

T: +44 (0)300 244 5046
E: ms.marinelicensing@gov.scot

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO TO CARRY OUT ANY FORM OF DREDGING WITHIN THE SCOTTISH MARINE AREA AND DEPOSIT ANY SUBSTANCE OR OBJECT WITHIN THE SCOTTISH MARINE AREA

Licence Number: 07035/20/0

Reference Number: 07035

Scottish Ministers (hereinafter referred to as "the licensing authority") hereby authorise:

**Aberdeen Harbour Board
Harbour Office
16 Regent Quay
Aberdeen
AB11 5SS**

To carry out any form of dredging within the Scottish marine area and to deposit in the Scottish marine area any substances or objects particulars of which are described in Part 1 of the attached Schedule. The licence is subject to the conditions of use set out, or referred to, in Part 2 of the said Schedule.

The licence shall be valid from 01 July 2020 until 31 December 2021.

Signed: _____

Malcolm Rose

For and on behalf of the licensing authority

Date: 01 July 2020

Part 1 – General

1.1. Interpretation

In this licence, unless otherwise stated, terms are as defined in sections 1, 64 and 157 of the Marine (Scotland) Act 2010:

- a) “the 2010 Act” means the Marine (Scotland) Act 2010
- b) “licensable marine activity” means any activity listed in section 21 of the 2010 Act
- c) “licensee” means the recipient of the licence
- d) “the licensing authority” means the Scottish Ministers
- e) “mean high water springs” (“MHWS”) means the average of high water heights occurring at the time of spring tides
- f) “seabed” means the ground under the sea

All geographical co-ordinates contained within this licence are in latitude and longitude format WGS84.

1.2. Contacts

All correspondence or communications relating to this licence should be addressed to:

Marine Scotland
Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB

Tel: +44 (0) 300 244 5046
Email: ms.marinelicensing@gov.scot

1.3. Other authorisations and consents

The licensee is deemed to have satisfied themselves that there are no barriers or restrictions, legal or otherwise, to the carrying out of the licensed operations. The issuing of this licence does not absolve the licensee from obtaining such other authorisations and consents which may be required under statute.

1.4. Variation, suspension, revocation and transfer

Under section 30 of the 2010 Act the licensing authority may by notice vary, suspend or revoke this licence granted by them if it appears to the licensing authority that there has been a breach of any of the provisions of this licence or for any such other reason that appears to be relevant to the authority under section 30(2) or (3) of the 2010 Act.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, vary this licence if satisfied that the variation being applied for is not material.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, transfer this licence from the licensee to another person.

1.5. Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 Act it is an offence to carry on a licensable marine activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6. Defences: actions taken in an emergency

Under section 40 of the 2010 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act in relation to any activity to prove that the activity was carried out for the purpose of saving life or for the purpose of securing the safety of a vessel, aircraft or marine structure (*'force majeure'*) and that the person took steps within a reasonable time to provide full details of the matter to the licensing authority as set out in section 40(2) of the 2010 Act.

1.7. Offences relating to information

Under section 42 of the 2010 Act it is an offence for a person to make a statement which is false or misleading in a material way, either knowing the statement to be false or misleading or being reckless as to whether the statement is false or misleading, or to intentionally fail to disclose any material information for the purpose of procuring the issue, variation or transfer of a marine licence or for the purpose of complying with, or purporting to comply with, any obligation imposed by either Part 4 of the 2010 Act or by this licence.

1.8. Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to the sheriff of any sheriffdom against a decision taken by the Scottish Ministers under section 29(1) of the 2010 Act.

2. Part 2 – Particulars

2.1. Name and address of the producer of the substances or objects:

As per licensee.

2.2. Name and address of any other agent acting on behalf of licensee

As per Annex One. See condition 3.1.2.

2.3. Name(s) and address(es) of contractors or sub-contractors acting on behalf of the licensee:

As per Annex One

See condition 3.1.2.

2.4. Name, description, registration number and country of registration of vessel(s) to be employed to undertake the deposits:

As per Annex One

See condition 3.1.3.

The vessels referred to above must be so constructed and equipped as to be capable of the proper performance of the licensed activity in compliance with the conditions set out in the Schedule.

2.5. Place of production of the substances or objects:

Nigg Bay, Aberdeen, within the area bounded by joining the points:

57° 08.142' N	002° 03.438' W
57° 08.183' N	002° 02.925' W
57° 08.113' N	002° 02.424' W
57° 07.955' N	002° 02.433' W
57° 07.784' N	002° 02.711' W
57° 07.713' N	002° 02.883' W

with the Mean High Water Springs mark between 57° 08.142' N, 002° 03.439' W and 57° 07.791' N, 002° 02.939' W

2.6. Description of the licensable marine activities and composition of the substances or objects:

Capital dredging and deposit of dredged substances or objects for the Aberdeen Harbour Expansion Project ("AHEP"), Nigg Bay, Aberdeen including the following activities:

- Dredging of the Harbour Basin location to achieve a seabed depth of approximately 9.0 metres below Chart Datum ("CD");

- Dredging of the North Quay location to achieve a seabed depth of approximately 12.55 metres below CD;
- Dredging of the East Quay location to achieve seabed depth of approximately 12.95 metres below CD;
- Dredging of the Entrance Channel location to achieve seabed depth of approximately 10.5 metres below CD;
- Dredging of the South East Pier location to achieve seabed depth of approximately 11.45 metres below CD;
- Dredging of the South Breakwater Roundhead and Trenches location to achieve seabed depth of approximately 15.24 metres below CD;
- Dredging of the West Quay location to achieve seabed depth of approximately 12.55 metres below CD;
- Deposit of dredged substances or objects unsuitable for re-use at the Aberdeen authorised sea deposit site; and
- Temporary stockpiling of dredge material (to be used during construction of AHEP).

The substances or objects consist of approximately 14% clay and silt, 69% sand and 17% pebbles, cobbles and boulders.

As described in the application dated 31 October 2019 and correspondence submitted in support of the application.

2.7. Indicative quantity of material to be dredged:

6,120,000 wet tonnes

Less any material already dredged under authority of licence numbers 05964/16/0, 05964/18/0 or 05964/19/0.

2.8. Indicative maximum quantity of capital dredged substances or objects to be deposited at authorised deposit site CR110 - Aberdeen:

4,702,737 wet tonnes

Less any materials already deposited under authority of licence numbers 05964/16/0, 05964/18/0 or 05964/19/0.

2.9. Indicative quantity of dredge material to be re-used in construction:

1,417,263 wet tonnes

Less any materials already used under authority of licence numbers 05964/16/0, 05964/18/0 or 05964/19/0.

3. PART 3 – CONDITIONS

3.1. General conditions

3.1.1. Agents, contractors and sub-contractors

The licensee must provide, as soon as is reasonably practicable prior to the licensed activities commencing, the name and function of any agent, contractor or sub-contractor appointed to undertake the licensed activities.

Any changes to the supplied details must be notified to the licensing authority, in writing, prior to any agent, contractor or sub-contractor undertaking any licensed activity.

The licensee must ensure that only those agents, contractors or sub-contractors notified to the licensing authority are permitted to undertake the licensed activities.

The licensee must give a copy of this licence and any subsequent variations that have been made to this licence in accordance with section 30 of the 2010 Act to any agent, contractor or sub-contractor appointed to carry out any part, or all, of the licensed activities. The licensee must satisfy themselves that any such agent, contractor or sub-contractor is aware of the extent of the licensed activity for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence.

3.1.2. Vessels

The licensee must submit full details of the vessels to be utilised in respect of the deposit of substances or objects and their anticipated movements, to the licensing authority no later than one month, or at such a time as agreed with the licensing authority, prior to the commencement of the licensed activity. The vessel details provided must include the vessel type, vessel IMO number and vessel owner or operating company.

The licensee must ensure that a copy of this licence and any subsequent variations made to it in accordance with section 30 of the 2010 Act have been read and understood by the masters of any vessels being used to carry on any licensed activity under this licence, and that a copy of this licence is held on board any such vessel.

3.1.3. Material alterations to the licence application

The licensee must, where any information upon which the granting of this licence was based has, after the granting of the licence, altered in any material respect, notify the licensing authority of this fact, in writing, as soon as is practicable.

3.1.4. Submission of reports to the licensing authority

Where it would appear to the licensee that there may be a delay in the submission of the reports, studies or surveys to the licensing authority then the licensee must advise the licensing authority of this fact as soon as is practicable and no later than the time by which those reports, studies or surveys ought to have been submitted to the authority under the terms of this licence.

The reports, studies and surveys must include executive summaries, assessments and conclusions and any data may, subject to any rules permitting non-disclosure, be made

publically available by the licensing authority, or by any such party appointed, at their discretion.

3.1.5. Force Majeure

If by any reason of force majeure any substance or object is deposited other than at the site which is described in this licence, then the licensee must notify the licensing authority of the full details of the circumstances of the deposit within 48 hours of the incident occurring (failing which as soon as reasonably practicable after that period of 48 hours has elapsed). Force majeure may be deemed to apply when, due to stress of weather or any other cause, the master of a vessel, vehicle or marine structure determines that it is necessary to deposit the substance or object other than at the specified site because the safety of human life or, as the case may be, the vessel, vehicle or marine structure is threatened. Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-east Atlantic, the licensing authority is obliged to immediately report force majeure incidents to the Convention Commission.

3.1.6. Environmental protection

The licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to minimise damage to the Scottish marine area caused by the licensed activity authorised under this licence.

The licensee must ensure that any unauthorised debris or waste materials arising during the course of the licensed activities are removed from the site for disposal at an approved location above the tidal level of MHWS.

The licensee must ensure that the risk of transferring non-native species to and from the site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the licensed activities.

The licensee must ensure that all mitigation detailed in the Construction Environmental Management Document ("CEMD") dated October 2019 is adhered to at all times. In the event that the licensee wishes to update or amend any of the protocols in the CEMD, the licensee must submit, in writing, details of proposed updates or amendments to the licensing authority for their written approval, no later than one month or at such a time as agreed with the licensing authority, prior to the planned implementation of the proposed updates or amendments. It is not permissible for any activities associated with the proposed updates or amendments to proceed prior to the granting of such approvals.

Prior to commencement of the licensed activities, the licensee must appoint an Environmental Clerk of works ("ECoW") who will be responsible for ensuring delivery of the CEMD. The ECoW must be on site during licensed activities, as determined by the CEMD, and must have the authority to halt activities if necessary.

3.1.7. Availability of the licence for inspection

The licensee must ensure that copies of the licence are available for inspection by any persons authorised by the licensing authority at:

- a) the premises of the licensee;

- b) the premises of any agent, contractor or sub-contractor acting on behalf of the licensee;
- c) the site of the licensed activity;
- d) onboard any vessel carrying out the licensed activity; and
- e) any onshore premises directly associated with the licensed activity.

3.1.8. Inspection of the licensed activities

Any persons authorised by the licensing authority, must be permitted to inspect the licensed activities at any reasonable time.

3.2. Prior to commencement of the licensed activity

- 3.2.1.** The licensee must ensure that HM Coastguard, in this case nmoccontroller@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the licensed activities prior to commencement.
- 3.2.2.** Prior to commencement of the licensed activities, the licensee must notify the UK Hydrographic Office to permit the promulgation of maritime safety information.
- 3.2.3.** The licensee must, as soon as practicable prior to commencement of the licensable activities, notify the licensing authority of the proposed start date of the licensed activities.

3.3. During the licensed activity

- 3.3.1.** The licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 484444) of progress of the licensed activities supply a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.
- 3.3.2.** The licensee must ensure that no deviation from the schedule specified in the licence is made without the further written approval of the licensing authority.
- 3.3.3.** If in the opinion of the licensing authority the assistance of a Government Department, including the broadcast of navigational warnings, is required to deal with any emergency arising from:
 - a) The failure to mark and light the works as required by licence.
 - b) The maintenance of the works.
 - c) The drifting or wreck of the works.

The licensee shall be liable for any expenses incurred in securing such assistance.

- 3.3.4.** Only those substances or objects described in Part 2 of the Schedule shall be deposited under authority of the licence. Any unauthorised materials associated with the substances or objects scheduled for deposit, including debris such as demolition waste, wood, scrap metal, tyres and synthetic materials, must be disposed of on land at an approved location above the tidal level of MHWS.

3.3.5. The licensee must deposit the dredged substances and objects in the following area:

Deposit Area Name and Code: Aberdeen, CR110.

Up to a maximum quantity of **4,702,737 wet tonnes** may be deposited during the period of validity of this licence, within the circle area centred at:

57° 07.000' N 002° 00.000' W with a radius of 0.25 nautical miles.

Less any material already deposited under authority of licence numbers 05964/16/0, 05964/18/0 or 05964/19/0.

All tanks/hopper washings must be deposited in the deposit site.

3.3.6. The method of dredge spoil deposit for disposal purposes shall be

Bottom dumping

3.3.7. The licensee must ensure no temporary stockpiles remain on site after the expiry of the licence

3.3.8. The licensee must ensure that a log of operations is maintained on each vessel employed to undertake the dredge spoil disposal operations. The log(s) must be kept onboard the vessel(s) throughout the disposal operations, and be available for inspection by any persons authorised by the licensing authority. The log(s) must be retained for a period of six calendar months following expiry of the licence, and copies of the log(s) may be requested during that period for inspection by the licensing authority.

The log(s) must record in English the following information:

- a) the name of the vessel;
- b) the nature and quantity of each substance or object loaded for disposal;
- c) the date and time of departure from port, and the date and time of arrival at the disposal area(s), on each occasion that the vessel proceeds to the disposal area(s);
- d) the date, time and position of commencement, and the date, time and position of completion, of each disposal operation;
- e) the course(s) and speed(s) throughout each disposal operation. (Multiple changes may be recorded as "various");
- f) the weather, including wind strength and direction, sea-state and tidal set throughout each disposal operation;
- g) the rate of discharge during each disposal operation, if appropriate, and the duration of each disposal operation. (If the rate of discharge is not constant, the maximum and mean rates of discharge must be indicated);
- h) comments on the disposal operations, including any explanations for delays in the disposal operations; and
- i) the signature of the Master at the foot of each page of the record.

3.4. On Completion of licensed activities

SCHEDULE TO LICENCE NUMBER: 07035/20/0 DATED: 01 July 2020

- 3.4.1.** The licensee must notify the licensing authority of the date of completion of all licensed activities relating to the licence.
- 3.4.2.** The licensee must submit written reports, to the licensing authority stating the nature and total quantity, in wet tonnes, of all substances or objects deposited under authority of the licence. The written reports must be submitted to the licensing authority annually and on the forms provided by the licensing authority.
- 3.4.3.** The licensee must, within 28 days of completion of the licensable marine activity, supply Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (email: sdr@ukho.gov.uk; tel.: 01823 337900) with the revised water depths, in order that all necessary amendments to nautical publications are made. The licensee must notify the licensing authority of the notification at the time it is made.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed activity. The issue of the licence does not absolve the licensee from obtaining such authorisations, consents etc which may be required under any other legislation.
2. In the event that the licensee wishes any of the particulars set down in the Schedule to be altered, the licensing authority must be immediately notified of the alterations. It should be noted that changes can invalidate a licence, and that an application for a new licence may be necessary.
3. Under Section 30 of the Marine (Scotland) Act 2010, the licensing authority may vary, suspend or revoke the licence, if it appears to the licensing authority that there has been a breach of any of the provisions of the licence or for any other reason that appears to be relevant to the licensing authority.
4. Under Section 39 of the Marine (Scotland) Act 2010, it is an offence to carry on a licensable marine activity or cause or permit any other person to carry on such an activity without a marine licence or fails to comply with any condition of a marine licence. It is a defence for a person charged with an offence under Section 40 in relation to any activity to prove that the activity was carried out for the purpose of saving life, or for the purposes of securing the safety of a vessel, aircraft or marine structure ('*force majeure*'), and that the person took steps within a reasonable time to provide full details of the incident to the licensing authority. (Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-East Atlantic, the licensing authority is obliged to immediately report '*force majeure*' incidents to the Convention Commission).
5. All correspondence or communications relating to the licence should be addressed to:

Licensing Operations Team
Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Tel: +44 (0)300 244 5046
Email: ms.marinelicensing@gov.scot