



MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT, ALTER OR IMPROVE ANY WORK WITHIN THE SCOTTISH MARINE AREA

Licence Number: **07102/20/0**

The Scottish Ministers (hereinafter referred to as "the Licensing Authority") hereby grant a marine licence authorising:

**Neart na Gaoithe Offshore Wind Limited
Atria One
144 Morrison Street
Edinburgh
EH3 8BE**

Under the Marine (Scotland) Act 2010,

- 1) To construct, alter or improve any works within the Scottish marine area, either in or over the sea, or on or under the seabed.

This licence remains in force from **15 May 2020** to **31 May 2021**.

Signed: _____
Jessica Wilson

For and on behalf of the Licensing Authority

Date: 15 May 2020



1. **PART 1 – GENERAL**

1.1 **Interpretation**

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

- a) **“the 2010 Act”** means the Marine (Scotland) Act 2010;
- b) **“the Application”** means the application and supporting information submitted on 10 September 2019;
- c) **“Commencement of the Works”** means the date on which the first vessel arrives on the Site to begin carrying on any Licensed Activities in connection with the Works;
- d) **“Completion of the Works”** means the date on which the Works have been completed;
- e) **“FLO”** means the Fisheries Liaison Officer;
- f) **“Licensable Marine Activity”** means any activities listed in section 21(1) of the 2010 Act;
- g) **“Licensed Activities”** means any activity or activities authorised under the licence;
- h) **“Licensee”** means Neart na Gaoithe Offshore Wind Limited (Company Number SC356223) and having its registered office at Atria One, 144 Morrison Street, Edinburgh, EH3 8EX;
- i) **“MARP”** means the Marine Archaeology Reporting Protocol (Written Scheme of Investigation and Protocol for Archaeological Discoveries) as required under condition 28 of the Section 36 consent (as varied) and condition 3.2.2.22 of the Offshore Transmission Works Marine Licence (06678/19/1);
- j) **“MHWS”** means mean high water spring tide;
- k) **“the Licensing Authority”** means the Scottish Ministers;
- l) **“the Site”** means the area outlined in red and blue in Figure 1 contained in Part 4 of the licence; and
- m) **“the Works”** means the seabed preparation activities, 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 the 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 2010 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.

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 Licensing Authority under section 29(1) of the 2010 Act.

2. **PART 2 – THE WORKS**

2.1 **Title of the Works**

The title of the Works to which this licence relates is 'Seabed Preparation'.

2.2 **Description of the Works**

Seabed preparation works associated with the Neart na Gaoithe Offshore Wind Farm Project ("the Project") to enable safe construction of the Project. The Works include:

- Relocation of boulders from the seabed in the vicinity of the wind turbine locations, offshore substation platform ("OSP") foundations, the inter-array and export cables areas;
- Placement of sand to infill spud can depressions in the vicinity of the wind turbine locations and OSP foundations;
- Placement of gravel, sand and/or cobbles on the seabed at the OSP locations to protect the spud cans of the jack-up barge to be used during construction; and
- Placement of gravel, sand and/or cobbles to infill seabed depressions caused by unexploded ordnance clearance activities in the vicinity of the wind turbine locations and OSP foundations.

As described in the Application.

2.3 **Location of the Works**

Located within the Neart na Gaoithe Offshore Wind Farm and Export Cable Corridor Area and an additional area adjacent to the Export Cable Corridor, east of Fife Ness in the outer Firth of Forth, within the areas described in Table 1 and bound by joining the following points:

55° 57.609' N	2° 23.820' W
55° 57.693' N	2° 23.636' W
55° 57.866' N	2° 22.729' W
56° 00.688' N	2° 22.015' W
56° 00.695' N	2° 23.522' W
56° 02.852' N	2° 23.488' W
56° 02.841' N	2° 21.468' W
56° 14.460' N	2° 18.501' W
56° 15.815' N	2° 20.192' W
56° 20.312' N	2° 16.519' W
56° 12.693' N	2° 16.287' W
56° 17.473' N	2° 20.318' W
56° 19.755' N	2° 17.836' W
56° 20.171' N	2° 14.742' W
56° 12.671' N	2° 09.131' W
56° 15.291' N	2° 09.814' W
56° 14.300' N	2° 18.250' W
55° 57.734' N	2° 22.472' W
55° 57.541' N	2° 23.539' W
55° 57.584' N	2° 23.802' W

The Site area is presented in Figure 1.

Table 1 – Seabed Preparation areas (as described in the Application)

Location	Number of sites/length
Wind turbine sites (300 x 300 m box)	54 wind turbine locations 6 spare wind turbine locations
Anchor zone (300 x 300 m box)	7
Inter-array cable routes	94 km in length, 60 m wide corridor
Interconnector cables	Approximately 3.5 km, 60 m wide corridor
OSP (400 x 400 m box)	2
Offshore export cable corridor including additional area on the western side of the corridor	One 200 m wide corridor or two 100 m corridors

2.4 Nature and indicative quantity of materials to be used in the Works below MHWS:

Materials to be used in construction:

Sand, 15,000 m³

Gravel, 30,500 m³

Cobbles, 37,500 m³

Boulders, approximately 50,000

PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 Compliance with the Application

The Licensee must at all times carry on the Works in accordance with the Licence, the Application, and all information submitted in support of the application.

Reason: To ensure compliance with the application for the marine licence and the information submitted in support of the application, in accordance with s.29(5) of the 2010 Act.

3.1.2 Licence conditions binding other parties

All conditions attached to the 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 the 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 as soon as reasonably practicable, 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 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 prior to their 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)(b) 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 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.*

3.1.7 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 while carrying on the Works 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 the MHWS.

The Licensee must ensure appropriate steps are taken to minimise damage to the foreshore and seabed by the Works.

The Licensee must ensure the best method of practice is used to minimise re-suspension of sediment during these works.

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.

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

3.1.8 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.*

3.1.9 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.*

3.1.10 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 Navigation, lighting and charting requirements

The Licensee must notify the UK Hydrographic Office, prior to the Commencement of the Works, of the progress of the Works and of the Completion of the Works, to facilitate the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system.

The Licensee must issue local notification to marine users (including fisherman's organisations, neighbouring port authorities and other local stakeholders) to ensure that they are made fully aware of the Works.

The Licensee must ensure, prior to the Commencement of the Works, that HM Coastguard, in this case the National Maritime Operations Centre (nmocontroller@hmcg.gov.uk) is made aware 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 ensure that any vessels permitted to engage in the Works are marked in accordance with the International Rules for the Prevention of Collisions at Sea whilst under way, and in accordance with the UK Standard Marking Schedule for Offshore Installations if the vessel is secured to the seabed.

The Licensee must ensure that no radio beacon or radar beacon operating in the marine frequency bands is installed or used on the Works without the prior written approval of the Office of Communications.

The Licensee must ensure that navigable depth is not altered by more than 5% referenced to Chart Datum unless otherwise agreed, in writing, with the Licensing Authority in consultation with the MCA and NLB.

Reason: To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act.

3.2.2 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 the 2010 Act.

3.2.3 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.*

3.2.4 Markings, lighting and signals of the Works and jack up vessels

The Licensee must ensure that the Works are marked and lit in accordance with the requirement of the MCA and NLB and in accordance with the UK Standard Marking Schedule for Offshore Installations.

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

3.2.4 Restriction to the timings of the Works

The Licensee must ensure that the Works located within 2 km of Thorntonloch bathing waters do not take place within the bathing water season from 1 June to 15 September if a plough or mechanical jetting tool is utilised during the Works.

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

3.2.5 Fisheries Liaison Officer

The Licensee must appoint a Fisheries Liaison Officer ("FLO"), to maintain effective communication between any contractors or sub-contractors, fishermen and other users of the sea during the Works and which will ensure compliance with best practice guidelines when doing so.

Reason: *To facilitate engagement with the commercial fishing industry and minimise interference with fishing operations and other users of the sea in accordance with s.29(3)(c) of the 2010 Act.*

3.2.3 Marine Archaeological Reporting Protocol

The Licensee must ensure the Works will not occur within Archaeological Exclusion Zones as identified in the Marine Archaeological Reporting Protocol ("MARP") and any unexpected archaeological features discovered during the Works are addressed following the protocol for archaeological discoveries. The MARP must be adhered to at all times during the Works for all areas of the Works.

Reason: *To ensure any discovery of archaeological interest is properly and correctly reported in accordance with s.29(3)(a) of the 2010 Act.*

3.3 Conditions upon Completion of the Works

3.3.1 Reporting

The Licensee must submit a written report regarding the correct amount of construction materials used during the Works to the Licensing Authority. The written report must be submitted no later than 28 days after the Completion of the Works and must include the location of the deposited materials.

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

3.4.2 Date of Completion of Works

The Licensee must, no later than 14 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) of the 2010 Act.*

4. PART 4 – SITE LOCATION

Figure 1 – Neart na Gaoithe Offshore Wind Farm and Export Cable Corridor Area including an additional area adjacent to the Export Cable Corridor, Firth of Forth

