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LICENCE/CONSENT VARIATION – VALIDATION OF APPROPRIATE ASSESSMENT

1 Licence Details

<u>Licensee/Developer Name:</u>	<u>Montrose Port Authority (“MPA”)</u>
<u>Site Details:</u>	<u>Montrose Harbour</u>
<u>Date Existing Licence/Consent Issued:</u>	<u>24 September 2021</u>
<u>Date of Existing Appropriate Assessment (“AA”):</u>	<u>10 September 2021</u>

2 Summary of proposed variation application:

MPA has requested to carry out 24 hours of dredging on Sunday 08 May 2022 to remove material that has migrated into the navigational channel reducing the depth in places by up to 2m from their maintained depth of -5.5m chart datum.

MPA’s current dredging approval issued 24 September 2021 has the following conditions to protect migrating salmon smolts, a designated feature of the River South Esk SAC:

- Montrose Port Authority must ensure that no dredging is carried out from 01 April 2022 until 31 May 2022 inclusive, unless a suitable mitigation plan is agreed in writing with Scottish Ministers, including but not limited to, dredging on a flood tide and significantly reducing the amount of dredging hours per day.
- Montrose Port Authority must ensure that any dredging from 01 April 2022 until 31 May 2022 inclusive, is carried out in line with the approved mitigation plan approved in condition 3 (above).

MPA requires 6,500m³ of material to be removed from the navigational channel, which can be completed in 7 dredger loads. Due to the time constraints of dredgers available, they only have the opportunity to dredge on 08 May 2022, in a 24 hour window. As such they are requesting to dredge without any restrictions for the full 24 hour period. The dredge area is in relatively open water where any sediment plume from the dredger will be more quickly dispersed by tidal currents than in the more confined inner channel/harbour. The material is predominantly sand which is also less likely to produce a significant sediment plume. The estuary at the location of dredging is approximately 150 m wide as a minimum. Dredging will be intermittent: dredging time per hopper load is approximately 1-2 hours, followed by a break of approximately 1-2 hours while the dredger travels to/from the deposit site.

The proposed change does not impact the licence to deposit dredge material.

3 Summary of consultation responses – in relation to European protected sites:

NatureScot, formerly Scottish Natural Heritage, was consulted on 25 April 2022 on the request for additional approval to dredge. On 29 April 2022 NatureScot advised that this proposal is likely to have a significant effect on Atlantic salmon within the River South Esk SAC. April and May represent the key window of sensitivity for smolts during migration out to sea and it is likely that smolts will be moving through the harbour on 08 May. However, NatureScot advised that based on the information provided, the proposal will not adversely affect the integrity of the River South Esk SAC should dredging take place for 24 hours on 08 May 2022.

Following new information received on 05 May 2022 from MPA regarding the location and volumes of the dredging, NatureScot provided further advice on 06 May 2022. NatureScot acknowledged the reservations expressed by Marine Scotland Science (“MSS”) regarding potential impacts on Atlantic salmon from the River South Esk SAC as a result of the proposed dredging. In providing the supplementary advice NatureScot had considered the following factors:

- The short term duration of the works (24 hours out of a 9 week period of no dredging). Additional supporting information confirms that each hopper load takes between 1-2 hours, so there will be an anticipated 14 hours of dredging over the 7 hopper loads within the 24 hour period.
- There are some breaks of around 30 minutes during each dredge cycle when the boat travels to the deposit site. Additional supporting information from MPA confirms that 30 minutes is the very minimum and there is generally 1-2 hours between each dredge cycle based on previous ship logs.
- The works are taking place only in the outer channel where impacts can be expected to be less. NatureScot agrees with MPA that any sediment is likely to be dispersed relatively quickly in the outer channel, some concerns about sediment dispersal remain if operations are extended into the inner channel.

NatureScot however confirmed that its advice provided on 29 April 2022 remains unchanged that there will be no adverse impact on the site integrity of the River South Esk SAC as a result of dredging on 08 May 2022.

4 Summary of other information in relation to European protected sites (MSS responses, external reports).

Advice from MSS was sought on 25 April 2022, 04 May 2022 and 05 May 2022 and written advice was provided on 29 April 2022, 04 May 2022 and 05 May 2022.

On 29 April 2022 MSS advised that there is no detailed information on smolt timings, specifically for the River South Esk. MSS considered general information on smolt migration in Scotland and advised that the salmon run on any river in any particular year will vary and may be concentrated into a few days. Runs can be delayed by low flows or cold conditions particularly in April and early May. This is likely to be the case this year in the South Esk caused by the current spell of dry weather and most of the smolts could move in bulk, given suitable flows, over a period of a few days, which could include 8th May. The threshold flow for movement reduces through May and progressively lower flows are needed to induce movement of smolts.

Regarding NatureScot's advice that the dredging is taking place only in the outer channel where impacts can be expected to be less, MSS considered the outer channel is still relatively narrow and no modelling or other information has been to support there being less risk of impact there.

On 04 May 2022 MSS provided further advice and noted that the river has been low since 20 April and very low since 24 April. There was a small lift in water height (2.5 centimetres) on 1 May into 2 May, but this may be been insufficient to stimulate any movement of smolts and the forecast remains dry for the next 7 days. The dredging occurs in the main navigation channel which all migrating fish must pass through and the risk to site integrity is higher than it would be at other times. MSS advised that no information or modelling of water quality in the harbour during dredging or other information had been presented by MPA to inform any potential mitigation.

On 04 May 2022 MPA provided further information on the dredging operations to address the concerns raised by MSS. MPA advised that the dredge area is in relatively open water where any sediment plume from the dredger will be more quickly dispersed by tidal currents than in the more confined inner channel/harbour. As the material here is predominantly sand, a significant sediment plume is unlikely anyway. The estuary is wide at this point (minimum approx. 150m), so one dredger working only in the northern half of the channel is considered unlikely to be an obstruction to migrating smolts. Dredging is intermittent: dredging time per hopper load is approx. 1-2 hours, followed by a break of approx. 1-2 hours while the dredger travels to/from the deposit site.

MSS considered the new information provided by MPA and advised on 05 May 2022 that the new information largely addressed the concerns MSS had regarding the impact of dredging on the smolts. MSS advised that the dredge area is in relatively open water and the dredged material in this outer part of the harbour is predominantly sand so a significant sediment plume is unlikely. Such material would also be expected to have a low biological oxygen demand and not reduce dissolved oxygen levels greatly.

MSS suggested that a watch should be kept for any evidence of dead, injured or distressed fish which could have caused by the dredging and that, if any are seen, the dredging should be stopped and the details reported immediately to MS-LOT to decide what action should be taken. MSS suggested that the dredging start in the most affected & critical areas in case operations need to be curtailed.

5 Updated in-combination assessment:

- a) *Detail new plans or projects since date of existing AA.*
- b) *List plan or project titles for which licences/consents have expired since date of existing AA.*
- c) *Update assessment.*

a)
None

b)
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c)

MS-LOT concludes that providing the above additional project is carried out in accordance with the conditions in the AA and the condition listed in section 6 is adhered to for this project, there will be no adverse effect on the site integrity of the River South Esk SAC from the Montrose Port Authority dredging in-combination with other projects.

6 Conclusion - Consideration of whether AA completed for the original decision is still valid:

The proposed amendment only affects the impacts on the River South Esk SAC. There is no change to the impact on the Moray Firth SAC so this site will not be considered further.

The AA completed for the original decision is still valid in its conclusion that the proposal is not likely to have an adverse impact on the site integrity of the River South Esk SAC, either alone or in combination with other projects providing the mitigation measures previously secured remain in place, subject to the following amendments to permit an additional 24 hour dredging period.

The existing conditions will be amended as follows:

Montrose Port Authority must ensure that no dredging is carried out from 01 April 2022 until 31 May 2022 inclusive, unless a suitable mitigation plan is agreed in writing with Scottish Ministers, including but not limited to, dredging on a flood tide and significantly reducing the amount of dredging hours per day, subject to the exception in condition 8.

Montrose Port Authority must ensure that any dredging from 01 April 2022 until 31 May 2022 inclusive, is carried out in line with the approved mitigation plan approved in condition 3 (above), subject to the exception in condition 8.

New conditions 8 and 9 will be added as follows:

Dredging is permitted for a 24 hour period on 08 May 2022.

If any distressed, injured or dead diadromous fish are observed during dredging on 08 May 2022, the dredging must immediately stop and Marine Scotland – Licensing Operations Team must be notified.

Name	Assessor or Approver	Date
[Redacted]	Assessor	03 May 2022
[Redacted]	Approver	06 May 2022

