

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

LICENCE TO DISTURB MARINE SPECIES

Public Case Handling Report for Licence Number: EPS/BS-00011042

Site	Gigha to Tayinloan
Company	Argyll & Bute Council Operational Services 1A Manse Brae Lochgilphead Argyll PA31 8RD
Brief Description of Project	Gigha & Tayinloan Port Development
Associated Licences	Basking Shark Licence No. 00011043 Marine Licence No. 00011041

Species	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>)
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>The proposed activity addresses a specific need, the survey will inform the design of proposed improvements to the ferry terminals at both Gigha and Tayinloan to and allow the Applicant to submit an application for a Marine Licence. Both Gigha and Tayinloan ferry terminals provide a life line ferry service from Gigha to mainland Scotland and serves not only the local island population but also tourists and freight deliveries to the island of Gigha. The improvements to the ferry terminals are required in order to accommodate new hybrid ferries, which have a deeper draught and are longer than the current vessels servicing the route for the long-term continuation of this ferry service. Overnight berthing services will also be provided at Gigha.</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 requires to carry out the sediment sampling in order to understand the physical properties of the sea bed in the areas of Gigha and Tayinloan for the proposed ferry terminal improvements. There is not a better method of gathering this information and not one that will not involve the disturbance of EPS species. The proposed method reduces the potential for disturbance and turbidity within the water column.</p> <p>In selecting the proposed survey methodology, the applicant has selected the smallest survey area possible, the smallest number of sample points within the area to provide the shortest survey duration possible whilst still providing the required information. This has allowed the applicant to ensure the minimal practicable impact to EPS. The applicant has considered doing nothing, however due to the requirement for improvements to the ferry terminals this survey is required to inform the design the project, it would not be feasible for the project proposals to be compiled without the survey information.</p>	
Test 2 satisfied?	YES

TEST 3	Favourable conservation status
Comments	
NatureScot has provided that the conclusion in its advice of 11 October 2024, for the same works previous EPS Licence, is still valid for this licence and that, due to the scale and localised nature of the surveys, the activity is not capable of having a detrimental effect on the Favourable Conditions Status of any EPS in the area and will not negatively impact the conservation status of the basking shark if the mitigation measures set out by the applicant within the risk assessment are adhered to.	
Test 3 satisfied?	YES

Date application received: 02/12/2024

Consultation start date: 08/01/2025

Consultation end date: 05/02/2025

Notes

Date	title	Text
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National Marine Plan considerations:

The decision is: In accordance and no further action required
Comments:

Date document generated: 13/03/2025