



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

LICENCE TO DISTURB MARINE SPECIES

Public Case Handling Report for Licence Number: BS-00012409

Site	Eday Orkney
Company	Scottish Hydro Electric Transmission Plc Inveralmond House 200 Dunkeld Road Perth PH1 3AQ
Brief Description of Project	Eday Orkney Inter-Island Connection
Associated Licences	BS-00011276 EPS-00011275 BS-00012409

Inshore/Offshore	Inshore
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TEST 1	Purpose of licence
	preserving public health or public safety
Comments	
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. 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). This proposed activity addresses a specific need in surveying the potential cable routes from the island of Eday to the Orkney mainland, to gather data on the benthic environment to support the marine licence application for the cable. This cable will facilitate the substantial increase in renewable energy generation and the subsequent increasing demand for renewable energy connections.	
Test 1 satisfied?	YES

TEST 2	Satisfactory alternatives
Comments	
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. The proposed activity is to undertake geophysical, geotechnical and environmental data to support the potential installation of energy cables between the island of Eday and the Orkney mainland. The 'do nothing' option would result in SSEN Transmission being unable to fulfil their statutory role to provide an economic and efficient system for the transmission of energy within the north of Scotland. Not developing transmission cable routes could hamper the transmission of renewable energy and potentially the reduce the ability for the UK to reach net-zero by 2050.	
Test 2 satisfied?	YES

TEST 3	Favourable conservation status
Comments	
In its response dated 17 July 2026, NatureScot concludes that due to the increasing prevalence of basking sharks in Orkney, a BS licence for disturbance is required. On 14 August 2026, NatureScot confirmed that as long as the mitigation proposed for the cetaceans is in place, the surveys will not cause any adverse impacts to basking sharks.	
Test 3 satisfied?	YES

Date application received:

Consultation start date: 16/07/2026

Consultation end date: 13/08/2026

Notes

Date	title	Text
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National Marine Plan considerations:

The decision is: In accordance and no further action required

Comments: Scottish National Marine Plan (2015) - GEN 9 section of the Plan refers to Natural Heritage and provides that “development and use of the marine environment must:

- Comply with legal requirements for protected areas and protected species;
- Not result in significant impacts on the national status of Priority Marine Features; and
- Protect and, where appropriate, enhance the health of the marine area”

The Plan also references the prohibition of deliberate or reckless disturbance of EPS through the Habitats Regulations, and that Marine Scotland’s guidance on Protection of Marine European Protected Species from Injury or Disturbance must be followed.

Paragraph 4.47 of the Plan refers to MPAs and provides that “the Marine Acts place a duty on all regulators to ensure that there is no significant risk of hindering the achievement of the conservation objectives of an MPA before giving consent to an activity. Where an ongoing activity presents a significant risk of hindering the achievement of the conservation objectives of an MPA there will be a management intervention. This intervention will be practical and proportionate, utilising the most appropriate statutory mechanism to reduce the risk.”

Paragraphs 4.51 and 4.53 of the Plan refers to protected species and provides that "The presence (or potential presence) of a legally protected species is an important consideration. If there is evidence to suggest that a protected species is present or may be affected by a proposed development, steps must be taken to establish their presence. The level of protection afforded by legislation must be factored into the planning and design of the development and any impacts must be fully considered prior to the determination of the application. (...) for certain species deliberate or reckless disturbance or harassment is prohibited and can only be carried out in accordance with the terms of a licence."

The policies described above have been taken into account within the EPS Risk Assessment which describes the presence of EPS in the EPS Licence boundary. Section 3 and 4 of the LT597 Eday Orkney Inter-Island Connection Marine EPS Risk Assessment (Document Reference A-100782-S05-A-REPT-002) demonstrates that no injurious impacts to EPS are anticipated, that any disturbance to EPS will be limited to one or a few individuals of the local population with the implementation of the mitigation measures. As such, there is considered to be no AEoSI on European Sites and NCMPAs will not be adversely affected, other than insignificantly.

See the LT597 Eday Orkney Inter-Island Connection Marine EPS Risk Assessment (Document Reference A-100782-S05-A-REPT-002) for further details.

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