

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CARRY OUT ANY FORM OF DREDGING IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00009793**

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

**Port Edgar Marina Ltd
The Bosun's Locker
Port Edgar Marina
Shore Road
EH30 9SQ**

to carry out any form of dredging 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 **10 September, 2022** until **09 September, 2025**

Signed:

Thomas Inglis

For and on behalf of the Licensing Authority

Date of issue: 09 September, 2022

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 Port Edgar Marina Ltd
- 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

Fairhurst
Etive House,
Beechwood Business Park,
Inverness
IV2 3BW

2.2 Location of the Licensed Activity

Port Edgar Marina, Dredged Area

Dredge Area A

55° 59.690 'N 03° 24.835 'W

55° 59.681 'N 03° 24.760 'W

55° 59.577 'N 03° 24.834 'W

55° 59.580 'N 03° 24.857 'W

Dredge Site B

55° 59.627 'N 03° 24.697 'W

55° 59.750 'N 03° 24.772 'W

55° 59.781 'N 03° 24.611 'W

55° 59.694 'N 03° 24.558 'W

55° 59.695 'N 03° 24.543 'W

55° 59.655 'N 03° 24.543 'W

2.3 Description of the Licensed Activity

Plough dredging

As described in the application dated 29 March, 2022 and correspondence submitted in support of the application.

2.4 Descriptions of the materials to be dredged

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

Permitted dredging quantity:

10 September 2022 to 09 September 2023 - 20,000 Wet tonnes

10 September 2023 to 09 September 2024 - 20,000 Wet tonnes

10 September 2024 to 09 September 2025 - 20,000 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 Substances or 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. Only those substances or objects described in Part 2 of the Schedule shall be deposited under authority of the licence. 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. All tank/hopper washings shall be deposited in the authorised sea deposit area(s).

3.1.2 All substances 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 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.

3.1.4 The Licensee must ensure that all the dredge material, up to a maximum of 60,000 wet tonnes during the period of validity of this licence, is ploughed to the area within a 50 metre radius of the following point:
55° 59.848' N 003° 24.630' W.

3.1.5 The Licensee must ensure that the Licensed Activity is only carried out at the location of the Licensed Activity specified in Part 2 of the licence.

3.1.6 Only the Substances or Objects listed in Part 2 of the licence may be deposited during the execution of the Licensed Activity.

3.1.7 The Licensee must ensure that all licensed activities take place within the period from April to September (inclusive).

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 contact the local statutory harbour authority, in this case Forth Ports Ltd, prior to Commencement of the Licensed Activity to discuss the requirements for navigational warnings and a works licence.

3.2.3 The Licensee must as early as is reasonably practicable prior to Commencement of the Licensed Activity notify the Licensing Authority, in writing, of the date of Commencement of the Licensed Activity authorised under 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 any debris or waste materials arising during the course of the Licensed Activity are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.3.3 The Licensee must ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:

- a) the premises of the Licensee;
- b) the premises of any agent acting on behalf of the Licensee; and
- c) the site of the Licensed Activity.

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

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

3.3.6 The Licensee must ensure that the Licensed Activity is undertaken in line with the Port Edgar Marina Biosecurity Management Plan.

3.3.7. The Licensee must ensure that the Licensed Activity is undertaken in line with the Protocol for Archaeological Discovery and Written Scheme of Investigation (AOC 25472) dated 22 February 2021.

3.4 Upon Completion of the Licensed Activity

3.4.1 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.

3.4.2 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 09 September 2025.

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.