



MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: MD-00011187

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

**Scottish Water
Castle House,
Carnegie Campus,
Dunfermline
Fife
KY11 8GG**

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 **15 August, 2026** until **30 November, 2027**

Signed:
Gemma Girling

For and on behalf of the Licensing Authority

Date of issue: 14 August, 2026

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 Scottish Water
- 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 Directorate - Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB
Email: MD.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

2.2 Location of deposit of the substances or objects:

River Nith, Kelton, Dumfries and Galloway, bounded by the points,:

55° 01.150' N 03° 34.966' W

55° 01.158' N 03° 34.974' W

55° 01.139' N 03° 34.989' W

55° 01.131' N 03° 34.978' W

55° 01.133' N 03° 34.984' W

As shown in Annex One

2.3 Description of the Licensed Activity

Outfall Construction

As described in the application dated 02 April, 2025 and correspondence submitted in support of the application.

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

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

Licensed to permanently deposit :

Lean mix concrete

17.4 tonnes

Pea gravel

1.875m³

PE Pipe

46m length of 0.18m diameter

Double hinged flap valve

1 No. with 150mm diameter.

Licensed to temporarily deposit :

Boulders
2 tonnes

Sandbags
To cover 15m length

Heras Fencing
To cover 15m length

Silt fencing
To cover 15m length

2.5 Contractor and Vessel Details

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only construct the works in accordance with this licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.2 The Licensee must maintain the works in accordance with the licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

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

3.1.4 Only the materials listed in Part 2 of the licence may be used during the execution of the Licensed Activity.

3.1.5 All materials used during the execution of the Licensed Activity must be inert and must not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.6 The Licensee must ensure that the Licensed Activity does not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area as described in Part 2 of the licence.

3.1.7 The Licensee must provide written notification of any serious unforeseen incident of harm to the environment or human health, or any serious unforeseen incident of interference with legitimate uses of the sea during the Licensed Activity, to the Licensing Authority within 24 hours of the incident occurring.

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

3.1.9 Details of any marks or lights not required by the licence must be submitted to the Northern Lighthouse Board and its ruling complied with. The display of unauthorised marks or lights is prohibited.

3.1.10 Where any damage, destruction, decay or catastrophic failure that could result in a danger or obstruction to navigation is caused to the Works or deposited Objects, the Licensee must notify the Licensing Authority, the UK Hydrographic Office, Maritime and Coastguard Agency, Northern Lighthouse Board, Kingfisher Information Services of Seafish and regional fisheries contacts of such damage, destruction, decay or catastrophic failure in writing as soon as reasonably practicable but no later than six hours after becoming aware of any such damage, destruction, decay or catastrophic failure.

The Licensee must submit a plan to remedy the damage, destruction, decay or catastrophic failure, to the Licensing Authority, for its written approval, within a time period stipulated by the Licensing Authority. The Licensee must carry out the remedial action identified in the plan approved by the Licensing Authority within the period stipulated by the Licensing Authority. The Licensee shall be responsible for the cost of carrying out the activity identified in the plan.

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

- a) the failure to mark and light the Works as required by the licence;
- b) the maintenance of the Works; or
- c) the drifting or wreck of the Works,

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

3.1.12 The Licensee must adopt measures to prevent the introduction and spread of invasive non-native species. For more information, see <https://www.nonnativespecies.org/what-can-i-do/check-clean-dry>

3.1.13 In the event of the Licensed Activity being ceased or terminated before completion, the materials used under the authority of the licence must be removed from the seabed to the satisfaction of the Licensing Authority.

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

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

3.1.16 The Licensee must only undertake the Licensable Activity between March and November in the calendar year of commencement.

3.1.17 The Licensee must not conduct any Licensable Activity during the flightless moult period for both common scoter (*Melanitta nigra*) and goldeneye (*Bucephala clangula*) this period is defined as mid-July to mid-October

3.1.18 The Licensee must ensure that the working area is kept to a minimum and no activity, especially vehicle movements, must be conducted outside the saltmarsh working area as set out in document 521855-0000-20-DRG-9501 (Marine Dwg)-A0 Titlesheet (1) as provided to the Licensing Authority on 2 April 2025. Within the working area, the storage of equipment, waste and excavated materials must be kept to the minimum requirement for efficient working.

3.1.19 The Licensee must ensure that, where practicable, the tracking laid for all vehicle movements and any material storage areas within the saltmarsh working area are located on lower quality saltmarsh habitat, rather than pristine habitat. The Licensee must use an experienced ecologist to identify areas of lower quality saltmarsh habitat.

3.1.20 The Licensee must ensure that, where practicable, all construction-related facilities that are not immediately related to trenching activities, such as welfare cabins and storage containers must be located off the saltmarsh.

3.1.21 The Licensee must ensure that workways across, or near to, creeks must be avoided, wherever possible, to prevent disruption to site hydrology.

3.1.22 The Licensee must ensure that if creeks cannot be avoided for vehicle movements, crossing plates spanning creeks must be put in place for the duration of the works.

3.1.23 The Licensee must ensure that low ground pressure be maintained throughout construction activities. Low ground pressure is defined as < 5 psi (34.5 kPa) surface loading.

3.1.24 The Licensee must lay trackways or low-pressure mats for all vehicles operating on the saltmarsh.

3.1.25 The Licensee must ensure geotextile membrane is placed below the trackway, as well as over areas for equipment or material storage. The trackway must be laid with the deeper

corrugated surface facing upwards to prevent ridges forming in the saltmarsh. The trackways must avoid bends wherever possible. An Ecological Clerk of Works ("ECoW") must be present on site when trackways are being laid and must have responsibility for halting works should there be evidence of damage during proceedings.

3.1.26 The Licensee must ensure trackways are laid out with wet ground conditions. Wet ground conditions are defined as works during winter or prolonged periods of wet weather, and must be a consideration by the ECoW when determining whether works can proceed.

3.1.27 The Licensee must ensure that any saltmarsh turf including the underlying root systems (approx. 20-30 centimetre depth) is cut and lifted together for habitat reinstatement purposes. Turf stripping must be carried out with a dedicated turf cutting excavator attachment to ensure turf integrity is maintained for storage and reinstatement. Edge lines the width of the turf-cutting bucket must be pre-cut by dig-team using edging spades. Working trench dimensions must be kept at a minimum.

3.1.28 The Licensee must ensure that excavated turves are labelled to identify the location that they came from and stored vegetation-to-vegetation side or soil-to-soil side, on a solid, smooth surface boarding. This surface must not be laid directly on the saltmarsh. For work that is likely to be for an extended period of time (more than 72 hours) the storage of turves must occur off the saltmarsh to avoid covering other areas of the surface vegetation.

3.1.29 The Licensee must ensure that where turves are stored for more than 24 hours in dry conditions, they must be lightly watered every 24 hours. Water pressure during watering must not be so high that soil or plants are washed from the turves. Turves must be replaced within 72 hours where practicable.

3.1.30 The Licensee must ensure that where a defined sediment profile structure exists, it must be retained within the trench. Excavated soils must be stored separately according to their position in the sediment profile.

3.1.31 The Licensee must ensure that any trench be reinstated as quickly as possible, replacing the material in reverse order of how it came out. If the working period is longer than three hours, battens must be placed in the trench to prevent or significantly reduce inflow.

3.1.32 The Licensee must ensure that turves are replaced exactly in the position from which they were removed using a labelling system. The topography of the surface after turf replacement must be the same as it was prior to excavation, ideally within 4-5 mm.

3.1.33 The Licensee must ensure that foreign materials must not be used to infill trenches or holes that have been created unless there is a specific requirement for structural stability. The trench must be reinstated with the soil excavated, maintaining the sediment profile wherever possible.

3.1.34 The Licensee must stop all Licensable Activities and immediately report any common cordgrass (*sporobolus anglicus*) found during the Licensed Activity to the Licensing Authority and the NatureScot Sustainable Coasts and Seas team. Licensable Activities must not recommence without prior approval from the Licensing Authority.

3.1.35 The Licensee must undertake at least one follow-up survey over the works area during summer months after construction to confirm saltmarsh habitat re-establishment. The results must be reported to the NatureScot Sustainable Coasts and Seas team.

3.1.36 The Licensee must not carry out any Licensable Activity two hours before or after sunrise and sunset.

3.1.37 The Licensee must not use lighting between sunset and sunrise.

3.1.38 The Licensee must not use machinery, including generators, between sunset and sunrise.

3.1.39 The Licensee must not carry out any Licensable Activity if the temperature has stayed below zero Degrees Celsius for the duration of the previous 24 hours.

3.1.40 The Licensee must utilise silt fences to minimise sediment entering the River Nith produced as a result of the Licensable Activity.

3.1.41 The Licensee must ensure that any noisy Licensable Activities are commenced with a 'soft start' procedure when available and that Licensable Activities which cause noise disturbance, or visual disturbance from site and machinery lighting, to overwintering birds are ramped up gradually each day. The Licensee must ensure its construction personnel are restricted from accessing the foreshore during break periods, to minimise unnecessary disturbance.

3.1.42 The Licensee must ensure that there is no temporal overlap between the Licensable Activity and works relating to the Scottish Water Outfall development at Glencaple, River Nith.

3.1.43 The Licensee must stop all Licensable Activities should natterjack toad be found on site and report any sighting to the Licensing Authority and NatureScot's Reptile and Amphibian Policy and Advice Officer. Licensable Activities must not recommence without prior approval from the Licensing Authority.

3.1.44 The Licensee must stop all Licensable Activities should great crested newt be found on site and report any sighting to the Licensing Authority and NatureScot's Reptile and Amphibian Policy and Advice Officer. Licensable Activities must not recommence without prior approval from the Licensing Authority.

3.1.45 The Licensee must stop all Licensable Activity should otters, or field signs of otters, to include spraints, prints, slides, grass twists, holts, structures for protection or resting be found on or near the site. Licensable Activity must not recommence without prior approval from the Licensing Authority.

3.1.46 The Licensee must install a sign board with the wording 'Obstruction at Low Water'. The sign board must be approximately 1m square, and must be installed on the east shoreline. The lettering must be of an appropriate size to make it readable for marine users navigating on the river.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must provide the name and address of any agent, contractor or sub-contractor proposed to be engaged in the activity to the Licensing Authority prior to the Commencement of the Licensed Activity.

3.2.2 The Licensee must issue local notification to marine users, including fisher's organisations, neighbouring port authorities and other local stakeholders, of the commencement of the Licensed Activity at least five days before the Commencement of the Licensed Activity.

The Licensing Authority must be sent a copy of the notification within 24 hours of the notification being sent.

3.2.3 The Licensee must ensure that HM Coastguard National Maritime Operations Centre, in this case Zone33@hmcg.gov.uk, is made aware of the Licensed Activity prior to commencement

3.2.4 The Licensee must contact the local statutory harbour authority, in this case River Nith Harbour Commissioners, prior to Commencement of the Licensed Activity.

3.3 During the Licensed Activity

3.3.1 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the Licensed Activity.

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

3.3.3 The Licensee must ensure that a copy of the licence is available for inspection by a Marine Enforcement Officer at:

- a) the premises of the Licensee;
- b) the premises of any agent, contractor and sub-contractor engaged in the Licensed Activity;
- c) location of the Licensed Activity;
- d) any vessel or vehicle carrying on the Licensed Activity.

3.3.4 The Licensee must provide a copy of the licence to each agent, contractor and sub-contractor engaged in the Licensed Activity and must ensure that any person engaged in the Licensed Activity is aware of the particulars in Part 2 of the licence and the conditions in Part 3 of the licence.

3.3.5 The Licensee must minimise suspension of sediment and minimise damage to the seabed when carrying on the Licensed Activity.

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

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

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 2028.

3.4.2 The seabed must be returned as close as reasonably practicable to the original profile following completion of the Licensed Activity unless otherwise agreed in writing with Licensing Authority.

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.