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MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO DREDGE AND DEPOSIT ANY SUBSTANCE OR OBJECT WITHIN THE SCOTTISH MARINE AREA

Licence Number: MS-00009478

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

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

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 is subject to the conditions set out in Part 3 of the said schedule and is valid from **01 October 2021** until **19 September 2022**.

Signed: .....

Thomas Inglis

For and on behalf of the licensing authority

Date: 01 October 2021

## **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  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB

Tel: +44 (0) 300 244 5046

Email: [ms.marinelicensing@gov.scot](mailto: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, contractors or sub-contractors acting on behalf of the licensee:

See condition 3.1.1

### 2.3. Name, description, registration number and country of registration of vessel(s) to be employed to undertake the deposits:

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.

### 2.4. Place of production of the substances or objects:

Ardersier Port within the area bounded by joining the following points:

57° 36.455' N	004° 00.899' W	57° 35.656' N	003° 59.151' W
57° 36.412' N	004° 00.841' W	57° 35.949' N	004° 00.135' W
57° 36.231' N	004° 00.628' W	57° 35.926' N	004° 00.161' W
57° 36.184' N	004° 00.555' W	57° 36.031' N	004° 00.512' W
57° 36.165' N	004° 00.542' W	57° 36.038' N	004° 00.595' W
57° 36.147' N	004° 00.552' W	57° 36.081' N	004° 00.703' W
57° 36.125' N	004° 00.511' W	57° 36.154' N	004° 00.782' W
57° 36.112' N	004° 00.462' W	57° 36.262' N	004° 00.874' W
57° 36.094' N	004° 00.198' W	57° 36.345' N	004° 00.955' W
57° 36.086' N	004° 00.143' W	57° 36.436' N	004° 01.038' W
57° 36.037' N	004° 00.065' W	57° 36.455' N	004° 01.052' W
57° 35.730' N	003° 59.076' W		

As shown in Figure 1 of Annex One.

### 2.5. Description and composition of the substances or objects:

Capital dredging as described in application dated 28 September 2018, and correspondence submitted in support of the application. 400,000 wet tonnes to be deposited below Mean High Water Springs as reinstatement to an inner section of the Whiteness Head Spit. The remainder of the dredged material to be deposited above Mean High Water Springs.

### 2.6. Location(s) at which the deposit in the Scottish Marine Area is to be made:

57° 36.055' N	004° 00.116' W
57° 36.075' N	004° 00.038' W
57° 36.051' N	003° 59.848' W

57° 35.974' N 003° 59.683' W  
57° 35.934' N 003° 59.689' W

As shown in Figure 1 of Annex One.

**2.7. Quantity of substances or objects to be dredged:**

4,600,000 wet tonnes

**2.8. Quantity of substances or objects for deposit within the period of validity of the licence:**

400,000 wet tonnes

of capital dredge substances or objects may be deposited between 24 September 2019 and 19 September 2022 below Mean High Water Springs.

### **3. PART 3 – CONDITIONS**

#### **3.1. General conditions**

**3.1.1.** Should the Licensee proceed to undertake the Licensed Activity under the authority of the licence, the Licensed Activity authorised under the previous marine licence in favour of Ardersier Port Limited, dated 24 September 2019 (licence number 06859/19/1) is not permitted.

#### **3.1.2. 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 activities for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence.

#### **3.1.3. Vessels**

The licensee must submit full details of the vessels to be utilised in respect of the activities, 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 activities. 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.

#### **3.1.4. 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 AnnexII, 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 must, 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 measures listed in the Schedule of Mitigation submitted as part of the Construction Environmental Management Document, subject to the amendments and modifications made within this licence and with the exception of the provision of tern rafts unless a valid marine licence is held for the deposit of these tern rafts, are implemented throughout the activities to address significant environmental effects.

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 debris or waste materials placed below MHWS during the activities are removed from the site, as soon as is reasonably practicable, for disposal at a location above MHWS approved (as appropriate) by the Scottish Environment Protection Agency.

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 activities.

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

### **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 activities;
- d) onboard any vessel carrying out activities and
- e) any onshore premises directly associated with the licensed activities.

### **3.1.9. Inspection of the activities**

Any persons authorised by the licensing authority, must be permitted to inspect the activities at any reasonable time.

### **3.1.10. Sediment Transport Monitoring Plan**

The licensee must ensure that the Sediment Transport Monitoring Plan, dated 21 September 2018, is fully implemented. In the event that the licensee wishes to update or amend any of the protocols in the Sediment Transport Monitoring Plan, 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 activities associated with the proposed updates or amendments to proceed prior to the granting of such approval. If any effects on sediment processes are identified through monitoring a proposal for mitigation must be submitted for approval by the licensing authority. The licensee is responsible for carrying out any mitigation as directed by the licensing authority.

### **3.2. Prior to commencement of the activities**

- 3.2.1. The licensee must, no later than 7 days prior to commencement of the activities, notify the licensing authority of the proposed start date of the activities.
- 3.2.2. The licensee must issue marine safety information as considered appropriate prior to the commencement of dredging activities.
- 3.2.3. The licensee must ensure that HM Coastguard, in this case [nmoccocontroller@hmcg.gov.uk](mailto:nmoccocontroller@hmcg.gov.uk), The National Maritime Operations Centre, is made aware of the activities prior to commencement.
- 3.2.4. The licensee must ensure that no stockpiling or other deposit activities occur prior to the completion of the construction of the permanent dredge spoil storage bund, constructed above MHWS in accordance with drawing 670191-018, shown in Figure 2 of Annex One.

### **3.3. During the activities**

- 3.3.1. The licensee must ensure that no dredging activities take place between 1 October and 31 March inclusive each year.
- 3.3.2. The licensee must ensure that a minimum distance of 50m is maintained between the designated seal haul-out site and any dredging activities between 1 June and 31 August inclusive each year.
- 3.3.3. The licensee must ensure that all activities are carried out in accordance with the approved Construction Environmental Management Document, dated 21 September



2018, and ensure that all mitigation measures listed are fully implemented, subject to the amendments and modifications made within this licence and with the exception of the provision of tern rafts unless a valid marine licence is held for the deposit of these tern rafts. 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 activities associated with the proposed updates or amendments to proceed prior to the granting of such approval.

- 3.3.4.** 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.
- 3.3.5.** The licensee must ensure that no 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 to protect the bottlenose dolphin feature of the Moray Firth Special Area of Conservation.
- 3.3.6.** The licensee must ensure that all visual monitoring of marine mammals is carried out by a Joint Nature Conservation Committee trained Marine Mammal Observer.
- 3.3.7.** The licensee must ensure that any dredged material for storage is placed in the area shown on drawing 670191-018, shown in Figure 2 of Annex One.
- 3.3.8.** The licensee must ensure that the stockpile of dredge material remains separate from the permanent dredge spoil storage bund to ensure that the stockpiled material can be removed without affecting the integrity of the bund.
- 3.3.9.** 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, must be disposed of on land at an approved location above the tidal level of Mean High Water Springs.
  - b) All tank/hopper washings must be deposited in the authorised deposit area(s).
- 3.3.10.** The method of deposit must be:

#### BENEFICIAL PLACEMENT

- 3.3.11.** The licensee must ensure that a log of operations is maintained on each vessel employed to undertake the deposit activity. The log(s) must be kept onboard the vessel(s) throughout the deposit activity, and be available for inspection by any authorised Enforcement Officer. 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 deposit;
- c) the date and time of departure from port, and the date and time of arrival at the deposit area(s), on each occasion that the vessel proceeds to the deposit area(s);
- d) the date, time and position of commencement, and the date, time and position of completion, of each deposit;
- e) the course(s) and speed(s) throughout each deposit. (Multiple changes may be recorded as "various");
- f) the weather, including wind strength and direction, sea-state and tidal set throughout each deposit;
- g) the rate of discharge during each deposit, if appropriate, and the duration of each deposit. (If the rate of discharge is not constant, the maximum and mean rates of discharge must be indicated);
- h) comments on the deposit activity, including any explanations for delays in the deposit;
- i) the signature of the Master at the foot of each page of the record.

**3.3.12.** 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.

#### **3.4. On completion of the activities**

**3.4.1.** The licensee must, within 7 days of completion of the activities, notify the licensing authority of the date of completion of the activities.

**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 disposed of 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 activities, supply Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (email: [sdr@ukho.gov.uk](mailto: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).
5. All correspondence or communications relating to the licence should be addressed to:

Licensing Operations Team  
Marine Scotland  
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375 Victoria Road  
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Annex One – Indicative plan showing the location of the licensed activities

**Figure 1: Areas to be dredged, area of the spit to be reinstated (area marked in red) and the temporary dredge spoil storage location (hatched black area).**

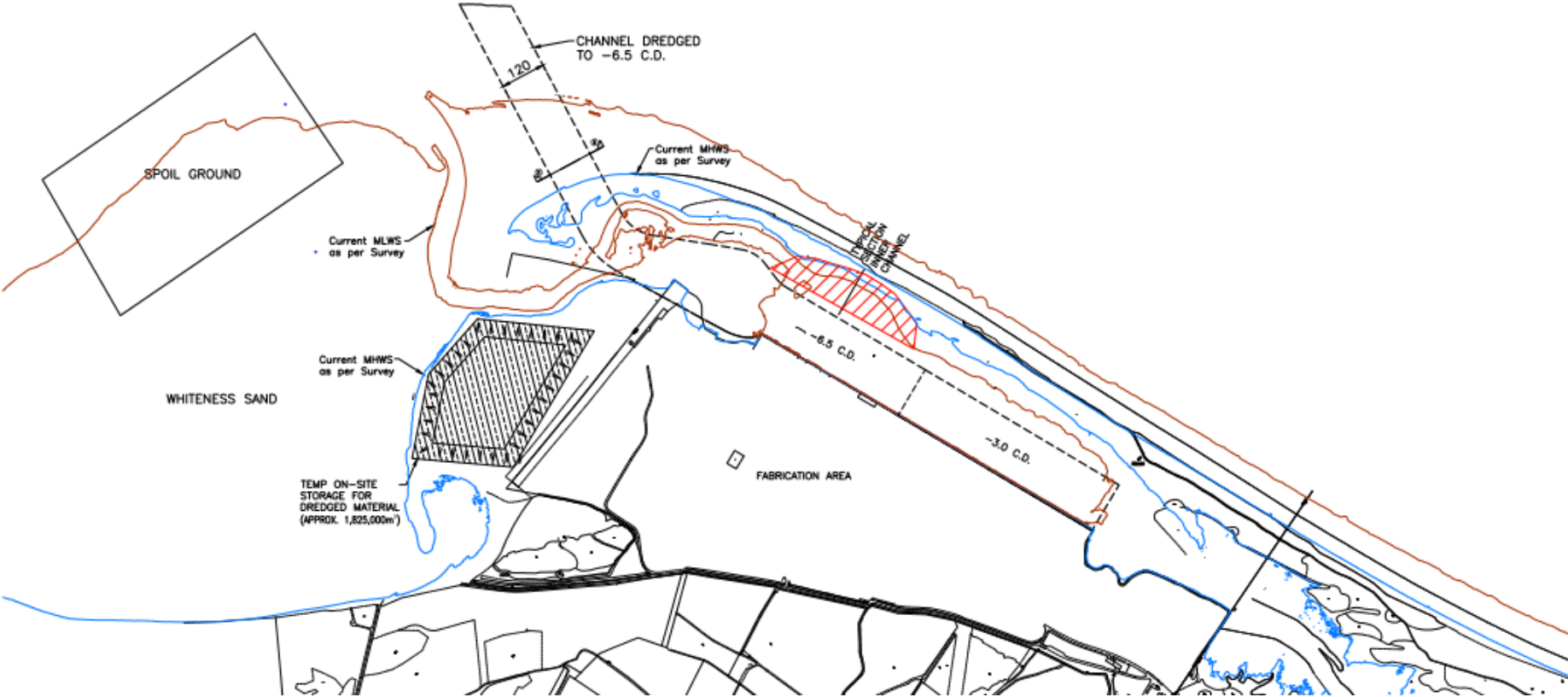


Figure 2: Land storage area bund (Applicant drawing reference number 670191-018)

