

THE CONSERVATION (NATURAL HABITATS, &C.) REGULATIONS 1994

LICENCE TO DISTURB MARINE SPECIES

Licence Number: EPS/BS-00009909

This licence is granted under regulation 44(e) of the Conservation (Natural Habitats, &c.) Regulations 1994 by the Scottish Ministers who, after consultation with, and having been advised as to the circumstances in which they should grant such licences by NatureScot are satisfied as regards the purpose for which the licence is granted, namely, for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; and that (a) there is no other 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 **02 January, 2023** to **31 December, 2025** and authorises:

Ian Kerr
Forth Ports Limited
Forth and Tay Navigation Service,
South Shore Road
Grangemouth Docks
Grangemouth
FK3 8TQ

Or any person authorised in writing by him / her to disturb the European protected species of *harbour porpoise* (*Phocoena phocoena*); *bottlenose dolphin* (*Tursiops truncatus*); *minke whale* (*Balaenoptera acutorostrata*); *white-beaked dolphin* (*Lagenorhynchus albirostris*); *humpback whale* (*Megaptera novaeangliae*) at Port of Leith, Outer Berth, 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*); *minke whale* (*Balaenoptera acutorostrata*); *white-beaked dolphin* (*Lagenorhynchus albirostris*); *humpback whale* (*Megaptera novaeangliae*) at Port of Leith, Outer Berth, for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment in connection with Port of Leith at the following location(s):

Port of Leith, Outer Berth
Site boundary
55° 59.514 'N 03° 11.390 'W
55° 59.604 'N 03° 11.048 'W

55° 59.334 'N 03° 10.662 'W

55° 59.201 'N 03° 11.011 'W

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

Outer Berth Construction and deposit of dredged material

LICENCE CONDITIONS

1. The Licensee must ensure that the Licensed Activity is carried on in accordance with the mitigation detailed in table 14-1 of the Port of Leith – Outer Berth, Environmental Impact Assessment Report dated 11 April 2022 and section A5 of the Port of Leith – Outer Berth, Habitats Regulations Appraisal - Screening for LSE and Provision of Information to Inform Appropriate Assessment, dated 11 April 2022, but subject to the modifications or amendments made within this licence.
2. The Licensee must ensure that all licensed activities are carried out in strict accordance with the Port of Leith Outer Berth: Construction European Protected Species (EPS) Risk Assessment, but subject to the modifications or amendments made within this licence.
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 Licensing Authority must be notified as soon as reasonably practicable.
4. The Licensee must ensure that the JNCC 2010 Guidelines for minimising the risk of injury and disturbance to marine mammals from piling noise is followed at all times in connection with the undertaking of such piling activities as far as it is practical to do so. These are available from the JNCC website: <https://data.jncc.gov.uk/data/31662b6a-19ed-4918-9fab-8fbcff752046/JNCC-CNCC-Piling-protocol-August2010-Web.pdf>
5. The Licensee must ensure that, if any aspects of the proposed activities differ from the detail submitted in the Noise Registry - Initial Registration Form, a new Initial Registration Form must be completed and submitted to the Scottish Ministers and the JNCC no later than one week prior to commencement of the licensed activities.
6. The Licensee must ensure that soft start procedures are employed for piling operations where applicable.
7. The Licensee must ensure that a 500 metre marine mammal mitigation zone is used during piling operations.
8. 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.
9. 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.
10. 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 inspection.
11. The Licensee must, no later than one month after the expiry date of this licence, submit to MS-LOT, a written report detailing all actions taken in accordance with the specified terms and conditions of the 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.
12. The Licensee must, no later than 12 weeks after completion of the noisy activity, complete a 'close-out' noise registry form. 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



Signed:
Neil MacLeod

Marine Scotland
Marine Planning and Policy
Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB
22 December, 2022