

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

LICENCE TO DISTURB MARINE SPECIES

Public Case Handling Report for Licence Number: EPS/BS-00010813

Site	Shetland Marine Region
Company	Scottish Hydro Electric Power Distribution Plc Inveralmond House, 200 Dunkeld Road Perth Perthshire PH1 3AQ
Brief Description of Project	Shetland Marine Region Cable Surveys
Associated Licences	

Species	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>);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>);fin whale (<i>Balaenoptera physalus</i>);long-finned pilot whale (<i>Globicephala melas</i>)
Inshore/Offshore	Inshore

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>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>Scottish Hydro Electric Power Distribution plc (SHEPD) hold a licence under the Electricity Act 1989 for the distribution of electricity in the north and west of Scotland, including the islands. It has a statutory duty to provide an economic and efficient system for the distribution of electricity and to ensure that its assets are maintained to provide a safe, secure and reliable supply to customers.</p> <p>Electricity is considered to be an essential service for communities, with the Shetland cable routes subject to this application distributing electricity to commercial and domestic customers, providing a long term economic and social benefit. Therefore, the monitoring of submarine electricity and power cables constitutes work of overriding public need.</p> <p>The geophysical surveys will ensure the integrity, reliability and effective function of the network for residents on the Shetland Islands. Failure to monitor the condition of cable routes could impact on electricity supply to the region. The proposed survey activities will enable SHEPD to: identify cable location and condition; identify faults and carry out repairs; identify any new routes that may be required; and inform cable routing, protection and decommissioning decisions.</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 indicated that there is no satisfactory alternative method or activity available which is capable of the range of functions served by the geophysical surveys proposed. Hypothetical alternatives considered included the use of human divers or underwater camera systems to monitor these cables. However, these methods were not considered a satisfactory or plausible alternative which would allow for the range of functions served by geophysical survey methods, and neither could facilitate the planning for decommissioning of an old cable or the installation of a new cable.</p> <p>Due to the geographic distribution of the subsea cables, the length of some cables and the requirements of the surveys, there are considered to be no feasible alternatives to the use of acoustic (geophysical) survey methods, operated from vessels, to ensure the integrity of the network, to identify cables that may require replacement / decommissioning, and to install new subsea cables.</p> <p>The option of not undertaking the work at all is not deemed to be compatible with the applicant's statutory duties and functions to provide an economic and efficient system for the distribution of electricity in the region, and to ensure that its assets are maintained to provide a safe, secure and reliable supply to customers. The network is reliant on a series of subsea cables, linking off-lying islands with the Mainland Shetland grid. Maintenance of this subsea cable network involves routine and unplanned inspection, maintenance and surveys to ensure its integrity, reliability and effective functioning, therefore the work can be considered as essential.</p>	
Test 2 satisfied?	YES

TEST 3	Favourable conservation status
Comments	
<p>NatureScot has concluded in its advice of 24 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. In addition, NatureScot welcomed the mitigation measures set out in the EPS and Protected Sites and Species Risk Assessment - Shetland Region (Document: A-303128-S04-A-REPT-007), and further advised that that all equipment should be used at the lowest practicable sound level and over the shortest period to achieve the survey objectives, and the devices with lower source levels should be used preferentially whenever possible.</p>	
Test 3 satisfied?	YES

Date application received: 07/05/2024

Consultation start date: 21/05/2024

Consultation end date: 18/06/2024

Notes

Date	title	Text
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National Marine Plan considerations:

The decision is: In accordance and no further action required

Comments: Aligns with NMP objective to support the generation, distribution and optimisation of electricity from traditional and renewable sources to Scotland and UK; and objectives in respect of renewable energy. In relation to the specific objectives that these licences interact with:

GEN 13 Noise: Development and use in the marine environment should avoid significant adverse effects of man-made noise and vibration, especially on species sensitive to such effects. The risk assessment concluded negligible/minor impacts and appropriate mitigation has been suggested. NS have been consulted in relation to the noise generated and an AA carried out which concluded no adverse impacts. We therefore conclude that the against this noise levels produced, once mitigated , are not adverse to this policy.

GEN 19 Sound evidence: Decision making in the marine environment will be based on sound scientific and socio-economic evidence. The application has been consulted on and conditions have been applied based on the recommendations made by NatureScot where it was found that the applicant's risk assessment and mitigation were not sufficient.

GEN 21 Cumulative impacts: Cumulative impacts affecting the ecosystem of the marine plan area should be addressed in decision making and plan implementation - An in-combination assessment has been undertaken in relation to the environmental effect of the proposals as part of the appropriate assessment and has been considered in the applicant's risk assessment. No significant in-combination effects are anticipated.

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