

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT, ALTER OR IMPROVE WORKS IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00008749**

The Scottish Ministers (hereinafter referred to as "the Licensing Authority") hereby grant a marine licence authorising:

**Stornoway Port Authority
Amity House
Esplanade Quay
Stornoway
HS1 2XS**

to construct, alter or improve works as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid from **04 September, 2021** until **30 June, 2025**

Signed:

Anni Mäkelä

For and on behalf of the Licensing Authority

Date of issue: 03 September, 2021

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are as defined in Section 1, 64 and 157 of the Marine Scotland Act 2010, and

- a) "**the 2010 Act**" means the Marine (Scotland) Act 2010;
- b) "**Licensed Activity**" means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
- c) "**Licensee**" means Stornoway Port Authority
- d) "**Mean high water springs**" means any area submerged at mean high water spring tide;
- e) "**Commencement of the Licensed Activity**" means the date on which the first vehicle or vessel arrives on the site to begin carrying on any activities in connection with the Licensed Activity;
- f) "**Completion of the Licensed Activity**" means the date on which the Licensed Activity has been installed in full, or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

All correspondence or communications relating to the licence should be addressed to:

Marine Scotland
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.Marinelicensing@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the licensed activity. The issuing of the licence does not absolve the Licensee from obtaining such other authorisations and consents, which may be required under statute.

1.4 Variation, suspension, revocation and transfer

Under section 30 (1) of the 2010 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 any of its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act. Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the Act.

Under section 30 (7) of the 2010 Act, on an application made by a licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.

Under section 30 (8) of the 2010 Act, on an application made by the licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 Act it is an offence to carry on a Licensable Marine Activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6 Defences: actions taken in an emergency

Under section 40 of the 2010 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act in relation to any activity to prove that –
the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure ('force majeure'), and
that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act.

1.7 Offences relating to information

Under section 42 of the 2010 Act it is an offence for a person to make a statement which is false or misleading in a material way, knowing the statement to be false or misleading or being reckless as to whether the statement is 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 2010 Act or the provisions of this licence.

1.8 Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Agent

Affric Limited
Lochview Office
Loch Duntelchaig
Farr
IV2 6AW

2.2 Location of the Licensed Activity

Deep Water Port, Glumaig Bay, Stornoway, with the boundary found by joining the points:

58° 11.818' N 006° 23.388' W
58° 11.845' N 006° 23.099' W
58° 11.537' N 006° 22.654' W
58° 11.533' N 006° 22.850' W
58° 11.348' N 006° 22.912' W

As shown in Annex One.

2.3 Description of the Licensed Activity

Construction of a deep water port at Glumaig Harbour, Stornoway, Isle of Lewis including the following components:

- Construction of the main quay;
- Construction of a heavy load area;
- Construction of a pontoon;
- Construction of a bollard island;
- Construction of the freight ferry berth and linkspan;
- Creation of a levelled area by land reclamation;
- Construction of a link road by land reclamation; and
- Removal of parts of the SS Portugal wreck.

As described in the application dated 30 June, 2020 and correspondence submitted in support of the application.

2.4 Descriptions of the materials to be used during the Licensed Activity

The licence authorises the use of the undernoted construction materials required in connection with the licensed activity, subject to the indicative amounts as specified below:

Materials to be permanently used in the course of the Licensed Activity:

Steel - 11,100 tonnes
Timber - 150 tonnes

Concrete - 30,700 tonnes
Piping - 3000 square metres
Fenders - 850 square metres
Oil Interceptors - 60 square metres
Sand - 399,950 tonnes
Gravel - 1,030,750 tonnes
Cobbles - 343,900 tonnes
Boulders - 260,030 tonnes

Materials to be temporarily used in the course of the Licensed Activity:

Steel - 500 tonnes

Materials to be removed in the course of the Licensed Activity:

Steel - 500 tonnes
Parts of the wreck of SS Portugal

2.5 Contractor and Vessel Details

As shown in Annex Two

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1. The Licensee must at all times construct and maintain the Licensed Activity in accordance with the licence, the application and the plans and programmes approved by the Licensing Authority.

3.1.2. All conditions attached to the licence bind any person who for the time being owns, occupies or enjoys any use of the Licensed Activity, whether or not this licence has been transferred to that person.

3.1.3. The Licensee must ensure that only the materials listed in Part 2 of the licence are used during the execution of the Licensed Activity and that all materials, substances or objects used during the execution of the Licensed Activity are inert and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.4. In the event of any breach of health and safety or environmental obligations relating to the Licensed Activity during the period of the licence, the Licensee must provide written notification of the nature and timing of the incident to the Licensing Authority within 24 hours of the incident occurring. Confirmation of remedial measures taken and/or to be taken to rectify the breach must be provided, in writing, to the Licensing Authority within a period of time to be agreed by the Licensing Authority.

3.1.5. The Licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 484444) of the progress and upon completion of the the Licensed Activity. Such notification must include a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

3.1.6. If it is desired to display any marks or lights not required by the licence then details must be submitted to the Northern Lighthouse Board and its ruling complied with. The display of unauthorised marks or lights is prohibited.

3.1.7. The Licensee must remove the materials, substances or objects from below the level of Mean High Water Springs, or make such alterations as advised by the Licensing Authority, within one month of notice being given by the Licensing Authority at any time it is considered necessary or advisable for the safety of navigation, and not replaced without further approval by the Licensing Authority. The Licensee shall be liable for any expense incurred.

3.1.8. The Licensee must notify the Licensing Authority within one week of the Licensed Activity being ceased or terminated before completion and, within one month of such notification, submit a decommissioning plan to the Licensing Authority for its approval. The decommissioning plan must set out measures to be taken for decommissioning the works and be based on best practice at that time. The Licensee must carry out all measures in the approved decommissioning plan within a timescale stipulated by the Licensing Authority. Where approval for the decommissioning plan is not given by the Licensing Authority, the Licensee must carry out the measures to decommission the works as stipulated by the Licensing Authority in any notice served by the Licensing Authority in a timeframe described in the notice. The Licensee shall be liable for all costs.

3.1.9. If governmental assistance is required (including UK governmental assistance or the assistance of any UK devolved government) to deal with any emergency arising from:

- a) the failure to mark and light the works as required by this licence;
- b) the maintenance of the works; or

c) the drifting or wreck of the works

to include the broadcast of navigational warnings, then the Licensee is liable for any expenses incurred in securing such assistance.

3.1.10. The Licensee must ensure that the Licensed Activity is carried out in accordance with the mitigation measures outlined in Chapter 17: Schedule of Mitigation of the Stornoway Deep Water Port - Environmental Impact Assessment Report, Volume 2 submitted to the Licensing Authority in December, 2020.

3.1.11. The Licensee must ensure that the Licensed Activity is carried out in accordance with the Stornoway Deep Water Port, Stornoway, Western Isles - Written Scheme of Investigation (Document Reference 247960.03).

3.1.12. The Licensee must ensure that no deviation from the schedule specified in the licence is made without the further written approval of the Licensing Authority.

3.1.13. The Licensee must complete and submit a Close-out Report for the licensable marine activities that produced loud, low to medium frequency (10Hz-10kHz) impulsive noise in the online Marine Noise Registry no later at 6 month intervals during the validity of the licence and on completion of the Licensed Activity.

3.2 Prior to the commencement of the Licensed Activity

3.2.1. The Licensee must complete and submit a proposed activity form in the online Marine Noise Registry for all Licensed Activities that will produce loud, low to medium frequency (10Hz-10kHz) impulsive noise no later than seven days prior to commencement of the Licensed Activity. If any aspects of the Licensed Activity differs from the proposed activity form in the online Marine Noise Registry, the Licensee must complete and submit a new proposed activity form no later than seven days prior to commencement of the Licensed Activity.

3.2.2. The Licensee must provide the name and function of any agent, contractor or sub-contractor appointed to undertake the Licensed Activities, as soon as is reasonably practicable prior to the Licensed Activities commencing.

3.2.3. The Licensee must, prior to and no less than seven calendar days before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the date of Commencement of the Licensed Activity authorised under this licence.

3.2.4. The Licensee must ensure that HM Coastguard, in this case zone36@hmcg.gov.uk is made aware of the Licensed Activity prior to commencement.

3.2.5. The Licensee must ensure that the Licensed Activity is carried out in accordance with a Marine Mammal Management Plan ("MMMP") which the Licensee must submit, in writing, to the Licensing Authority for its written approval, no later than two months prior to the commencement of the Licensed Activity or at such a time as agreed with the Licensing Authority. It is not permissible for the Licensed Activity to proceed prior to the granting of such approval. In the event that the Licensee wishes to update or amend any of the protocols in the MMMP, the Licensee must submit, in writing, details of proposed updates or amendments to the Licensing Authority for its written approval, no later than one month or at such a time as agreed with the Licensing Authority, prior to the planned implementation of the proposed updates or amendments. It is not permissible for any Licensed Activity associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The MMMP must include, but not be limited to, the mitigation measures outlined in the Piling Marine Mammal Protocol and the Spoil Disposal Marine Mammal Protocol found within paragraphs 7.6.1. and 7.6.2. of the Stornoway Deep Water Port – Environmental

Impact Assessment Report Volume 2, December 2020 subject to the following alterations to both protocols:

- a) inclusion of details of the on-site location and experience levels of the marine mammal observers employed;
- b) inclusion of the details of the Passive Acoustic Monitoring system to be utilised, including details of its location, when it is to be deployed and the experience of the levels of the operators;
- c) inclusion of communication protocols between the Marine Mammal Observers/Passive Acoustic Monitoring operator and the piling contractor; and,
- d) the 500m mitigation zone may be reduced to 100m in regards to seals.

3.2.6. The Licensee must ensure that the Licensed Activity is carried out in accordance with a Construction Environmental Management Document ("CEMD") which the Licensee must submit, in writing, to the Licensing Authority for its written approval, no later than two months prior to the Licensed Activity or at such a time as agreed with the Licensing Authority. It is not permissible for the Licensed Activity to proceed prior to the granting of such approval. In the event that the Licensee wishes to update or amend any of the protocols in the CEMD, the Licensee must submit, in writing, details of proposed updates or amendments to the Licensing Authority for its written approval, no later than one month or at such a time as agreed with the Licensing Authority, prior to the planned implementation of the proposed updates or amendments. It is not permissible for any Licensed Activity associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The CEMD must include a construction traffic management plan, protocol for archaeological discoveries, an invasive non-native species management plan, a navigational risk assessment and a dust management plan.

3.2.7. The Licensee must ensure that surveys of the wreck S.S. Alabama are carried out in accordance with the Stornoway Deep Water Port, Stornoway, Western Isles - Written Scheme of Investigation (Document Reference 247960.03). The Licensee must provide the Licensing Authority with written correspondence to show that Historic Environment Scotland is satisfied with the report on survey findings.

3.2.8. The Licensee must liaise with the Northern Lighthouse Board to discuss the navigational marking requirement prior to Commencement of the Licensed Activity. This will include the permanent Aids to Navigation ("AtoN") as well as any temporary AtoN required during the construction phases.

3.2.9. The Licensee must notify the UK Hydrographic Office at least five days before commencement of the Licensed Activity. Such notification must include the start date and end date of the Licensed Activities, locations in WGS84 and details of the Licensed Activities to be carried on, marking of the Licensed Activity. The Licensee must follow the advice of the UK Hydrographic Office in relation to any further notifications required.

3.3 During the Licensed Activity

3.3.1. The Licensee must ensure that the Licensed Activity is maintained at all times in good repair.

3.3.2. The Licensee must ensure that any debris or waste materials arising during the course of the Licensed Activity are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.3.3. The Licensee shall ensure that prior to the expiry of the licence, the Licensed Activity must be altered by taking all temporary structures to a place above Mean High Water Springs.

3.3.4. The Licensee must ensure that only those agents, contractors or sub-contractors notified to the Licensing Authority are permitted to undertake the Licensed Activity.

3.3.5. The Licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the Licensed Activity.

3.3.6. The Licensee must ensure appropriate steps are taken to minimise damage to the foreshore and seabed by the Licensed Activity.

3.3.7. The Licensee must ensure the foreshore and seabed are returned to the original profile, or as close as reasonably practicable, following the completion of the Licensed Activity.

3.3.8. Any person authorised by the Licensing Authority must be permitted to inspect the site at any reasonable time.

3.3.9. The Licensee must ensure that copies of the licence are available for inspection by Marine Enforcement Officer at:

- a) the premises of the Licensee;
- b) the premises of any agent, contractor and sub-contractor acting on behalf of the Licensee; and
- c) location of the Licensed Activity.

3.3.10. The Licensee must ensure that the Licensed Activity is only carried out at the location of the Licensed Activity specified in Part 2 of the licence.

3.3.11. The Licensee must provide a copy of the licence to each agent, contractor and sub-contractor employed to undertake the Licensed Activities.

3.4 Upon Completion of the Licensed Activity

3.4.1. The Licensee must, no later than 14 days following the Completion of the Licensed Activity notify the Licensing Authority, in writing, of the date of the Completion of the Licensed Activity.

3.4.2. The Licensee must submit a written report regarding the materials used during the Licensed Activity to the Licensing Authority. The written report must be submitted on completion of the Licensed Activity and on the forms provided by the Licensing Authority no later than 31 October 2026.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed activity. The issue of the licence does not absolve the licensee from obtaining such authorisations, consents etc which may be required under any other legislation.
2. In the event that the licensee wishes any of the particulars set down in the Schedule to be altered, the licensing authority must be immediately notified of the alterations. It should be noted that changes can invalidate a licence, and that an application for a new licence may be necessary.