



T: +44 (0)300 244 5046
E: ms.marinelicensing@gov.scot

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: 06901/19/0

Reference Number: 06901

Scottish Ministers (hereinafter referred to as "the licensing authority") hereby authorise:

**Shetland Islands Council
Ports and Harbours
Sella Ness
Shetland
ZE2 9QR**

to construct, alter or improve works as described in Part 1 of the attached Schedule. The licence is subject to the conditions of use set out, or referred to, in Part 2 of the said Schedule.

The licence shall be valid from 06 August 2019 until 30 April 2021.

Signed: [Redacted]

Anni Mäkelä

For and on behalf of the licensing authority

Date: 06 August 2019



Part 1 - Particulars

1. Name and address of agent acting on behalf of licensee (if appropriate):

NIRAS Consulting Ltd.
St Giles Court
24 Castle Street
Cambridge
CB3 0AJ

2. Location of the works (hereinafter referred to as "the site"):

Toft Pier, Toft Voe, Shetland in the area bounded by the points:

60° 28.041' N : 01° 12.382' W
60° 28.023' N : 01° 12.382' W
60° 28.041' N : 01° 12.395' W
60° 28.025' N : 01° 12.395' W
60° 28.014' N : 01° 12.412' W
60° 28.018' N : 01° 12.421' W

As shown in Annex One.

3. Description of the works:

Reconstruction and extension of an existing fishing pier

As described in application dated 18 December 2018, and correspondence submitted in support of the application.

4. Nature and indicative quantity of materials used below Mean High Water Springs level in the construction, alteration or improvement of the works described in Part 1.3 of the licence:

296 No. Sheetpiles (470 tonnes)
4950m³ Gravel (9530 tonnes)
26 No. Steel tie rods (6 tonnes)
Quayside furniture

Part 2 - Conditions

1. The licensee must ensure that only the materials listed in Part 1 of the licence are used in the construction, alteration or improvement of works and that materials used 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.
2. The licensee must ensure that any debris or waste materials arising during the course of the works are removed from the site for disposal at an approved location above the tidal level of Mean High Water Springs.
3. The licensee must submit a written report regarding the materials used during the works to the licensing authority. The written report must be submitted on completion of the works and on the forms provided by the licensing authority no later than 31 October 2021.
4. The licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: hdr@ukho.gov.uk; tel.: 01823 484444) of both progress and on completion of the works supply a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.
5. The licensee must issue local notification to marine users – including fisherman's organisations, neighbouring port authorities and other local stakeholders – to ensure that they are made fully aware of the works.
6. The licensee must ensure that HM Coastguard, in this case nmoccontroller@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the works prior to commencement.
7. The licensee must ensure that all works are carried out in accordance with the Marine Mammal Mitigation Plan, version 1 submitted on 12 June 2019.
8. The licensee must ensure that no works are carried out between 07 June and 21 July inclusive, in order to prevent disturbance to harbour seals during the pupping period.
9. The licensee must ensure that a copy of the licence is given to each contractor appointed to carry out part or all of the works in order that they are clear about the extent of 'the works' for which the licence has been granted and the conditions that are attached to the licence.
10. The licensee must complete and submit a Proposed Activity Form in the online Marine Noise Registry for all licensable marine activities that will produce loud, low to medium frequency (10Hz-10kHz) impulsive noise no later than 7 days prior to commencement of the licensable marine activity. If any aspects of the licensable marine activities differ 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 7 days prior to commencement of the licensable marine activity.
11. 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 at 6 month intervals during the validity of the licence.
12. The licensee must ensure appropriate steps are taken to minimise damage to the seabed by the works.

13. The licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable, following the completion of the works.
14. The licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the works.
15. The licensee must ensure suitable bunding and storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.
16. The licensee must ensure that the works are marked and/or lighted as required by the Northern Lighthouse Board and the marking to be continued unless and until the licensing authority rescind this direction.
17. The licensee must ensure that the existing navigation light, two Fixed Red (vert) (A3813.5) situated on the seaward end of the existing pier is relocated to the north east seaward extent of the new pier.
18. 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 their ruling complied with. The display of unauthorised marks or lights is prohibited.
19. The licensee must ensure that the works are maintained at all times in good repair.
20. 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.
21. If in the opinion of the licensing authority the assistance of a Government Department, including the broadcast of navigational warnings, is required to deal with any emergency arising from:
 - a) The failure to mark and light the works as required by licence.
 - b) The maintenance of the works.
 - c) The drifting or wreck of the works.

The licensee shall be liable for any expenses incurred in securing such assistance.

22. In the event of the licensed activities being discontinued the works must be removed and the site cleared to the satisfaction of the licensing authority.
23. The licensee must remove the works from below the level of Mean High Water Springs, or such alterations made, 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 of the licensing authority. The licensee shall be liable for any expense incurred.
24. Any person authorised by the licensing authority must be permitted to inspect the works at any reasonable time.

25. The licensee must ensure that a dedicated watch is kept by a trained Marine Mammal Observer (MMO) or someone else following the general guidance for, and acting in the role of, a MMO during any borehole drilling operations.
26. The licensee must ensure that no borehole drilling takes place when marine mammals are sighted within 50m of the borehole drilling activity.
27. The licensee must ensure that no borehole drilling takes place when the visibility is less than good and when the sea state is 4 or more on the Beaufort scale.
28. The licensee must ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:
 - a) the premises of the licensee;
 - b) the premises of any agent acting on behalf of the licensee; and
 - c) the site of the works.
29. In the event of the licensee becoming aware that any of the information on which the issue of the licence was based has changed, the licensing authority must be immediately notified of the details.

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.
3. Under Section 30 of the Marine (Scotland) Act 2010, the licensing authority may vary, suspend or revoke the licence, if it appears to the licensing authority that there has been a breach of any of the provisions of the licence or for any other reason that appears to be relevant to the licensing authority.
4. Under Section 39 of the Marine (Scotland) Act 2010, it is an offence to carry on a licensable marine activity or cause or permit any other person to carry on such an activity without a marine licence or fails to comply with any condition of a marine licence. It is a defence for a person charged with an offence under Section 40 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 (*'force majeure'*), and that the person took steps within a reasonable time to provide full details of the incident to the licensing authority. (Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-East Atlantic, the licensing authority is obliged to immediately report *'force majeure'* incidents to the Convention Commission).
5. All correspondence or communications relating to the licence should be addressed to:

Licensing Operations Team
Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Tel: +44 (0)300 244 5046
Email: ms.marinelicensing@gov.scot