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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.

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 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

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 <Redacted> <Redacted> <Redacted>
Title: Forename(s) Surname

Company Name:

Business Title (if Appropriate):

Address:

Tel no. (incl dialling code): <Redacted>

Email address: <Redacted>

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?

Basking Shark - 2

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

A 1.77km radius was measured around the work and the area multiplied by known recorded densities within 1.771km². These estimate ranges were obtained from Hague, Sinclair and Sparling (2020), Waggitt et al (2020) and Hammond et al (2021).

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

To support new vessels with deeper draught and higher displacement at the ferry terminal, the following modifications and alterations are proposed:

Replace three fenders on the roundhead;
Remedial works to the concrete roundhead structure and adjacent concrete deck, to seal gaps, repair cracking, and replace lost grout;
New gangways;
Extend the height of the V fenders and concrete sponsons;
Replace fenders along the quay;
Installation of mooring aid; and
Ancillary works to enable the installation of the mooring aid systems. Which is likely to include (but may not be limited to):
A new 40KW power supplying is to be provided.
The 20t bollard adjacent to the finger pier need potentially relocated
Trending and ducting for low voltage cabling and moorex equipment may be required

All works are above mean high water springs (MHWS) with the exception to upgrading existing fenders and remedial works to concrete structures. Further consideration is given to all activities as they are being conducted either below or adjacent to highest astronomic tide (HAT) so affect the marine environment.

The bore piling activities will take place on land to install the mooring aid foundation (seperated by an exisiting sheet pile within the pier structure). Consequently, the underwater noise arising from the piling will be heavily attenuated as airborne noise and ground-borne vibration travels from one boundary (air and land) to another (water). This piling is expected to be within the range of 2kHz - 20kHz.

- (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.

In order to prevent injury to any basking sharks, best practice guidelines in form of the CIRIA control of Water Pollution from Construction Sites: Guidance for Consultants and Contractors (C532) and relevent sections of the Scottish Marine Wildlife Watching Code (NatureScot; formally Scottish Natural Heritage, 2017) shall be followed. These will compromise of the following mandatory aspects:

-Toolbox talks for contractors on Basking sharks are to take place. Contractors during any vessel movement and prior to commencing work will monitor for basking sharks within the construction area, the wider area, and whilst vessel are transiting to and from site.

- Should Basking sharks be spotted whilst vessel are underway, they shall avoid driving through them, or cutting across in front or at the back of the animals. Additionally, where practicable and safe to do so, the following should be adopted and/or maintain:

- Minimum seperation distance of 100m from Basking sharks;
- Steady speed below 5 knots without unpredictable changes in speed, direction and engine noise
- Propellers not on the side of the animals

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.

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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Vibropiling Sheet Piling	Q2 2023	Q1 2024
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Vibropiling Tubular Piling	Q2 2023	Q1 2024
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<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'.**

As the works occur above MHWS, NatureScot confirmed that underwater noise is unlikely to be significant. Therefore only consideration of alternatives to the construction are considered. The works are intended to improve port infrastructure benefitting the island. Consequently, the only available is to either:

1. Not undertake the works and the Island would remain restricted and Scottish government economic objectives would not be fulfilled. Also as remedial works are proposed this would result in more frequent maintenance works as the port continues to degrade rather than being refurbished.
2. Develop another port on the island to allow access. This would cause significant impacts as there would be additional land take, need for greater terrestrial development and associated marine construction works would likely include highly disturbing piling or dredging in new development area.

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
EPS licence	27-May-2022	EPS/BS-00009888	20-Aug-2022
Basking Shark Disturbance Licence	27-May-2022	EPS/BS-00009979	20-Aug-2022
EPS licence	26-Oct-2022	EPS/BS-00010111	11-Jan-2023
Basking Shark Disturbance Licence	26-Oct-2022	EPS/BS-00010112	11-Jan-2023

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.

No underwater noise is expected during the works.

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

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

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

<Redacted>

Signature of the
Applicant

Date **21/04/2023**

(The person named at part 1)

<Redacted>

Name in BLOCK
LETTERS

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

Please remember to include all supporting information.

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

Disclaimer

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Marine Laboratory, PO Box 101, 375 Victoria Road,
Aberdeen AB11 9DB
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 more emission efficient vessels enabled.

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

The construction that 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.
Public interest - maintaining life line ferry service to support socially and economically fragile communities.
Who will benefit - communities on the island of Islay, as well as communities on the mainland (Kennacraig) on the Kintyre Peninsula and the island of Jura.
Does the activity address a need - yes, upgrades are required to the ferry terminal infrastructure to operate the new vessels on the route which provides lifeline services.

Why is it imperative the proposed activity goes ahead?

Necessary to upgrade the port and provide space for more efficient vessels to pass through. and to improve the social and economic development of the area.

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

Yes - maintaining and improving life line ferry services is a matter of Scottish Government Policy.