



**MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING**

**LICENCE TO CONSTRUCT, ALTER OR IMPROVE WORKS IN THE SCOTTISH MARINE AREA**

Licence Number: **MS-00009524**

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

**Aberdeen Harbour Board  
Harbour Office  
16 Regent Quay  
Aberdeen  
AB11 5SS**

to construct, alter or improve works 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 **31 December, 2021** until **31 October, 2022**

Signed: .....

Anni Mäkelä

For and on behalf of the Licensing Authority

Date of issue: 21 December, 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 Aberdeen Harbour Board
- 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**

Nigg Bay, Aberdeen Harbour Expansion, below MHWS within the area bounded by joining the points

Nigg Bay, Aberdeen Harbour Expansion Project

57° 08.277' N 002° 02.840' W

57° 07.991' N 002° 02.473' W

57° 07.928' N 002° 02.374' W

57° 07.707' N 002° 02.900' W

As shown in Annex One.

### **2.3 Description of the Licensed Activity**

Licensed activities for Aberdeen Harbour Expansion Project ("AHEP"), Nigg Bay, Aberdeen including the following components located below the MHWS line:

Construction of north and south breakwaters (each approximately 600 metres long) to form the harbour;

Land reclamation and construction of closed and open quays to provide over 1400m of quayside and associated support infrastructure; and

Construction of revetment south of the west quay.

As described in applications dated 31 October 2019 and 29 July 2021, and correspondence submitted in support of the applications.

As described in the application dated 29 July, 2021 and correspondence submitted in support of the application.

### **2.4 Descriptions of the materials to be used during the Licensed Activity**

The licence authorises the use of the undernoted construction materials required in connection with the licensed activity, subject to the indicative amounts as specified below:

Steel/Iron - 10,000 tonne

Concrete - 261,000 m3

Plastic/Synthetic - 60,000 m2

Sand – 485,000 m3

Pipe - 740 m

Zinc sacrificial anodes, 70 tonne

Explosives - 675 tonne

Less any materials, substances or articles used under licence numbers 06965/16/0 and 05965/20/0 and 07161/20/0

## 2.5 Contractor and Vessel Details

### **3. PART 3 – CONDITIONS**

#### **3.1 General Conditions**

##### **3.1.1 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.

##### **3.1.2. Agents, contractors and sub-contractors**

The licensee must provide, as soon as is reasonably practicable prior to the licensed activities commencing, the name and function of any agent, contractor or sub-contractor appointed to undertake the licensed activities.

Any changes to the supplied details must be notified to the licensing authority, in writing, prior to any agent, contractor or sub-contractor undertaking any licensed activity.

The licensee must ensure that only those agents, contractors or sub-contractors notified to the licensing authority are permitted to undertake the licensed activities.

The licensee must give a copy of this licence and any subsequent variations that have been made to this licence in accordance with section 30 of the 2010 Act to any agent, contractor or sub-contractor appointed to carry out any part, or all, of the licensed activities. The licensee must satisfy themselves that any such agent, contractor or sub-contractor is aware of the extent of the licensed activity for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence.

##### **3.1.3. Material alterations to the licence application**

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.

##### **3.1.4. Submission of reports to the licensing authority**

Where it would appear to the licensee that there may be a delay in the submission of the reports, studies or surveys 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, studies or surveys ought to have been submitted to the authority under the terms of this licence.

The reports, studies and surveys must include executive summaries, assessments and conclusions and any data may, subject to any rules permitting non-disclosure, be made publicly available by the licensing authority, or by any such party appointed, at their discretion.

##### **3.1.5. Environmental protection**

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 licensed activity authorised under this licence.

The licensee must ensure that any unauthorised debris or waste materials arising during the course of the licensed activities are removed from the site for disposal at an approved location above the tidal level of MHWS.

The licensee must ensure that all substances and materials used during the execution of the licensed activities 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 risk of transferring non-native species to and from the site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the licensed activities.

The licensee must ensure that all mitigation detailed in the Construction Environmental Management Document ("CEMD") dated October 2019 is adhered to at all times. In the event that the licensee wishes to update or amend any of the protocols in the CEMD, the licensee must submit, in writing, details of proposed updates or amendments to the licensing authority for their written approval, no later than one month or at such a time as agreed with the licensing authority, prior to the planned implementation of the proposed updates or amendments. It is not permissible for any activities associated with the proposed updates or amendments to proceed prior to the granting of such

approvals.

Prior to commencement of the licensed activities, the licensee must appoint an Environmental Clerk of works ("ECoW") who will be responsible for ensuring delivery of the CEMD. The ECoW must be on site during licensed activities, as determined by the CEMD, and must have authority to halt activities if necessary.

#### 3.1.6. Availability of the licence for inspection

The licensee must ensure that copies of the licence are available for inspection by any persons authorised by the licensing authority at:

- a) the premises of the licensee;
- b) the premises of any agent, contractor or sub-contractor acting on behalf of the licensee;
- c) the site of the licensed activities; and
- d) any onshore premises directly associated with the licensed activities.

#### 3.1.7. Inspection of the licensed activities

Any persons authorised by the licensing authority, must be permitted to inspect the licensed activities at any reasonable time.

#### 3.1.8. Safety of Navigation

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.

Prior to commencement of the licensed activities, the licensee must notify the UK Hydrographic Office to permit the promulgation of maritime safety information.

The licensee must remove the works from below the level of MHWS, or such alterations made, within one month of notice being given by the licensing authority at any time it is considered necessary or advisable for the safety of navigation, and not replaced without further consent by the licensing authority. The licensee shall be liable for any expense incurred.

3.1.9 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 Aberdeen Harbour Board, dated 01 July 2020 licence number 07161/20/0 is not permitted.

### 3.2 Prior to the commencement of the Licensed Activity

3.2.1. The licensee must, as soon as practicable, notify the licensing authority of the date of commencement of all licensed activities relating to the licence.

3.2.2. The licensee must ensure that HM Coastguard, in this case nmoccontroller@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the licensed activities prior to commencement.

3.2.3. The licensee must complete and submit a Proposed Activity Form in the online Marine Noise Registry for all licensable marine activities that will produce loud, low to medium frequency (10Hz-10kHz) impulsive noise as soon as is reasonably practicable prior to commencement of the licensable marine activity. If any aspects of the licensable marine 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 licensable marine activity.

### 3.3 During the Licensed Activity

3.3.1. The licensee must ensure appropriate steps are taken to minimise damage to the foreshore and seabed by the licensed activities.

3.3.2. The licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the licensed activities.

- 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 deviation from the schedule specified in the licence is made without the further written approval of the licensing authority.
- 3.3.5. 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:
- The failure to mark and light the works as required by licence.
  - The maintenance of the works.
  - The drifting or wreck of the works.
- The licensee shall be liable for any expenses incurred in securing such assistance.
- 3.3.6. In the event of the licensed activities being discontinued the works must be removed and the site cleared to the satisfaction of the licensing authority.
- 3.3.7. 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.
- 3.3.8. Should any foul connection associated with shipping or off-shore wastes be required, the licensee must liaise with Scottish Water prior to commencement of the licensed activities.
- 3.3.9. The licensee must, once all water and wastewater requirements for the development are understood, liaise with Scottish Water to discuss the required connections prior to commencement of the licensed activities.
- 3.3.10. The licensee must review where potential asset conflicts exist and contact Scottish Water's Asset Impact Team ("AIT") (service.relocation@scottishwater.co.uk) as soon as practicable to discuss any potential issues identified prior to commencement of the licensed activities.
- 3.3.11. Prior to commencement of the licensed activities, the licensee must ensure that existing abstractions and discharges in the vicinity of the site are protected, diverted or relocated to ensure functionality is maintained during the construction and operation of AHEP, with particular reference to the outfalls (United Fish Industries, Scottish Water and East Tullos Burn) and intake (Marine Scotland Science aquarium) currently located in Nigg Bay.
- 3.3.12. The licensee must complete and submit a Close-out Report for the licensable marine activities that produced loud, low to medium frequency (10Hz-10kHz) impulsive noise in the online Marine Noise Registry at 6 month intervals during the validity of the licence and no later than 12 weeks from the completion of the licensable marine activities.
- 3.3.13. The licensee must ensure the cliff face and associated sediments of the Nigg Bay Site of Special Scientific Interest are not modified during the licensed activities.
- 3.3.14. The licensee must ensure no temporary stockpiles remain on site after the expiry of the licence

### 3.4 Upon Completion of the Licensed Activity

- 3.4.1. The licensee must notify the licensing authority of the date of completion of all licensed activities relating to the licence.
- 3.4.2. The licensee must submit a written report regarding the materials used during the works to the licensing authority. The written report must be submitted on completion of the works and on the forms provided by the licensing authority no later than 31 October 2023.
- 3.4.3. The licensee must ensure the foreshore and seabed are returned to the original profile, or as close as reasonably practicable, following the completion of the licensed activities.



## **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.