

Department of Agriculture, Environment & Rural Affairs
Marine & Fisheries Division

**LICENCE ISSUED UNDER THE MARINE AND COASTAL ACCESS ACT 2009, PART 4, MARINE
LICENSING**

**MARINE SEA DISPOSAL LICENCE FOR DREDGE MATERIAL TO CONSTRUCT A
MULTI-FUNCTIONAL DEVELOPMENT AT D3, BELFAST HARBOUR**

Licence Number: ML150_16

Part 1 – Particulars

1. Licensee(s) Name & Address:

Belfast Harbour Commissioners
Harbour Office
Corporation Street
Belfast
BT11 3AL

2. Name and Address of Producer of Dredged Material

Belfast Harbour Commissioners
Harbour Office
Corporation Street
Belfast
BT11 3AL

3. Names, and operators, of the vessels to be employed to undertake or support the deposit operation:

TBC

4. Description of works and method of disposal:

This licence is linked to terrestrial works for the D3 development in Belfast Harbour.

Details of dredge and disposal methods will be agreed with the licensing authority and specified in the Environmental Management Plan (EMP).

Sea disposal of capital dredge material of 372,000m³ removed from a berthing pocket being created at D3, with an exclusion of approximately 97,500m³ material, which is has an exceedance with TBT.

TBT contaminated material will be removed with an environmental bucket and moved for containment within the Musgrave bunded site.

Working methods involve back hoe dredging or similar methods into barges then transported to disposal site and disposed by Split Bottom Doors.

5. Nature and quantity of all material to be deposited below Mean High Water Springs:

The dredge operation is expected to remove 372000m³ of material.

This quantity for sea disposal will be reduced by any material identified as TBT contaminated which will be relocated to the Musgrave containment bund, estimated to be 97,500m³. This will be defined fully in the environmental management plan (EMP).

6. Location of sea disposal site:

Within a 0.25 nautical mile radius of the following coordinates

Disposal site name	Degrees & Decimal Mins		Decimal degrees		Shape	Radius
	Latitude	Longitude	Latitude	Longitude		
Belfast Dredging C (Live)	54 45.300 N	05 29.600 W	54.755	-5.4933	CIRCLE	0.25

6. Valid:

From: 1st August 2022
Until: 31st July 2025

PART 2: CONDITIONS

The Department of Agriculture, Environment & Rural Affairs (referred to as the licensing authority) authorises **Belfast Harbour Commissioners**, to carry out the loading for disposal from Northern Ireland ports and sea disposal of the material described in Part One of this licence in accordance with the following conditions:

Licence Condition(s):

NOTE: FAILURE TO COMPLY WITH THE BELOW LICENCE CONDITIONS MAY RESULT IN ENFORCEMENT ACTION BEING TAKEN

1. All conditions of this licence bind any persons whom, 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 section 66 of the 2009 Act, whether or not the licence has been transferred to that person.
2. (a) The Licensee(s) shall ensure no sediments from areas identified as contaminated, through the Licensing Authorities consideration of sediment analysis results, are included for sea disposal. Sediment analysis must be obtained within 3 years of the dredge and disposal unless otherwise authorised by the licencing authority.
2. (b) The licensee(s) are required to dispose of materials at the Disposal Area(s) stated above. If in the case of 'force majeure' (stress of weather or any other cause threatening the safety of human life or the vessel) dredged material is deposited in any other area, full details of the circumstances should be notified to the licensing authority in writing *within 24 hrs*.

3. The licensee(s) shall confirm to the licensing authority by way of a report and map the specifics of each dredged area which produced the disposal material within two months of the dredge completion.
4. The licensee(s) shall ensure that a log of all the disposal operations is kept and be made available on request by the Department.
5. Certified returns to be submitted by; the end of July for disposal during the preceding period January to June and by end of January for disposal during the preceding July to December for any given year of operation, including a nil return where applicable.
6. The licensee(s) shall, prior to disposal commencing, confirm in writing to the licensing authority that the disposal vessel(s) shall have position fixing capability within a +/- 20m range.
7. Recordable position fixing equipment shall be used at all times on the disposal vessel to ensure disposal within a 0.25 nautical mile radius of the stated disposal site.
8. The licensee(s) shall ensure that vessel log details (attached as an Appendix to this licence) are completed **within a week** after the end of each month of dredging and disposal operation.
 1. The licensee(s) may decide to use their own vessel log template with prior written agreement of the licensing authority.
 2. The vessel log shall be accompanied by timed and dated tracked plots indicating the route taken, to and from, each disposal event in addition to the position and time for each disposal.
 3. If licensee(s) cannot provide track plots they must reach agreement with the licensing authority on a suitable method of recoding and reporting the position and time for each disposal prior to disposal commencing.
9. The dredging operators must have operational and active AIS vessel tracking during all operations.
10. If AIS or vessel positioning systems are faulty, dredge and/or disposal activities must not continue until all systems are repaired/replaced and fully operational.
11. A timed and dated track plot of position for each disposal run from the dredge site to disposal site shall be provided to the licensing authority one week after the end of each month of dredged material disposal.
12. The licensee(s) shall ensure that details of each campaign are promulgated to maritime users through Notice(s) to Mariners and/or radio navigational warnings and publication in appropriate bulletins. This shall take place prior to the commencement of disposal operations, as stated within the Notice(s) to Mariners guidance notes, which is usually ten days.
13. The licensee(s) shall ensure that the Department is informed of any contractor appointed to carry out part or all of the works and a copy of this licence is given to each contractor.
14. The licensee(s) must commence works with 12 months of the date of this licence.
15. The licensee(s) shall ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:
 - a. The premises of the Licensee(s)
 - b. The premises of the operating facility
 - c. The site of the works (including on board vessels)
16. The licensee(s) shall notify The Source Data Receipt team, UK Hydrographic Office, Taunton. Somerset, TA1 2DN (Email: sdr@ukho.gov.uk; Tel: 01823 337900) at least 4 weeks before commencement of the works, to allow for any necessary amendments to nautical charts. The UK Hydrographic Office must also be notified upon completion of the works. **This office shall be copied into all notifications.**
17. The licensee(s) shall submit a **Disposal Monitoring Plan**, to the licensing authority for agreement prior to disposal. Monitoring of the disposal ground and a suitable control site shall occur pre and post disposal. The licensee(s) shall survey the seabed of the disposal site before and after disposal operations in addition to a reference site. The licensee(s) shall agree the survey location and design with the Licensing Authority prior to

its initiation. This survey information should be provided in a report format (including still images) to the licensing authority within **8 weeks** upon completion of this licence.

Monitoring at each location must include, unless otherwise agreed by the licensing authority, the following;

- Drop-down video/photographs and descriptions of epifaunal communities.
- Sediment particle size analysis.
- Bathymetric surveys.
- Benthic infaunal analysis
- Chemical analysis of sediments

Signed on behalf of the Department:



Dated: 22nd July 2022

NOTE:

(1) The licensing authority would advise that this licence does not negate the licensees' responsibility to gain any other environmental or access permissions that may be required to progress the works.

(2) Under Part 4, , Section 72 of the **Marine and Coastal Access Act 2009** the licensing authority may revoke, vary or suspend this licence if it appears to the authority that the holder is in breach of a condition included in it, or if it appears to the authority that the licence ought to be varied, suspended or revoked because of a change of circumstances relating to the marine environment or human health, including a change in scientific knowledge. A revocation, variation or suspension may also be enforced in the interests of safety of navigation.

(3) A person who deposits material in contravention of the terms of a licence is guilty of an offence under Section 85 of the Act. It is a defence under Section 86 (1) for a person charged with such an offence to prove 'force majeure'. However they are also required to prove that they took steps within a reasonable time to inform the licensing authority of all details pertaining to the incident contained in Section 86 (2). The licensing authority shall be obliged to report force majeure cases immediately to the OSPAR Commission.

(4) Attention is drawn to the necessity of complying where appropriate with the **Radioactive Substances Act 1960**, the **Prevention of Oil Pollution Act 1971** and to the **Merchant Shipping (Dangerous Goods) (Amendment) Rules 1968**.

(5) If within 28 days of the issue of a licence the person to whom it was issued requests the licensing authority to give him notice in writing of the reasons for the inclusion of any provision in it, the Authority shall comply with his request within 28 days of receiving it.

(6) Anyone who fails to comply with a condition on a Marine Licence commits an offence under Section 85 of the **Marine and Coastal Access Act 2009**, and may be subject to enforcement action. Possible enforcement actions are compliance notices, remediation notices, fixed monetary penalties and variable monetary penalties. In the worst cases, a person found guilty of an offence on summary conviction may be subject to a fine not exceeding £50,000. In addition, a person found guilty of an offence on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both. Further details can be found at our guidance note

<https://www.doeni.gov.uk/sites/default/files/publications/doe/marine-guidance-licensing-enforcement-2016.pdf>

Further information from consultation:

1. Northern Ireland Environment Agency – Water Management Unit

The applicant should be aware that it is an offence under the **Water (Northern Ireland) Order 1999** to discharge or deposit whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and /or three months imprisonment.

2. DAERA Fisheries

The applicant should be made aware that it is an offence under section 47 of the Fisheries (NI) Act 1966 to cause pollution which is subsequently shown to have a deleterious effect on fish.

3. DAERA Conservation & Reporting Marine National Protected Species:

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended), under which it is an offence to intentionally or recklessly kill, injury or take any wild animal included in Schedule 5 to the Order. This includes the common seal (*Phoca vitulina*), grey seal (*Halichoerus grypus*), basking shark (*Cetorhinus maximus*), angel shark (*Squatina squatina*), common skate (*Dipturus batis*) short snouted seahorse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus elaphus*) and fan mussel (*Atrina fragilis*).

Article 11 of the Wildlife (Northern Ireland) Order 1985 (as amended) provides that a person shall not be guilty of an offence under Article 10 (killing or injuring a species listed in Schedule 5 (as amended)) if the act was incidental to a lawful operation (i.e. activity permitted by a Marine Licence or Planning Permission) and could not reasonably be avoided. A separate marine Wildlife Licence is therefore not required for national marine protected species if a Marine Licence/Planning Permission has been granted, since adherence to the conditions of the Marine Licence should reduce the likelihood of harm to national marine protected species.

Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks. It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 5¹) use for shelter or protection; damage or destroy anything which conceals or protects any such structure; or disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.

Under Article 13 it is an offence to sell or transport any Schedule 7 animal dead or alive at any time².

Any person who knowingly causes or permits an act which is made unlawful under Article 10 or Article 13 shall also be guilty of an offence.

Under the Wildlife (Northern Ireland) Order 1985 (as amended) a licence may be required for any operations which might impact on protected species. Further advice can be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA.

¹ Common skate and angel sharks in respect to Article 10 (1) only and within 6 nautical miles of coastal water only.

² Schedule 7 species includes all Schedule 5 species listed in Appendix A, with the exception of the common skate and angel shark. Sea urchin is protected under Schedule 7 only.

Marine European Protected Species:

The applicant's attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberatelyⁱ capture, injure or kill a wild animal of a European Protected Species included in Schedule 2 to these Regulations. This includes all species of dolphins, porpoises and whales and the marine turtle species.

- (1) It is also an offence to;
- (a) deliberately disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - (b) deliberately to disturb such an animal in such a way as to be likely to;
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) impair its ability to hibernate or migrate;
 - (c) deliberately take or destroy the eggs of such an animal;
 - (d) deliberately obstruct access to a breeding site or resting place of such an animal; or
 - (e) damage or destroy a breeding site or resting place of such an animal.
- (2) It is an offence for any person;
- (a) to have in his possession or control,
 - (b) to transport,
 - (c) to sell or exchange, or
 - (d) to offer for sale or exchange,
- any live or dead animal which is taken from the wild and is of a species listed in Annex IV(a) to the Habitats Directive, or any part of, or anything derived from, such an animal.

Under this legislation a licence may be required for any operations which might impact on European Protected Species. Further advice can be sought from DAERA Marine & Fisheries Division Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

¹ Following two European Court of Justice cases (C-103/00 and C-221/04) "deliberate actions are to be understood as actions by a person who knows, in the light of the relevant legislation that applies to the species involved, and the general information delivered to the public, that his action will most likely lead to an offence against a species, but intends this offence or, if not, consciously accepts the foreseeable results of his action"

http://jncc.defra.gov.uk/PDF/consultation_epsGuidanceDisturbance_all.pdf