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## THE WILDLIFE AND COUNTRYSIDE ACT 1981 (as amended)

### Application for a Basking shark (*Cetorhinus maximus*) licence for one of the following purposes

- Preserving public health or public safety
- Preventing the spread of disease
- Preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property, or to fisheries.
- Social, economic or environmental purpose

**IMPORTANT:** Before completing this form, please read these notes carefully



**Please complete all relevant sections of the form.**

Please ensure that you answer questions fully in order to avoid delays.

The completed application should be sent to Marine Scotland Licensing Operations Team (MS-LOT) at the address below or emailed to [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot).

**We will not process unsigned application forms.**

Please ensure that you supply any necessary supporting information e.g. detailed method statements, risk assessments etc.

MS-LOT will aim to determine whether a licence should be issued **within 6 to 8 weeks of acceptance of a completed application.**

If you experience any problems filling in this form, please contact MS-LOT.

Please use this application form if you wish to undertake works/activities that would affect Basking sharks in the inshore marine area (0 – 12 nautical miles).

Do not use this form if your application relates to scientific, research, conservation or educational purposes. Please contact Scottish Natural Heritage (SNH Licensing, Great Glen House, Leachkin Road, Inverness IV3 8NW Telephone email 01463 725000 [licensing@snh.gov.uk](mailto:licensing@snh.gov.uk) to discuss licensing requirements for these purposes.

**Before a licence can be granted, it is essential that other relevant licences or consents have been secured for the proposed activity (eg Marine licence).**

**It is the responsibility of the applicant to obtain any other consents or authorisations that may be required.**

#### **Part A**

##### **Section 1 Personal details**

Please provide details of the individual, company or partnership you wish to be named on the licence. The licensee is responsible for ensuring compliance with the licence and its conditions. Failure to carry out the work proposed in accordance with the terms of the licence may expose the licensee to criminal liability.

##### **Section 2 Previous applications**

Please provide details of any previous relevant licences.

#### **Part B**

##### **Section 3**

##### **Location**

Describe the location of the proposed works. Include a list of the latitude and longitude co-ordinates (WGS84) of the boundary points of the proposed project. WGS84 is the World Geodetic System 1984 and the reference co-ordinate system used for marine licence applications. Co-ordinates taken from GPS equipment should be set to WGS84. Coordinates taken from recent admiralty charts will be on a WGS84 compatible datum. Ordnance survey maps do not use WGS84. In a few cases, (e.g. laying of long pipelines) it may only be practicable to supply co-ordinates for the start and end points.

**Example:** For positions read from charts the format should be as in the example: 55°55.555'N 002°22.222'W (WGS84). The decimal point specifies that decimals of minutes are used and the datum is stated explicitly. If seconds are used then the format should be as in the example: 55°55'44"N 2°22'11"W (WGS84).

**It is important that the correct positions, in the correct format, are included with this application, as any errors will result in the application being refused or delayed.**

#### ***Section 4 Consideration of designated sites***

Please provide details of any designated sites affected by your proposals. You are advised to consult Scottish Natural Heritage, or other appropriate regulator, if the work you propose to do affects a Natura site, an MPA or a Site of Special Scientific Interest.

#### ***Section 5 Activities to be licensed***

Please indicate the activities you intend to undertake that would otherwise be unlawful. Provide details of the proposed commencement and completion dates of the activities. **The licence start date will not be backdated, since to commence a project for which a licence has not been obtained may constitute an offence resulting in appropriate legal action.**

**It is the licensee's responsibility to apply for any further licences or an extension prior to the expiry of the initial licence.**

#### ***Section 6 Purpose of the licence application***

Please indicate the purpose of the licence application as described in the Wildlife and Countryside Act 1981 (as amended), Part 1, Section 16 (3).

#### ***Section 7 Satisfactory alternatives***

Please provide your consideration of why there is no satisfactory alternative. This must include the other options that have been evaluated, the alternative sites that were considered by you and why they were rejected (if no other sites were considered, you must provide the reasons why), or alternative methods of carrying out the work and alternative dates / timings. The 'do nothing' alternative must also be considered.

In relation to each alternative considered, please provide an explanation of why you consider it to be satisfactory or unsatisfactory. In respect of any alternative sites please provide the location(s) and details of the alternative site(s), or your views on how the activity/proposal might have been achieved differently, and any other helpful information; e.g., pros and cons of alternative sites, or whether there is likely to be demand for all suitable sites to be used to meet an identified need. Please explain how this conclusion was reached.

#### ***Section 8 Summary of the planning / licensing position***

Detail all consents and licences required for the proposed project and indicate those that you have applied for or received.

#### ***Section 9 Noise Monitoring***

Under the Marine Strategy Regulations (2010), there is a requirement to monitor loud, low to mid frequency (10Hz to 10kHz) impulsive noise. Activities where this type of noise is produced include impact pile driving, geophysical surveys (seismic, sub bottom profiling and multibeam echosounders), explosives and some acoustic deterrent devices. Where noisy activity is being undertaken, you must complete a Proposed Activity form in the Marine Noise Registry, which collects estimated location and date range data on noisy activities. The Marine Noise Registry can be accessed at <https://mnr.jncc.gov.uk/>. The Marine Noise Registry also collects the actual location and date data (after the activity has been completed). This data should be provided as a Close-out Report in the Marine Noise Registry following completion of the activity, please note that any licensee with a marine licence granted subject to conditions specific to the Marine Noise Registry will need to complete the appropriate data submission to fulfill the Marine Noise Registry. Indicate any noise generating activity and the sound frequency in hertz.

## **Section 10 Privacy notice**

This section briefly describes the Scottish Ministers' responsibilities in relation to Data Protection based on the requirements the data protection laws and the Environmental Information (Scotland) Regulations 2004 and the Freedom of Information (Scotland) Act 2002.

### **Part D**

## **Section 11 Declaration and warning**

It is important to read the Declaration and Warning sections before signing the application form.

### Site visits and compliance checks

It is possible that the licensing authority may undertake a site visit prior to the issue of a licence. The majority of site visits will be arranged several days in advance and will be conducted in the presence of the licensee (or applicant) however there may be occasions when a site visit will be made at short notice.

Licensees should be aware that they may receive a request for a site visit by the licensing authority, or a person authorised by the licensing authority, to assess site conditions against the conditions of the licence. It is essential that if any of the agreed mitigation measures contained in the Method Statement are changed for any reason, the licensing authority is informed as soon as possible.

The Licensing authority will monitor compliance with licences issued based on the information included in licence returns.

### Where to seek further information

Further information can be obtained from Licensing Operations Team at the address below.

Licensing Operations Team  
Marine Scotland  
375 Victoria Road  
Aberdeen  
AB11 9DB

Tel: 0300 244 5046  
Email: [MS.marinelicensing@gov.scot](mailto:MS.marinelicensing@gov.scot)

### Disclaimer

While every effort has been made to ensure the information contained in this document is accurate, nothing in this document should be taken to replace the current legislation in force at this time. You are advised to obtain qualified legal advice in relation to your rights and responsibilities under the 2017 Regulations and other legislation.

**Part A. The Applicant: Personal details**

These questions relate to the person who will be the **named licensee**. The licence can be issued to an individual or a company or a partnership and the licensee will be responsible for ensuring compliance with the licence and the conditions of the licence. Under the The Wildlife and Countryside Act 1981 (as amended) failure to carry out the work which you propose in accordance with the terms of the licence may expose you to criminal liability.

1. Name of applicant

Title:  Forename(s):  Surname:

Company Name:

Business Title (if Appropriate):

Address:

Tel no. (incl dialling code):

Email address:

2. **The Applicant: Previous applications:**

Have you previously held a wildlife licence issued in the UK? (please tick as appropriate)

Yes  No  (If yes, please complete below, if no, please go to Part B)

Who issued the licence?

Licence number (most recent licence)

Year in which the licence was issued.

What species were covered by the licence?

What activity was covered by the licence e.g. disturb, injure?

**Part B. The Application**

**3 Species**

(a) How many individuals will be affected by licensed work?

153

(b) Please provide a description of how this number was calculated / estimated

The predicted number impacted was determined by multiplying the maximum density estimate\*/peak sighting\*\* (depending on highest value) with the estimated area of disturbance for suspended sediment\*\*\* (3.62km<sup>2</sup>).  
 As assumption was then made that up to a three-fold increase over the single disturbance event could be disturbed across the duration of the project.  
 Consequently this estimated number disturbed (during a single event) was multiplied by three to consider the re-entry of individuals.

\*Density estimates were obtained from Statistical approaches to aid the identification of MPAs for basking shark (Paxton et al., 2014), and Distribution and abundance of basking sharks (Webb et al., 2018),  
 \*\*Peak sightings relate to recent sightings (the last 3 years unless otherwise stated) by the Hebridean Whale and Dolphin Trust (HWDT, 2023)  
 \*\*\*Estimated area of disturbance was calculated using GIS [Buffer distance around the site boundary and then clipped to the area below MHWS (Holmes, 2022)]

(c) **Location of proposed licensed action**

Latitude and Longitude co-ordinates (WGS84) defining the extent of the project. Please continue on a separate sheet if necessary.

LATITUDE										LONGITUDE										
5	6	°	0	4	.	0	4	6	'N	0	0	6	°	0	9	.	5	3	1	'W
5	6	°	0	3	.	4	0	1	'N	0	0	6	°	1	0	.	2	5	6	'W
5	6	°	0	3	.	2	9	4	'N	0	0	6	°	1	1	.	1	8	7	'W
5	6	°	0	3	.	7	2	2	'N	0	0	6	°	1	1	.	7	6	8	'W
5	6	°	0	4	.	0	0	8	'N	0	0	6	°	1	0	.	8	7	1	'W
5	6	°	0	4	.	1	1	6	'N	0	0	6	°	1	1	.	2	7	6	'W
5	6	°	0	4	.	1	2	2	'N	0	0	6	°	1	1	.	2	6	7	'W
5	6	°	0	4	.	7	4	9	'N	0	0	6	°	1	0	.	0	0	3	'W

- (d) Provide a brief description of the proposed activity and the methods to be used.  
Detailed information should be included in your Supporting Information  
**Please provide details of the source levels and frequencies of underwater noise if relevant**

The Proposed Development comprises an upgrade to the existing assets at Colonsay Ferry Terminal, which aim to support new vessels with deeper draught and higher displacement at the ferry terminal. The proposed works will be completed over 12-18 months.

The following modifications are:

- Replacement of 10 existing fenders with new;
- Replacement of two bollards at the roundhead from T Head bollards to mushroom bollards;
- Provision of gangways which are to be at least 17m long;
- Installation of toe protection to existing piles, likely in the form of concrete filled steel collars with dowels into rock or concrete mattress installed by divers to replace the overburden on the pile toe; and
- Dredging to 5.5m below Chart Datum (CD) in order to maintain at least 1 metre of underkeel clearance. The approximate dredged area would be approximately 4120m<sup>2</sup> and volume 6000m<sup>3</sup>.

To carry out the proposed works:

- Dredging will either be undertaken by backhoe or trailing suction hopper dredging (TSHD);
- Rock breaking activities will include CO<sub>2</sub> hydraulic fracturing using Cardox and Rock peckering;
- Toe pile protection comprises diver installation of forms to produce concrete protective structures, or concrete mattresses once filled from the surface with marine grade concrete.

Source Level & Frequencies

Rock Peckering: 80 - 6300 (Hz)  
Cardox Blasting: 20 - 1000 (Hz)  
Backhoe Dredging: 20 - 1000 (Hz)  
TSHD: 20 - 1000 (Hz)

- (e) Briefly state how you will minimise the impact of your proposed work on Basking Shark.  
Detailed information should be included in your Supporting Information.

The following noise mitigation measures will be implemented as mandatory during the Proposed Development:

- All equipment will be maintained to a high standard to minimise noise and vibration generated during the works. They will also be switched off when not in use to minimise noise and reduce air pollution.
- Toolbox talks for contractors on relevant marine receptors are to take place and how best to minimise disturbance.
- Prior to commencing works, a 500m zone around non-impulsive sources and 1km zone around impulsive source shall be monitored for marine mammals, diving birds and basking sharks for 30 minutes in good daylight conditions (Beaufort Sea state 3 or less) by a suitably trained (JNCC methods) and dedicated observer.
- Passive acoustic monitoring shall also be used to aid monitoring of the mitigation zones for vocalising species.
- Should marine mammals, diving birds or basking sharks be observed or acoustically detected, the start of operations should be delayed until 20 minutes after the last sighting of the receptor within the monitoring zone (500m non-impulsive sources and 1km for impulsive sources). Noting that non diving birds (i.e., those that are loafing) would not require a delay.
- Where possible equipment shall be soft started with either a ramp up in energy or gradual decreasing intervals between strikes over a period of 20-40 minutes duration. In the case of Cardox, detonations should be conducted with sequential delays between detonations to minimise shockwaves.
- Activities which generate less noise should precede the noisier activities.
- Vessels in transit and manoeuvring in coastal waters operating will be within speeds outlined by Maritime and Coastguard Agency's (MCAs) legislation and guidance.
- The Scottish Marine Wildlife Watching Code will also be adhered to during any vessel-based operations (detail of measures included in Supporting Information).
- Implementation of pollution prevention measures (detail of measures included in Supporting Information).

#### 4. Consideration of designated sites

Designated Areas: National Nature Reserves (NNR), Sites of Specific Scientific Interest (SSSI), Special Protection Area (SPA), Special Areas of Conservation (SAC), Ramsar sites, Marine Protected Areas (MPA). Information on designated sites is available on Scottish Natural Heritage website (<http://gateway.snh.gov.uk/sitelink/>) or from your local SNH office.

- (a) Will any part of the proposed activity fall within /or adjacent to an area covered by a designated site eg SSSI, SAC, MPA? Yes  No

- (b) Please give the name of the designated site(s) and either the outcome of your consultations or the reason why you have not consulted. Please enclose any relevant correspondence.

Colonsay Ferry Terminal is located within the footprint of the Inner Hebrides and the Minches Special Area of Conservation (SAC), designated for harbour porpoise.

NatureScot have been consulted with prior licence submission for the Proposed Development. Based upon their comments, no adverse effect is anticipated from the works once mitigation measures are in place.

Communications with NatureScot submitted along with licence application.

**5. Activities to be Licenced**

**Proposed Methods**

(a) Please complete all relevant columns in the table below to indicate the methods you propose to use, the activity involved and the time period in which you propose to use each method. This information will be used when preparing the licence to cover activities that would otherwise be unlawful, and failure to give full details may result in an inappropriate licence being issued.

Disturb	Kill	Take / trap	Damage or destroy place of shelter / protection	Method	From	To
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Dredging (Backhoe/TSHD)	August 2024	Duration: 2 months max.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rock breaking using Cardox CO2	July 2024	Duration up to 1.5 months
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Toe protection rock drilling of dowels	August 2023 and March 2024	Duration up to 3 months
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			

**6. Purposes of the licence application (tick one box only)**

Please indicate which purpose relates to the proposed works. The options shown are taken from the **The Wildlife and Countryside Act 1981 (As amended)**

- (a) Preserving public health or public safety (we will require evidence that there is a risk to public health or public safety e.g. an imminent risk of flooding) (Section 16 (3) (f))   
**Complete Annex A**
- (b) Preventing the spread of disease (Section 16 (3) (g))   
**Complete Annex B**
- (c) Preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property, or to fisheries. (Section 16 (3) (h))   
**Complete Annex C**
- (d) Social, economic or environmental purpose (Section 16 (3) (i))   
**Complete Annex D**



**7. Satisfactory alternatives**

Please explain why there is no satisfactory alternative to carrying out the proposed work affecting the species. **You must describe all possible alternatives which were considered and why they were considered unsuitable.** You must also consider the option of not undertaking the work. **It is not acceptable to state that ‘there is no alternative’.**

The works are intended to improve port infrastructure. Consequently, the available alternatives are to either:

1. Not undertake the enablement works and therefore the Island would remain restricted from being unable to use the new vessels. This would have significant impact on social and economic development of the island, which would also exacerbate pressures from projected population and service growth.
2. Not dredge but will not meet the capacity for the services to the island with the new vessels. This will restrict access to the area and would require further extension of the jetties into deeper waters to provide access without dredging. This would cause a larger change to the environment and construction would present greater harm than the Proposed Development.

**8. Other Licences / Consents**

Please detail below all licences / consents you have applied for or received. **Before a licence can be granted, it is essential that other relevant licences or consents have been secured for the proposed activity (eg Marine licence).**

Type of Consent (e.g. Marine Licence, Local Planning Authority, Local Works Licence)	Date Applied for	Reference no.	Date of issue of consent
European Protected Species (EPS) Licence	27-May-2022	EPS-00009891	19-August-2022
Basking Shark Licence	27-May-2022	BS-00009980	19-August-2022

## 9. Noise Monitoring

Please indicate if any of the following noise generating activities will be taking place during the operations:

Use of explosives  Piling  Use of Acoustic Deterrent Devices   
Survey equipment operating in the range 10 Hz – 10kHz

If you have ticked any of the above boxes please complete a Proposed Activity form in the Marine Noise Registry at: <https://mnr.jncc.gov.uk/>.

**Please note the form must only be completed once for each activity. If you have already completed a form for this activity (eg through the marine licensing process) please give details.**

Proposed draft form has been submitted through JNCC.  
Activity application number (3380, 3379) - note this has been filled in as part of the marine licencing process.

Application will be submitted with Proposed Development dates once confirmed.

**Licence applications will not be accepted until this form has been completed and submitted.**

## 11. Privacy notice

The Scottish Government's Marine Scotland Licensing Operations Team (MS-LOT) has a range of statutory responsibilities including determining applications for licences to disturb or injure marine European protected species (EPS) under the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and The Conservation of Offshore Marine Habitats and Species Regulations 2017 and Basking shark licences under the Wildlife and Countryside Act 1981 (as amended).

MS-LOT will, where necessary, process personal information including: names, addresses, email addresses and telephone numbers to determine a licence application. Personal information will be stored securely in the Scottish Government's official corporate record.

A full privacy notice can be found at: <http://www.gov.scot/Topics/marine/Licensing/marine/PrivacyNotice>. If you are unable to access this, or you have any queries or concerns about how your personal information will be handled, contact MS-LOT at: Marine Scotland - Licensing Operations Team, Marine Laboratory, 375 Victoria Road, Aberdeen, AB11 9DB. Email: [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot)

**Have you remembered to enclose Supporting Information with your application, as described in the accompanying guidance? Please check**

- |   |                                     |
|---|-------------------------------------|
| <b>Completed Application form</b>                   | <input checked="" type="checkbox"/> |
| <b>Completed Annex</b>                              | <input checked="" type="checkbox"/> |
| <b>Map / Chart</b>                                  | <input checked="" type="checkbox"/> |
| <b>Correct co-ordinates</b>                         | <input checked="" type="checkbox"/> |
| <b>Additional information / EPS risk assessment</b> | <input checked="" type="checkbox"/> |

## Part C. Declarations

11. I have read and understand the guidance provided in this application form. I declare that the particulars given are correct to the best of my knowledge and belief, and I apply for a licence in accordance with these particulars.

I authorise employees or representatives of the Scottish Ministers to enter the site which is subject to this application for the purpose of monitoring and inspecting the permitted works.

### Warning

Under the **THE WILDLIFE AND COUNTRYSIDE ACT 1981 (as amended)** failure to carry out the work which you propose in accordance with the terms of the licence may expose you to criminal liability. The licensee is responsible for ensuring compliance with the licence.

The Scottish Ministers can modify or revoke a licence at any time, provided there are good reasons. Any licence that may be issued is likely to be revoked immediately if it is discovered that false information was provided and resulted in the issue of a licence.

Under the **THE WILDLIFE AND COUNTRYSIDE ACT 1981 (as amended)**, any person who in order to obtain a licence knowingly or recklessly makes a statement or representation, or furnishes a document or information which is false in a material particular, shall be guilty of an offence and may be liable to criminal prosecution. Any person found guilty of such offences is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale (currently £5,000), or to both imprisonment and a fine.

**Note:** Previous convictions for wildlife offences will be taken into account and in some cases may mean that the Scottish Ministers do not consider it appropriate to grant a licence.

Signature of the  
Applicant

[Redacted]

Date

21/04/2023

(The person named at part 1)

Name in BLOCK  
LETTERS

[Redacted]

Note – If signing on behalf of a company, please append your signature with “on behalf of *Company Name*”.

**The completed application should be signed and sent to Marine Scotland Licensing Operations Team (MS-LOT) at the address below or emailed to [MS.Marinelicensing@gov.scot](mailto:MS.Marinelicensing@gov.scot)**

**Please remember to include all supporting information.**

Licensing Operations Team  
Marine Scotland  
375 Victoria Road  
Aberdeen  
AB11 9DB

### Disclaimer

While every effort has been made to ensure the information contained in this document is accurate, nothing in this document should be taken to replace the current legislation in force at this time. You are advised to obtain qualified legal advice in relation to your rights and responsibilities under the 1981 Act and other legislation.

Marine Laboratory, PO Box 101, 375 Victoria Road,  
Aberdeen AB11 9DB  
[www.scotland.gov.uk/marinescotland](http://www.scotland.gov.uk/marinescotland)



**Annex A**

Only to be completed if you selected for *Preserving public health or public safety* in Question 6 of the application form

**Please complete all questions**

Give details of the risk to public health or safety

How has the risk been identified. Please give details of any expert advice received.

How will the proposed activity address the identified risk

**Annex B**

Only to be completed if you selected for *Preventing the spread of disease* in Question 6 of the application form

**Please complete all questions**

What disease(s) is / are at risk of being spread if the proposed activity does not go ahead? Please give details of any expert advice received.

How will the proposed activity prevent the spread of disease? Please give details of any expert advice received.

**Annex C**

Only to be completed if you selected for *Preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property, or to fisheries* in Question 6 of the application form.

**Please complete all questions**

What serious damage has occurred or will occur if the proposed activity does not go ahead. Please give details of any expert advice received.

How will the proposed activity prevent serious damage? Please give details of any expert advice received.

**Annex D**

**Only to be completed if you selected for a Social, economic or environmental purpose in Question 6 of the application form**

**Please complete all questions**

What benefits will be provided by the proposed activity? Give details and indicate if they are social, economic or environmental. Please indicate if the benefits are short or long term.

Long-term social and economic development of the region by increasing the carriage capacity of the ferry terminal.

Environmental benefits include allowing greener transportation with new emission efficient vessels.

What public interest will be served? Who will benefit from the proposed activity? Does the proposed activity address a need?

The Proposed Development will serve to support the development of the ferry terminal which will benefit the economic and social nature, addressing a need to update the port for more emission efficient vessels to be able to pass through.

The key public interest is maintaining lifeline ferry service to support socially and economically fragile communities.

The communities of Colonsay, Scalasaig will benefit as well as connected communities on the mainland of Kennacraig and the island of Islay.

The activity does address a need. The upgrades to the ferry terminal infrastructure are required to operate the new vessels on the route which provides lifeline services.

Why is it imperative the proposed activity goes ahead?

The Proposed Development is necessary to enable new vessels at the Ferry Terminal.

Does the proposed activity support any local regional or national policies? Please give details. Are you fulfilling a statutory role?

Yes: maintaining and improving lifeline ferry services is a matter of Scottish Government Policy. CMAL is the Statutory Harbour Authority for Colonsay.