

E: MS.MarineRenewables@gov.scot

MARINE (SCOTLAND) ACT 2010

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

Licence Number: **07050/20/0**

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

Seagreen Wind Energy Limited
No.1 Forbury Place
43 Forbury Road
Reading
United Kingdom
RG1 3JH

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;

required in the execution of the Works described in Part 2 of the schedule attached to the licence. The issue of this marine licence is subject to conditions as set out, in Part 3 of the Schedule.

This marine licence provides an alternative landfall installation method to the Horizontal Directional Drilling ("HDD") methodology as described in Marine Licence number: 04678/14/0.

The licence remains in force from **1 October 2020** until **1 October 2021**.

Signed:

Michael Bland

For and on behalf of the Licensing Authority

Date: 24 February 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;

- 1) **“the 2010 Act”** means the Marine (Scotland) Act 2010;
- 2) **“CaP”** means Cable Plan;
- 3) **“CMS”** means Construction Method Statement;
- 4) **“CoP”** means Construction Programme;
- 5) **“DP”** means Decommissioning Programme;
- 6) **“EMP”** means Environmental Management Plan;
- 7) **“HDD”** means Horizontal Directional Drilling;
- 8) **“HDPE pipes”** means High Density Polyethylene Pipes;
- 9) **“HES”** means **Historic Environment Scotland**;
- 10) **“HVDC”** means High Voltage Direct Current;
- 11) **“Licensable Marine Activity/Activities”** means any activity or activities listed in section 21, Item 5 of the 2010 Act;
- 12) **“Licensed Activities”** means any activity or activities authorised under the licence;
- 13) **“Licensee”** means Seagreen Wind Energy Limited (Company Registration Number 6873902) and having its registered office at No.1 Forbury Place, 43 Fobury Road, Reading, United Kingdom, RG13 JH;
- 14) **“LMP”** means Lighting and Marking Plan;
- 15) **“MCA”** means Maritime and Coastguard Agency;
- 16) **“MHWS”** means mean high water spring;
- 17) **“MLWS”** means mean low water spring;
- 18) **“NLB”** means Northern Lighthouse Board;
- 19) **“NSP”** means Navigational Safety Plan;
- 20) **“OMP”** means Operation and Maintenance Programme;
- 21) **“Open Cut Trenching”** means ploughing or mechanical trenching;
- 22) **“PAD”** means Protocol for Archaeological Discoveries;
- 23) **“PEMP”** means Project Environmental Monitoring Programme;
- 24) **“PS”** mean Piling Strategy;
- 25) **“SEPA”** means Scottish Environment Protection Agency;
- 26) **“the Application”** means the marine licence application and supporting environmental information submitted to the Licensing Authority on 24 June 2019;
- 27) **“the Licensing Authority”** means the Scottish Ministers;
- 28) **“the Site”** means the area outlined in red in the figure 1 contained in Part 4 of the licence;
- 29) **“the Works”** means the alternate cable landfall installation, as described in Part 2 of the licence;
- 30) **“UKHO”** means UK Hydrographic Office;
- 31) **“VMP”** means Vessel Management Plan; and
- 32) **“WSI”** means Written Scheme of Investigation.

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

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.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 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 if it appears to the Licensing Authority that there has been a breach of any of its provisions or for any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of 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 a 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:

- (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 the 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 the licence relates is the Alternative Landfall Cable Installation.

2.2. Description of the Works

The preferred export cable installation method at the intertidal area is by HDD, under the coastal defence from above MHWS with ploughing or mechanical trenching across the intertidal area at Carnoustie, north of Buddon Ness (the Site), to meet the offshore works as described under licence number 04678/14/0.

However, should the HDD methodology as described above, be deemed unsuitable, then ploughing or mechanical trenching as described below (herein referred to as “open cut trenching”) at cable landfall may be required. Either HDD or the open cut trenching methodology, may be utilised during installation.

Open cut trenching will be through the rock revetment at the Site, between the original proposed landward entrance points of the HDD (approximately 100 metres above MHWS), continuing through the intertidal and nearshore subtidal zones which will meet the offshore works, down to a depth of 2.5 metres (LAT) (approximately 190 metres below charted MLWS).

The Works will consist of either one single trench accommodating all three cables or three trenches with one cable in each trench.

Up to four HDPE pipes will be installed through the rock revetment. The fourth pipe will be installed to provide a spare should a further cable need to be pulled through at a later date (e.g. in the event of a cable failure), to avoid further removal of, or disturbance to, the rock revetment. All other areas will only have three HDPE pipes installed (e.g. onshore, intertidal and subtidal).

Once the HDPE pipes are installed, the rock revetment will be reinstated using the rock originally removed from the rock revetment. Additional rock may be required to replace rock that has deteriorated.

2.3. Location of the Works

Located at Carnoustie, north of Buddon Ness within the area bounded by joining the points:

56° 29'.20 N : 002° 43'.06 W
56° 29'.35 N : 002° 43'.00 W
56° 29'.45 N : 002° 42'.95 W
56° 29'.56 N : 002° 42'.88 W
56° 29'.61 N : 002° 42'.87 W
56° 29'.63 N : 002° 42'.51 W
56° 29'.07 N : 002° 42'.73 W.

The Site area is presented in Figure 1.

2.4. Nature and indicative quantity of all materials used below MHWS level in the construction, alteration or improvement of the works described in Part 2 of the licence.

Construction Materials

Quantities detailed below are indicative only.

Concrete, 120 tonnes
HDPE Pipes, 1200 metres
Three HVAC Export Cables, each 390 metres
Rock, 6000 metres³

Temporary Construction Materials

Temporary sheet piling required to maintain safe working conditions until the trench work is completed.

3. PART 3 - CONDITIONS

3.1. General Conditions

3.1.1. Compliance with the Application and approved plans and conditions of the Marine Licences.

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

Where any works authorised by marine licence 04678/14/0 have been carried on at the Site, the Licensee must not carry out the Works authorised by the licence without the written approval of the Licensing Authority.

The Licensee must ensure that, where the Works authorised by the licence are carried on as an alternative to nearshore cable laying operations under marine licence number 04678/14/0, that the works authorised by the licence are appropriately covered in the plans submitted under marine licence number 04678/14/0. Such plans are PEMP, EMP, DP, CoP, CMS, VMP, NSP, CaP, OMP, LMP and PS, as required by conditions 3.2.1.1, 3.2.1.2, 3.2.1.7, 3.2.2.3, 3.2.2.4, 3.2.2.8, 3.2.2.9, 3.2.2.10, 3.2.3.2, 3.2.2.14, and 3.2.2.5 of marine licence number 04678/14/0.

Reason: To ensure compliance with: the Application for the marine licence, the supporting environmental information and the marine licence issued on 10 October 2014, 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 the 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 the 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, 14 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 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 the licence has been granted, the activity which is licensed and the terms of the conditions attached to the 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 the licence.

The Licensee must give a copy of the licence, and any subsequent variations made to the 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 its 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 the 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 the 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 the 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 the licence within the time periods specified in the 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 the licence.

The reports must include executive summaries, construction material reports, 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 the 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. 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 the licence.

The Licensee must ensure that any debris or waste material placed below MHWS during the Works are removed from the Site, as soon as is reasonably practicable, for disposal at an approved location above the MHWS.

The Licensee must ensure that all materials used 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 that if oil based drilling muds are utilised they must be contained within a zero discharge system.

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

3.1.9. Availability of the licence for inspection

The Licensee must ensure that copies of the licence and any subsequent amendments or variations are available for inspection at any reasonable time by any person 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.*

3.1.10. 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.*

3.1.11. 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 the 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.*

3.1.12. Removal of Temporary Construction Materials

The Licensee must remove all temporary construction materials utilised during the Works to the satisfaction of the Licensing Authority once the Works are complete. The Licensee must inform the Licencing Authority in writing once the temporary construction materials utilised during the Works have been fully removed unless otherwise agreed, in writing, with the Licensing Authority.

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

3.2. Conditions specific to all phases of the Works

3.2.1. Navigation, Lighting and Charting requirements

The Licensee must, no later than one calendar month prior to Commencement of the Works, notify the UKHO of the proposed Works, the Licensee must also notify the UKHO 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.

The Licensee must, no later than one calendar month prior to the Commencement of the Works, complete an "Application for Statutory Sanction to Alter / Exhibit" form and submit this to the NLB for the necessary sanction to be granted.

The Licensee must not exhibit, alter or discontinue navigational lighting of the Works without the Statutory Sanction of the Commissioners of Northern Lighthouses. An 'Application for Statutory Sanction to Exhibit/Discontinue' form must be completed by the Licensee as fully as possible and returned to the NLB via e-mail to navigation@nlb.org.uk for the necessary sanction to be granted prior to exhibiting, altering or discontinuing navigational lighting.

The Licensee must, no later than one calendar month prior to Commencement of the Works and then on a weekly basis until Completion of the Works, ensure that local mariners, neighbouring port authorities, fishermen's organisations, local stakeholders and HM Coastguard, in this case the National Maritime Operations Centre (nmcccontroller@hmcg.gov.uk), are made fully aware of the Works through local Notice to Mariners or any other appropriate means.

The Licensee must ensure that details of the Works are promulgated in the Kingfisher Fortnightly Bulletin, no later than one calendar month prior to Commencement of the Works and then fortnightly during construction and on Completion 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 in the case of damage to, or destruction or decay of, the Works, notify the Licensing Authority, in writing, as soon as reasonably practicable, following such damage, destruction or decay. The Licensee must carry out any remedial action as required by the Licensing Authority in writing, which may include any requirement to display aids to navigation, following consultation with the MCA, the NLB or any such advisers as required by the Licensing Authority.

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 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 the 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 Licensing Authority informed of any such incidents which may be in the public interest, in accordance with s.29(3)(c) of 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. Restoration of the Site to its original condition

The Licensee must take all reasonable, appropriate and practicable steps to restore the Site to the condition of the site before the Works were undertaken, or to as close to its original condition as is reasonably practicable, before the expiry of the licence. The Licensee must decommission the Works to the satisfaction of the Licensing Authority, in accordance with the DP submitted to satisfy condition 3.2.1.7 of marine licence 04678/14/0. 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.*

3.3. Prior to the commencement of the Works

3.3.1. Protocol for Archaeological Discoveries

The Licensee must, no later than three months prior to the Commencement of the Works, submit in writing, a PAD and a WSI which sets out what the Licensee must do on discovering any marine archaeology during the construction, operation, maintenance and monitoring of the Works, to the Licensing Authority for its written approval. Such approval may be given only following consultation by the Licensing Authority with HES and any such advisors as may be required at the discretion of the Licensing Authority. Commencement of the Works cannot take place until such approval is granted. The Reporting Protocol must be implemented in full, at all times, by the Licensee.

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

3.4. Conditions upon Completion of the Works

3.4.1. Reporting

The Licensee must submit a written report regarding the correct amount of construction and temporary 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.

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

4. PART 4 – Figure 1: The export cable landfall is located at Carnoustie, just north of Buddon Ness to the south.

