

T: +44 (0)300 244 5046  
E: ms.marinelicensing@gov.scot

## THE CONSERVATION (NATURAL HABITATS, &c.) REGULATIONS 1994 (AS AMENDED)

### LICENCE TO DISTURB MARINE SPECIES

This licence is granted under regulation 44(2) (e) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) by the Scottish Ministers who, after consultation with, and having been advised as to the circumstances in which they should grant such licences by Scottish Natural Heritage are satisfied as regards the purpose for which the licence is granted, (namely, for an imperative reason of overriding public interest including that of a social or economic nature and beneficial consequences of primary importance for the environment); and that (a) there is no satisfactory alternative and (b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range; and unless revoked by the Scottish Ministers is valid from 15 October 2018 to 27 February 2020 and authorises:

Dragados UK Ltd  
AHEP Project Office  
St Fitticks Road  
Nigg Bay  
Aberdeen  
AB11 8TN

Or any person authorised in writing by Dragados UK Ltd to disturb the European protected species of harbour porpoise (*Phocoena phocoena*), bottlenose dolphin (*Tursiops truncatus*), white-beaked dolphin (*Lagenorhynchus albirostris*), risso's dolphin (*Grampus griseus*) and minke whale (*Balaenoptera acutorostrata*) at Nigg Bay, Aberdeen, as detailed in the application for a licence to disturb European protected species and supporting documents but only subject to the under-noted conditions:

### PURPOSE AND CIRCUMSTANCES IN WHICH ACTION IS REQUIRED

This licence is granted for the purpose of permitting the disturbance of harbour porpoise (*Phocoena phocoena*), bottlenose dolphin (*Tursiops truncatus*), white-beaked dolphin (*Lagenorhynchus albirostris*), risso's dolphin (*Grampus griseus*) and minke whale (*Balaenoptera acutorostrata*) at Nigg Bay, Aberdeen for an imperative reason of overriding public interest including that of a social or economic nature and beneficial consequences of primary importance for the environment in connection with the Aberdeen Harbour Expansion Project (AHEP) within the following areas:

a) Nigg Bay area bounded by joining the following points:

57° 08.283' N, 002° 02.834' W  
57° 08.264' N, 002° 02.924' W  
57° 08.142' N, 002° 03.439' W  
57° 08.084' N, 002° 03.488' W  
57° 07.940' N, 002° 03.506' W  
57° 07.791' N, 002° 02.939' W  
57° 07.695' N, 002° 02.927' W  
57° 07.928' N, 002° 02.374' W

with the Mean High Water Springs mark between 57° 08.283' N, 002° 02.834' W and 57° 07.695' N, 002° 02.927' W,

b) The deposit area within the circle area centred at:

57° 07.000' N, 002° 00.00' W with a radius of 0.25 nautical miles, and

c) Vessel tracks used for the transport and deposit of dredge spoil between areas a and b.

This licence is granted for permitting disturbance of the above named species as a result of the following activities:

- Dredging, acoustic deterrent device use, vessel movements, use of a drum cutter, drilling and blasting activities relative thereto.

## Licence Conditions

1. The licensee must ensure that all works are carried out in strict accordance with the mitigation and working methods proposed in the application for this licence to disturb European protected species, together with *Supplementary Information for the Application for a EPS Licence* dated 12 October 2018 and the current and approved CEMD, and all licensed activities must be carried out within the timescale given in the application and any subsequent written correspondence between the Scottish Ministers and the licensee, but subject to the modifications or amendments made within this licence.
2. The licensee must co-ordinate with Kincardine Offshore Wind Limited and Aberdeen Offshore Wind Farm Limited to ensure that the licensed activities do not occur on the same day as any noisy activities undertaken as part of the Kincardine Offshore Windfarm and the European Offshore Wind deployment Centre developments. The licensee must ensure that the Scottish Ministers are included in any correspondence between the licensee and Kincardine Offshore Wind Limited in relation to this condition. The licensee must ensure that the Scottish Ministers are included in any correspondence between the licensee and Aberdeen Offshore Wind Farm Limited in relation to this condition.



3. In the event of the licensee becoming aware that any of the information on which the issue of this licence was based has changed, the Scottish Ministers must be notified as soon as reasonably practicable.
4. The licensee must ensure that, if any aspects of the licensed activities differ from the detail submitted in the online Marine Noise Registry, a new Proposed Activity Form is completed and submitted no later than seven days prior to commencement of the licensed activities.
5. The licensee must ensure that the JNCC guidelines for minimising the risk of injury to marine mammals from using explosives and from piling noise, both dated August 2010 ("JNCC Guidance") are followed at all times in connection with the undertaking of such activities. These are available from the JNCC website [http://jncc.defra.gov.uk/pdf/JNCC\\_Guidelines\\_Explosives%20Guidelines\\_August%202010.pdf](http://jncc.defra.gov.uk/pdf/JNCC_Guidelines_Explosives%20Guidelines_August%202010.pdf) and [http://jncc.defra.gov.uk/pdf/JNCC\\_Guidelines\\_Piling%20protocol\\_August%20202010.pdf](http://jncc.defra.gov.uk/pdf/JNCC_Guidelines_Piling%20protocol_August%20202010.pdf). The JNCC guidelines require the use of Marine Mammal Observers ("MMO"s) and Passive Acoustic Monitoring ("PAM") operatives to implement the requirements of these guidelines.
6. The licensee must ensure that prior to the drilling, blasting and marine rotary piling operations, the MMO and PAM operator jointly make sure no marine mammals are present prior to any activities. This includes a 30 minute watch period for marine mammals during which the MMO and PAM operator will notify the construction team if any animals are spotted. The construction team must make a final check with the MMO and PAM operator that no marine mammals are present.
7. During blasting activities, the licensee must ensure noise mitigation measures (bubble curtains) are activated after instruction of the Blast Master.
8. The licensee must ensure that written reports are provided to the licensing authority detailing when acoustic deterrent devices have been in operation, the efficiency of the acoustic deterrent devices and the effect that this had on the seals behaviour during and after use. The reports must be provided every two weeks.
9. Except where it is not relevant to the provisions of this licence, the licensee must ensure that the Scottish Marine Wildlife Watching Code is adhered to at all times.
10. The licensee must ensure that copies of the licence are available for inspection by any person authorised by the Scottish Ministers at the office of the licensee and at all sites where licensed activities are taking place.
11. Any person authorised by the Scottish Ministers must be permitted to inspect the operations relating to the licence at any reasonable time. The licensee must allow appropriate assistance to facilitate the inspection.
12. The licensee must, no later than one month after the expiry date of this licence, submit to the Scottish Ministers, a written report detailing all actions taken in accordance with the specified terms and conditions of this licence. This report must detail the procedures, visual observations and include the original Marine Mammal Recording Form(s). Any difficulties encountered, or recommendations should also be noted.
13. The licensee must, no later than 12 weeks after completion of the licensed activities complete and submit a Close-out Report in the online Marine Noise Registry. This is available from the JNCC website <https://mnr.jncc.gov.uk/>.

Authorised on behalf of Scottish Ministers  
By a member of staff of the Scottish Government

Redacted

Marine Scotland  
Marine Planning and Policy  
Licensing Operations Team  
375 Victoria Road  
Aberdeen  
AB11 9DB

15 October 2018