

MARINE SCOTLAND ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CARRY OUT ANY FORM OF DREDGING AND DEPOSIT ANY SUBSTANCE OR OBJECT IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00009159**

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

**Elgin & Lossiemouth Harbour Co.
Marina Office
Shore Street
Lossiemouth
IV31 6PB**

to carry out any form of dredging and 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 **16 March, 2021** until **31 May, 2021**

Signed:

Stef Sweeting

For and on behalf of the Licensing Authority

Date of issue 25 February, 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 Elgin & Lossiemouth Harbour Co.
- 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

as per Licensee

2.2 Location of the Licensed Activity

Lossiemouth Harbour, Lossiemouth, with the boundary of;

57° 43.480' N 003° 16.980' W

57° 43.470' N 003° 16.860' W

57° 43.460' N 003° 16.990' W

57° 43.440' N 003° 16.860' W

57° 43.420' N 003° 16.760' W

57° 43.330' N 003° 16.790' W

57° 43.320' N 003° 16.760' W

57° 43.420' N 003° 16.710' W

57° 43.420' N 003° 16.670' W

57° 43.430' N 003° 16.660' W

2.3 Description of the Licensed Activity

Maintenance dredging of Lossiemouth harbour. Suspension dredging through extraction of sediment via suction pump and transition to sea for natural dispersion.

As described in application dated 28 July, 2017 and correspondence submitted in support of the application.

2.4 Descriptions of the materials to be dredged and substances or objects to be deposited

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

600 tonnes of maintenance dredgings may be deposited between 08 December 2019 and 15 March 2021.

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Less any materials already deposited under authority of Licence Number 06507/17/0, 06507/18/0 and MS-00009049.

2.5 Contractor and Vessel Details

Contractor as per Licensee. Floatation device with pump and hush-pack power supply to undertake the dredging and sea deposit, in place of a vessel.

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1. The Licensee must notify the Licensing Authority of the date of commencement and the date of completion of all operations relating to the licence. Separate notifications are required at the times of commencement and completion.

3.1.2. The Licensee must deposit the substances or objects described in Part 2 of the Schedule at the following point(s):

57° 43.420' N 003° 16.680' W

57° 43.460' N 003° 16.830' W

57° 43.480' N 003° 16.040' W

57° 43.480' N 003° 16.810' W

"Force majeure" may apply when, due to stress of weather or any other cause, it is necessary to deposit the substances or objects at a location other than that specified above because the safety of human life, or a vessel or vehicle, is threatened. If substances or objects are deposited in an unauthorised area, full details of the circumstances must be immediately notified to the Licensing Authority.

3.1.3. 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 disposal, 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 area(s).

3.1.4. The method of beneficial placement must be:

Pumped Discharge

3.1.5. Should the Licensee proceed to undertake the Licensed Activity under the authority of this licence, the Licensed Activity authorised under the previous marine licence in favour of Elgin and Lossiemouth Harbour Co., dated 30 May 2018 (licence numbers MS-00009049) is not permitted.

3.1.6. The Licensee must ensure that a log of operations is maintained. The log(s) must be kept throughout the licensed operations, 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 nature and quantity of each substance or object removed for beneficial placement;
- b) the weather, including wind strength and direction, sea-state and tidal set throughout each licensed operation;
- c) the rate of discharge during each licensed operation, if appropriate, and the duration of each licensed operation. (If the rate of discharge is not constant, the maximum and mean rates of discharge should be indicated);
- d) comments on the licensed operations, including any explanations for delays in the licensed operations; and
- e) the signature of the responsible person at the foot of each page of the record.

3.1.7. 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 both progress and on completion of the works supply a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

3.1.8. 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.

3.1.9. If in the opinion of the Licensing Authority the assistance of a Government Department, including the broadcast of navigational warnings, is required to deal with any emergency arising from:

- a) The failure to mark and light the works as required by licence.
- b) The maintenance of the works.
- c) The drifting or wreck of the works.

The owner of the works shall be liable for any expenses incurred in securing such assistance.

3.1.10. In the event of the licensed operations being discontinued the works must be removed and the site cleared to the satisfaction of the Licensing Authority.

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

3.1.12. In the event of the licensee becoming aware that any of the information on which the issue of the licence was based has changed, the Licensing Authority must be immediately notified of the details.

3.2 Prior to the commencement of the Licensed Activity

3.2.1. The Licensee must issue a Notice to Mariners in advance of the proposed start date, clearly stating the nature and duration of these operations.

3.3 During the Licensed Activity

3.3.1. The Licensee must ensure that copies of the licence and all other relevant documents are available for inspection by any authorised Enforcement Officer at:

- a) the premises of the licensee;
- b) the premises of the producer of the substances or objects for deposit, and the premises of any contractor responsible for the storage, transport or deposit of the substances or objects; and
- c) at the site of the operations.

3.3.2. All floating plant in attendance during these operations must exhibit the required lights/shapes at all times, in accordance with the International Regulations for the Prevention of Collisions at Sea.

3.3.3. The Licensee must ensure that the works are maintained at all times in good repair.

3.3.4. The Licensee must ensure that no dredging takes place within 2km of the designated Lossiemouth (East) Bathing Water during bathing season (1 June to 15 September each calendar year) without the prior written approval of the Licensing Authority.

3.3.5. The Licensee must ensure, if they wish to dredge during the bathing season, any request for approval includes, but is not limited to:

- a) an explanation of why the proposed dredging must take place during bathing season;
- b) a plan detailing how MS-LOT and SEPA will be notified at the start and completion of the proposed dredging activity; and
- c) a method statement indicating the location, type and amount of material to be dredged, dredging technique to be used and any proposed mitigation measures.

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 for beneficial placement 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.

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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.