

MARINE (SCOTLAND) ACT 2010

**LICENCE FOR MARINE RENEWABLES CONSTRUCTION WORKS AND DEPOSITS OF
SUBSTANCES OR OBJECTS IN THE SCOTTISH MARINE AREA**

Licence Number: 04859/15/1

Reference Number: FKB/Z281

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

**Nova Innovation Limited
Unit 1 Bonnington Mill
60-72 Newhaven Road
Leith
Edinburgh
EH6 5QB**

to deposit any substance or object (except for dredge spoil) in the sea or on or under the seabed within the Scottish marine area required in connection with the execution of the Works described in Part 2 of the Schedule attached to this licence. The issue of this licence is subject to conditions as set out in Part 3 of the said Schedule.

This licence remains in force from **04 December 2015** to **01 January 2035** or until the Works have been removed in accordance with the appropriate approval of the Licensing Authority.

Signed:



Joao Queiros

For and on behalf of the Licensing Authority

Date of issue: 04 December 2015

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) **“the Application”** means the marine licence application and supporting information submitted to the Licensing Authority by Nova Innovation Ltd, on 10 December 2012;
- c) **“Licensable Marine Activity”** means the activities listed in section 21 of the 2010 Act authorised under this licence;
- d) **“Licensee”** means Nova Innovation Ltd;
- e) **“the Licensing Authority”** means the Scottish Ministers;
- f) **“Commencement of the Works”** means the date on which the first vessel arrives on the Site to begin carrying on the Licensable Marine Activity in connection with the construction of the Works, as described in Part 2 of this licence;
- g) **“Completion of the Works”** means the date on which the Works have been installed, or the Works have been deemed complete by the Licensing Authority;
- h) **“Removal of the Works”** means the removal of the Works from the Site, demolishing the Works or dismantling the Works at the end of its operational lifetime;
- i) **“Decommissioning Programme”** means the programme for decommissioning the relevant object(s), to be submitted by the Company to the Secretary of State under section 105(2) of the Energy Act 2004 (as amended);
- j) **“the Site”** means the area outlined in the figure contained in Part 4 of this licence;
- k) **“the Works”** means The Nova Innovation Limited Tidal Array, Bluemull Sound, Shetland, as described in Part 2 of this licence; and
- l) **“MHWS”** means mean high water spring tide.

All geographical co-ordinates contained within this licence are in latitude and longitude format World Geodetic System 84 (“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: (01224) 295579
Fax: (01224) 295524
Email: ms.marinelicensing@scotland.gsi.gov.uk

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 Licensable Marine Activity. 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 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 Licensing Authority. This licence will be varied under section 30 of the 2010 Act following procedures set out in section 31 of the 2010 Act.

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.

Under section 30 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.

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.

2. PART 2 – THE WORKS

2.1 Title of the works

The title of the works to which this licence relates to is 'The Nova Innovation Limited Tidal Array, Bluemull Sound, Shetland'

2.2 Description of the works

A five turbine offshore tidal energy array consisting of bottom mounted, gravity anchored, freely yawing horizontal axis turbines with a maximum generating capacity of 500kW.

2.3 Location of the works

Bluemull Sound, near Cullivoe, Shetland, within the Scottish marine area, bounded by the following coordinates:

Tidal energy array

60° 41.900' N 000° 59.150' W 60° 41.900' N 000° 58.847' W
60° 42.052' N 000° 58.847' W 60° 42.052' N 000° 59.150' W.

Cable landing point

60° 41.883' N 000° 59.933' W

2.4 Deposits

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

DEPOSITS

Steel/iron, 195 tonnes
Plastic/synthetic , 150 m²
Concrete, 210 m³
Concrete bags/mattresses , 6m x 3m x 0.3m – 324 m³
Cable 6000 m

Less any materials already deposited under authority of licence number 04859/15/0

2.5 Persons responsible for the deposits of the substances or objects

The vessels, vehicles and operators engaging in the Licensable Marine Activity must be notified to the Licensing Authority under condition 3.1.2 prior to their engagement in the Works:

Name of Vessel or Vehicle Registration	Operator	Type(s)
Voe Earl IMO: 9639983	Delta Marine Ltd	Multipurpose anchor handling tug

2.6 Persons acting on behalf of the licensee

The name and address of any agents, contractors or sub-contractors appointed to carry out any part, or all, of the Licensable Marine Activity must be notified to the Licensing Authority under condition 3.1.2 prior to their engagement in the Works:

Role	Company Name	Address	Contact Name
Offshore operations	Delta Marine Ltd	2 Mounthooly Street, Lerwick, Shetland, Scotland. ZE1 0BJ	Neil Spanswick

3. PART 3 – CONDITIONS

3.1 Licence conditions binding other parties

All conditions attached to this licence bind any person who for the time being owns, occupies or enjoys any use of the Works for which this licence has been granted in relation to those licensed activities authorised under item 5 in section 21(1) of the 2010 Act whether or not this licence has been transferred to that person.

3.2 Vessels, vehicles agents, contractors and sub-contractors

The Licensee must provide, as soon as reasonably practicable in advance of their engagement in the Licensable Marine Activity authorised under this licence, the name and function of any vessel, vehicle, agent, contractor or sub-contractor appointed to engage in the Works. Where applicable the notification must include the master's name, vessel type, vessel IMO number and vessel owner or operating company.

The Licensee must ensure that any changes to the supplied details are notified to the Licensing Authority, in writing, prior to any vessel, vehicle, agent, contractor or sub-contractor engaging in the Licensable Marine Activity.

The Licensee must ensure that only those masters of vessels, vehicle operators, agents, contractors or sub-contractors notified to the Licensing Authority are permitted to carry out any part of the Works.

The Licensee must satisfy themselves that any masters of vessels or vehicle operators, agents, contractors or sub-contractors are aware of the extent of the Works for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence. All masters of vessels or vehicle operators, agents, contractors and sub-contractors permitted to engage in the Works must abide by the conditions set out in this licence.

The Licensee must give a copy of this licence, and any subsequent variations made to this licence in accordance with section 30 of the 2010 Act, ensuring it is read and understood, to the masters of any vessels, vehicle operators, agents, contractors or sub-contractors permitted to engage in the Works.

3.3 Force Majeure

Should the Licensee or any of their agents, contractors or sub-contractors, by any reason of *force majeure* deposit anywhere in the marine environment any substance or object, 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 or vehicle operator determines that it is necessary to deposit the substance or object other than at the Site because the safety of human life or, as the case may be, the vessel, vehicle or marine structure is threatened. 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.

3.4 Alterations to the licence application

The Licensee must ensure that no deviation from the schedule specified in this licence is made without the further written approval of the Licensing Authority.

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.

3.5 Discontinuation Prior to Completion of the Works

The Licensee must notify the Licensing Authority, in writing, in the event that the licensed operations need to be discontinued prior to the Completion of the Works. The Works must be removed and the Site cleared to the satisfaction of the Licensing Authority.

3.6 Submission of reports and notifications to the Licensing Authority

The Licensee must submit monitoring reports detailing bird and marine mammal observations, in accordance with the agreed Environmental Monitoring and Mitigation Plan ("EMMP"), to determine any associated impacts. The reports will be submitted to the licensing authority in accordance with the reporting strategy.

The Licensee must submit all reports and notifications to the Licensing Authority as are required under this licence within the time periods specified in this licence or as within the reporting strategy. Where it would appear to the Licensee that there may be a delay in the submission of the reports or notifications 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 or notifications ought to have been submitted to the authority under the terms of the licence or the reporting strategy.

The Licensee must within 28 days of Commencement of the Works, unless otherwise agreed by the Licensing Authority, submit a reporting strategy plan to cover reporting requirements and timings to the Licensing Authority to be agreed in writing following consultation with SNH and any other organisations or bodies as the Licensing Authority deems appropriate.

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.

The Licensee must, within 28 days of Completion of the Works, unless otherwise agreed by the Licensing Authority, submit a written report to the Licensing Authority stating the nature and quantity of all substances and objects deposited below MHWS under authority of this licence.

3.7 Environmental protection

The Licensee must ensure that only the deposits listed in Part 2 of the licence are deposited during the execution of the works and that all substances or objects deposited during the execution of the works are inert (or appropriately coated or protected so as to be rendered inert) and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

The Licensee must ensure that the works are carried out in accordance with the agreed EMMP. If through monitoring, as directed by the EMMP, it is determined that the device could have an adverse effect on site integrity then further mitigation measures may be required at the discretion of the licensing authority.

The Licensee must ensure that any debris or waste materials arising during the course of the Works are removed from the Site of the Works for disposal at an approved location above MHWS.

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 Licensable Marine Activity authorised under this licence.

The Licensee must ensure that suitable bunding and storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.

The Licensee must ensure that the risk of transferring marine non-native species to and from the Site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the Works.

The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate.

The Licensee must ensure that if oil based drilling muds are utilised they must be contained within a zero discharge system. Any drill cuttings associated with the use of water-based drilling muds situated within the outer boundary of the Works need not be removed from the Seabed.

The Licensee must ensure that all chemicals which are to be utilised in the Works have been approved in writing by the Licensing Authority prior to use. All chemicals utilised in the Works must be selected from the List of Notified Chemicals assessed for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002, unless approved in writing by the Licensing Authority.

3.8 Inspection of the Works

The Licensee must ensure that any persons authorised by the Licensing Authority, are permitted to inspect the Works at any reasonable time. As far as reasonably practicable, the Licensee must, on being given reasonable notice by the Licensing Authority (of at least 72 hours), provide transportation to and from the Site for any persons authorised by the Licensing Authority to inspect the Site.

The Licensee must ensure that copies of this licence are available for inspection by any authorised marine enforcement officer at:

- a) the premises of the Licensee;
- b) the premises of any agent, contractor or sub-contractor acting on behalf of the Licensee;
- c) any onshore premises directly associated with the Works; and
- d) on board any vessel permitted to engage in the Works.

3.9 Emergencies

If the assistance of a Government Department (to include departments of Devolved Administrations) is required to deal with any emergency arising from:

- a) the failure to mark and light the Works as required by this licence;

- b) the maintenance of the Works; or
- c) the drifting or wreck of the Works.

to include the broadcast of navigational warnings, then the Licensee is liable for any expenses incurred in securing such assistance.

3.10 Navigational safety

The Licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 337900) of both commencement and progress of the Works, and furthermore on completion of the Works supply a copy of this licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

The Licensee must, as soon as reasonably practicable prior to the Commencement of the Works and prior to undertaking any maintenance activities, ensure that mariners, fishermen's organisations and HM Coastguard, in this case Maritime Rescue Coordination Centre Shetland, are made fully aware of the Licensable Marine Activity through Notice to Mariners or any other appropriate means.

The Licensee must ensure that details of the Works are promulgated in the Kingfisher Fortnightly Bulletin, as soon as reasonably practicable prior to Commencement of the Works to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Works and of the relevant operations.

The Licensee must consult with the responsible local navigation authority and the Harbour Authority/Commissioners where appropriate, who may wish to issue local warnings to alert those navigating in the vicinity to the presence of the Works during the construction.

The Licensee must ensure that if it is desired to display any marks or lights not required by this licence then details shall be submitted to the Northern Lighthouse Board and their ruling complied with. The display of unauthorised marks or lights is prohibited.

The Licensee must ensure that any vessels permitted to engage in the Works are marked in accordance with the International Rules for the Prevention of Collisions at Sea whilst under way, and in accordance with the UK Standard Marking Schedule for Offshore Installations if secured to the seabed.

The Licensee must notify the Licensing Authority, in writing, as soon as reasonably practicable of any case of damage to, or destruction or decay of the Works. The Licensing Authority will advise, in writing, of any remedial action to be taken.

The Licensee must ensure that no radio beacon or radar beacon operating in the marine frequency bands is installed or used on the Works without the prior written approval of Ofcom.

The Licensee must, prior to Commencement of the Works, ensure that the details of these Works are made available for inclusion in the Clyde Cruising Club Sailing Directions and Anchorages, if necessary.

The Licensee must ensure that all turbines are installed at a depth to ensure 15 meters minimum clearance relative to LAT above the turbine blades.

The Licensee must ensure that the Works are carried out in accordance with the agreed Navigational Risk Assessment.

The Licensee must ensure that the Works are carried out in accordance with the agreed Cable Plan (to include cable protection risk assessment).

The Licensee must ensure that whilst the devices are in their operation/maintenance phase, the condition of the devices are actively monitored, and a contingency plan put in place to respond to any reported failure events. This should include the transmission of local Radio Navigation Warnings.

3.11 Removal of the Works

This licence does not permit the Removal of the Works, for which a separate marine licence is required.

The Licensee must at least 3 months prior to carrying out any proposed removal works, unless otherwise agreed in writing by the Licensing Authority, submit to the Licensing Authority, an application for the Removal of the Works. The application must include a proposed removal plan.

Removal of the Works must not occur until the Licensing Authority has given its written approval.

3.12 Decommissioning

The Licensee must submit, prior to Commencement of the Works unless otherwise agreed by the Licensing Authority, to the Secretary of State at the Department of Energy and Climate Change, a draft Decommissioning Programme for the decommissioning of any relevant objects(s).

4. PART 4 – PROJECT LOCATION

