



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

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

**MARINE LICENCE**

**Licence for: Construction of Ship to Shore Transfer Facility for CO2 Storage Warrenpoint Port.**

**Licence Number: ML5\_19**

The Licensing Authority for Northern Ireland as described within the Marine & Coastal Access Act 2009 hereby grants a marine licence authorising the Licensee(s) as detailed below.

**Part 1 - Particulars**

**Interpretation**

In this licence, unless otherwise stated, terms are as defined in the Marine and Coastal Access Act 2009 (The Act).

**Licensing Authority Contact Details**

Marine & Fisheries Division  
Marine Strategy and Licensing  
Klondyke Building  
Cromac Avenue  
Belfast  
BT7 2JA.

E-mail: marinelicensingteam@daera-ni.gov.uk  
Telephone: 028 905 69238

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

Nippon Gases UK Ltd  
Gresley Way  
Immingham Dock  
Immingham  
Lincolnshire  
DN40 2NT

K Home International Ltd  
Ingram House, Allensway  
Thornaby  
Stockton-on-Tees  
TS17 9HA



**2. Description of works and nature and quantity of all materials to be deposited below Mean High Water Springs.**

Materials and methodology as detailed in the Marine Licence application and supplementary information dated 5<sup>th</sup> April 2019.

**4. Location of works:**

Pipework and associated electrical plant which are required to transfer CO<sub>2</sub> from ship to shore at Warrenpoint Harbour (Landside 54° 6' 8.64" N, 6° 15' 56.83" W Jetty loading point 54° 6' 5.53" N, 6° 15' 50.12" W).

**5. Valid:**

**From: 31/01/2020.**

**Until: 30/01/2021.** This Licence will remain valid for the period required to undertake the construction works and operational period as dictated by the licensing authority. The licensing authority may extend this period on request. Any extension will be confirmed in writing to the licensee(s).



**PART 2: CONDITIONS**

The Department of Agriculture, Environment and Rural Affairs (referred to as the licensing authority) authorises the Licensee(s) to deposit in the sea, the substances or articles (except for dredged material) used in the execution of works described in Part 1 of this licence. This licence is subject to the under-mentioned condition(s):

**Licence Condition(s):**

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

1. The licensee(s) shall inform the licensing authority of the finishing date of the work within **1 week** of completion.

*Reason: To allow the licensing authority to monitor the works as deemed fit.*

2. The licensee(s) shall, within **eight weeks** after the completion of the licensed works, make a written report to the licensing authority stating the quantity and description of all articles and substances deposited under the authority of this licence.

*Reason: To allow the licensing authority to maintain a record of works carried out within the licensable area.*

3. The licensee(s) shall not deposit any other material than that detailed in the Marine Licence application form received by the licensing authority, dated 5<sup>th</sup> April 2019. The licensee(s) shall contact the Department if it is proposed to vary the materials or methods to be used from those described in the documentation supplied in connection with the Marine Licence application.

*Reason: To ensure no additional works are conducted without the knowledge of the licensing authority.*

4. The licensee(s) shall ensure that a copy of this licence is given to each contractor appointed to carry out part or all of the works. The extent of the works for which the licence has been given and the conditions that are attached to the licence should be made clear to the contractors.

*Reason: To ensure no breaches of the licence conditions occur.*

5. 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)

*Reason: To ensure any enforcement officer can check the works against the licence.*

6. The licensee(s) shall ensure that all construction activity for the transfer pipework is accommodated wholly within the red line boundaries.

*Reason: To ensure no unlicensed works are carried out.*

7. The licensee(s) shall ensure that the measures included in the Environmental Management Plan for this project are implemented in full, there will be no significant adverse impact on ornithological selection features of the Carlingford Lough SPA or ASSI or on any other bird populations.

*Reason: To ensure that the work activities does not pose a risk to protected species.*



8. The licensee(s) shall ensure that the mitigation measures as highlighted in the HRA produced for Nippon Gases UK at Warrenpoint Harbour, along with the conditions detailed within NIEA's response to the linked planning case LA07/2015/0056/F of 26<sup>th</sup> May 2015, should be implemented fully to protect the integrity of the designated sites from pollutant impacts.

*Reason: To ensure that the work activities does not pose a risk of pollution to the aquatic and terrestrial environment.*

9. The licensee(s) must ensure that an updated version of the Environmental Management Plan with reference to relevant PPG/GPP & CIRIA documents and The Control of Pollution (Oil Storage) Regulations (Northern Ireland) 2010 in regards to oil/fuel storage should be submitted by the Contractor when appointed. An updated version submitted under planning application LA07/2015/0056/F to consider the Marine Licensing Area will be acceptable.

Please refer to DAERA's Standing Advice on Pollution Prevention available at: [www.daera-ni.gov.uk/water-environment-standingadvice](http://www.daera-ni.gov.uk/water-environment-standingadvice)

Signed on behalf of the Department:



Dated: 31<sup>st</sup> December 2019

Departmental Stamp





**NOTE:**

- 1) 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**.
- 2) 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.
- 3) 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 may be subject to a fine of up to £50,000 or to imprisonment for a term not exceeding two years or to both.
- 4) The Licensee(s) are deemed to have satisfied themselves that there are no barriers or restrictions, legal or otherwise, to the carrying out of the licensed operations. The issuing of the licence does not absolve the Licensee(s) from obtaining such other authorizations and consents etc. which may be required under statute.
- 5) **Variation, Suspension, Revocation and Transfer:** Under section 72 of the 2009 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 the provisions of the licence or for any such other reason that appears to be relevant to the authority under section 72(2) or (3) of that Act.
- 6) **Breach of requirement for, or conditions of, the licence:** Under section 65 of the Act it is an offence to carry on a licensable activity without a marine licence or to fail to comply with any condition of a marine licence.
- 7) **Defences: actions taken in an emergency:** Under section 86 of the 2009 Act, it is a defence for a person charged with an offence under section 85 in relation to any activity, to prove that the activity was carried out for the purpose of saving life or for the purposes of securing the safety of a vessel, aircraft or marine structure and that person took steps within a reasonable time to provide full details of the matter to the licensing authority as set out in section 86 1(b) of the 2009 Act.
- 8) **Offences relating to information:** Under section 89 of the 2009 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 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 2009 Act or this licence.



## **Further information from consultation:**

### **1. DAERA MARINE CONSERVATION AND REPORTING (HISTORIC ENVIRONMENT)**

There is a legal obligation 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.

Rory McNeary MSc BA Hons MIAI  
Marine Historic Environment Adviser  
Historic Environment Division | Department for Communities

### **2. Maritime and Coastguard Agency**

The site is within port limits and the applicant should gain the approval/agreement of the responsible local navigation authority or the Harbour Authority/Commissioners/Council. They may wish to issue local warnings to alert those navigating in the vicinity to the presence of the works, as deemed necessary.

### **3. DfI Rivers Agency**

We note your proposed works lie within or adjacent to an important designated site. We would ask that due consideration continues to be given on how the proposed works may impact the area.

Within the terms of the Drainage (Northern Ireland) Order 1973, Marine Construction Licence applicants are advised of the following legal requirements for ALL sites as follows:

1. If during the course of developing a site a watercourse is uncovered which was not previously evident, the appropriate DfI Rivers Office should be advised immediately in order that arrangements may be made for the investigation and direction in respect of any possible action necessary to deal with the watercourse. Piped storm drains, culverts, open channels etc. may be considered to be watercourses.
2. Any proposals either temporary or permanent, in connection with the development, which involve interference with any watercourse at the site such as culverting, bridging, diversion, building adjacent or discharge of storm water etc. require the written consent (known as "Schedule 6 Consent") from DfI Rivers.
3. Failure to obtain Schedule 6 Consent is an offence under the provisions of the above Order, which may lead to prosecution or other statutory action as provided for.

In this instance the appropriate DfI Rivers office to contact in respect of Schedule 6 applications and any other general enquiries is:

**GBA Area Office,  
Ravarnet House  
15 Altona Road  
Lisburn  
BT27 5QB  
Tel: 028 92 606100**



**4. Northern Ireland Environment Agency – Biodiversity & Conservation Science.**

BCS concludes that this development will not adversely affect avian selection features of the Carlingford Lough SPA/ASSI, the proposed East Coast (NI) Marine SPA or any other designated site in the vicinity. It is also very unlikely that the proposed operations would impact significantly on any other bird species using the Lough and its shoreline if the proposed method statement is adhered to and appropriate precautions taken to prevent pollution of adjacent waters by toxic materials. We would not anticipate any negative impact on this site in the longer term following completion of repairs.

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

Water Management Unit is content, subject to the applicant adhering to DAERA's Standing Advice on Pollution Prevention Guidance and Discharges to the Water Environment, which are available at:

[www.daera-ni.gov.uk/water-environment-standingadvice](http://www.daera-ni.gov.uk/water-environment-standingadvice)

**6. DAERA - Sea Fisheries**

DAERA Fisheries Inspectorate have no issues or concerns to raise from an aquaculture / sea fisheries aspect, but we would like to remind the applicant that:

**It is an offence under Article 47 of the Fisheries Act (Northern Ireland) 1966 to cause pollution which is subsequently shown to have a deleterious effect on fish stocks.**

**7. DAERA – Marine & Fisheries Division - Conservation and Reporting**

**ASSI**

The applicant's attention is drawn to the fact that the site is within the boundary of Carlingford Lough Area of Special Scientific Interest (ASSI) and precautions should be taken to ensure its integrity will not be damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring outside the red line planning application boundary are subject to the Environment (Northern Ireland) Order 2002 (as amended), which makes it an offence to carry out operations likely to damage an ASSI without prior permission from the Northern Ireland Environment Agency, Conservation, Designations and Protection Unit, Klondyke Building, Gasworks Business Park, Belfast BT7

2JA. The maximum penalty for offences is £20,000. In addition to a fine, offenders may be liable for the costs of restoring the damaged area to its original condition.

For Further information please see;

<https://www.daera-ni.gov.uk/topics/land-and-landscapes/areas-special-scientific-interest>

**European Protected Sites**

The applicant's attention is drawn to the fact that the site is within the boundaries of European Protected Sites and precautions should be taken to ensure its integrity will not be damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and require consent from the Northern Ireland Environment Agency, Conservation, Designations and Protection Unit, Klondyke Building, Gasworks Business Park, Belfast BT7 2JA.

For Further information please see;

<https://www.daera-ni.gov.uk/articles/special-areas-conservation>



### **Marine Conservation Zones**

The applicant's attention is drawn to the fact that the site is in proximity to the boundary of Carlingford Lough Marine Conservation Zone (MCZ) and precautions should be taken to ensure its integrity and the animals residing within, will not be damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring outside the red line planning application boundary are subject to the Marine Act (Northern Ireland), which makes it an offence to;

- a) intentionally or recklessly kills or injures any animal in an MCZ which is a protected feature of that MCZ,
- b) intentionally picks or collects, or intentionally or recklessly cuts, uproots or destroys, any plant in an MCZ which is a protected feature of that MCZ,
- c) intentionally or recklessly takes anything from an MCZ which is, or forms part of, a protected feature of that MCZ, or
- d) intentionally or recklessly destroys or damages any habitat or feature which is a protected feature of an MCZ

For Further information please see;

<https://www.daera-ni.gov.uk/articles/marine-conservation-zones>

### **RAMSAR Convention on Wetlands**

The applicant's attention is drawn to the fact that the site is in close proximity to the boundary of Carlingford Lough RAMSAR site and precautions should be taken to ensure its integrity should not be damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter.

For Further information please see;

<https://www.daera-ni.gov.uk/topics/land-and-landscapes/ramsar-sites>

### **Invasive Species**

The applicant's attention is drawn to Article 15 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence if any person releases or allows to escape into the wild any animal which—

- a) is of a kind which is not ordinarily resident in and is not a regular visitor to Northern Ireland in a wild (or is a hybrid of any animal of that kind), or
  - b) is included in Part I of Schedule 9 (or is a hybrid of any animal included in that Part),
- he shall be guilty of an offence.

Please see the following link for Best Practice Guidance:

[Marine Biosecurity Planning Guidance](#)





### **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, 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 (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 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.

It is the applicant's responsibility to ensure that an offence is not committed. Further advice can be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA.

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 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 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.

It is the applicant's responsibility to ensure that an offence is not committed. Further advice can 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://jncc.defra.gov.uk/PDF/consultation\\_epsGuidanceDisturbance\\_all.pdf](http://jncc.defra.gov.uk/PDF/consultation_epsGuidanceDisturbance_all.pdf)