.

Latitude	Longitude
55° 57.916' N	02° 23.959' W
55° 58.068' N	02° 23.163' W
56° 00.421' N	02° 22.568' W
56° 00.424' N	02° 23.714' W
56° 00.582' N	02° 24.006' W
56° 02.976' N	02° 23.969' W
56° 03.124' N	02° 23.664' W
56° 03.113' N	02° 21.885' W
56° 14.401' N	02° 19.009' W
56° 15.680' N	02° 20.566' W
56° 17.468' N	02° 20.849' W
56° 19.938' N	02° 18.242' W
56° 20.613' N	02° 16.611' W
56° 20.392' N	02° 14.363' W
56° 15.334' N	02° 09.300' W
56° 12.651' N	02° 08.661' W
56° 12.405' N	02° 09.058' W
56° 12.410' N	02° 16.505' W
56° 13.588' N	02° 17.944' W
55° 57.532' N	02° 22.015' W
55° 57.268' N	02° 23.419' 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 (“UXO”) up to a maximum of 50 targets; and
- the use of Acoustic Deterrent Devices.

LICENCE CONDITIONS

1. The licensee must ensure that all 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 any subsequent written correspondence

between the Scottish Ministers and the licensee, but subject to the following modifications or amendments made within this licence.

2. The licensee must ensure that all activities are carried out in strict accordance with the *UXO Clearance – European Protected Species Risk Assessment and Marine Mammal Mitigation Plan (NNG-PEL-ECF-REP-0007)* dated September 2019 as updated within the *Explanatory Note on the Proposed Mitigation Measures for UXO Clearance (NNG-PEL-ECF-MEM-0001)* dated March 2020 but subject to any modifications or amendments made in this licence.
3. The licensee must ensure that each UXO combined with its donor charge does not exceed a maximum of 500 kg.
4. The Scottish Ministers must be notified as soon as reasonably practicable in the event of the licensee becoming aware of any changes to the information on which the issue of this licence was based.
5. The licensee must ensure that the Joint Nature Conservation Committee (“JNCC”) guidelines for minimising the risk of injury to marine mammals from using explosives dated August 2010 (“JNCC Guidance”) 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-201008-Web.pdf>
6. The licensee must ensure that, if any aspects of the activities differs from the detail submitted in the online Marine Noise Registry, a new Proposed Activity Form is completed and submitted.
7. 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.
8. The licensee must notify the Scottish Ministers of details of any UXO in water depths less than 40 metres, where bubble curtains could be utilised as mitigation. The licensee must implement bubble curtains during the use of any explosive substance or article during the detonation of such UXO as agreed with the Scottish Ministers following the notification.
9. The licensee must ensure that copies of this licence are available for inspection at the office of the licensee, and at all sites where the activities are taking place, by any person authorised by the Scottish Ministers.
10. Any person authorised by the Scottish Ministers must be permitted to inspect the activities at any reasonable time. The licensee must allow appropriate assistance to facilitate inspection.
11. The licensee must, no later than one month after the expiry date of this licence, submit to the Scottish Ministers a written report detailing all actions taken in

LICENCE REFERENCE: MS EPS 27/2019/0

DATED: 1 May 2020

accordance with the specified terms and conditions of this 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.

12. The licensee must, no later than 12 weeks after completion of the noisy activity, complete and submit a Close-out Report in the online Marine Noise Registry.

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

Marine Scotland
Licensing Operations Team
Marine Planning and Policy
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Aberdeen
AB11 9DB
1 May 2020