

**MARINE SCOTLAND ACT 2010, PART 4 MARINE LICENSING**

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

Licence Number: **MS-00009224**

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

**Lerwick Port Authority  
Albert Building  
Lerwick  
Shetland  
ZE1 0LL**

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 **24 April, 2021** until **31 December, 2023**

Signed: .....

Ellie Noble

For and on behalf of the Licensing Authority

Date of issue 23 April, 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 Lerwick 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**

Arch Henderson LLP  
Stewart Building  
Esplanade  
Lerwick  
Shetland ZE1 0LL

### **2.2 Location of the Licensed Activity**

GREMISTA, LERWICK HARBOUR, SHETLAND,

60° 10.248' N 001 ° 09.462'W  
60° 10.288' N 001 ° 09.502'W  
60° 10.305' N 001 ° 09.495'W  
60° 10.308' N 001 ° 09.481'W  
60° 10.317' N 001 ° 09.525'W  
60° 10.305' N 001 ° 09.554'W  
60° 10.283' N 001 ° 09.511'W  
60° 10.270' N 001 ° 09.513'W  
60° 10.242' N 001 ° 09.583'W  
60° 10.230' N 001 ° 09.579'W

As shown in Annex One.

### **2.3 Description of the Licensed Activity**

Land Reclamation Works at Gremista, Lerwick Harbour, Shetland. Associated with licence 04723/16/0, 05905/16/0 and 06679/19/0. 4,466m2 of land reclamation still to be completed.

As described in application dated 11 March, 2021 and correspondence submitted in support of the application.

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

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

indicative amounts of

**MS-00009224**

**23 April, 2021**

Geotextiles 1389 m<sup>2</sup>;  
Fill and Rock Armour (1.5cm to 0.5m) 22,000 m<sup>3</sup>;  
UVPC pipe 20 m

## **2.5 Contractor and Vessel Details**

To be confirmed

### **3. PART 3 – CONDITIONS**

#### **3.1 General Conditions**

3.1.1. The Licensee must notify the Licensing Authority of the date of commencement and the date of completion of all operations relating to the licence. Separate notifications are required at the times of commencement and completion.

3.1.2. The Licensee must ensure that only the deposits listed in Part 1 of the licence are deposited during the execution of the works and that all substances or objects deposited during the execution of the works 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.

3.1.3. 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.

3.1.4. 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.

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

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

3.1.6. 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.

3.1.7. 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.

3.1.8 Should the Licensee proceed to undertake the Licensed Activity under the authority of this licence, the Licensed

Activity authorised under the previous marine licence in favour of Lerwick Port Authority ,dated 20 November 2019 (licence number 06679/19/0) is not permitted.

### **3.2 Prior to the commencement of the Licensed Activity**

3.2.1. 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.

3.2.2. The Licensee must undertake an otter survey prior to the commencement of the works. If the survey finds evidence of otters within the site or within 200m from the boundary of the site, the Licensee must submit an otter species protection plan to the Licensing Authority for their written approval, at least four weeks prior to the commencement of the works, or less if agreed by the Licensing Authority. It is not permissible for any works to proceed prior to the granting of such approval.

3.2.3. The Licensee must ensure that the works are carried out in accordance with the otter species protection plan, should it be required, submitted in condition 3.2.2. and approved by the Licensing Authority.

### **3.3 During the Licensed Activity**

3.3.1. The Licensee must ensure that any 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.

3.3.2. 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 consent has been given and the conditions that are attached to the consent.

3.3.3. The Licensee must ensure appropriate steps are taken to minimise damage to the foreshore and seabed by the works.

3.3.4. The Licensee must ensure that the foreshore and seabed are returned to the original profile, or as close as reasonably practicable, following the completion of the works.

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



3.3.6. The Licensee must ensure that the works are maintained at all times in good repair.

3.3.7. The Licensee must ensure suitable bunding, storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.

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

3.3.9. In the event of the licensed operations being discontinued the works must be removed and the site cleared to the satisfaction of the Licensing Authority.

3.3.10. 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.

### **3.4 Upon Completion of the Licensed Activity**

3.4.1. 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 2024.

**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.