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MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: 07076/20/1

Reference Number: 07076

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

**Scrabster Harbour Trust
Scrabster Harbour
Thurso
Caithness
KW14 7UJ**

to carry out dredging and to deposit in the sea the substances or objects particulars of which are described in Part 2 of the attached Schedule. The licence is subject to the conditions of use set out, or referred to, in Part 3 of the said Schedule.

This licence shall be valid from **15 April 2020** until **31 December 2021**.

Signed:

Anni Mäkelä

For and on behalf of the licensing authority

Date: 15 April 2020

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:

- 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” 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 activities. 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(s) and address(es) of any other agents acting on behalf of licensee:

RPS
Elmwood House
74 Boucher Road
Belfast
BT12 6RZ

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

As per Annex Two

See condition 3.1.1

2.4. Name(s) of vessel(s) to be employed to undertake the activities authorised by the licence:

As per Annex Two

See condition 3.1.2

The vessels employed must be so constructed and equipped as to be capable of the proper performance of the activities in compliance with the conditions set out in the Schedule.

2.5. Place of production of the dredge material:

Scrabster Harbour within the area bounded by joining the following points:

Dredge Area A

58° 36.729' N 003° 32.675' W
58° 36.773' N 003° 32.479' W
58° 36.710' N 003° 32.429' W
58° 36.636' N 004° 32.441' W
58° 36.537' N 003° 32.361' W
58° 36.561' N 003° 32.556' W
58° 36.602' N 003° 32.590' W

Dredge Area B

58° 36.583' N 003° 32.677' W
58° 36.599' N 003° 32.605' W
58° 36.715' N 003° 32.699' W
58° 36.700' N 003° 32.770' W

As shown in Annex One.

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

Capital dredging of 89,100m³ of material and deposit of dredged substances or objects from dredge areas A and B in Scrabster Harbour to the Scrabster Extension (FI008) authorised dredge material deposit area to facilitate the St. Ola Pier refurbishment. The licensable marine activities include:

- Dredging of 82,000m³ of predominantly sandy material from Area A (Outer Berth) to increase the depth to -9m chart datum
- Dredging of 7,100m³ of predominantly sandy material from Area B (Inner Berth) to increase the depth to -7.5m chart datum
- Deposit of dredge material at the Scrabster Extension (FI008) authorised dredge material deposit area
- Use of dredge material on site as pier infill

As described in application dated 16 July 2019 in the Scheme Reduction: Environmental Review document dated 19 March 2020, and correspondence submitted in support of the application.

2.7. Maximum quantity of capital dredge substances or objects to be deposited at authorised dredge material deposit area FI008 – Scrabster Extension:

89,100m³

2.8. Quantity of capital dredged substances or objects to be used as infill:

89,100m³, less any dredge material deposited at Scrabster Extension authorised dredge material deposit area as per point 2.7 above.

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 the Master(s) of the vessel(s) employed to undertake the operations with a copy of the licence and any additional 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 licensable marine 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 licensable marine activity, 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 licensable marine activity. The vessel details provided must include the master's name, 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. 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 licensable marine activity for which this licence has been granted whether or not this licence has been transferred to that person.

3.1.4. 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.

3.1.5. 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.

3.1.6. 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.

3.1.7. 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 not listed in Part 2 of the licence arising during the course of the licensable marine activity are removed from the site of the licensable marine activity for disposal at an approved location above the tidal level of Mean High Water Springs.

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 licensable marine activity.

3.1.8. 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 licensable marine activity;
- d) onboard any vessel carrying out licensable marine activity and
- e) any onshore premises directly associated with the licensed activities.

3.1.9. Inspection of the licensable marine activity

Any persons authorised by the licensing authority, must be permitted to inspect the licensable marine activity or the site of licensable marine activity at any reasonable time.

3.2. Prior to commencement of the licensable marine activity

3.2.1. The licensee must, no later than seven days prior to commencement of the licensable marine activity, notify the licensing authority of the proposed start date of the licensable marine activity.

3.2.2. The licensee must ensure that HM Coastguard, in this case nmoccontroller@hmcg.gov.uk, The National Maritime Operations Centre, is made aware of the licensable marine activity prior to commencement.

3.1.1. The licensee must ensure that the licensable marine activities are carried out in accordance with a Construction Environmental Management Plan ("CEMP") which the licensee must submit, in writing, to the licensing authority for their written approval, no later than two months prior to the licensable marine activity commencing or at such a time as agreed with the licensing authority. It is not permissible for the licensable marine activity to proceed prior to the granting of such approval. In the event that the licensee wishes to update or amend any of the protocols in the CEMP, 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 licensable marine activity associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The CEMP must include a noise management plan, a traffic management plan and a dust management plan. The traffic management plan must include consideration of vehicle wheel cleansing facilities.

3.1.2. Dredging or deposit of dredged substances or objects may only take place during the Bathing Water Season, between 1 June and 15 September inclusive, if the licensee ensures real time suspended sediment monitoring is in place. If the suspended sediment levels exceed the levels detailed in the Environmental Impact Assessment report, the dredging and deposit of dredged substances or objects must immediately cease and the licensing authority must be notified.

3.1.3. The licensee must ensure that the licensable marine activities are carried out in accordance with a Marine Mammal Management Plan ("MMMP") which the licensee must submit, in writing, to the licensing authority for their written approval, no later than two months prior to the licensable marine activity or at such a time as agreed with the licensing authority. It is not permissible for the licensable marine activity to proceed prior to the granting of such approval. In the event that the licensee wishes to update or amend any of the protocols in the MMMP, 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 licensable marine activity associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The MMMP must include, but not be limited to, the employment of a Marine Mammal Observer ("MMO").

3.3. During the licensable marine activity

- 3.3.1.** 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.
- 3.3.2.** 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.
- 3.3.3.** The licensee must deposit the dredged substances and objects in the following area:

Deposit Area Name and Code: Scrabster Extension, FI008

Within the area bounded by joining the points:

58° 38.22' N	003° 29.82' W
58° 38.10' N	003° 29.44' W
58° 38.03' N	003° 29.54' W
58° 38.15' N	003° 29.91' W

Up to a maximum of 89,100m³ may be deposited within the area during the period of validity of this licence.

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

- 3.3.4.** The method of dredge spoil deposit for disposal purposes shall be:

SELF-UNLOADING BUCKET DEPOSIT

- 3.3.5.** 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;
- i) the signature of the Master at the foot of each page of the record.

3.3.6. The licensee must ensure that all vessels adhere to the best practice guidelines as set out in the Scottish Marine Wildlife Watching Code at all times.

3.3.7. If any distressed, injured or dead diadromous fish are observed during the licensable marine activity, the licensee must inform the licensing authority within 24 hours.

3.4. On completion of the licensable marine activity

3.4.1. The licensee must, within seven days of completion of the licensable marine activity, notify the licensing authority of the date of completion of the licensable marine activity.

3.4.2. The licensee must submit written reports to the licensing authority stating the nature and total quantity, in cubic metres, of all substances or materials deposited or 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 operations. 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 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 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).
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