

## Annex One

### MD-LOT European Protected Species Licence Case Handling Report

**Licence Number:** 00010651  
**Licensing Officer:** [Redacted]

<b>Site</b>	Grutness, Shetland
<b>Company</b>	Shetland Islands Council Town Hall Lerwick Shetland ZE1 0HB
<b>Applicant</b>	[Redacted]
<b>Brief Description of Project</b>	Geophysical Survey
<b>Associated Licences</b>	Marine Licence MS-00010318

<b>Species</b>	harbour porpoise ( <i>Phocoena phocoena</i> ); minke whale ( <i>Balaenoptera acutorostrata</i> ); Risso's dolphin ( <i>Grampus griseus</i> ); white sided dolphin ( <i>Lagenorhynchus acutus</i> ); killer whale ( <i>Orcinus orca</i> ); white-beaked dolphin ( <i>Lagenorhynchus albirostris</i> ); humpback whale ( <i>Megaptera novaeangliae</i> ); long-finned pilot whale ( <i>Globicephala melas</i> ); <i>sei whale (balaenoptera borealis)</i>
<b>Inshore/Offshore</b>	Inshore

<b>TEST 1</b>	<b>Purpose of licence</b>
	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
<b>Comments</b>	
<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>The proposed activity addresses a specific need in relation to the upgrade of Grutness Harbour facilities to allow a new vessel to be employed on the lifeline Grutness to Fair Isle route. The current ferry is nearing</p>	

the end of its serviceable life and the replacement is urgently required. Failure to upgrade the facilities to allow the new ferry to be employed on the route would severely limit travel and the delivery of essential supplies to Fair Isle. This would have a serious social and economic impact to the residents. The new ferry will provide long term support and service for Fair Isle.

<b>Test 1 satisfied?</b>	YES
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<b>TEST 2</b>	<b>Satisfactory alternatives</b>
<b>Comments</b>	
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.	
The survey is required to support the design and construction of the new Grutness Harbour facilities, no other options would give the full range of functions as the geophysical surveys to support the project. Given the critical nature of the lifeline ferry the 'do-nothing' alternative in this case (ie not to complete the survey) is not feasible as this may result in serious economic and social sustainability issues for the residents of Fair Isle.	
<b>Test 2 satisfied?</b>	YES

<b>TEST 3</b>	<b>Favourable Conservation Status ("FCS")</b>
<b>Comments</b>	
NatureScot has concluded in its advice of 18 January 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 set out by the applicant within the risk assessment are adhered to.	
<b>Test 3 satisfied?</b>	YES

**Date application received:** 08/12/2023

**Date variation application received:**

**Consultation start date:** 15/12/2023

**Consultation end date:** 18/01/2024

**Notes**

Date	Text	Created By
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**Awaiting Information**

Start date	End date	Duration (days)	Waiting for	Waiting on Information From
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**Licence issue date:** 26/01/2024

**Date report due:** 30/11/2024