



NPWS

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National Parks and Wildlife Service

**Derogation Number
DER-CETACEAN-2027-01**

**EUROPEAN COMMUNITIES (BIRDS AND NATURAL HABITATS) REGULATIONS, 2011
(S.I. No 477 of 2011)**

DEROGATION

Granted under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011, hereinafter referred to as “the Habitats Regulations”.

The Minister for Housing, Local Government and Heritage (hereinafter referred to as “the Minister”), in exercise of the powers conferred on him by Regulation 54 of the Habitats Regulations hereby grants a derogation to **Herman Busschots of Allod Energy Ltd., Clondargan, Stradone, County Cavan, H12 NV06**. It is stated that this derogation is issued:-

- A. In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- B. As there is no satisfactory alternative and that the action authorised by this derogation will not be detrimental to the maintenance of the population of WHALE, DOLPHIN, TURTLE OR PORPOISE referred to below at a favourable conservation status in their natural range.

This derogation is granted in respect of Annex IV marine species only.



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Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with activity noted under section 2.1 of the accompanying report.
2. This derogation may be modified or revoked, for stated reasons, at any time.
3. The mitigation measures outlined in the accompanying application report (**Supporting Information for Derogation Licence Allód Energy Ltd.**) together with any changes or clarification agreed in correspondence between NPWS and the agent or applicant, are to be carried out. Strict adherence must be paid to all the proposed measures in the application.
4. The actions which this derogation authorise shall be completed between the **1st April – 30th September 2027, inclusive.**
5. If this derogation addresses works that are subject of a planning application, no such works permitted under this derogation can occur until planning permission is granted.
6. This derogation shall be produced for inspection on a request being made on that behalf by a member of An Garda Síochána or an authorised NPWS officer appointed under Regulation 4 of the Habitats Regulations.
7. If this derogation expires prior to works permitted under this derogation commencing, a new application must be sought in advance, including the provision of any updated data or reports.
8. The applicant and those acting on their behalf during surveys must ensure that they adhere to the [Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters](#) published in 2014 (or any updates as may be relevant in due course).
9. A qualified and experienced Marine Mammal Observer (MMO) will be appointed to monitor for marine mammals to act in accordance with the provisions of the supporting document to the Regulation 54 application.
10. Visual (MMO) observations will be conducted for a pre-soft-start search of 30 minutes i.e. prior to the commencement of marine operations
11. Passive acoustic monitoring may be used to supplement visual observation, but it cannot be the primary method used to validate the exclusion zone.
12. The exclusion zone will be monitored and validated as being clear of marine mammals as per DAHG guidance.
13. Soft-start procedures will be applied as appropriate.
14. If Line changes are required that exceed 40 minutes the output will be reduced to below 170 dB re 1 µPa @ 1 m or if stopped completely then a full restart procedure will be required.
15. If there is a break in sound output from survey equipment for a period greater than 10 minutes then all pre-start monitoring measures and ramp-up procedures will recommence prior to re-starting.
16. Marine mammal monitoring and associated reporting to be implemented. These measures should provide scientifically based evidence that the derogation has been implemented correctly and facilitate implementation of corrective measures, if necessary and where required
17. On completion of the activities which this derogation authorises a MMO report including all recordings of Annex IV cetacean species affected will be made available to the NPWS. This report together with the Returns Form below must be submitted to the NPWS via wildlife.reports@npws.gov.ie **Both documents must be submitted within four weeks of the above expiry date to constitute a derogation return.**



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For the Minister for Housing, Local Government & Heritage

Fiona O' Mahony.

(an officer authorised by the Minister to sign on his behalf)

18 September 2026

Any query in relation to this derogation should be sent to reg54derogations@npws.gov.ie



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Derogation Assessment

Name of Applicant: Herman Busschots

Location/Name of Project: Marine works of the South Coast of Ireland

Tick the following prohibition as chosen on the application:

(a) Deliberately capture or kill any specimen of the relevant species in the wild	☐
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	☒
(c) Deliberately take or destroy eggs of the relevant species in the wild	☐
(d) Damage or destroy a breeding or resting place of such an animal, or	☐
(e) Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of the relevant species taken in the wild, other than those taken legally as referred to in Article 12(2) of the Habitats Directive.	☐
(a) Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	☐
(b) Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of these species taken in the wild, other than those taken legally as referred to in Article 13(1)(b) of the Habitats Directive.	☐

Test 1: A reason(s) listed in Regulation 54 (a)-(e) applies to the proposed activity

i. Tick which reason the applicant claims should be applied to the derogation

(a) In the interests of protecting wild flora and fauna and conserving natural habitats,	☐
(b) To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property	☐
(c) In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment,	☒
(d) For the purpose of research and education, of re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including artificial propagation of plants, or	☐
(e) To allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule.	☐

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ii. Test 1: Conclusion

Please tick the following where it applies:

There is a valid reason(s) listed in Regulation 54 (a)-(e) which applies to the proposed activity:	Yes	☒
	No	☐

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion:

The application form and associated documentation provided by the applicant has been reviewed in full. The application relies on regulation 54(2)(c) 'in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment' as the reason chosen for a derogation that they believe applies to the proposed activity.

In the detail provided, it is clear that the applicants are relying on the imperative reasons of overriding public interest, including those of a social or economic nature aspect of Reason C. As outlined in the accompanying report titled "Supporting Information for Derogation Licence", a derogation is required to facilitate proposed works within an area located in the Celtic Sea.

The objective of the works as outlined on page seven of the report involves proposed marine site investigation works to determine the suitability of the seafloor and subsurface geological conditions for the potential storage of hydrogen. The report further outlines that the storage of hydrocarbon represents "essential supporting infrastructure for offshore renewable energy (ORE) deployment". The report notes that renewable energy projects are "expected to operate without direct grid connection, necessitating alternative offtake solutions" with geological hydrogen storage being one.

The investigation works will also support the "advancement of low-carbon energy infrastructure" which is stated as being critical to national and EU climate objectives enhance energy security and system resilience.

The applicant has provided evidence as to the nature and scale of the public interest including those of a social or economic nature for the proposed works and the proposed activity is necessary to achieve these overall objectives. Based on the above this application has passed Test 1 and can now proceed to Test 2. |



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Test 2: Absence of a satisfactory alternative

Please tick the following where it applies and add a comment below to support the recommendation:

The applicant has provided satisfactory evidence that alternative solutions have been considered and have given reasons why the proposed approach is the only satisfactory alternative:	Yes	☒
	No	☐

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion (If you wish to add additional conditions please complete pg. 6):

The documentation submitted by the applicant has been reviewed, including the evidence provided in relation to alternative solutions.

The purpose of the derogation is to allow for marine geophysical site investigations within the Celtic Sea with the objective of assessing the potential suitability of subsurface halite formations for hydrogen storage. The applicant states that: “The objective of the proposed investigations is to acquire high-resolution, up-to-date geophysical data to characterise the extent, depth and internal structure of halite formations beneath the seabed, in order to assess the feasibility of potential geological hydrogen storage.” The applicant further states that this objective “cannot be met without the acquisition of seismic survey data.”

The alternative solutions suggested by the applicant are as follows:

1. Do-Nothing

The applicant states that under the do-nothing scenario: “no new seismic data would be acquired and uncertainty regarding subsurface conditions would remain. This would preclude any robust assessment of hydrogen storage feasibility and would prevent progression of the overall project.”

The applicant concludes that “the do-nothing option therefore does not meet the stated purpose of the activity and cannot be considered a satisfactory alternative.”

The application further states that without the proposed investigations it would not be possible to assess the potential for hydrogen storage in salt caverns and that “the project would not be able to proceed and the potential overriding public interest objectives could not be met – such as national and EU climate and decarbonisation objectives.”

2. Use of existing datasets

The applicant states that Galetech has reviewed the available seismic and geological datasets for the Licence Area and found these to be: “limited in spatial coverage, positional accuracy and resolution.”

The applicant states that the existing datasets are “insufficient to characterise halite geometry, continuity and cavern suitability to the standard required for feasibility assessment or environmentally responsible future



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planning” and concludes that use of existing data would therefore not meet the objective of the proposed activity.

The supporting information similarly concludes that reliance on existing datasets alone would not provide the information required to achieve the objective of the proposed investigations.

3. Alternative Survey Locations

The applicant states that a comprehensive assessment of the geology offshore Ireland was undertaken to identify naturally occurring salt potentially suitable for salt cavern development. Following a literature review, the assessment focused on the south coast of Ireland, where salt had previously been identified within historic oil and gas datasets. The applicant states that this work identified: “a large ridge of salt, 1km below the seabed and approximately 80-90 Km offshore Cork.”

The applicant considers the area subject to the application to be “the only viable location for salt cavern development in Ireland”, stating that alternative locations either have insufficient proven salt thickness, occur in areas of high shipping activity unsuitable for infrastructure, or are locations where vintage data indicates potential halite presence but this has not been proven.

The applicant therefore concludes that suitable halite formations are highly constrained offshore Ireland and that “there are no alternative locations available that would enable the same objective to be achieved without similar, or more extensive survey activities.”

4. Alternative Methodologies/Technologies

The applicant has considered alternative methodologies, including geotechnical survey approaches and other geophysical technologies such as the use of Sub-Bottom Profiling alone. The applicant states: “To image the area to the required depth of > 1,000m below the seabed, 3D seismic is the only technology available as no other technology can image to this depth.”

The applicant therefore concludes that the objective of imaging the halite at approximately 1,000 m below the seabed requires the proposed geophysical survey methodology.

Within the proposed survey methodology, the applicant has also considered the following alternative survey-design parameters:

a. Reduced survey intensity

The applicant states that the proposed survey will deploy multiple geophysical tools simultaneously. While acknowledging that this represents an increased intensity of equipment, the applicant states that this has been selected to maximise the amount of information obtained for the vessel effort.

The applicant states that the additional information obtained will support environmental assessment, including seabed habitat and archaeological assessment, while reducing the need for future surveys and their associated



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vessel noise, emissions and environmental footprint. The applicant therefore concludes: “Reducing the intensity of this survey would thus have increased cumulative environmental impact.”

b. Alternative equipment configuration

The applicant states that available equipment configurations within the industry have been reviewed, with the proposed configuration selected to maximise data acquisition during each vessel pass and thereby reduce the overall survey duration and the period during which noise is emitted into the marine environment. Smaller towed configurations were considered but discounted because they: “require increased number of vessel passes over the proposed area, thus resulting in relatively more acoustic noise and vessel emissions.”

Although the proposed configuration requires a larger turning circle, the applicant states that it provides faster data acquisition and a shorter survey duration and that “the equipment configuration proposed yields lower noise emissions.”

c. Reduced survey footprint

The applicant states: “Only the core area of the interpreted salt ridge has been selected for geophysical imaging, thus ensuring minimal environmental impact.”

The applicant explains that the actual acquisition target is substantially smaller than the Licence Area, with the larger Licence Area required to accommodate the vessel manoeuvres associated with the towed equipment.

The supplementary information further explains that seismic data must be acquired approximately 5 km beyond the targeted core area to effectively image the base and internal characteristics of the salt, while additional space is required for the vessel to undertake wide-radius turning operations.

d. Lower intensity acoustic acquisition

The applicant states that lower-intensity acoustic acquisition has been considered and refers to testing undertaken in an adjacent area of the Celtic Sea in 2009, during which airgun intensity was reduced to 3,500 cu.in. The applicant states that: “lower intensity airguns resulted in significantly lower depth of penetration/imaging.”

Given that the objective is to image the presence and internal characteristics of the salt at depths greater than 1,000 m below seabed, the applicant concludes that: “the only available technology to meet the project data requirements is an airgun array of c. 4500 cubic inches (cu.in.) volumetric capacity.”

The applicant therefore considers that the proposed survey represents the most efficient survey design in terms of reducing operational time, vessel emissions and the duration of noise emissions, while restricting the survey to the minimum area required.

5. Alternative Timings

The applicant has also considered whether undertaking the survey at an alternative time would provide a satisfactory alternative. The applicant states: “Altering survey timing would not remove the need for acoustic



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data acquisition and would not eliminate the potential interaction with Annex IV species.” The applicant further states that the proposed survey activities require wave heights below 2 m for the safety of personnel and protection of the towed equipment and that: “Survey operations are thus required within a window from April to September. Operations outside this window are not practical or safe.”

The applicant therefore concludes that alternative timing would not remove the requirement for acoustic survey activity or the potential for interaction with Annex IV species, while the operational period is constrained by the conditions required to safely undertake the proposed survey.

Conclusion

The applicant has considered the do-nothing scenario, use of existing datasets, alternative survey locations, alternative methodologies and technologies, including reduced survey intensity, alternative equipment configurations, reduced survey footprint and lower-intensity acoustic acquisition, and alternative timing.

On the basis of the information submitted, including the additional information provided in the resubmission, the applicant has identified and considered reasonable alternatives to the proposed activity and has provided justification as to why these would not satisfactorily achieve the objective of the proposed investigations. The applicant has also demonstrated consideration of measures to minimise the extent and duration of acoustic survey activity, including reduced survey footprint, survey configuration and acoustic intensity.

Having weighed the possible solutions to solve the applicant's problem against the effects of a derogation on the species concerned, it is concluded that the application has passed Test 2 and can proceed to Test 3. |

Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.



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Test 3: Impact of a derogation on conservation status of the species

Please tick the following where it applies and add a comment below to support the recommendation:

The derogation would NOT be detrimental to the maintenance of the populations of the species in question at a favourable conservation status in their natural range.	Yes	☒
	No	☐

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion. (If you wish to add additional conditions please complete pg. 6)

The documentation submitted by the applicant has been reviewed. The applicant considers the main sources of potential impact from the proposed seismic activities to be injury and/or disturbance from underwater noise.

The most recent national conservation status of harbour porpoise in Ireland was assessed as Unfavourable-Inadequate (NPWS, 2025). The application states that although sound emitted for airgun arrays will not be heard by harbour porpoise, they can still be affected due to broad spectrum of impulsive sound emissions. However, *“Owing to different frequency ranges and sound output levels, received sound levels associated with the listed survey technologies will not induce PTS or TTS across all technologies for all species.”* The supplementary information used the most up to date information (i.e. ObSERVE II) to estimate the maximum number of individuals affected. The population of species, including harbour porpoise, that may be impacted by the proposed activity were considered at both a localised scale and management unit scale. The potential percentage of MU population impacted for harbour porpoise and minke whale was <1%, 5% for bottlenose dolphin and 10% for common dolphin. ObSERVE II highlighted the importance of the southern region of the Celtic Sea for bottlenose dolphin during summer months and the northern region of the Celtic Sea during the winter months. It also reported a greater density of common dolphin in comparison to ObSERVE I and the data gap in dispersal patterns for this species. This was taken into consideration during Test 3 assessment and determined that along with the activity’s location, time of year and proposed mitigation measures any risk from disturbance is unlikely to be detrimental to the maintenance of the populations of the species concerned in their natural range.

The applicant states the proposed mitigation measures, as are widely applied in Irish and EU waters, will *“...substantially reduce the risk of injury and limit effects to short-term behavioural responses, there will be no adverse effects at the population level for any of the species potentially impacted by the proposed activities.*

The application also states *“The proposed works may result in short-term, localised disturbance to a small number of cetaceans due to underwater noise. No mortality, physical injury, habitat loss, damage to breeding or resting sites, or long-term displacement is predicted. Any disturbance effects will be temporary, spatially limited to the immediate vicinity of the works and fully reversible.”*

Having weighed the possible solutions to solve the applicant’s problem against the effects of a derogation on the species concerned, it is concluded that the application has passed Test 3.

Please see recommended conditions below

If the answer above is Yes then the derogation may be granted, providing Tests 1 and 2 have also been met. Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.



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Derogation decision

The application for a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended, has been assessed by officials in the Department and the following decision has been made:

Tick box where appropriate:

There is no satisfactory alternative ☒

and the derogation is not detrimental to the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range. ☒

Therefore, a derogation may be granted to the applicant, since it is—

(a) in the interests of protecting wild fauna and flora and conserving natural habitats ☐

(b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property, ☐

(c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment, ☒

(d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants, or ☐

(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule. ☐

OR This application has been refused as one or more of the conditions set out above have not been met ☐



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The following conditions should be attached to the derogation:

1. The applicant and those acting on their behalf during surveys must ensure that they adhere to the [Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters](#) published in 2014 (or any updates as may be relevant in due course).
2. A qualified and experienced Marine Mammal Observer (MMO) will be appointed to monitor for marine mammals to act in accordance with the provisions of the supporting document to the Regulation 54 application.
3. Visual (MMO) observations will be conducted for a pre-soft-start search of 30 minutes i.e. prior to the commencement of marine operations.
4. Passive acoustic monitoring may be used to supplement visual observation but it cannot be the primary method used to validate the exclusion zone.
5. The exclusion zone will be monitored and validated as being clear of marine mammals as per DAHG guidance.
6. Soft-start procedures will be applied as appropriate.
7. If Line changes are required that exceed 40 minutes the output will be reduced to below 170 dB re 1 μ Pa @ 1 m or if stopped completely then a full restart procedure will be required.
8. If there is a break in sound output from survey equipment for a period greater than 10 minutes then all pre-start monitoring measures and ramp-up procedures will recommence prior to re-starting.
9. Marine mammal monitoring and associated reporting to be implemented. These measures should provide scientifically based evidence that the derogation has been implemented correctly and facilitate implementation of corrective measures, if necessary and where required.
10. On completion of the activities which this derogation authorises a MMO report including all recordings of Annex IV cetacean species affected will be made available to the NPWS. This report together with the Returns Form below must be submitted to the NPWS via wildlife.reports@npws.gov.ie **Both documents must be submitted within four weeks of the above expiry date to constitute a derogation return.**

[add additional conditions where required]

Signed: .

Date: September 18, 2026

Position: Ecologist