



## **THE CONSERVATION (NATURAL HABITATS, &c.) REGULATIONS 1994**

### **LICENCE TO DISTURB MARINE SPECIES**

This licence is granted under regulation 44(2)(e) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) by the Scottish Ministers who, after consultation with, and having been advised as to the circumstances in which they should grant such licences by Scottish Natural Heritage are satisfied as regards the purpose for which the licence is granted, (namely, for an imperative reason of public health and safety or overriding public interest including that of a social or economic nature and beneficial consequences of primary importance for the environment); and that (a) there is no other satisfactory alternative and (b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range; and unless revoked by the Scottish Ministers is valid from 01 October 2021 to 31 March 2024 and authorises:

Steven Regan  
Ardersier Port (Scotland) Ltd  
4 Charlotte Street  
Fraserburgh  
Aberdeenshire  
AB43 9JE

Or any person authorised in writing by him

To disturb the European protected species of Bottlenose Dolphin (*Tursiops truncatus*), Harbour Porpoise (*Phocoena phocoena*), Minke Whale (*Balaenoptera acutorostrata*), Common Dolphin (*Deplhinus delphus*), White Sided Dolphin (*Lagenorhynchus acutus*), Humpbacked Whale (*Megaptera novaeangliae*), Killer Whale (*Orcinus orca*), Pilot Whale (*Globicephala melas*) at the site of the Ardersier Port Development, as detailed in the application for a licence to disturb European protected species and supporting documents but only subject to the under-noted conditions:

### **PURPOSE AND CIRCUMSTANCES IN WHICH ACTION IS REQUIRED**

This licence is granted for the purpose of permitting the disturbance of Bottlenose Dolphin (*Tursiops truncatus*), Harbour Porpoise (*Phocoena phocoena*), Minke Whale (*Balaenoptera acutorostrata*), Common Dolphin (*Deplhinus delphus*), White Sided Dolphin (*Lagenorhynchus acutus*), Humpbacked Whale (*Megaptera novaeangliae*), Killer Whale (*Orcinus orca*), Pilot Whale (*Globicephala melas*) at the site of the Ardersier Port Development, for an imperative reason of public health and safety or overriding public

interest including that of a social or economic nature and beneficial consequences of primary importance for the environment in connection with the Ardersier Port Development at the following location.

57° 35.397' N 003° 58.898' W  
57° 35.522' N 004° 01.179' W  
57° 36.750' N 004° 01.047' W  
57° 36.905' N 004° 00.125' W

57° 36.812' N 003° 59.126' W  
57° 36.615' N 003° 58.557' W  
57° 36.678' N 003° 58.568' W  
57° 36.455' N 004° 00.899' W

This licence is granted for permitting disturbance of the above named species as a result of the following activities

- Capital dredging
- Vibro-piling

### **Licence Conditions**

1. The licensee must ensure that all works are carried out in strict accordance with the mitigation and working methods proposed in the application for this licence to disturb European protected species, together with supporting information and all works must be carried out within the timescales given within the application and any subsequent written correspondence between Marine Scotland and the applicant, but subject to the following modifications or amendments made within this licence.
2. The licensee must ensure that all works are carried out in accordance with the approved Construction Environmental Management Document, dated 21 September 2018, and ensure that all mitigation measures relevant to the aforementioned European protected species are fully implemented, subject to the amendments and modifications made within this licence. In the event that the licensee wishes to update or amend any of the protocols in the Construction Environmental Management Document, 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 works associated with the proposed updates or amendments to proceed prior to the granting of such approval.
3. The licensee must adhere to the approved Marine Mammal Protection Plan and Marine Mammal Observation Protocol, included within the Construction Environmental Management Document, dated 21 September 2018 subject to the amendments and modifications made within this licence.
4. In the event of the licensee becoming aware that any of the information on which the issue of this licence was based has changed, the licensing authority must be notified as soon as reasonably practicable.
5. The Licensee must ensure that the Joint Nature Conservation Committee (“JNCC”) 2010 Guidelines for minimising the risk of injury to marine mammals from piling noise is followed at all times in connection with the undertaking of vibro-piling as far as it is

practical to do so. These are available from the JNCC website:

[http://archive.jncc.gov.uk/pdf/jncc\\_guidelines\\_piling%20protocol\\_august%202010.pdf](http://archive.jncc.gov.uk/pdf/jncc_guidelines_piling%20protocol_august%202010.pdf)

6. The licensee must ensure that all visual monitoring of marine mammals is carried out by a Joint Nature Conservation Committee trained Marine Mammal Observer.
7. The licensee must ensure that no piling or dredging activities take place in sea states greater than 3, or during periods of darkness or poor visibility unless a protocol has been agreed in writing with the licensing authority.
8. Except where it is not relevant to the provisions of this licence, the Licensee must ensure that the Scottish Marine Wildlife Watching Code is adhered to at all times.
9. The Licensee must ensure that copies of the licence are available for inspection by any person authorised by the Scottish Ministers at the office of the Licensee and at all sites where licensed activities are taking place.
10. Any person authorised by the Scottish Ministers must be permitted to inspect the operations relating to the licence at any reasonable time. The Licensee must allow appropriate assistance to facilitate inspection.
11. The Licensee must, no later than one month after the expiry date of this licence, submit to Marine Scotland, Planning and Policy, Licensing Operations Team, a written report detailing all actions taken in accordance with the specified terms and conditions of the licence. This report must detail the procedures, visual observations and include the original Marine Mammal Recording Form(s). Any difficulties encountered, or recommendations should also be noted.
12. Should the Licensee proceed to undertake the Licensed Activity under the authority of this licence, the Licensed Activity authorised under the previous EPS licence in favour of Ardersier Port Ltd, dated 04 May 2020 (licence number MS EPS 06/2019/1) is not permitted.

Authorised on behalf of Scottish Ministers

By a member of staff of the Scottish Government

Thomas Inglis

Marine Scotland  
Marine Planning and Policy  
Licensing Operations Team  
375 Victoria Road  
Aberdeen  
AB11 9DB  
01 October 2021

MS EPS-00009480  
Ardersier Port (Scotland) Limited