

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

Mr B Sydney
Caledonian Maritime Assets Ltd
Municipal Buildings
Fore Street
Port Glasgow
PA14 5EQ

16 September 2019

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) 2017 REGULATIONS (AS AMENDED)

DECISION NOTICE – MARINE LICENCES FOR THE CONSTRUCTION, DREDGING, DEPOSIT OF DREDGED SUBSTANCES OR OBJECTS AND REMOVAL OF SUBSTANCES OR OBJECTS ASSOCIATED WITH THE UPGRADING OF THE EXISTING FERRY TERMINAL AT EAST LOCH TARBERT, TARBERT, ISLE OF HARRIS

1 Application and description of the works

1.1 On 06 February 2019 Caledonian Maritime Assets Ltd (“the Applicant”) having its registered office at Municipal Buildings, Fore Street, Port Glasgow, PA14 5EQ, submitted to the Scottish Ministers an application under Part 4 of the Marine (Scotland) Act 2010 (“the 2010 Act”) for the construction, dredging, deposit of dredged substances or objects (“dredge spoil”) and the removal of substances or objects associated with the upgrading of the existing Ferry Terminal at East Loch Tarbert, Tarbert, Isle of Harris (hereinafter collectively referred to as “the Works”). The applications were accompanied by an Environmental Impact Assessment Report (“EIA Report”) in accordance with The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the 2017 MW Regulations”).

1.2 The Works include the following components:

- Pier demolition, reconstruction and extension;
- Dredging and deposit of dredge spoil ; and
- Extension of marshalling area through land reclamation, including construction of a rock armour revetment.

- 1.3 The existing pier will be demolished and temporary fendering will be installed with shore braces for support. This will transfer the berthing loads from the fender piles and facilitate the berthing of the ferry until the pier is reconstructed. The reconstructed and extended pier will be approximately 100 metres ("m") long and between 10 and 12.5m wide, with an area of approximately 1,400 square metres ("m²"). The pier will be supported on approximately 50 new vertical and raked steel piles driven into the seabed. The new piles will support precast reinforced concrete cross beams and slabs, with a top reinforced concrete slab which will be poured in situ. The new pier will incorporate the existing inner and outer dolphins, which will be broken down to a suitable level, before being over-slabbbed and incorporated into the new pier structure. Sacrificial cathodic protection will be included to help to protect the pier structure from corrosion.
- 1.4 There are three dredge areas as shown in appendix 1. The existing seabed will be excavated to achieve a dredge level of -5m Chart Datum ("CD") at the pier berth. This area is known as the operational dredge area which covers an area of 4,000m² and has an estimated dredge volume of 4,500 cubic metres ("m³"). In the second dredge area, the existing seabed will be excavated to remove soft, poor quality seabed material to a maximum depth of -7.85 CD. This area is known as the reclamation area and is 8,500m² in extent with an estimated dredge volume of 31,300m³. An area adjacent to the reclamation area where the pontoons are located also needs to be dredged to facilitate access by vessels to dredge the reclamation area. The dredge will reduce the seabed to between -1m CD and -3m CD. This is known as the access dredge (ponton) area which is 4,800m² and has an estimated dredge volume of 5,000m³. The total dredge volume is 40,000m³ however the Applicant is seeking a licence for a total of 50,000m³ to account for insitu changes. All dredge spoil is to be deposited at the Stornoway designated deposit site.
- 1.5 An area of 13,000m² of land will be reclaimed to the south and east of the existing marshalling area, up to and including below the existing pier. The land will be reclaimed by placing rock fill onto the firm gravel or rock of the seabed, exposed by the dredging activities. A retaining wall will be installed to keep the upper levels of the infill material in place. A rock armour revetment will be constructed to protect the reclaimed areas. Where access is limited, it is proposed to utilise grout filled mattresses instead of rock armour to ensure slope scour protection. An estimated 6,000m³ of primary (including 2,000m³

of existing rock armour which will be removed and then reused) and 3,500m³ of secondary armour material will be used. In addition, an estimated 40,000m³ of rock and fill material will be required to fill in the land reclamation area. A new drainage system will be installed to accommodate the surface water arising from the marshalling area.

- 1.6 This decision notice contains the Scottish Ministers' decision to grant regulatory approval for the Works as described above, in accordance with the 2017 MW Regulations.

2 Summary of environmental information

- 2.1 The environmental information provided by the Applicant was:-

- An EIA Report that provided an assessment of the impact of the Works on a range of receptors;
- Tarbert Ferry Terminal Upgrade Capital Dredge Best Practicable Environmental Option Report (dated 21 December 2018); and
- Construction Environmental Management Document (dated 29 January 2019) ("CEMD").

- 2.2 A summary of the environmental information provided in the EIA Report is given below.

Air Quality

- 2.3 The air quality assessment carried out by the Applicant considered fugitive dust emissions associated with construction of the Works and Greenhouse Gas ("GHG") emissions associated with construction and operational phases of the Works.

- 2.4 Of the dust sources identified, earthworks required to facilitate the infilling works including the temporary storing of infill materials and track out associated with heavy good vehicles delivering primarily materials to the site were assessed as having a moderate to major significant effect in the absence of mitigation on the sensitive receptors. Mitigation measures are outlined in a Dust Management Plan within the CEMD and reduce the aforementioned significant effect to non-significant. All other assessments related to dust were non-significant and no significant cumulative effects were identified.

- 2.5 In terms of carbon emissions, it is estimated that 4,778 tonnes of carbon dioxide equivalent will be produced as a result of the construction phase of the Works. The Works facilitate the reduction of GHG emissions by providing infrastructure to deploy a new ferry with dual fuel engines and cold ironing shore connection capabilities, reducing overall GHG emissions from ferry

operations in the area. Cold ironing will save 142 tonnes of carbon dioxide equivalent per year therefore 33 years of cold ironing will be required to balance out the construction carbon dioxide equivalent cost. With appropriate maintenance, the Works will operate for more than 33 years and therefore the project could be considered carbon neutral over its lifetime. This does not include benefit from facilitating the use of the new dual fuel vessel which will reduce carbon emissions. The Applicant considered the Works to be minor: non-significant beneficial from a GHG perspective.

Marine Mammals

- 2.6 A desk study and literature search was undertaken by the Applicant to inform the characterisation of the existing marine mammal baseline conditions. As part of this, the Applicant considered the potential impact of the Works on several European designated sites and the proposed Marine Protected Area in the Inner and Outer Hebrides. Of these sites the Applicant considered the Works as having a likely significant effect on the Inner Hebrides and the Minches Special Area of Conservation ("SAC") and the Ascrib, Isay and Dunvegan SAC designated for harbour porpoise and common seals respectively. The Works are located at the head of East Loch Tarbert. The waters within 1km of the Works are confined, shallow (less than 25m depth) and offer little valuable marine mammal habitat. The Applicant therefore considers it is unlikely that marine mammals will be frequent visitors to the area despite their prevalence in neighbouring waters.
- 2.7 During construction there is potential for the marine mammal species identified to be impacted through disturbance due to increased underwater noise emissions, foraging impairment due to increased sediment loading in the water column during dredging and infilling operations and injury and displacement due to potential spills of hazardous substances.
- 2.8 In total, the Applicant identified eleven significant effects on marine mammal receptors potentially resulting from the Works. These effects were associated with the underwater piling noise and deposit of the dredge spoil activities and were assessed as having the potential to result in moderate significant effects. Marine mammal observers and passive acoustic monitoring will be employed to ensure marine mammals are not in the designated mitigation zone prior to the operations commencing. The Applicant considers the marine mammal mitigation detailed in the CEMD will reduce the residual impacts on marine mammals to minor and non-significant.

Benthic Ecology

- 2.9 The Applicant carried out benthic surveys of the area of Works to gain an understanding of the benthic habitats, sediment type and suitability of the dredge spoil for infilling purposes. The initial survey results identified that the

dredge spoil would not be suitable for reuse. The Applicant also identified from their surveys, multiple biotope complexes in the vicinity of the Works, in both the proposed infilling and dredging areas. None of the recorded species or biotopes were however of conservation concern. The Applicant identified the Luskentyre Banks and Saltings Site of Special Scientific Interest ("SSSI") and Tong Saltings SSSI as being located 6km and 27km from the Works, respectively. The Applicant considered that distance between the Works and the SSSIs together with the natural land barriers between the SSSIs and the area of the Works, including the designated deposit site, means that no benthic habitat connectivity is likely to exist and the impacts on the SSSIs were not assessed further.

- 2.10 The construction phase of the Works is likely to impact benthic ecology of the area of the Works through habitat loss as a potential spawning site and foraging areas for benthic communities, physical disturbance during dredging operations and the deposit of dredge spoil, increased sediment loading in the water column, accidental spillage of hazardous substances and introduction of non-native marine species. There will be a permanent loss of benthic flora, fauna and habitat in the extended marshalling area footprint and temporary loss in the dredge area. However, no high value habitats or species will be affected and population-level effects are not expected as habitat loss is small in relation to the overall area of East Loch Tarbert. The Works are also at one end of the loch and so will not result in habitat fragmentation.
- 2.11 The deposit site for dredge spoil is the existing Stornoway designated deposit site and the value of the benthic environment in this area is likely to be low, therefore cumulative benthic impacts are assessed as minor and non-significant.
- 2.12 The Applicant identified no significant impacts on benthic ecology as a result of the Works and no requirement for specific mitigation measures to reduce impacts on benthic receptors. This is in part due to the localised and temporary nature of the impacts, the quality and value of the receptors.

Fish Ecology

- 2.13 Basking shark, Atlantic salmon, sea trout and European eel were identified as being potentially present near the Works. The assessment found that Atlantic salmon, sea trout and European eel are likely to only be present in coastal areas proximal to where their respective riverine habitats meet the marine environment. Most of the Works are located at the head of East Loch Tarbert and since no notable watercourses discharge to this area, the Applicant considers it unlikely that migrating diadromous fish will transit through and be present in the waters in the vicinity of these Works. The Stornoway deposit site is located in more open water than East Loch Tarbert and so densities of

diadromous fish may be higher however no watercourses discharge into the immediate vicinity of this area either. The Applicant therefore considers it unlikely that the relevant fish receptors will be present in the immediate vicinity of the deposit site. In addition, the Applicant considers that any impact on these fish receptors will be localised and short term.

2.14 Basking sharks are not expected to be present in high densities within the Minch to the east of the Outer Hebrides, although some sightings have been recorded. The shallow enclosed waters of East Loch Tarbert are not anticipated to provide valuable habitat for basking sharks, with no recorded sightings in the Loch. The Applicant therefore considers it unlikely that this species will be present in the immediate vicinity of the ferry terminal. In addition, they expect the basking shark densities to be low at the Stornoway deposit site.

2.15 Potential effects on diadromous fish and basking sharks were identified as being through increased sediment loading from dredging and deposit of dredge spoil or objects, underwater noise from construction and accidental release of hazardous substances. All impacts are predicted to result in negligible to minor and non-significant impacts. While impacts on basking sharks were assessed as non-significant, marine mammal protocols for piling and dredge material deposit operations will also apply to basking sharks as best practice.

Noise (In-Air)

2.16 Baseline noise measurements were taken to understand current noise levels in the vicinity of the Works. The Applicant assessed potential sources of noise from the construction activities in relation to noise sensitive receptors. Initial modelling showed that noise levels, associated with the works on the terminal building and piling of the pier, at some properties were not acceptable. Barriers were specified around part of the Works to provide noise screening which reduced noise levels for all construction activities to 70 decibels or lower.

2.17 The construction works will be carried out between 8am and 7pm Monday to Friday and between 8am and 1pm on Saturday. The assessment concluded that construction noise effects are non-significant. Additional mitigation has been listed in the CEMD and includes best practice to minimise noise levels and keep local residents aware of the proposed work schedule and when abnormally noisy activities may occur.

2.18 Due to cold ironing, night time noise levels during the operational phase are expected to reduce from those currently arising when the ferry is alongside overnight. This was identified to be a significant benefit to local residents.

Additional vehicle movements were not sufficient to have any more than a negligible effect on traffic noise levels in Tarbert.

Noise (Underwater)

- 2.19 Both vibro and impact piling will be required for the installation of both permanent and temporary piles which will be installed to construct the new pier, resulting in elevated levels of underwater noise. In addition, a number of temporary piles will be extracted with a vibro hammer and, where possible, piles from the existing pier will also be extracted as part of the demolition works. Dredging and rock breaking will also be utilised during the Works which will contribute to underwater noise together with increased vessel movements. Marine impact piling is expected to result in the greatest underwater noise levels and was therefore the focus of the underwater noise assessment.
- 2.20 No baseline monitoring of the existing marine noise levels within East Loch Tarbert was conducted. The Applicant defined the current source of underwater noise as vessel traffic, mainly from the ferry and smaller vessels using pontoon facilities and potentially acoustic deterrent devices at marine farms located approximately 4km from the Works. Noise levels at differing ranges from the construction phase were estimated and compared to published acoustic impact criteria for marine mammals and fish. The impact ranges resulting from the modelled construction activities varied significantly, depending on the predicted source level. There were also considerable differences between the fish and marine mammal receptors depending on species and criteria. High frequency cetaceans (harbour porpoises) were identified as having the greatest acoustic injury range (250m) which resulted from impact piling. Due to the localised nature of the proposed piling and lack of marine mammal observations in the area of the Works, the impacts of underwater noise on harbour porpoise is considered moderate: significant. Impacts on other marine mammals are considered to be minor: non-significant. Specific mitigation measures to reduce the impacts of underwater noise on marine mammals are included in the CEMD.

Traffic, Access and Navigation

- 2.21 Navigational risks during the construction phase are minor and non-significant as there will not be excessive numbers of vessels involved with the Works. The effects on ferry sailings associated with the construction phase are minimised by the inclusion of a temporary fendering solution which will allow the ferry to berth throughout the duration of the Works.
- 2.22 To facilitate the dredging activities, the pontoons will need to be taken out of service for up to 14 weeks. This is planned through the winter months to minimise disturbance, particularly to visiting vessels, it could however have a moderate and significant effect on local vessel owners. Good communication

with the pontoon operator and local vessel owners will reduce the impact to non-significant levels. The access will be improved once the proposed dredge is complete by providing deeper water depths. The installation of the pontoons and two anchorages into the harbour area will be a beneficial moderate and significant effect.

Water Quality and Coastal Processes

- 2.23 The Applicant assessed the potential impacts on marine water quality and coastal processes from both the construction and operational phases of the Works.
- 2.24 The Applicant identified potential increases in sediments in the water column from the land reclamation, dredging and the deposit of dredge spoil activities. The Applicant concluded however that the effects on the water column from the dredging and associated deposit are expected to be short-term, minor and non-significant as solids tend to pass through the water column and quickly settle on the seabed. With regards to the land reclamation, the Applicant will use materials free from fines and therefore predicted no change in water quality. A Water Framework Directive assessment was completed and found that there is no predicted reduction in the water quality status of East Loch Tarbert due to the Works.
- 2.25 The construction works will involve the use of potentially polluting substances, such as fuel and hydraulic fluids, however, the volumes involved are relatively small and no significant impacts were identified by the Applicant. Industry best practice regarding storage and handling of potentially polluting substances will be implemented to ensure that the chance of a loss of containment is minimised.
- 2.26 The Applicant considered the risk of introduction of non-native marine species during the construction and operational phases as unlikely due to a small number of vessels being used and the implementation of the International Maritime Organization's Ballast Water Management Convention.
- 2.27 The Applicant also considered the potential impact of marine litter during the construction phase, noting waste will be appropriately segregated and sorted to prevent litter entering the marine environment. Waste receptacles will be provided at terminal facilities to reduce the likelihood of public dropping litter.
- 2.28 The Applicant did not identify any change to flood and coastal process as a result of the Works and the flooding risk to the terminal was identified as being negligible and non-significant.

Landscape, Seascape and Visual

- 2.29 The Applicant carried out a seascape, landscape and visual impact assessment based of the Works focussing on the effects on the seascape, landscape and visual resources arising at each of the selected viewpoints. As part of this, the Applicant carried out a baseline study which included the analysis of the zones of theoretical vision to identify where the Works would be seen from. In addition, the assessment took into account that the Works were located wholly within the South Lewis, Harris and North Uist National Scenic Area ("NSA").
- 2.30 The assessment concluded that the Works will be visible to properties, roads and recreational routes and identified intermittent and significant effects on these during both the construction and operational phases. This was taken into account by the Applicant during the design and sighting of various components. In addition, the Applicant will employ good working practices to minimise effects from equipment, materials and waste during the construction phase. Even with mitigation being employed the Applicant identified residual adverse significant effects during both the construction and operational phases of the Works. The Applicant noted that sensitive location and lack of space meant it was not possible to mitigate against all the effects.

3 Consultation

- 3.1 In accordance with the 2017 MW Regulations advertisement of the applications and EIA Report was made in the local and national press and the Applicant's website. Notices were placed in the public domain and the opportunity given for those wishing to make representations to do so.
- 3.2 The dates of the consultation exercises are given below. The regulatory requirements regarding consultation and public engagement have been met and the responses received taken into consideration. Where matters have not been fully resolved, conditions have been included to ensure appropriate action is taken after regulatory approval is granted.

Document	Date Received	Dates of Consultation	Publication
Environmental Impact Assessment Report & Appendices	06 February 2019	22 February 2019 – 23 March 2019	Stornoway Gazette (14 & 21 February 2019)
Marine licence applications and supporting documentation			Edinburgh Gazette (15 February 2019) Marine Scotland Information website (15 February 2019) http://marine.gov.scot/ml/ferry-terminal-development-tarbert-isle-harris

			Caledonian Maritime Assets Ltd website (13 February 2019) http://www.cmassets.co.uk/project/skye-triangle-infrastructure-works/
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- 3.3 A summary of the responses is set out in sections 4, 5 and 6. The responses are available to view in full [here](#).

4 Summary of statutory consultee responses

- 4.1 Scottish Environmental Protection Agency ("SEPA") responded on 21 March 2019 and again on 16 April 2019 confirming that provided the conditions they proposed were added to the CEMD, SEPA would be content with the Works. The Applicant provided an updated CEMD on 04 June 2019 that included the conditions proposed by SEPA. Adherence to the updated CEMD will be added as a condition to the marine licences.
- 4.2 Scottish Natural Heritage ("SNH") responded on 09 May 2019 advising that they support the conclusions of the Habitats Regulations Appraisal Pre-Screening Report contained within the EIA Report that there is potential for the Works to have a likely significant effect on the Inner Hebrides and the Minches SAC and the Ascrib, Isay and Dunvegan SAC.
- 4.3 The Habitats Regulations Appraisal Pre-Screening Report highlighted the potential for the Works to cause moderate disturbance and possible injury to harbour porpoise and harbour seals due to the noise from piling and potential interactions with falling material during dredge spoil deposit at the Stornoway deposit site. SNH agreed that through the implementation of marine mammal protocols for piling and the deposit of dredge spoil, the resulting effects on the harbour porpoise qualifying interest of the Inner Hebrides and the Minches SAC and the harbour seal qualifying interest of the Ascrib, Isay and Dunvegan SAC would be reduced to minor. SNH advised that there will be no adverse effects on the integrity of the Inner Hebrides and the Minches SAC or the Ascrib, Isay and Dunvegan SAC providing the proposed mitigation measures outlined in the CEMD are adhered to.
- 4.4 SNH also confirmed that they support the conclusion of the EIA Report that the Works will have no impact on Priority Marine Features.
- 4.5 SNH initially advised that a licence for disturbance of European Protected Species ("EPS") would not be required provided that adherence to the CEMD was included as a marine licence condition. After further correspondence between the Applicant, SNH and Marine Scotland Science, SNH confirmed on 22 May 2019 that an EPS licence would likely be required for the Works. The

Applicant has been informed and will submit an EPS licence application once a contractor has been appointed. SNH indicated that the marine mammal mitigation protocol detailed in the CEMD will be sufficient to mitigate against impacts on EPS.

- 4.6 Historic Environment Scotland ("HES") responded on 13 March 2019 confirming no objections as the Works do not raise historic environment issues of national significance.
- 4.7 Western Isles Council (Comhairle nan Eilean Siar ("CnES")) responded on 28 March 2019 stating that given the location of the Works there will be adverse impacts during the construction phase which will require to be adequately managed. CnES stated that the noise and dust impacts of the Works could be mitigated by introducing restrictions to hours of operation. The hours of working were agreed with the CnES and the Applicant and are secured as marine licence conditions. CnES confirmed on 21 August 2019 that other dust and noise concerns are addressed by securing compliance with the CEMD as a marine licence condition.
- 4.8 CnES encouraged the Applicant to consider options to provide parking facilities consistent with parking standards for the floor area of the proposed waiting room due to an increased footprint. CnES advised the Applicant to consider options to provide additional drop off/pickup parking to avoid the main road being blocked by traffic during peak times. CnES also advised the Applicant to provide suitable parking for workers and staff during the construction phase to ease demand on public parking. CnES noted that if the roads infrastructure is damaged as a result of the Works, this must be repaired at the expense of the Applicant to the satisfaction of the Roads Authority. CnES advised that the Applicant should undertake a joint survey of the construction traffic route with CnES before works commence. CnES suggested that measures should be taken to ensure roads are kept clean of any debris relating to transportation of materials during the works. CnES also advised that there should be breaks in construction traffic to allow safe traffic and pedestrian movement to and from the Sir E Scott School during term time. The Applicant has noted the advice and agrees to make arrangements to address traffic congestion.
- 4.9 The CnES Archaeology Service confirmed on 27 June 2019 that they are content with the protocol for encountering any unexpected archaeological remains during the Works as detailed in the CEMD.

5 Summary of non-statutory consultee responses

- 5.1 The Maritime and Coastguard Agency responded on 04 April 2019 stating no objection to the marine licences being granted, subject to all maritime safety legislation being followed and the inclusion of standard conditions on the marine licences.
- 5.2 Northern Lighthouse Board responded on 04 March 2019 stating no objections to the Works, and their recommendations with regards to navigation will be included as conditions of the marine licences.
- 5.3 Royal Yachting Association Scotland ("RYA") responded on 21 March 2019 stating no objection to the marine licences being granted. RYA advised that good liaison between the Applicant and Tarbert Harbour User Group Forum would enable actions to be taken to ensure that there are no adverse effects on recreational boating. A condition to this effect will be included in the marine licences.
- 5.4 Health and Safety Executive responded on 22 February 2019 and had no comments to make.
- 5.5 Transport Scotland responded on 18 March 2019 advising that they have no objections to the Works in terms of environmental impact on trunk road receptors.
- 5.6 UK Chamber of Shipping responded on 12 March 2019 and advised they are satisfied that the safety of navigation has been considered and their recommendations with regards to navigation will be included as conditions on the marine licences.
- 5.7 Visit Scotland did not object to the Works in their response dated 20 March 2019.
- 5.8 Scottish Water responded on 27 February 2019 and advised that they have no objection to the Works. Scottish Water commented that the Works may impact on existing Scottish Water assets. Scottish Water advised that the Applicant should identify any potential conflicts and contact the Scottish Water Asset Impact Team directly. A condition to this effect will be included in the marine licences.

6 Representations from other organisations and members of the public

- 6.1 No representations were received from other organisations or members of the public.

7 Advice from 3rd Parties

7.1 No advice was sought or received from 3rd parties.

8 The Scottish Ministers' Considerations and Main Determinative Issues

8.1 The Scottish Ministers, having taken account of all relevant information, consider that the main determining issues are:

8.2 The extent to which the Works accord with and are supported by Scottish Government policy and the terms of The 2015 Scottish National Marine Plan ("NMP"), The Scottish Government's Climate Change Plan as well as The Outer Hebrides Local Development Plan.

8.3 The significant effects of the Works on the marine environment, which are in summary:

- impacts on marine mammals; and
- impacts on landscape, seascape and visual.

Policy Context

8.4 As the Works are proposed to take place within the Scottish marine area they are subject to the Marine (Scotland) Act 2010 ("the 2010 Act"). The NMP covering inshore waters is a requirement of the 2010 Act. The NMP lays out the Scottish Minister's policies for the sustainable development of Scotland's seas and provides General Planning Principles, and sector specific objectives and policies, which were considered as part of the EIA process. The works were considered against The Scottish Government's Climate Change Plan and they support the Transport policy objective of reducing overall transport emissions by 37% between 2018 and 2032 as they will enable the berthing of lower emission dual fuel ferries at Tarbert. The Outer Hebrides Local Development Plan sets out a policy for transport infrastructure as well as what management measures will be required, including the development fitting in with the character of the area and securing improved road safety.

Environmental Matters

8.5 The Scottish Ministers are satisfied that an environmental impact assessment has been carried out. Environmental information including the EIA Report has been produced and the applicable procedures regarding publicity and consultation laid down in regulations have been followed. The environmental impacts of the Works have been assessed and the Scottish Ministers have taken the environmental information into account when reaching their decision.

- 8.6 The Scottish Ministers have considered fully and carefully the application, EIA Report, supporting documentation and all relevant responses from consultees.

Impacts on Marine Mammals

- 8.7 The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) (“the 1994 Habitats Regulations”) require the Scottish Ministers to consider whether the Works would be likely to have a significant effect on a European site or European offshore marine site (either alone or in combination with other plans or projects), as defined in the 1994 Habitats Regulations.

- 8.8 Owing to the view of SNH that the Works are likely to have a significant effect on the harbour porpoise qualifying interest of the Inner Hebrides and the Minches SAC and the harbour seal qualifying interest of the Ascrib, Isay and Dunvegan SAC, MS-LOT, on behalf of the Scottish Ministers, as the “competent authority”, were required to carry out an Appropriate Assessment (“AA”). Having had regard to the representations made by SNH it can be ascertained that the Works will not adversely affect the integrity of the SACs providing the marine mammal mitigation protocol in the CEMD is adhered to. Having determined that the Works will not adversely affect the integrity of the sites, and having regard to the reasons for which they were designated and the associated conservation objectives, MS-LOT concludes that the Works will not, on their own or in combination with other projects, adversely affect the integrity of the Inner Hebrides and the Minches SAC or the Ascrib, Isay and Dunvegan SAC.

- 8.9 A full explanation of the issues and justification for decisions regarding site integrity is provided in the AA ([available here](#)).
- 8.10 The Scottish Ministers are content that significant marine mammal impacts will be appropriately mitigated providing the Applicant adheres to the condition set out in the AA and marine licences.

Landscape, Seascape and Visual

- 8.11 The sensitive location of the Works and lack of space means that even with mitigation there will remain residual adverse significant effects during both the construction and operational phases of the Works. No concerns regarding the appearance of the Works were however raised during the consultation process. The Scottish Ministers are satisfied that where possible the landscape, seascape and visual impacts on the South Lewis, Harris and North Uist National Scenic Area NSA have been mitigated against.

9 The Scottish Ministers’ Determination and Reasoned Conclusion

- 9.1 The Scottish Ministers are satisfied that an environmental impact assessment has been carried out and that the applicable procedures regarding publicity and consultation in respect of the application have been followed.
- 9.2 The Scottish Ministers have weighed the impacts of the Works, and the degree to which these can be mitigated, against the economic benefits which would be realised. The Scottish Ministers have undertaken this exercise in the context of national and local policies.
- 9.3 The Scottish Ministers have considered the extent to which the Works accord with and are supported by Scottish Government policy and the terms of the NMP and the environmental impacts of the Works, in particular: the impact on the Inner Hebrides and the Minches SAC and the Ascrib, Isay and Dunvegan SAC; impacts on marine mammals; and landscape and seascape and visual impacts.
- 9.4 The Scottish Ministers are satisfied that the environmental issues associated with the Works have been appropriately addressed by way of the design of the Works and mitigation. In particular, the Scottish Ministers are satisfied that the Works will not adversely affect the integrity of the Inner Hebrides and the Minches SAC and the Ascrib, Isay and Dunvegan SAC. The Scottish Ministers consider it likely that the licensing tests in respect of an EPS disturbance application by the Application will be met.
- 9.5 The Scottish Ministers have had regard to the requirements of Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.
- 9.6 In their consideration of the environmental impacts of the Works, the Scottish Ministers have identified conditions to be included in the marine licences to reduce environmental impacts. These include adherence to the CEMD including a marine mammal mitigation protocol and the Dust Management Plan.
- 9.7 The Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion is still up to date.
- 9.8 The Scottish Ministers **grant marine licences subject to conditions** under Part 4 of the 2010 Act for the construction, dredging, deposit of dredge spoil and the removal of substances or objects associated with the upgrading of the existing Ferry Terminal at East Loch Tarbert, Tarbert Isle of Harris. The marine licences are attached at Appendix 2.

- 9.9 In accordance with the 2017 MW Regulations, the Applicant must publicise notice of this determination and how a copy of this decision letter may be inspected on the [Applicants website](#), in the Edinburgh Gazette and a newspaper circulating in the locality to which the application relates is situated. The Applicant must provide copies of the public notices to the Scottish Ministers.
- 9.10 Copies of this decision notice have been sent to the bodies consulted on the application including the relevant planning authority, SNH, SEPA and HES. This decision notice has also been published on the [Marine Scotland Information website](#).
- 9.11 The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the [website of the Scottish Courts](#). Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

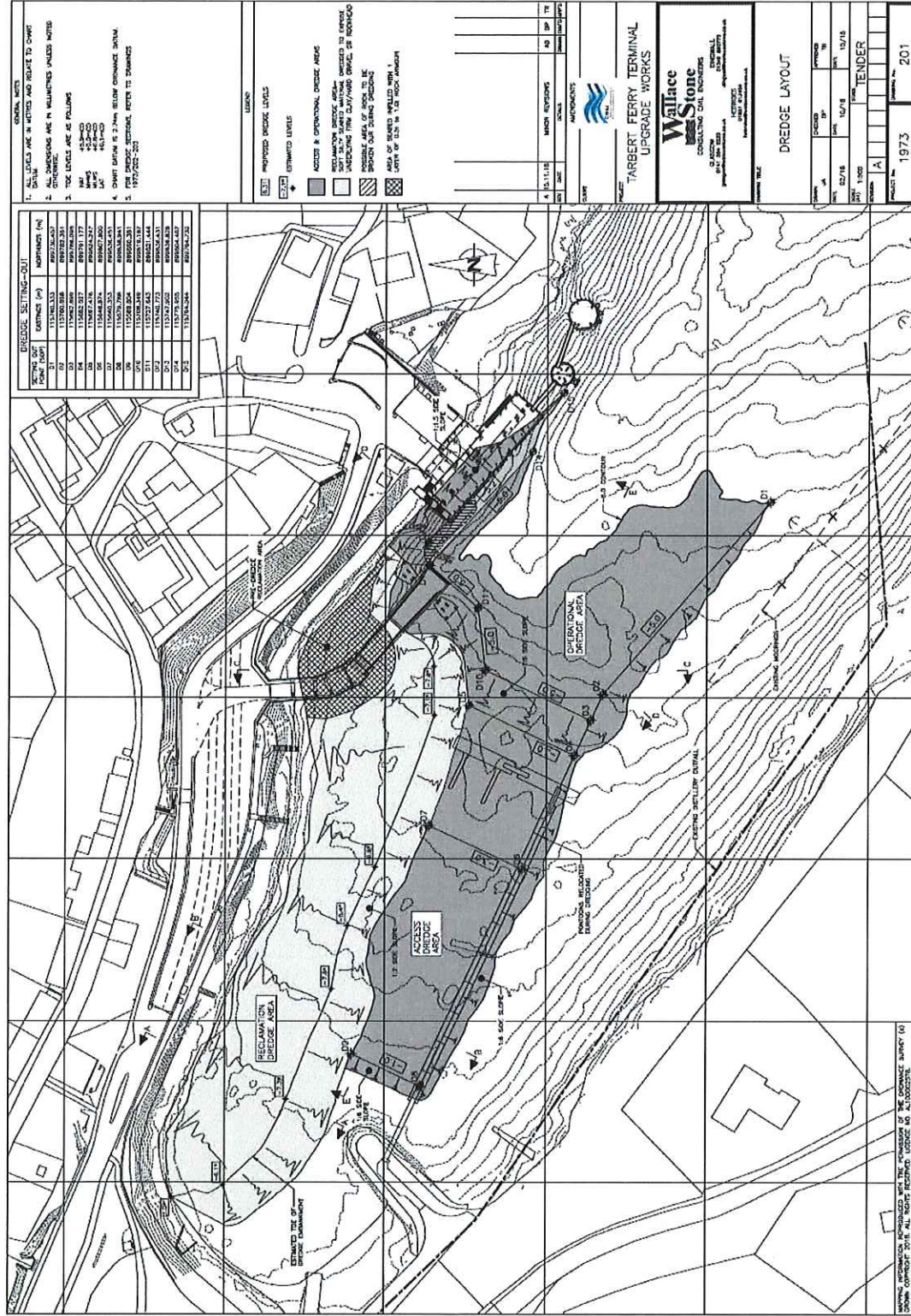
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Marine Licensing Group Leader, Marine Scotland Licensing Operations Team

A member of the staff of the Scottish Ministers

16 September 2019

Appendix 1. Operational, reclamation and access dredge areas.



Appendix 2. Marine licences

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 AND TO USE A VEHICLE, VESSEL, AIRCRAFT, MARINE STRUCTURE OR FLOATING CONTAINED TO REMOVE SUBSTANCES OR OBJECTS FROM THE SEABED WITHIN THE SCOTTISH MARINE AREA

Licence Number: 06907/19/0

Reference Number: 06907

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

Caledonian Maritime Assets Ltd
Municipal Building
Fore Street
Port Glasgow
PA14 5EQ

to construct, alter or improve works and to remove substances or objects from the seabed as described in Part 2 of the attached Schedule. The licence is subject to the conditions of use set out, or referred to, in Part 3 of the said Schedule.

The licence shall be valid from 16 September 2019 until 31 October 2021.

[Redacted]

Signed: _____

Malcolm Rose

For and on behalf of the licensing authority

Date: 16 September 2019

1. PART 1 – GENERAL

1.1. Interpretation

In this licence, unless otherwise stated, terms are as defined in sections 1, 64 and 157 of the Marine (Scotland) Act 2010:

- a) “the 2010 Act” means the Marine (Scotland) Act 2010
- b) “licensable marine activity” means any activity listed in section 21 of the 2010 Act
- c) “licensee” means the recipient of the licence
- d) “the licensing authority” means the Scottish Ministers
- e) “mean high water springs” means the average of high water heights occurring at the time of spring tides
- f) “seabed” means the ground under the sea

All geographical co-ordinates contained within this licence are in latitude and longitude format WGS84.

1.2. Contacts

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

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

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

1.3. Other authorisations and consents

The licensee is 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 this 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 of the 2010 Act the licensing authority may by notice vary, suspend or revoke this licence granted by them if it appears to the licensing authority that there has been a breach of any of the provisions of this licence or for any such other reason that appears to be relevant to the authority under section 30(2) or (3) of the 2010 Act.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, vary this licence if satisfied that the variation being applied for is not material.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, transfer this 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 provide full details of the matter to 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, either 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 by 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 the sheriff of any sheriffdom against a decision taken by the Scottish Ministers under section 29(1) of the 2010 Act.

2. PART 2 – PARTICULARS

2.1. Name(s) and address(es) of any other agents acting on behalf of licensee:

Affric Limited
Lochview Office
Loch Duntelchaig
Farr
Inverness
IV2 6AW

2.2. Name(s) and address(es) of any contractors or sub-contractors acting on behalf of licensee:

As per Annex One

See condition 3.1.2

2.3. Location of the works (hereinafter referred to as “the site”):

Tarbert Ferry Terminal, within the area bounded by joining the points:

57° 53.804' N	006° 47.903' W
57° 53.782' N	006° 47.853' W
57° 53.790' N	006° 47.897' W
57° 53.824' N	006° 48.142' W
57° 53.849' N	006° 48.189' W

As shown in Annex Two.

2.4. Description of the works:

Ferry Terminal Upgrade including; pier reconstruction and extension, land reclamation, facilities provision and temporary arrangements.

As described in application dated 31 January 2019, and correspondence submitted in support of the application.

2.5. Quantity of substances or objectives for removal and 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 2.5 of the licence:

Materials to be used in construction

1060 tonnes of steel
8 tonnes of timber
7560 tonnes of concrete
27 tonnes of aluminium

70 tonnes of plastic/synthetic material
72000 tonnes of rockfill
450 tonnes of sand
175 tonnes of cobbles
16630 tonnes of boulders
335 tonnes of rockhead (gneiss)
2300 tonnes of bituminous material

Materials to be used in temporary construction

300 tonnes of steel
360 tonnes of concrete
10 tonnes of plastic/synthetic material

Substances or objects to be removed

600 tonnes of steel
65m³ of timber
2040 tonnes of concrete
22 tonnes of aluminium
25 tonnes of plastic/synthetic material
3500 tonnes of boulders
335 tonnes of rockhead (gneiss)

3. PART 3 – CONDITIONS

3.1. General conditions

3.1.1. Licence conditions binding other parties

All conditions attached to this licence bind any person who 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 item 5 in section 21(1) of the 2010 Act whether or not this licence has been transferred to that person.

3.1.2. Agents, contractors, sub-contractors and vessels

The licensee must provide, as soon as is reasonably practicable prior to the licensed activities commencing, the name and function of any agent, contractor or sub-contractor appointed to undertake the licensed activities.

Any changes to the supplied details must be notified to the licensing authority, in writing, prior to any agent, contractor or sub-contractor undertaking any licensed activity.

The licensee must ensure that only those agents, contractors or sub-contractors notified to the licensing authority are permitted to undertake the licensed activities.

The licensee must give a copy of this licence and any subsequent variations that have been made to this licence in accordance with section 30 of the 2010 Act to any agent, contractor or sub-contractor appointed to carry out any part, or all, of the licensed activities. The licensee must satisfy themselves that any such agent, contractor or sub-contractor is aware of the extent of the works for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence.

The licensee must ensure that a copy of this licence and any subsequent variations made to it in accordance with section 30 of the 2010 Act have been read and understood by the masters of any vessels being used to carry on any licensed activity under this licence, and that a copy of this licence is held on board any such vessel.

3.1.3. Force Majeure

If by any reason of force majeure any substance or object is deposited other than at the site which is described in this licence, then the licensee must notify the licensing authority of the full details of the circumstances of the deposit within 48 hours of the incident occurring (failing which as soon as reasonably practicable after that period of 48 hours has elapsed). Force majeure may be deemed to apply when, due to stress of weather or any other cause, the master of a vessel, vehicle or marine structure determines that it is necessary to deposit the substance or object other than at the specified site because the safety of human life or, as the case may be, the vessel, vehicle or marine structure is threatened. 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.

3.1.4. Material alterations to the licence application

The licensee must, where any information upon which the granting of this licence was based has, after the granting of the licence, altered in any material respect, notify the licensing authority of this fact, in writing, as soon as is practicable.

3.1.5. Submission of reports to the licensing authority

Where it would appear to the licensee that there may be a delay in the submission of the reports, studies or surveys to the licensing authority then the licensee must advise the licensing authority of this fact as soon as is practicable and no later than the time by which those reports, studies or surveys ought to have been submitted to the authority under the terms of this licence.

The reports, studies and surveys must include executive summaries, assessments and conclusions and any data may, subject to any rules permitting non-disclosure, be made publically available by the licensing authority, or by any such party appointed, at their discretion.

3.1.6. Environmental protection

The licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to minimise damage to the Scottish marine area caused by the licensed activity authorised under this licence.

The licensee must ensure that any unauthorised debris or waste materials arising during the course of the works are removed from the site of the works for disposal at an approved location above the tidal level of Mean High Water Springs.

The licensee must ensure that all substances and materials used during the execution of the works are inert (or appropriately coated or protected so as to be rendered inert) and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

The licensee must ensure that the risk of transferring non-native species to and from the site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the works.

3.1.7. Availability of the licence for inspection

The licensee must ensure that copies of the licence are available for inspection by any persons authorised by the licensing authority at:

- a) the premises of the licensee;
- b) the premises of any agent, contractor or sub-contractor acting on behalf of the licensee;
- c) the site of the works; and
- d) any onshore premises directly associated with the licensed activities.

3.1.8. Inspection of the works

Any persons authorised by the licensing authority, must be permitted to inspect the works at any reasonable time.

3.1.9. Safety of Navigation

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 consent by the licensing authority. The licensee shall be liable for any expense incurred.

3.2. Prior to commencement of the works

3.2.1. The licensee must notify the licensing authority of the date of commencement of all construction, alteration or improvement of works and removal activities relating to the licence. Separate notifications are required at the times of commencement and completion.

3.2.2. 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.

3.2.3. The licensee must review where potential asset conflicts with Scottish Water exist and contact the Scottish Water Asset Impact Team (service.relocation@scottishwater.co.uk) as soon as practicable to discuss any potential issues identified.

3.2.4. 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.

3.3. During the works

3.3.1. The licensee must ensure that the works are carried out in accordance with the Construction Environmental Management Document ("CEMD") (issue 3, dated 27 June 2019) submitted to the licensing authority, or any subsequent version, approved for the purpose by the licensing authority. In the event that the licensee wishes to update or amend the CEMD, the licensee must submit, in writing, details of proposed updates or amendments to the licensing authority for their written approval, no later than two months 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 works associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The CEMD must remain consistent with the application and supporting information.

3.3.2. The licensee must liaise with the Northern Lighthouse Board to discuss the navigational marking requirement prior to each phase of the construction works. This will include the permanent Aids to Navigation ("AtoN") as well as any temporary AtoN required during the construction phases.

- 3.3.3.** If it is desired by the licensee to display any marks or lights not required by this licence then details of such marks or lights must be submitted to the Northern Lighthouse Board and their ruling must be complied with. The display of unauthorised marks or lights is prohibited.
- 3.3.4.** The licensee must liaise with the Tarbert Harbour User Group Forum to ensure that there are no adverse effects on recreational boating.
- 3.3.5.** The licensee must ensure that the works are maintained at all times in good repair.
- 3.3.6.** 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.
- 3.3.7.** The licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the works.
- 3.3.8.** 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.
- 3.3.9.** 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.

- 3.3.10.** 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.

3.4. On completion of the works

- 3.4.1.** The licensee must notify the licensing authority of the date of completion of all construction, alteration or improvement of works relating to the licence. Separate notifications are required at the times of commencement and completion.
- 3.4.2.** The licensee must submit a written report regarding the materials used and substances or objects removed 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 2022.
- 3.4.3.** 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 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.

- 3.4.4.** The licensee must remove all temporary materials listed in Part 1 of the licence before the expiry date of the licence. **The licence shall not continue in force after the expiry date of 31 October 2021.**
- 3.4.5.** 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.

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

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

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CARRY OUT ANY FORM OF DREDGING WITHIN THE SCOTTISH MARINE AREA AND TO DEPOSIT ANY SUBSTANCE OR OBJECT WITHIN THE SCOTTISH MARINE AREA

Licence Number: 06908/19/0

Reference Number: 06908

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

Caledonian Maritime Assets Ltd
Municipal Building
Fore Street
Port Glasgow
PA14 5EQ

to carry out dredging and to deposit in the sea the substances or objects particulars of which are described in Part 2 of the attached Schedule. The licence is subject to the conditions of use set out, or referred to, in Part 3 of the said Schedule.

This licence shall be valid from 16 September 2019 until 31 October 2021.

[Redacted]

Signed:

Malcolm Rose

For and on behalf of the licensing authority

Date: 16 September 2019

1. PART 1 – GENERAL

1.1. Interpretation

In this licence, unless otherwise stated, terms are as defined in sections 1, 64 and 157 of the Marine (Scotland) Act 2010:

- a) “the 2010 Act” means the Marine (Scotland) Act 2010
- b) “licensable marine activity” means any activity listed in section 21 of the 2010 Act
- c) “licensee” means the recipient of the licence
- d) “the licensing authority” means the Scottish Ministers
- e) “mean high water springs” means the average of high water heights occurring at the time of spring tides
- f) “seabed” means the ground under the sea

All geographical co-ordinates contained within this licence are in latitude and longitude format WGS84.

1.2. Contacts

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

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

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

1.3. Other authorisations and consents

The licensee is 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 this 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 of the 2010 Act the licensing authority may by notice vary, suspend or revoke this licence granted by them if it appears to the licensing authority that there has been a breach of any of the provisions of this licence or for any such other reason that appears to be relevant to the authority under section 30(2) or (3) of the 2010 Act.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, vary this licence if satisfied that the variation being applied for is not material.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, transfer this 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 provide full details of the matter to 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, either 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 by 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 the sheriff of any sheriffdom against a decision taken by the Scottish Ministers under section 29(1) of the 2010 Act.

2. PART 2 – PARTICULARS

2.1. Name and address of the producer of the substances or objects:

As per licensee

2.2. Name(s) and address(es) of any other agents acting on behalf of licensee:

Affric Limited
Lochview Office
Loch Duntelchaig
Farr
Inverness
IV2 6AW

2.3. Name(s) and address(es) of any contractors or sub-contractors acting on behalf of licensee:

As per Annex One

See condition 3.1.1

2.4. Name, description, registration number and country of registration of vessel(s) to be employed to undertake the deposits:

As per Annex One

See condition 3.1.2

The vessels referred to above must be so constructed and equipped as to be capable of the proper performance of the licensed activities in compliance with the conditions set out in the Schedule.

2.5. Place of production of the substances or objects:

Tarbert Ferry Terminal, within the area bounded by joining points 1 and 2 by mean high water springs ("MHWS"), 2 and 3 by a straight line, 3 and 4 by MHWS and 4, 5 and 6 by a straight line.

1.	57° 53.790' N	006° 47.897' W
2.	57° 53.729' N	006° 47.950' W
3.	57° 53.824' N	006° 48.142' W
4.	57° 53.849' N	006° 48.189' W
5.	57° 53.815' N	006° 47.907' W
6.	57° 53.801' N	006° 47.899' W

As shown in Annex Two.

2.6. Description and composition of the substances or objects:

Capital dredging and sea deposit of dredged substances or objects at the Stornoway disposal site HE035 to facilitate upgrades to Tarbert Ferry Terminal as described in the application dated 31 January 2019, and correspondence submitted in support of the application.

There are three areas to be dredged; operational, marshalling and access. The operational area covers 4,000m² and will be dredged to -5m Chart Datum ("CD"). The substances or objects consist of 78.9% clay and silt, 13% sand and 8.1% pebbles, cobbles and boulders. The marshalling area covers 8,500m² and will be dredged to a maximum of -7.85m CD. The substances or objects consist of 68.5% clay and silt, 16.5% sand and 15% pebbles, cobbles and boulders. The access area covers 4,800m² and will be dredged to between -1m CD and -3m CD. The substances or objects consist of 84.3% clay and silt, 11.3% sand and 4.4% pebbles, cobbles and boulders.

2.7. Quantity of substances or objects for deposit within the period of validity of the licence:

90,000 wet tonnes of capital dredge substances or objects may be deposited between 01 October 2019 and 31 October 2021.

3. PART 3 – CONDITIONS

3.1. General conditions

3.1.1. Agents, contractors and sub-contractors

The licensee must provide, as soon as is reasonably practicable prior to the licensed activities commencing, the name and function of any agent, contractor or sub-contractor appointed to undertake the licensed activities.

Any changes to the supplied details must be notified to the licensing authority, in writing, prior to any agent, contractor or sub-contractor undertaking any licensed activity.

The licensee must ensure that only those agents, contractors or sub-contractors notified to the licensing authority are permitted to undertake the licensed activities.

The licensee must give a copy of this licence and any subsequent variations that have been made to this licence in accordance with section 30 of the 2010 Act to any agent, contractor or sub-contractor appointed to carry out any part, or all, of the licensed activities. The licensee must satisfy themselves that any such agent, contractor or sub-contractor is aware of the extent of the licensed activity for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence.

3.1.2. Vessels

The licensee must submit full details of the vessels to be utilised in respect of the licensed activity, and their anticipated movements, to the licensing authority no later than one month, or at such a time as agreed with the licensing authority, prior to the commencement of the licensed activity. The vessel details provided must include the master's name, vessel type, vessel IMO number and vessel owner or operating company.

The licensee must ensure that a copy of this licence and any subsequent variations made to it in accordance with section 30 of the 2010 Act have been read and understood by the masters of any vessels being used to carry on any licensed activity under this licence, and that a copy of this licence is held on board any such vessel.

3.1.3. Force Majeure

If by any reason of force majeure any substance or object is deposited other than at the site which is described in this licence, then the licensee must notify the licensing authority of the full details of the circumstances of the deposit within 48 hours of the incident occurring (failing which as soon as reasonably practicable after that period of 48 hours has elapsed). Force majeure may be deemed to apply when, due to stress of weather or any other cause, the master of a vessel, vehicle or marine structure determines that it is necessary to deposit the substance or object other than at the specified site because the safety of human life or, as the case may be, the vessel, vehicle or marine structure is threatened. 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.

3.1.4. Material alterations to the licence application

The licensee must, where any information upon which the granting of this licence was based has, after the granting of the licence, altered in any material respect, notify the licensing authority of this fact, in writing, as soon as is practicable.

3.1.5. Submission of reports to the licensing authority

Where it would appear to the licensee that there may be a delay in the submission of the reports, studies or surveys to the licensing authority then the licensee must advise the licensing authority of this fact as soon as is practicable and no later than the time by which those reports, studies or surveys ought to have been submitted to the authority under the terms of this licence.

The reports, studies and surveys must include executive summaries, assessments and conclusions and any data may, subject to any rules permitting non-disclosure, be made publically available by the licensing authority, or by any such party appointed, at their discretion.

3.1.6. Environmental protection

The licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to minimise damage to the Scottish marine area caused by the licensed activity authorised under this licence.

The licensee must ensure that any unauthorised debris or waste materials arising during the course of the licensed activity are removed from the site of the licensed activity for deposit at an approved location above the tidal level of MHWS.

The licensee must ensure that the risk of transferring non-native species to and from the site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the licensed activity.

3.1.7. Availability of the licence for inspection

The licensee must ensure that copies of the licence are available for inspection by any persons authorised by the licensing authority at:

- a) the premises of the licensee;
- b) the premises of any agent, contractor or sub-contractor acting on behalf of the licensee;
- c) the site of the licensed activity;
- d) onboard any vessel carrying out the licensed activity; and
- e) any onshore premises directly associated with the licensed activities.

3.1.8. Inspection of the licensed activity

Any persons authorised by the licensing authority, must be permitted to inspect the licensed activities at any reasonable time.

3.2. Prior to commencement of the licensed activity

3.2.1. The licensee must notify the licensing authority of the date of commencement of all licensed activities relating to the licence. Separate notifications are required at the times of commencement and completion.

3.2.2. The licensee must ensure that HM Coastguard, in this case nmoccontroller@hmcg.gov.uk, The National Maritime Operations Centre, is made aware of the licensed activities prior to commencement.

3.2.3. The licensee must transmit Marine Safety Information broadcasts when considered appropriate, both prior to and throughout, the dredging campaign.

3.3. During the licensed activity

3.3.1. The licensee must ensure that the licensed activities are carried out in accordance with the Construction Environmental Management Document ("CEMD") (issue 3, dated 27 June 2019) submitted to the licensing authority, or any subsequent version, approved for the purpose by the licensing authority. In the event that the licensee wishes to update or amend the CEMD, the licensee must submit, in writing, details of proposed updates or amendments to the licensing authority for their written approval, no later than two 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 activities associated with the proposed updates or amendments to proceed prior to the granting of such approval. The CEMD must remain consistent with the application and supporting information.

3.3.2. Only those substances or objects described in Part 2 of the Schedule shall be deposited under authority of the licence. Any unauthorised materials associated with the substances or objects scheduled for deposit, including debris such as demolition waste, wood, scrap metal, tyres and synthetic materials, must be disposed of on land at an approved location above the tidal level of MHWS.

3.3.3. The licensee must deposit all dredged substances and objects in the following area:

Deposit Area Name and Code: STORNOWAY, HE035

Within the area bounded by joining the points:

58° 10.933' N	006° 22.783' W
58° 10.850' N	006° 22.667' W
58° 11.133' N	006° 22.000' W
58° 11.217' N	006° 22.133' W

Up to a maximum of 90,000 wet tonnes may be deposited within the area during the period of validity of this licence.

3.3.4. All tank/hopper washings must be deposited in the authorised deposit area: STORNOWAY (HE035)

3.3.5. The method of deposit must be:

BOTTOM DUMPING

- 3.3.6.** The licensee must ensure that a log of operations is maintained on each vessel employed to undertake the deposit activity. The log(s) must be kept onboard the vessel(s) throughout the deposit activity, and be available for inspection by any authorised Enforcement Officer. The log(s) must be retained for a period of six calendar months following expiry of the licence, and copies of the log(s) may be requested during that period for inspection by the licensing authority.
- 3.3.7.** The log(s) must record in English the following information:
- a) the name of the vessel;
 - b) the nature and quantity of each substance or object loaded for deposit;
 - c) the date and time of departure from port, and the date and time of arrival at the deposit area(s), on each occasion that the vessel proceeds to the deposit area(s);
 - d) the date, time and position of commencement, and the date, time and position of completion, of each deposit;
 - e) the course(s) and speed(s) throughout each deposit. (Multiple changes may be recorded as "various");
 - f) the weather, including wind strength and direction, sea-state and tidal set throughout each deposit;
 - g) the rate of discharge during each deposit, if appropriate, and the duration of each deposit. (If the rate of discharge is not constant, the maximum and mean rates of discharge must be indicated);
 - h) comments on the deposit activity, including any explanations for delays in the deposit;
 - i) the signature of the Master at the foot of each page of the record.
- 3.3.8.** The licensee must liaise with the Tarbert Harbour User Group Forum to ensure that there are no adverse effects on recreational boating.
- 3.3.9.** The licensee must liaise with Stornoway Port Authority regarding the deposit of dredged substances or objects.
- 3.3.10.** 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.

3.4. On completion of the licensed activity

- 3.4.1.** The licensee must notify the licensing authority of the date of completion of all licensed activities relating to the licence. Separate notifications are required at the times of commencement and completion.
- 3.4.2.** The licensee must submit written reports, to the licensing authority stating the nature and total quantity, in wet tonnes, of all substances or objects deposited under authority of the licence. The written reports must be submitted to the licensing authority annually and on the forms provided by the licensing authority.
- 3.4.3.** 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 both progress and on completion of the licensed activity supply a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed activities. 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 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 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