



**NPWS**

An tSeirbhís Páircanna  
Náisiúnta agus Fíadhóilte  
National Parks and Wildlife  
Service

**Derogation Number  
DER-CETACEAN-2026-02**

**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 **Michael Clare of National Oceanography Centre, UK, Waterfront Campus, Southampton, United Kingdom, SO14 3ZH**. . It is stated that this derogation is issued:

- A. 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
- 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.**



### Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with activity located at **Whittard Canyon and Gollum Channel**
2. This derogation may be modified or revoked, for stated reasons, at any time.
3. The mitigation measures outlined in the application report (**Supporting Information for Derogation Application**)
4. **A MISSING-Link between continental shelves and the deep sea: Addressing the overlooked role of land-detached submarine canyons.**) 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.
5. The actions which this derogation authorise shall be completed between the **26<sup>th</sup> June – 3<sup>rd</sup> August 2026, inclusive.**
6. The works will be supervised by a qualified ecologist
7. 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.
8. 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.
9. 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).
10. 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.
11. Visual (MMO) observations will be conducted for a pre-soft-start search of 30 minutes i.e. prior to the commencement of marine operations (MBES, SSS, sub-bottom profiling).
12. Passive acoustic monitoring may be used to supplement visual observation but it cannot be the primary method used to validate the exclusion zone.
13. The exclusion zone will be monitored and validated as being clear of marine mammals as per DAHG guidance.
14. Soft-start procedures will be applied as appropriate.
15. 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.
16. 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.
17. **For drilling** - If there is a break in drilling sound output for a period greater than 30 minutes (e.g., due to equipment failure, shut-down or location change) then all Pre-Start Monitoring must be undertaken in accordance with the conditions outlined in [Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters 2014](#) (or any updates as may be relevant in due course) prior to the recommencement of drilling activity.
18. Where suitable to achieve the data collection targets it is preferable to use frequencies that are higher than the acoustic range of the likely marine mammals within the acquisition area.
19. 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](mailto:wildlife.reports@npws.gov.ie) **Both documents must be submitted within four weeks of the above expiry date to constitute a derogation return.**
20. 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.



**NPWS**

An tSeirbhís Páircanna  
Náisiúnta agus Fiadhóilra  
National Parks and Wildlife  
Service

**For the Minister for Housing, Local Government & Heritage**

*Claire Bowley*

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

**13 January 2026**

Any query in relation to this derogation should be sent to [reg54derogations@npws.gov.ie](mailto:reg54derogations@npws.gov.ie)





### Derogation Assessment

**Name of Applicant: Michael Clare**

**Location/Name of Project: Whittard Canyon and Gollum Channel offshore locations**

**Tick the following prohibition as chosen on the application:**

(a) Deliberately capture or kill any specimen of the relevant species in the wild	<input type="checkbox"/>
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	<input checked="" type="checkbox"/>
(c) Deliberately take or destroy eggs of the relevant species in the wild	<input type="checkbox"/>
(d) Damage or destroy a breeding or resting place of such an animal, or	<input type="checkbox"/>
(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.	<input type="checkbox"/>
(a) Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	<input type="checkbox"/>
(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.	<input type="checkbox"/>

#### 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,	<input type="checkbox"/>
(b) To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property	<input type="checkbox"/>
(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,	<input type="checkbox"/>
(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	<input checked="" type="checkbox"/>
(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.	<input type="checkbox"/>



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	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

**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) (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’* 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 purpose of research and education aspect of Reason D. As outlined on page four of the accompanying report, the derogation is required in relation to offshore activities as part of a scientific research project located at the deep-sea Whittard Canyon and Gollum Channel in the Celtic sea.

As further outlined on page 32 of the report, “the works aim to conduct detailed scientific investigations of deep-sea canyon systems (Whittard Canyon and Gollum Channel), including their sediment transport processes, oceanographic dynamics, pollutant pathways, and benthic habitat characteristics” contributing towards an improved evidence base and assisting with key scientific and environmental goals. The data generated will also assist with marine environmental assessments and can only be obtained using these outlined methods.

The applicants have provided evidence as to the nature and scale of the research and education aspect 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. |



**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	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

**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 for alternative solutions. The purpose of the derogation is to allow the following activity to take place: *“...acquire AUV/Glider and vessel based geophysical and photographic data in this region”*.

The specific situation that needs to be addressed is to *“help to better understand background environmental conditions, map seafloor conditions, and characterise the transport of pollutants such as microplastics”*.

The alternative solutions suggested by the applicant are:

1. “Do-nothing” scenario – Page 13 of Application for Derogation states *“Acoustic sources are required for detailed seafloor mapping and monitoring seafloor currents and oceanographic conditions, which are essential to understand background environmental conditions and to monitor the transport of pollutants relative to important seafloor habitats”*. The applicant provided satisfactory reasoning why an alternative solution was not deemed satisfactory in a “Do-nothing” scenario.
2. Alternative field deployment – Page 33 of the Supplementary Information the applicant states *“Alternatives to field deployment are not technically or scientifically feasible”*. The purpose of this study cannot be satisfied by modelling, remote sensing, the use of non-contact methods alone and desk-based studies.
3. Alternative locations – page 33 of Supporting Information states the selected location *“represent the best representative land-detached canyon systems suitable for studying the target processes, they overlap with previously monitored sites, giving continuity with long-term data.”* Selection of this site is justified as the *“features requiring study are intrinsically located within the canyon system”* and thus the use of alternative locations were considered inappropriate.
4. Operational alternatives – page 33 of Supporting Information states *“The project design specifically reduces potential impacts by using short moorings with no surface expression... Restricting AUV and acoustic operations to short, discrete deployment periods”*. It has been assessed that the operation restrictions as listed potentially lowers the risk of marine mammal entanglement and should reduce unnecessary underwater man-made acoustic disturbance to marine mammals.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined in section 6.2 of Supplementary Information a number of alternative solutions, including the “do-nothing alternative” were examined by the applicant.

Based on the assessment of the application documentation, it is regarded that the applicant has considered alternative solutions and at this time no other alternative solutions are apparent.  
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.



**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	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>

**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 below comments are in relation to the information provided in Supplementary Information. The applicant provided information on Annex IV marine mammal species occurring the project area. The applicant concluded that the activities will have no adverse impact on Annex IV marine mammal species. Full implementation of NPWS underwater sound guidance document and operation restrictions will mitigate any significant impact to marine mammals at the project site and surrounding area.

Considering underwater noise as a disturbance – The applicant concluded that *“it is highly unlikely to cause injury (PTS/TTS) or significant behavioural disturbance to Annex IV species at population or site level”*. Considering physical disturbance of the seabed the applicant concludes that due to marine mammal behaviours *“any effect is limited to deep benthic invertebrates and associated demersal fauna, not Annex IV species”*. Considering vessel presence and collision risk – the applicant concluded that it is extremely low due to *“adherence to safe vessel speed when animals observed near the bow”* and *“maintaining vigilant watch”* for marine mammals. The applicant concludes the *“predicted effects are localised, temporary and not significant”*.

The applicant has put in place mitigation measures and a monitoring and oversight plan the ensure impacts to Annex IV marine mammal species are avoided. The effectiveness of such mitigation will be confirmed through a monitoring system that will include, pre=operational verification, operational monitoring and control, post-operational environmental verification and corrective measures (if required).

The evidence provided by the applicant indicates that, along with the proposed mitigation methods, this derogation is not likely to have a significant negative effect on the population concerned, or for future prospects for this population.

Please see conditions below regarding marine mammals which should be attached to this derogation licence.

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.



**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**



The following conditions should also be included to ensure there is a minimal impact on the Annex IV species in the vicinity of the proposed works:

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 (MBES, SSS, sub-bottom profiling).
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  $\mu$ 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. **For drilling** - If there is a break in drilling sound output for a period greater than 30 minutes (e.g., due to equipment failure, shut-down or location change) then all Pre-Start Monitoring must be undertaken in accordance with the conditions outlined in Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters 2014 (or any updates as may be relevant in due course) prior to the recommencement of drilling activity.
10. Where suitable to achieve the data collection targets it is preferable to use frequencies that are higher than the acoustic range of the likely marine mammals within the acquisition area.
11. On completion of the actions which this licence authorises, a complete MMO report including all recordings of Annex IV cetacean species affected will be made and must be submitted to the NPWS to the following email addresses: [wildlife.reports@npws.gov.ie](mailto:wildlife.reports@npws.gov.ie) and [offshore@npws.gov.ie](mailto:offshore@npws.gov.ie).

Signed: .

Date: January 13, 2026

Position: Ecologist