



**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**

**Licence to Dispose of Dredged Material from Kilkeel Harbour**

**Licence Number: ML 16\_18**

**Part 1 – Particulars**

**1. Licensee(s) Name & Address:**

Mr David Lindsay  
Northern Ireland Fishery Harbour Authority  
3 St Patrick's Avenue  
Downpatrick  
BT30 6DW

**2. Name and Address of Producer of Dredged Material**

Northern Ireland Fishery Harbour Authority  
3 St Patrick's Avenue  
Downpatrick  
BT30 6DW

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

MD Kilmourne

**4. Description of works and method of disposal:**

The works consist of the disposal of material from the maintenance dredging of Kilkeel Harbour.

The vessel to be used is a hopper dredger with bottom door discharge.

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

Quantity for disposal within the period of this licence is up to 49999 metric tonnes.

**6. Location of disposal site:**

Within a 0.5 nautical mile radius of the following coordinates:

-54° 01.5'N 05° 55.5'W

**6. Valid:**

From: 6<sup>th</sup> February 2019

Until: 5<sup>th</sup> February 2022

**PART 2: CONDITIONS**

The Department of Agriculture, Environment & Rural Affairs (referred to as the licensing authority) authorises **Northern Ireland Fishery Harbour Authority** 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. The Licensee(s) must receive written authorisation from the licensing authority to assign or transfer the consent. The licensing authority must confirm in writing to both the original licensee(s) and any proposed new Licensee(s) that the licence has been transferred/assigned before any works may commence under the new Licensee(s).
2. 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 area specifically dredged to produce the disposal material. This information must be received prior the dredge and disposal operation.
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 end of January 2020 for disposal during the period, 9<sup>th</sup> January 2019 to 31<sup>st</sup> December 2019 and by the end of January 2021 for disposal during the period, 1<sup>st</sup> January 2020 to 31<sup>st</sup> December 2020 and by the end of January 2022 for disposal during the period, 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2021 and by the end of February 2022 for the period 1<sup>st</sup> January to 8<sup>th</sup> January 2022.

6.

7. The licensee(s) shall confirm in writing to the licensing authority that the disposal vessel(s) shall have position fixing capability within a +/- 20m range.
8. Recordable position fixing equipment must be used to ensure disposal within a 0.5 nautical mile radius of the stated disposal site.
9. The licensee(s) must ensure that vessel log details (attached as an Appendix to this licence) should be 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 should 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.
10. The dredging operators must have operational and active AIS vessel tracking during all operations.
11. 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.
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 should 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 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)
14. The licensee(s) must notify The Source Data Receipt team, UK Hydrographic Office, Taunton. Somerset, TA1 2DN (Email: [sdr@ukho.gov.uk](mailto: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 must be copied into all notifications.**
15. The licensee must ensure that HM Coastguard, in this case [nmccocontroller@hmcg.gov.uk](mailto:nmccocontroller@hmcg.gov.uk), The National Maritime Operations Centre is made aware of the works prior to commencement.
16. The licensee(s) must survey the seabed of the disposal site before and after disposal operations in addition to a reference site. The survey must include Particle Size Analysis (collected by grab sampling) and a bathymetric survey. This survey information should be provided in a report format to the licensing authority within **8 weeks** upon completion of this licence. This operation shall be agreed with the licensing authority prior to disposal operations.
17. The licensee(s) shall carry out visual inspections before material is dredged and again before it is deposited to ensure minimal disturbance to any marine mammals present.
18. The licensee(s) shall ensure that sediment samples within the licensed area are taken and chemically analysed in line with OSPAR regulations every 3 years.
19. The licensee shall let the Licensing Authority know when work is due to take place and make access available for an officer during any part of the operation as required.
20. The licensee(s) shall inform the licensing authority of the finishing date of the work within 1 week of completion.

21. It is the legal obligation of the licensee(s) to report archaeological objects within 14 days under the provisions of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 and to report historic wreck material to the Receiver of Wreck under the Merchant Shipping Act 1995. In the event of a discovery of an archaeological object and/or remains during works the Department would ask that you: (1) record the position and details of the site; (2) do not disturb the site further and (3) contact DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA for further advice.

Signed on behalf of the Department:

Dated: 11/2/2019

Departmental Stamp



**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, Chapter 1, paragraph 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 paragraph 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 paragraph 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.daera-ni.gov.uk/sites/default/files/publications/doe/marine-licensing-guidance-enforcement-under-part-4-marine-and-coastal-access-act%2C-2009-may-2016.pdf>

**Further information from consultation:**

**1. Northern Ireland Environment Agency – Water Management Unit**

The licensee should adhere to DAERA's Standing Advice on Pollution Prevention and Discharges. All available at: [www.daera-ni.gov.uk/water-environment-standingadvice](http://www.daera-ni.gov.uk/water-environment-standingadvice)

**2. DAERA Marine & Fisheries – Inland Fisheries & Sea Fisheries**

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

**3. DAERA Marine & Fisheries – Marine Conservation**

**Marine National Protected Species**

The licensee'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, injure 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 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 marine national 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 5<sup>1</sup>) 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 time<sup>2</sup>.

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.

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

<sup>2</sup> 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 licensee'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 deliberately 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 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.

If there is evidence of Schedule 2 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

Under this legislation a licence may be required for any operations which might impact on European Protected Species.

*<sup>1</sup> 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://incc.defra.gov.uk/PDF/consultation\\_epsGuidanceDisturbance\\_all.pdf](http://incc.defra.gov.uk/PDF/consultation_epsGuidanceDisturbance_all.pdf)

#### **4. Maritime and Coastguard Agency**

- The licensee may wish to issue local warnings to alert those navigating in the vicinity to the presence of the works, as deemed necessary.

#### **5. DAERA Marine & Fisheries – Marine Archaeology**

- The Licence Holder shall be aware of the need to pay due regard to coastal and marine historic assets where they remain as archaeological material and attention is drawn to Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (PPS6) and the UK Marine Policy Statement (UK MPS).