

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

LICENCE TO DISTURB MARINE SPECIES

Public Case Handling Report for Licence Number: EPS/BS-00010783

Site	Shetland to Orkney
Company	EGS International Ltd 27 Woolmer Way Bordon United Kingdom GU35 9QE
Brief Description of Project	Geophysical and Geotechnical Surveys
Associated Licences	

Species	harbour porpoise (<i>Phocoena phocoena</i>);bottlenose dolphin (<i>Tursiops truncatus</i>);minke whale (<i>Balaenoptera acutorostrata</i>);Risso's dolphin (<i>Grampus griseus</i>);white sided dolphin (<i>Lagenorhynchus acutus</i>);short beaked common dolphin (<i>Delphinus delphis</i>);killer whale (<i>Orcinus orca</i>);white-beaked dolphin (<i>Lagenorhynchus albirostris</i>);humpback whale (<i>Megaptera novaeangliae</i>);sperm whale (<i>Physeter macrocephalus</i>);fin whale (<i>Balaenoptera physalus</i>);long-finned pilot whale (<i>Globicephala melas</i>)
Inshore/Offshore	Inshore and Offshore

TEST 1	Purpose of licence
	Imperative reasons of overriding public interest (including those of a social or economic nature and beneficial consequences of primary importance for the environment)
Comments	
<p>This application has been assessed against the licensable purpose for IROPI.</p> <p>With regard to Test 1 there are several different purposes for which an EPS licence can be granted including, under Regulation 44(2)(e) of the Habitat Regulations, 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’.</p> <p>NatureScot Guidance states that, when determining an EPS Licence application, it will be taken into account whether an activity or development is required to meet, or contribute to meeting, a specific need such as maintaining the environment of Scotland's people (including sustainable development and renewable or green energy), complying with national planning policies and supporting economic or social development (including nationally important infrastructure development projects and employment).</p> <p>In this case there is a Specific Need for installation of a telecommunications cable.</p> <p>The activity will inform a future telecommunications cabling route as well as identifying environmentally valuable areas and in turn informing possible changes of route to avoid.</p> <p>The activity is essential as it is necessary to survey the cable route ahead of planned implementation of the cable.</p> <p>The Public Interest is served as the intended telecommunications cable will bring social and economic benefit to the human population .</p> <p>The installation of cables is subject to the NMP Gen Policy 15 - and Objectives for Submarine Cables; Support the development of a Digital Fibre Network, connecting Scotland’s rural and island communities and contributing to world-class connectivity across Scotland, Safeguard and promote the global communications network and are in line with planning policies to ensure cables are safely routed minimising impact on the environment, seabed and other users.</p> <p>Is Applicant Undertaking a Statutory Function No</p>	
Test 1 satisfied?	YES

TEST 2	Satisfactory alternatives
Comments	
<p>Regulation 44(3)(a) of the Habitat Regulations 1994 requires the Scottish Ministers to be satisfied that there is no satisfactory alternative before an EPS Licence can be issued for the Licensable Operations.</p> <p>The applicant has considered a number of alternatives, I have considered the applicants submissions and agree that the necessary information has been provided to satisfy the test as per below.</p> <ul style="list-style-type: none"> • No Activity - not viable as there is a requirement to collect data on the physical and biological properties of the seabed along the proposed cable route. • Use differing equipment - not viable as acoustic properties not sufficient. • Location shift - considered and route already requested through consultation to avoid sensitive areas. • Different Timing - Weather constraints are present in the cable route and the timings have been chosen to reflect the optimum sea conditions. 	
Test 2 satisfied?	YES

TEST 3	Favourable conservation status
Comments	
<p>NatureScot has concluded in its advice of 03 June 2024 that the activity will not be detrimental to the maintenance of the populations of the species concerned at Favourable Conservation Status (FCS) in their natural range if the mitigation measures within the Protected Species Mitigation Plan and Risk assessment are adhered to.</p> <p>The JNCC has concluded in its advice of 10 June 2024 that the activity will not be detrimental to the maintenance of the populations of the species concerned at Favourable Conservation Status (FCS) in their natural range if the mitigation measures within the Protected Species Mitigation Plan and Risk assessment are adhered to.</p>	
Test 3 satisfied?	YES

Date application received: 10/04/2024

Consultation start date: 22/05/2024

Consultation end date: 07/06/2024

Notes

Date	title	Text
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National Marine Plan considerations:

The decision is: In accordance and no further action required

Comments: The proposed activity aligns with the following NMP General Principles:

GEN 2 Economic Benefit:

The proposal will ensure a reliable telecommunication supply to remote communities. This will support local businesses in their operation by having a reliable telecommunications supply. This will provide an economic benefit for the community.

GEN 3 Social Benefit:

The proposal will ensure a reliable telecommunications supply to remote communities. This will support communities having a reliable power supply. This will provide an social benefit for the community.

NMP Species Protection:

The applicant declared that the proposed activity may disturb/harass protected species. Due to this they have applied for European protected species licence and basking shark licence to ensure any impact on the protected species is reduced.

NatureScot reviewed the mitigation proposed by the applicant and agreed with this in place, the activity would not impact the favourable conservation status of the protected species. The requirement to adhere to this mitigation has been conditioned in this licence.

JNCC reviewed the mitigation proposed by the applicant and agreed that the operations are not likely to cause an offence to a cetacean European Protected Species (EPS) in offshore waters, providing that the mitigation measures outlined are implemented.