

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

**LICENCE TO DISTURB MARINE SPECIES**

**Public Case Handling Report for Licence Number: EPS/BS-00011236**

<b>Site</b>	
<b>Company</b>	SP Transmission PLC  320 St. Vincent Street Glasgow  G2 5AD
<b>Brief Description of Project</b>	Geophysical survey of cable route from Ayrshire, Scotland to adjacent boundary
<b>Associated Licences</b>	Basking Shark Licence No. 00011237

<b>Species</b>	harbour porpoise ( <i>Phocoena phocoena</i> );bottlenose dolphin ( <i>Tursiops truncatus</i> );minke whale ( <i>Balaenoptera acutorostrata</i> );Risso's dolphin ( <i>Grampus griseus</i> );short beaked common dolphin ( <i>Delphinus delphis</i> );Cuvier's beaked whale ( <i>Ziphius cavirostris</i> )
<b>Inshore/Offshore</b>	Inshore

<b>TEST 1</b>	<b>Purpose of licence</b>
	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>	
Imperative reasons of overriding public interest (including those of a social or economic nature and beneficial consequences of primary importance for the environment)	
<p>This application has been assessed against the licensable purpose for IROPI.</p>	
<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 specific need being addressed is to support the AC5 and AC6 cable woks, allowing for the collection of baseline data for the survey corridors.</p>	
<p>Th Public interest is served due to the UK ambitions to expand offshore wind generation to meet its net zero targets and decarbonise the power system. A clean energy transition supports economic growth by creating jobs across the UK and boosting sectors like the digital and data economy. To accommodate this growth, major transmission upgrades are required. Projects AC5 and AC6 are part of a broader set of High Voltage Direct Current (HVDC) reinforcements along the west coast of Great Britain, from Scotland to Wales. Identified in the Holistic Network Design (HND) and reaffirmed in the Beyond 2030 report (ESO, 2024), these projects are essential for achieving grid decarbonisation.</p>	
<b>Test 1 satisfied?</b>	YES

TEST 2	Satisfactory alternatives
<b>Comments</b>	
<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 a number of alternatives, I have considered the applicants submissions and agree that the necessary information has been provided to satisfy the test as per below:</p> <p>Alternative Option 1 – Use of Lower Impact Survey Equipment</p> <p>The applicant states that, the main risk to cetaceans from the survey is noise from equipment, particularly low-frequency SBP and USBL, which overlap with their hearing range. SBP is essential for accurately mapping the seabed and identifying obstructions, helping prevent costly or environmentally damaging issues during cable installation. USBL is critical for tracking and controlling equipment underwater; without it, equipment could be lost, posing economic, environmental, and safety risks. Use of lower impact survey equipment is therefore not considered viable.</p> <p>Alternative Option 2 – Do Nothing</p> <p>The applicant contends that since lower-impact equipment is not viable, the only other option is to cancel the survey campaign. However, the surveys are considered essential for informing cable routing and siting. Without them, unknown seabed conditions, UXO locations, habitats, and geotechnical risks would make construction unsafe and unjustifiable. As a result, the AC5 and AC6 projects could not proceed, which is not in the public interest.</p>	
<b>Test 2 satisfied?</b>	YES

<b>TEST 3</b>	<b>Favourable conservation status</b>
<b>Comments</b>	
<p>NatureScot was consulted on 27 June 2025 has concluded in its advice dated 25 July 2025 that providing JNCC (2017) mitigation is secured and applied, we advise:</p> <p>The risk of auditory injury is minimal and an EPS licence for injury is not required. The species capable of being disturbed by the activity have been correctly identified. The equipment capable of disturbing the species has been correctly identified – noting this is indicative and equipment is to be finalised. The proposal will not have an adverse impact on the favourable conservation status of the EPS concerned. The reason provided is that the USBL equipment is to be operated below 210 dB re1 Pa @1m SPLpeak, which is below the PTS-onset auditory injury threshold based on NMFS (2018) and Southall et al (2019), mitigation is therefore not required. However the SBP equipment being utilised will be audible to all cetaceans and will operate with a sound pressure level above the PTS-onset auditory injury thresholds based on NMFS (2018) and Southall et al (2019), as such there is a potential risk of auditory injury. Therefore, mitigation is required for use of the SBP equipment. With mitigation fully implemented NatureScot agree that the risk of auditory injury is minimal and an EPS licence for injury is not required.</p> <p>Mitigation is proposed to reduce the risk of injury, in line with the JNCC (2017) Guidelines for Minimising the Risk of Injury to Marine Mammals from Geophysical Surveys, which NatureScot supports.</p> <p>The mitigation outlined in section 8.2 of the Risk Assessment, indicates that if a soft start is not possible, the equipment would be switched “on” and “off” sequentially over 20 minutes. NatureScot does not support this approach, as it may generate unnecessary underwater noise and increase the risk of immediate PTS if animals are present. MMO and PAM operators should instead confirm the absence of animals prior to activation. In response the applicant contended that the ‘on/off’ procedure would only be utilised once the MMO has confirmed no sightings within 500m, and consider the Risk Assessment can remain as is. In its further response dated 2 September 2025 NatureScot confirm is content that the use of MMOs and PAM will minimise the risk of PTS from the SBP and that it now considers outlined mitigation including the on/off start procedure to be appropriate.</p> <p>The risk assessment states that pre-work searches will be conducted by “suitably certified and experienced MMO/PAM personnel.” Within the EPS application form it is stated that a briefed crew member is to act as MMO. NatureScot does not support this substitution—particularly if soft start is not feasible. MMOs must be fully trained and experienced, in accordance with JNCC definitions. The applicant has confirmed the use of suitably qualified MMO.</p> <p>Mitigation should apply to all cetaceans, not just those listed in the application.</p>	
<b>Test 3 satisfied?</b>	YES

**Date application received:** 30/04/2025

**Consultation start date:** 27/06/2025

**Consultation end date:** 25/07/2025

**Notes**

Date	title	Text
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National Marine Plan considerations:

The decision is: In accordance and no further action required

Comments: GEN 14 (Submarine Cable) of Scotland's National Marine Plan is relevant to the project. Specifically, the project is in line with Objective 5, which is to "support the generation, distribution and optimisation of electricity from traditional and renewable sources to Scotland, UK and beyond." The marine planning policies within GEN 14 stress the importance of cable and network owners of minimising impacts on the environment, seabed and other users when installing new cables. The proposed geophysical survey works are designed to provide evidence to inform the routing process to allow for minimising impacts. Therefore, it is considered that the proposed works are in line with the relevant policies.

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