

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

LICENCE TO DISTURB MARINE SPECIES

Public Case Handling Report for Licence Number: EPS/BS-00010844

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| Site | |
| Company | Scottish Hydro Electric Power Distribution Plc Inveralmond House, 200 Dunkeld Road Perth Perthshire PH1 3AQ |
| Brief Description of Project | Construction of a 11kV High Voltage Alternating Current (“HVAC”) electricity cable and cable protection between Kirk Sand, Papa Stour and Melby, Mainland Shetland |
| Associated Licences | Marine Licence No. 00010843 |

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| 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 |

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| 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>The Papa Stour to Mainland Shetland cable replacement project addresses a specific need in allowing for the continuation of the power distribution network between the 2 islands. The replacement project is required to meet SHEPD's commitments to provide a reliable supply of electricity in the north of Scotland and the Islands. The effective distribution of energy can be seen as serving in the public interest, with the project providing a secure long term economic and social benefit to the community on the two islands.</p> <p>In addition, the activity will contribute to statutory functions under Section 9 of the Electricity Act 1989, including SHEPD’s duty to provide an economic and efficient system for the distribution of electricity and to ensure that it's assets are maintained to ensure a safe, secure and reliable supply to domestic and business customers.</p> | |
| Test 1 satisfied? | YES |

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| 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 using divers and underwater cameras, however in this instance, it was not considered suitable as it would not provide the same range of functions as the survey. The applicant considers the survey as the only way to ensure reliable electricity to remote communities.</p> <p>Given the critical nature of the infrastructure being maintained and developed the ‘do-nothing’ alternative in this case (ie not to complete the survey) is not feasible as this may compromise electricity supplies to remote communities.</p> <p>In this instance, the existing cable between the 2 islands has developed a fault and is no longer functional. Therefore the cable replacement is required to allow for the continuation of the power distribution network and meet SHEPD's commitments to provide a reliable supply of electricity between Mainland Shetland and Papa Stour.</p> <p>Given the critical nature of the infrastructure being developed, the ‘do-nothing’ alternative in this case is not viable. Repair to the existing cable was considered, however the location of the fault and further deterioration to the existing cable could result in additional faults. The route has been designed to ensure cable security, prevent loss of service and to avoid damage to protected habitats.</p> | |
| Test 2 satisfied? | YES |

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| TEST 3 | Favourable conservation status |
| Comments | |
| <p>NatureScot has concluded in its advice of 18 July 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.</p> | |
| Test 3 satisfied? | YES |

Date application received: 10/06/2024

Consultation start date: 12/06/2024

Consultation end date: 10/07/2024

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

GEN 3 Social Benefit:

The proposal will ensure a reliable power supply to remote communities. This will support communities having a reliable power supply. This will provide a 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 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.