

MARINE AND COASTAL ACCESS ACT 2009, PART 4 MARINE LICENSING

LICENCE TO DEPOSIT OR USE ANY EXPLOSIVE SUBSTANCE OR ARTICLE IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00009502**

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

Seagreen Wind Energy Limited
1 Waterloo Street
Glasgow
G2 6AY

to deposit or use any explosive substance or article 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 **31 October, 2021**

Signed:

Rebecca Bamlett

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 Section 115 of the Marine and Coast Access Act 2009 unless otherwise stated, and,

- a) "**the 2009 Act**" means the Marine and Coastal Access Act 2009
- b) "**Licensed Activity**" means any activity or activities listed in section 66 of the 2009 Act which is, or are authorised under the licence;
- c) "**Licensee**" means Seagreen Wind Energy Limited
- 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 72(1) of the 2009 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 71(2) or (3) of the 2009 Act.

Under section 71(7) of the 2009 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 85 of the 2009 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 86 of the 2009 Act, it is a defence for a person charged with an offence under section 85(1) of the 2009 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, and
that the person took steps within a reasonable time to inform the Licensing Authority of the matters set out in section 86(2) of the 2009 Act.

1.7 Offences relating to information

Under section 85 of the 2009 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 2009 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 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

2.2 Location of the Licensed Activity

Seagreen Alpha and Bravo Wind Farm Site,

56° 39.317' N 01° 36.884' W
56° 37.913' N 01° 36.151' W
56° 38.053' N 01° 35.476' W
56° 39.923' N 01° 34.627' W
56° 31.903' N 01° 29.311' W
56° 31.724' N 01° 33.882' W
56° 32.983' N 01° 34.195' W
56° 33.329' N 01° 34.059' W
56° 33.383' N 01° 35.298' W
56° 33.051' N 01° 35.583' W
56° 31.666' N 01° 35.352' W
56° 30.923' N 01° 53.541' W
56° 30.803' N 01° 56.378' W
56° 40.653' N 01° 56.226' W
56° 40.648' N 01° 52.170' W
56° 39.846' N 01° 52.194' W
56° 39.836' N 01° 51.101' W
56° 39.417' N 01° 51.114' W
56° 38.138' N 01° 46.249' W
56° 38.383' N 01° 45.181' W
56° 39.512' N 01° 44.928' W
56° 40.157' N 01° 45.487' W
56° 40.630' N 01° 43.839' W
56° 40.606' N 01° 36.151' W
56° 39.729' N 01° 36.650' W
56° 39.317' N 01° 36.884' W

As shown in Annex One.

2.3 Description of the Licensed Activity

The clearance of up to a maximum of 20 UXO targets within the Seagreen Alpha and Seagreen Bravo Offshore Wind Farm site.

As described in the application dated 30 March, 2021 and correspondence submitted in support of the application.

2.4 Descriptions of the explosive substance or article

The licence authorises the deposit or use of the undernoted explosive substance or article required in connection with the licensed activity, subject to the maximum amounts as specified below:

Explosive substances or articles to be deposited

- 40 no. of 750g size donor charges (Hydra low yield system)
- 5 no. of up to 80g donor charge size (low-order clearance approach)
- 5 no. of up to 3.5kg donor charge (high order clearance approach)
- 20 no of up to 200g soft-start charges (low order or high order approach)

Explosive substances or articles to be used

- 20 no. of UXO targets up to 500kg weight, 40 no. of 750g size donor charges (as referred to above), 5 no. of up to 80g donor charge size (as referred to above), 5 no. of up to 3.5kg donor charge (as referred to above), 20 no. of up to 200g soft-start charges (as referred to above)

2.5 Contractor and Vessel Details

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must at all times deposit and use substances or articles in accordance with the licence and the application and supporting information provided to the Licensing Authority.

3.1.2 The Licensee must ensure that the Licensed Activity is carried out in strict accordance with the Seagreen Alpha and Bravo Site UXO, boulder and debris clearance – Marine Licence Application Supporting Environmental Information (document reference: LF000009-CST-OF-LIC-REP-0005) (Revision 3) dated 16 June 2021 but subject to the conditions of this licence.

3.1.3 The Licensee must ensure that only the substances or articles listed in Part 2 of the licence are used during the execution of the Licensed Activities.

3.1.4 In the event of any breach of health and safety or environmental obligations relating to the Licensed Activities 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 ensure that prior to its engagement in the Licensed Activity, the name and function of any vessel, agent, contractor or subcontractor appointed to engage in the Licensed Activity and, where applicable, the master's name, vessel type, vessel International Maritime Organisation number and vessel owner or operating company are provided to the Licensing Authority.

3.1.6 The Licensee must ensure that the Licensing Authority is notified of any changes to the supplied details in condition 3.1.4 in writing, prior to any vessel, agent, contractor or sub-contractor which has not yet been notified to the Licensing Authority engaging in the Licensed Activity.

3.1.7 Only those vessels, agents, contractors or sub-contractors notified to the Licensing Authority are permitted to carry out any part of the Licensed Activity.

3.1.8 All masters of vessels or vehicle operators, agents, contractors and sub-contractors permitted to engage in the Licensed Activity must abide by the conditions of this licence.

3.1.9 The Licensee must, where any information upon which the granting of this licence was based has after the granting of this licence altered in any material respect, notify the Licensing Authority of this fact, in writing, as soon as reasonably practicable.

3.1.10 The Licensee must carry out noise monitoring of each UXO clearance event (including low yield, low order and high order techniques) in line with National Physical Laboratory guidance. The Licensee must ensure that monitoring of the noise generated by the Licensed Activity is recorded in a manner suitable to provide for clear reports on underwater noise to be submitted to the Licensing Authority within 28 days of the Completion of the Licensed Activities.

3.1.11 The Licensee must ensure that a copy of the licence is given to each contractor employed to undertake the

Licensed Activity. 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) on board any vessels permitted to engage in the Licensed Activity.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must complete and submit a proposed activity form in the online Marine Noise Registry for any part of the Licensed Activity that will produce loud, low to medium frequency (10Hz-10kHz) impulsive noise no later than 7 days prior to Commencement of the Licensed Activities. If any aspects of the Licensed Activities differ from the proposed activity form in the online Marine Noise Registry, the Licensee must complete and submit a new proposed activity form no later than 7 days prior to Commencement of the Licensed Activity.

3.2.2 The Licensee must, prior to and no less than 24 hours before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the date of Commencement of the Licensed Activities authorised under the licence.

3.2.3 The Licensee must notify the HM Coastguard, in this case zone4@hmcg.gov.uk, 7 days prior to the Commencement of the Licensed Activity and include emergency contact information for the vessel and the expected timescale of the Licensed Activities. The Licensing Authority must be sent a copy of this notification within 5 days of issue. Verbal communication should be made directly with the HM Coastguard at the Commencement of the Licensed Activity and again to notify the Completion of the Licensed Activity. This can be established either using the appropriate radio channels/frequencies or via telephone on 01224 592 334.

3.2.4 The Licensee must issue local notification to marine users including fisherman's organisations, relevant authorities and other local stakeholders at least 5 days prior to Commencement of the Licensed Activity to ensure that they are made fully aware of the Licensed Activity.

3.2.5 The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate during all Licensed Activity authorised under this licence.

3.2.6 The Licensee must notify the UK Hydrographic Office at least 5 days prior to the Commencement of the Licensed Activity to permit the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system.

3.3 During the Licensed Activity

3.3.1 The Licensee must ensure that any debris or waste materials arising during the course of the Licensed Activities are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.3.2 The Licensee must ensure that, where any UXO encountered exceeds 300kg, this is left in situ with no clearance to take place, until an appropriate protocol for disposal has been approved, in writing, by the Licensing Authority in consultation with NatureScot and any other advisors as required.

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

3.3.4 The Licensee must ensure appropriate steps are taken to minimise damage to the seabed by 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 issue local notification to marine users including fisherman's organisations, relevant authorities and other local stakeholders on a weekly basis of the progress of the Licensed Activity through local Notice to Mariners or any other appropriate means.

3.3.7 The Licensee must ensure that low yield techniques for UXO clearance are used only when it is not possible to avoid or relocate the UXO.

3.3.8 The Licensee must ensure that low order techniques for UXO clearance are used only when it is not possible to undertake UXO clearance using low yield techniques. All possible opportunities to undertake clearance using low yield techniques must have failed before use of low order techniques.

3.3.9 The Licensee must ensure that high order detonation techniques for UXO clearance are used only when it is not possible to undertake UXO clearance using low-yield or low-order techniques. All possible opportunities to undertake clearance using low order and low yield techniques must have failed before use of high order detonation techniques.

3.4 Upon Completion of the Licensed Activity

3.4.1 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.

3.4.2 The Licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable, following the completion of the Licensed Activity.

3.4.3 The Licensee must complete and submit a Close-out Report for all aspects of the Licensed Activity that produced loud, low to medium frequency (10Hz-10kHz) impulsive noise in the online Marine Noise Registry no later than 12 weeks from the Completion of the Licensed Activity.

3.4.4 The Licensee must submit a written report regarding the deposit and use of the licensed substances and/or articles to the Licensing Authority no later than 28 days following the Completion of the Licensed Activity. The report must confirm the nature and quantity of all objects cleared, removed or disposed of during the Licensed Activities and the date and location of each UXO that has been detonated. The report must also confirm the method used to remove each UXO, the considerations made and justification for selecting the method used to remove each UXO including, as appropriate, the failure of other methods, and the details of the amount and type of explosive substance or article utilised for the UXO clearance.

3.4.5 The Licensee must provide the Licensing Authority with the Marine Mammal Observers' records no later than 28 days following Completion of the Licensed Activity.

3.4.6 The Licensee must notify the UK Hydrographic Office of the positions of any relocated UXO to permit the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system.

3.4.7 The Licensee must undertake an 'As-Left' survey following the use of clearance techniques on UXO to confirm if the targets have been completely disrupted, disintegrated and neutralised.

3.4.8 The Licensee must provide a report based on the noise monitoring to the Licensing Authority no later than 28 days following Completion of the Licensed Activity. This report must clearly detail the underwater noise levels generated by the Licensed Activity.

3.4.9 Following each clearance event, the Licensee must carry out a search of 500m radius of the clearance event for at least 15 minutes for any affected or distressed marine mammal, fish or seabird.

3.4.10 The Licensee must notify the Licensing Authority of any visibly affected or dead fish marine mammal or seabird within 24 hours of sighting, or any other evidence that injured or dead fish are present, for example from the presence of foraging seabirds.

3.4.11 The Licensee must recover any dead fish resulting from the Licensed Activity, where safe to do so. The Licensee must examine such recovered fish and document any findings in a report (including identification of species, measurements and photographs) and provide this to the Licensing Authority no later than 28 days following Completion of the Licensed Activity.

3.4.12 The Licensee must ensure that the new location of any large obstacles that may impede safe fishing activity or may cause damage to gear is promulgated to local fishers through the appropriate channels, including the Kingfisher Fortnightly Bulletin, Commercial Fisheries Working Group, Fisheries Liaison Officers and Fisheries Industry Representatives as soon as is reasonably practicable.

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.