



MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE FOR USE OF JACK UP VESSEL DURING SEDIMENT SAMPLE REMOVAL IN THE SCOTTISH MARINE AREA

Licence Number: **06808/18/0**

Scottish Ministers (hereinafter referred to as "the licensing authority") hereby grant a marine licence authorising:

**Neart Na Gaoithe Offshore Wind Limited
EDF Renewables
Atria One
144 Morrison Street
Edinburgh
EH3 8BE**

Under the Marine (Scotland) Act 2010,

To use a vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the seabed within the Scottish marine area.

This licence remains in force from **26 October 2018** to **23 November 2018**

Signed: _____



For and on behalf of the Licensing Authority

Date of issue: 26 October 2018

1. 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, and,

- a) **“the Application”** means the Application form and supporting information submitted to the Licensing Authority, by the Company on 1 October 2018
- b) **“Commencement of the Works”** means the date on which the first vessel arrives on the Site to begin carrying on any Licensed Activity in connection with the Works, as described in Part 2 of this licence;
- c) **“the Company”** means **Neart Na Gaoithe Offshore Wind Limited** (Company Registration Number **SC356223**) and having its registered office at Atria One, 144 Morrison Street, Edinburgh, EH3 8BE
- d) **“Completion of the Works”** means the date on which the Works have been carried out or the Works have been deemed complete by the Licensing Authority, whichever occurs first;
- e) **“the 2010 Act”** means the Marine (Scotland) Act 2010;
- f) **“Licensable Marine Activity”** means the activities listed in section 21 of the 2010
- g) **“Licensed Activities”** means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under this licence;
- h) **“Licensee”** means the **Company** or **Neart Na Gaoithe Offshore Wind Limited** (Company Registration Number **SC356223**) and having its registered office at Atria One, 144 Morrison Street, Edinburgh, EH3 8BE;
“MHWS” means mean high water spring tide.
- i) **“the Licensing Authority”** means the Scottish Ministers;
- j) **“the Site”** means the area outlined in the figure 1 contained in Part 4 of this licence; and
- k) **“the Works”** means the Marine Survey Sediment Removal as described in part 2 of this licence;

All geographical co-ordinates contained within this licence are in latitude and longitude format World Geodetic System 84 (“WGS84”).

1.2. Contacts

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

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

Email: MS.MarineRenewables@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 on of the licensed activities in connection with Works. 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 (1) 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 its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act.

Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the Act.

Under section 30 (7) of the 2010 Act, on an application made by a licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.

Under section 30 (8) of the 2010 Act, on an application made by the licensee, the Licensing Authority may 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 –

- (a) 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
- (b) that the person took steps within a reasonable time to inform 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, 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 the provisions of this licence.

2. PART 2 – THE WORKS**2.1. Title of the Works:**

Use of Jack-up vessel during sediment sample removal, Neart na Gaoithe Offshore Wind Farm area

2.2. Description of works:

Sediment sampling consisting of the following;

Up to 10 boreholes undertaken within the Site using a jack-up barge as described in the Application dated 1 October 2018, and subsequent correspondence submitted in support of the Application.

2.3. Quantity of material to be removed from the seabed:

Permanent Removals.

- Approx. 0.39 m³ per borehole, up to 10 boreholes using a jack-up barge within the Development Area;

2.4. Location of works:

At the site of the Neart na Gaoithe Offshore Windfarm. Within the areas bounded by joining the points

Offshore Windfarm Development Area

56° 15.271 'N	002° 09.898 'W
56° 12.721 'N	002° 09.255 'W
56° 12.752 'N	002° 13.998 'W
56° 12.766 'N	002° 16.293 'W
56° 15.479 'N	002° 19.628 'W
56° 15.827 'N	002° 20.055 'W
56° 17.430 'N	002° 20.232 'W
56° 19.752 'N	002° 17.826 'W
56° 20.312 'N	002° 16.518 'W
56° 20.171 'N	002° 14.910 'W

2.5. Persons responsible for the deposits of the substances or objects

The operators, vessels and vehicles engaging in the Works must be notified to the Licensing Authority under condition 3.1.2 prior to their engagement in the Works:

Name of Vessel or Vehicle Registration	Operator	Type(s)
Apollo (call sign LXBP)	G-tec	Jack up barge

2.6. Persons acting on behalf of the Licensee

The name and address of any agents, contractors or sub-contractors appointed to carry out any part, or all, of the Works must be notified to the Licensing Authority under condition 3.1.3 prior to their engagement in the Works:

Role	Company Name	Address	Contact Name
Survey contractor	G-tec	Rue des Alouettes 80 B-4041 Milmort Belgium	Kenneth Engelen

3. PART 3 – CONDITIONS

3.1. General Conditions

3.1.1. Compliance with the Application and approved plans

The Licensee must at all times operate the Works in accordance with this Licence, the Application and all supporting information

Reason: To ensure compliance with the marine licence, the application for the marine licence and the supporting information.

3.1.2. Licence conditions binding other parties

All conditions attached to this licence bind any person who for the time being owns, occupies or enjoys any use of the Works for which this licence has been granted in relation to those licensed activities authorised under item 5 in section 21(1) of the 2010 Act whether or not this licence has been transferred to that person.

Reason: To safeguard the obligations of the licence, in accordance with s.29(5) of the Marine (Scotland) Act 2010.

3.1.3. Vessels, vehicles agents, contractors and sub-contractors

The Licensee must provide, as soon as reasonably practicable in advance of their engagement in the Works authorised under this licence, the name and function of any vessel, vehicle, agent, contractor or sub-contractor appointed to engage in the Works to the Licensing Authority. Where applicable the notification must include the vessel type, vessel IMO number and vessel owner or operating company.

The Licensee must ensure that any changes to the supplied details must be notified to the Licensing Authority, in writing, 7 days prior to any vessel, vehicle, agent, contractor or sub-contractor engaging in the Works.

The Licensee must ensure that only those vessels, vehicles, operators, agents, contractors or sub-contractors notified to the Licensing Authority are permitted to carry out any part of the Works.

The above details must be recorded in section 2.5 and 2.6 of this licence, if not provided at application these details and any subsequent changes will require a variation to the licence to update section 2.5 and 2.6 prior to engagement in the Works.

The Licensee must satisfy themselves that any masters of vessels or vehicle operators, agents, contractors or sub-contractors are aware of the extent of the Works for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence. All masters of vessels or vehicle operators, agents, contractors and sub-contractors permitted to engage in the Works must abide by the conditions set out in this licence.

The Licensee must give a copy of this licence, and any subsequent variations made to this licence in accordance with section 30 of the 2010 Act, to the masters of any vessels, vehicle

operators, agents, contractors or sub-contractors permitted to engage in the Works and must ensure that the licence and any such variations are read and understood by those persons.

Reason: *To ensure all parties involved in the Works are aware of the licence and its conditions to reduce the risk of a breach of the licence, in accordance with s.39(1)(b) of the 2010 Act.*

3.1.4. Force Majeure

Should the Licensee or any of their agents, contractors or sub-contractors, by any reason of *force majeure* deposit anywhere in the marine environment any substance or object, 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 or vehicle operator determines that it is necessary to deposit the substance or object other than at the 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.

Reason: *To provide a defence for the Master to protect himself and his crew in bad weather conditions, in accordance with s.29(2)(a) of the 2010 Act.*

3.1.5. 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.

Reason: *To ensure that the Works are carried out in accordance with the Application documentation, in accordance with s.29(2)(a) of the 2010 Act.*

3.1.6. Submission of plans and specification of studies and surveys to the Licensing Authority

The Licensee must submit plans and the details and specifications of all studies and surveys that are required to be undertaken under this licence in relation to the Works, in writing, to the Licensing Authority for their written approval. Commencement of the studies or surveys and implementation of plans must not occur until the Licensing Authority has given its written approval to the Licensee.

Plans or the specification of studies and surveys prepared pursuant to another consent or licence relating to the Works by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Reason: *To ensure that the Licensing Authority is kept informed of the progress of the Works, in accordance with s.29(3)(c) of the 2010 Act.*

3.1.7. Submission of reports and notifications to the Licensing Authority

The Licensee must submit all reports and notifications to the Licensing Authority, in writing, as are required under this licence within the time periods specified in this licence. Where it would appear to the Licensee that there may be a delay in the submission of the reports or notifications 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 or notifications ought to have been submitted to the Licensing Authority under the terms of this licence.

The reports must include executive summaries, assessments and conclusions and any data will, subject to any rules permitting non-disclosure, be made publically available by the Licensing Authority or by any such party appointed at their discretion.

Reports prepared pursuant to another consent or licence relating to the Works by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Reason: To ensure that all reports and notifications are submitted within a reasonable timescale after the licence is granted, in accordance with s.29(3)(c) of the 2010 Act.

3.1.8. Chemical usage

The Licensee must ensure that all chemicals which are to be utilised in the Works have been approved prior to use. All chemicals which are to be utilised in the Works must be selected from the List of Notified Chemicals assessed for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002 (as amended) or as exempted for sealed units. The Licensee must submit a report of all chemicals and quantities to be used (e.g. oils and fluorinated gases) during the construction and operation of the works to the Licensing Authority no later than one calendar month prior to the Commencement of the Works. Any changes to the types of chemicals which are proposed to be utilised must be consulted on with the Licensing Authority before the Commencement of the Works or; as the case may be, after the Commencement of the Works but prior to their utilisation.

Reason: To minimise the environmental impact in the event of a release through the use of authorised chemicals in the interest of protecting the environment, in accordance with s.29(2)(b) of the 2010 Act.

3.1.9. Fluorinated greenhouse gases

The Licensee must ensure that all equipment to be utilised in the Works that contains fluorinated greenhouse gases (hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride and other greenhouse gases that contain fluorine, listed in Annex I of Regulation (EU) 517/2014 and The Fluorinated Greenhouse Gases Regulations 2015 (the Regulations), or mixtures containing any of those substances) must take precautions to prevent the unintentional release ('leakage') of those gases. They must take all measures which are technically and economically feasible to minimise leakage of fluorinated greenhouse gases.

Where a leakage of fluorinated greenhouse gases is detected, the Licensee must ensure that the equipment is repaired without undue delay.

The Licensee must ensure that all equipment to be utilised in the Works that contains fluorinated greenhouse gases in quantities of 5 tonnes of CO₂ equivalent or more and not contained in foams must ensure that the equipment is checked for leaks in accordance with Annex 4 of the Regulations. Records of leak checks must be kept in accordance with Annex 6 of the Regulations. These records must be submitted to the Licensing Authority annually, and immediately in the event of discovery of any leak.

Where the equipment is subject to leak checks under Article 4(1) of the Regulations, and a leak in the equipment has been repaired, the Licensee must ensure that the equipment is checked by a certified person within **one** calendar month after the repair to verify that the

repair has been effective. In such event, the Licensing Authority must be informed of the date of discovery, date of repair and date of inspection.

Reason: *to ensure compliance of the Works with Regulation (EU) 517/2014 and The Fluorinated Greenhouse Gases Regulations 2015, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.10. Environmental protection

The Licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to avoid or minimise any damage to the Scottish marine area caused as a result of the undertaking of the licensed activities.

The Licensee must ensure that all personnel adhere to the [Scottish Marine Wildlife Watching Code](#) where appropriate during all installation, operation and maintenance activities authorised under this licence.

The Licensee must ensure that any debris or waste material placed below MHWS during the construction of the Works are removed from the Site, as soon as is reasonably practicable, for disposal at a location above Mean High Water Springs ("MHWS") approved by the Scottish Environment Protection Agency ("SEPA").

The Licensee must ensure that all substances and objects deposited during the execution of the Works are inert (or appropriately coated or protected so as to be rendered inert) and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

The Licensee must ensure that the risk of transferring marine non-native species to and from the Site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the Works.

The licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the Works.

Reason: *To ensure environmental impacts are minimised, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.11. Availability of the licence for inspection

The Licensee must ensure that copies of this licence and any subsequent amendments or variations are available for inspection at any reasonable time by any 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) any onshore premises directly associated with the Works; and
- d) aboard any vessels permitted to engage in the Works.

Reason: *To ensure the licence is available for the purpose of inspection, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.12. Inspection of the Works

Any persons authorised by the Licensing Authority, must be permitted to inspect the Works at any reasonable time. The Licensee must, as far as reasonably practicable, on being given reasonable notice by the Licensing Authority (of at least 72 hours), provide transportation to and from the Site for any persons authorised by the Licensing Authority to inspect the Site/Works.

Reason: *To ensure access to the Site for the purpose of inspection, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.13. Emergencies

If the assistance of a Government Department (to include departments of Administrations other than the Scottish Government) is required to deal with any emergency arising from:

- a) the failure to mark and light the Works as required by this licence;
- b) the maintenance of the Works; or
- c) the drifting or wreck of the Works,

to include the broadcast of navigational warnings, then the Licensee is liable for any expenses incurred in securing such assistance.

Reason: *To ensure licensee is aware of financial liabilities, in accordance with s.29(2)(b) of the 2010 Act.*

3.2. Conditions specific to the Works

3.2.1. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Works during the period of this licence, the Licensee must provide written notification of the nature and timing of the incident to the Licensing Authority, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of the incident occurring.

Reason: *To keep the Scottish Ministers informed of any such incidents which may be in the public interest, in accordance with s.29(3)(c) of 2010 Act.*

3.2.2. Bunding and storage facilities

The Licensee must ensure suitable bunding and storage facilities are employed to prevent the release of fuel oils and lubricating fluids associated with the plant and equipment into the marine environment.

Reason: *To ensure pollution prevention is undertaken, in accordance with s.29(2)(b) of the 2010 Act.*

3.2.3. Restoration of the Site to its original condition

The Licensee must take all reasonable, appropriate and practicable steps to restore the Site to its original condition before the Works were undertaken, or to as close to its original condition as is reasonably practicable, to the satisfaction of the Licensing Authority. Should the Works be discontinued prior to Completion of the Works, the Licensee must inform the Licensing Authority in writing of the discontinuation of the Works.

Reason: *To mitigate the effects of the activity on the Site, in accordance with s.29(3)(e) of the 2010 Act.*

3.2.4. Commencement date of the Works

The Licensee must, prior to and no less than 7 days before the Commencement of the Works, notify the Licensing Authority, in writing, of the date of Commencement of the Works authorised under this Licence.

The Licensee must, notify the Licensing Authority, in writing, of the date of Completion of the Works authorised under this Licence.

Separate notifications are required at the times of commencement and completion.

Reason: *To inform the Licensing Authority of the commencement date of the Works, in accordance with s.29(3)(c) of the 2010 Act.*

3.2.5. Navigation and Charting

The Licensee must, prior to Commencement of the Works, notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 337900) of both progress and on completion of the works supply a copy of the licence.

The Licensee must, prior to Commencement of the Works, ensure that local mariners, fishermen's organisations and HM Coastguard, in this case the National Maritime Operations Centre, are made fully aware of the Works through local Notice to Mariners or by any other appropriate means. The Notice to Mariners must include the proposed start date and clearly state the nature and duration of the Works.

The Licensee must ensure that details of the Works are promulgated in the Kingfisher Fortnightly Bulletin, prior to the Commencement of the Works to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Works and of the relevant operations.

The Licensee must, prior to the Commencement of the Works, ensure that local mariners, fishermen's organisations and HM Coastguard (in this case the National Maritime Operations Centre, nmcccontroller@hmcg.gov.uk) are made aware of the works prior to commencement.

The licensee must ensure that no deviation from the schedule specified in the licence is made without the further written consent of the licensing authority.

Reason: To mitigate against and reduce the navigational risk to other legitimate users of the sea, and ensure environmental mitigation is undertaken in accordance with s.29(2)(b) of the 2010 Act.

3.2.6. Markings, lighting and signals of the Works

The Licensee must ensure that the Works are marked and lit in accordance with the requirements of the MCA and NLB and must have marking and lighting as per the Standard Marking Schedule for Offshore Installations whilst engaged in these operations. Notification regarding the mobilisation and demobilisation of the jack-up vessel with respect to these operations must be sent via e-mail to navigation@nlb.org.uk.

Reason: To ensure safe appropriate marking and lighting of the offshore Works, in accordance with s.29(2)(b) of the 2010 Act.

3.2.7. Conditions upon Completion of the Works

The Licensee must, no later than 7 days following the Completion of the Works, notify the Licensing Authority, in writing, of the date of Completion of the Works.

Reason: To inform the Licensing Authority of the completion of the works, in accordance with s.29(3)(c) of the 2010 Act.

4. **PART 4 – SURVEY LOCATION**

Figure 1 – Location of the Neart Na Gaoithe Offshore Wind Farm

