



MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO DEPOSIT ANY SUBSTANCE OR OBJECT IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00009326**

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

**Montrose Port Authority
Harbour Office
South Quay
Ferryden
DD10 9SL**

to deposit any substance or object as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid from **24 September, 2021** until **23 September, 2022**

Signed:

Thomas Inglis

For and on behalf of the Licensing Authority

Date of issue: 23 September, 2021



1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are as defined in Section 1, 64 and 157 of the Marine Scotland Act 2010, and

- a) "**the 2010 Act**" means the Marine (Scotland) Act 2010;
- b) "**Licensed Activity**" means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
- c) "**Licensee**" means Montrose Port Authority
- d) "**Mean high water springs**" means any area submerged at mean high water spring tide;
- e) "**Commencement of the Licensed Activity**" means the date on which the first vehicle or vessel arrives on the site to begin carrying on any activities in connection with the Licensed Activity;
- f) "**Completion of the Licensed Activity**" means the date on which the Licensed Activity has been installed in full, or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

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

Marine Scotland
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.Marinelicensing@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the licensed activity. The issuing of the 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 the 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 the 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 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 against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Agent

Harris Holden Ltd
11 Furzedown Road
Southampton
SO17 1PN

2.2 Place of production of the substances or objects and location of the Licensed Activity

Montrose Harbour, place of the production of the substances or objects, within an area bounded by joining the points:

56° 42.213'N	002° 28.282'W
56° 42.338'N	002° 28.136'W
56° 42.195'N	002° 27.833'W
56° 42.175'N	002° 27.815'W
56° 42.167'N	002° 27.772'W
56° 42.223'N	002° 26.581'W
56° 42.223'N	002° 25.828'W
56° 42.212'N	002° 25.828'W
56° 42.166'N	002° 25.963'W
56° 42.182'N	002° 26.648'W
56° 42.131'N	002° 27.730'W
56° 42.107'N	002° 27.903'W
56° 42.142'N	002° 28.143'W
56° 42.213'N	002° 28.282'W

As shown in Annex One.

Location of Phase One Licensed Activity: Lunan Bay authorised sea deposit area FO010 as per condition 3.3.8

Location of Phase Two Licensed Activity: To be determined as per Condition 3.1.9

2.3 Description of the Licensed Activity

Phase 1 of the Licensed Activity: Deposit of 27,225 wet tonnes of dredged substances or objects in Lunan Bay designated sea deposit site (FO 010)(56°39.498'N 002°26.502'W) during Phase 1 of the Licensed Activity. Phase 1 of the Licensed Activity consists of deposit of dredge material produced during the first dredging campaign undertaken between 24 September 2021 and 31 December 2021.

Phase 2 of the Licensed Activity: Deposit of 218,775 wet tonnes of dredged substances or objects in accordance with the Best Practicable Environmental Option required by condition 3.1.8 of the licence. Phase 2 of the Licensed Activity consists of deposit of dredge material produced during any dredging campaigns undertaken after the first dredging campaign between 24 September 2021 and 31 December 2021.

As described in the application dated 14 May, 2021 and correspondence submitted in support of the application.

2.4 Descriptions of the substances or objects to be deposited

The licence authorises the deposit of the undernoted substances and objects required in connection with the licensed activity, subject to the maximum amounts as specified below:

Phase 1 of the Licensed Activity - 27,225 wet tonnes
Phase 2 of the Licensed Activity - 218,775 wet tonnes

2.5 Contractor and Vessel Details

As shown in Annex Two

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only deposit the Objects listed in Part 2 of the licence in accordance with the licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.2 All materials, substances and objects used during the execution of the Licensed Activity must be inert and must not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.3 The Licensee must ensure that the Licensed Activity does not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area as described in Part 2 of the Licence.

3.1.4 In the event of any breach of health and safety or environmental obligations relating to the Licensed Activity during the period of the licence, the Licensee must provide written notification of the nature and timing of the incident to the Licensing Authority within 24 hours of the incident occurring. Confirmation of remedial measures taken and/or to be taken to rectify the breach must be provided, in writing, to the Licensing Authority within a period of time to be agreed by the Licensing Authority.

3.1.5 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 the progress and upon completion of the the Licensed Activity. Such notification must include a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

3.1.6 Only those substances or objects described in Part 2 of the Schedule shall be deposited under authority of the licence.

a) 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, shall be disposed of on land at an approved location above the tidal level of Mean High Water Springs.

b) All tank/hopper washings shall be deposited in the authorised sea deposit area(s).

3.1.7 The Licensee must ensure that any beneficial use trials avoid the locations of Dronners Dyke and the crash sites of WWII military aircrafts.

3.1.8 The Licensee must submit a revised Best Practicable Environmental Option ("BPEO") report to the Licensing Authority no later than 31 December 2021 and at least two months prior to the commencement of Phase 2 of the Licensed Activity as described in Part 2 of the licence, or less if agreed by the Licensing Authority. It is not permissible for Phase 2 of the Licensed Activity to commence prior to review and acceptance of the revised BPEO by the Licensing Authority.

3.1.9 The Licensee must submit a proposal for further and more expansive beneficial use trials, building on the findings of the 2020 beneficial use of dredge material trial in Montrose Bay and the combined wave and tidal modelling study completed in 2021, to deliver dredge material to the areas of Montrose Bay where it would benefit the areas of greatest ongoing erosion. The proposal must give full details of the trial, including locations of deposit and amounts of substances to be deposited, and document the method of trial monitoring and reporting. The trial should be designed to support characterisation of a new sea deposit site and detail the monitoring schedule and survey methods, including bathymetric and camera or video surveys, of beneficial use trials sites proposed by the Licensee. The proposal must be submitted to the Licensing Authority for its written approval no later than 31 December 2021 and at least two months prior to the commencement of Phase 2 of the Licensed Activity as described in Part 2 of the licence, or less if agreed by the Licensing Authority. It is not permissible for Phase 2 of the Licensed Activity to commence prior to the approval of the trial proposal. Phase 2 of the Licensed Activity must be carried on in accordance with the approved trial proposal.

3.1.10 Prior to commencement of Phase 2 of the Licensed Activity, the Licensee or an agent acting on behalf of the Licensee must form a local stakeholder liaison group and invite representatives from Angus Council and Montrose Golf Links to join it. The Licensee or an agent acting on behalf of the Licensee must chair meetings to update the members of the group on beneficial use trials required by condition 3.1.9 of the licence. The Licensee or an agent

acting on behalf of the Licensee must chair a local stakeholder liaison meeting every six months following the initial meeting, or at such other time as may be agreed with the members of the group, for the duration of the licence. It is not permissible for Phase 2 of the Licensed Activity to commence prior to the the first local stakeholder liaison group meeting being held.

3.1.11 The Licensee must issue a notification to members of the public prior to commencement of Phase 2 of the Licensed Activity to inform them of any beneficial use trials required under condition 3.1.9 of the licence.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must provide the name and function of any agent, contractor or sub-contractor appointed and vessel used to undertake the Licensed Activity as soon as is reasonably practicable prior to the Licensed Activity commencing.

3.2.2 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 Licensed Activity.

3.2.3 The Licensee must ensure that a dedicated watch is kept by a trained Marine Mammal Observer (“MMO”) or someone following the general guidance for and acting in the role of an MMO. A watch must be undertaken prior to the deposit of dredged substances or objects to ensure no marine mammals are within 500 metres of the deposit activity. If marine mammals are observed within this area then the deposit activity must stop until the area has been clear for at least 20 minutes. A formal log of marine mammal sightings must be maintained whether or not marine mammals are sighted and the completed logs must be returned to the Licensing Authority on Completion of the Licensed Activity. The log must contain the name of person acting in the role of an MMO, time of deposit activity, start and finish times of the observation period, observations of marine mammals and any action taken as a result.

3.2.4 The Licensee must, prior to and no less than seven calendar days before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the date of Commencement of the Licensed Activity authorised under this licence.

3.2.5 The Licensee must ensure that any masters of vessels and vehicle operators and agents, contractors or sub-contractors are aware of the particulars in Part 2 of the licence and the conditions in Part 3 of the licence.

3.3 During the Licensed Activity

3.3.1 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the Licensed Activity.

3.3.2 The Licensee must ensure that copies of the licence are available for inspection by any marine enforcement officer at:

- a) the premises of the Licensee;
- b) the premises of any contractor responsible for the storage, transport or deposit of the substances or objects; and
- c) on board the vessel(s) employed to undertake the Licensed Activity.

3.3.3 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed to undertake the Licensed Activity.

3.3.4 The Licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the Licensed Activity.

3.3.5 Any person authorised by the Licensing Authority must be permitted to inspect the site at any reasonable time.

3.3.6 The Licensee shall ensure that a log of activities is maintained on each vessel employed to undertake the deposit operations. The log(s) shall be kept onboard the vessel(s) throughout the deposit operations, and be available for inspection by any authorised Enforcement Officer. The log(s) shall 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) shall record in English the following information:

- a) the name of the vessel;

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

3.3.7 The Licensee must ensure no Licensed Activities take place within 2km of the designated Montrose Bathing Waters during the bathing season (01 June to 15 September inclusive) without prior approval of the Licensing Authority.

3.3.8 The Licensee must deposit the substances or objects described in Part 2.4 of the licence in accordance with Part 2.3 of the licence. 27,225 wet tonnes of dredged substances or objects can be deposited at the Lunan Bay designated sea deposit site (FO 010) within a circle centered at: 56°39.498'N 002°26.502'W, within a radius of 0.25 nautical miles during Phase 1 of the Licensed Activity

3.4 Upon Completion of the Licensed Activity

3.4.1 If a new licence is required, the Licensee must make an application at least fourteen weeks before the expiry date of the licence. This licence shall not continue in force after the expiry date of 23 September 2022.

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, no later than 14 days following the Completion of the Licensed Activity notify the Licensing Authority, in writing, of the date of the Completion of the Licensed Activity.

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.