

MARINE SCOTLAND ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: **MS-00008746**

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

**Malin Group Properties Ltd.
South Rotunda
100 Govan Road
Glasgow
G51 1AY**

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 **27 September, 2020** until **31 March, 2023**

Signed:

Ellie Noble

For and on behalf of the Licensing Authority

Date of issue 25 September, 2020

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 Malin Group Properties Ltd.
- 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

Peter Brett Associates
160 West George Street
Glasgow

G22HG

2.2 Location of the Licensed Activity

ERSKINE FERRY ROAD, OLD KILPATRICK,

55° 54.893' N, 4° 27.186' W

55° 54.848' N, 4° 27.125' W

55° 54.866' N, 4° 27.123' W

55° 54.890' N, 4° 27.151' W

As shown in Annex One.

2.3 Description of the Licensed Activity

Removal of Jetties and Construction of Heavy Lift Quay

As described in application dated 03 August, 2019 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 maximum amounts as specified below:

Materials Used In Construction

Tubular Steel Piles, 550 tonnes

Rubber Strips, 7 tonnes

Boulders, 225 tonnes

Concrete Decking - 3750 tonnes

Materials Used Temporarily During Construction

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Steel Bracing - 25 tonnes

Gravel - 180 tonnes

Cobbles - 180 tonnes

Materials Removed During Demolition

Steel Framing - 50 tonnes

Fenders and Rubber Strips - 36 tonnes

Concrete Dolphins and Abutments - 810 tonnes

Riprap - 375 tonnes

2.5 Contractor and Vessel Details

N/A

3. PART 3 – CONDITIONS

3.1 General Conditions

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

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

3.1.3. The Licensee must ensure that only the materials listed in Part 2 of the licence are used during the execution of the Licensed Activity and that all materials, substances or objects used during the execution of the 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.

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

3.1.5. The Licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 484444) of both progress and on completion of the 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.

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

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

3.1.8. Should the construction of the Licensed Activity be halted before the completion, the licensee must notify the licensing Authority and, within a timescale agreed by the Licensing authority, submit a decommissioning plan to the Licensing Authority for approval. The plan must be based on best practice at that time. The Licensee shall be liable for all costs.

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

a) the failure to mark and light the works/deposited objects as required by this licence;

- b) the maintenance of the works;/deposited object or
- c) the drifting or wreck of the works/deposited object,

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

3.2 Prior to the commencement of the Licensed Activity

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

3.2.2. The Licensee must, prior to and no less than seven calendar days before the Commencement of the Licensed Activity, notify the Licensing Authority, the Scottish Environment Protection Agency and the Dumfries and Galloway Council in writing, of the date of Commencement of the Licensed Activity authorised under the licence.

3.2.3. 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 Activity prior to commencement.

3.2.5. The Licensee must issue local notification to marine users – including fisherman's organisations, neighbouring port authorities and other local stakeholders – to ensure that they are made fully aware of the Licensed Activity.

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

3.2.7. The Licensee must ensure that the Licensed Activity is carried out in accordance with a Construction Environmental Management Plan which the licensee must submit, in writing, to the Licensing Authority for their written approval, no later than two months prior to the Licensed Activity commencing or at such a time as agreed with the Licensing Authority. It is not permissible for the Licensed Activity to proceed prior to the granting of such approval. In the event that the Licensee wishes to update or amend any of the protocols in the Construction Environmental Management Plan , the Licensee must submit, in writing, details of proposed updates or amendments to the Licensing Authority for their written approval, no later than one month or at such a time as agreed with the Licensing Authority, prior to the planned implementation of the proposed updates or amendments. It is not permissible for any licensed activity associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The Construction Environmental Management Plan must include a Remediation Strategy outlining any risks to the water environment resulting from the Licensed Activity and the mitigation measures to be implemented to mitigate any risks identified.

3.3 During the Licensed Activity

3.3.1. The Licensee must at all times construct and maintain the licensed activity in accordance with this Licence, the Application and the plans and programmes approved by the Licensing Authority.

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

3.3.3. The licensee must ensure appropriate steps are taken to minimise damage to the river bank by the licensed activity.

3.3.4. The licensee must ensure the river bank is returned to the original profile, or as close as reasonably practicable, following the completion of the licensed activity.

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

3.3.6. All efforts must be made to ensure that aspects of the Licensed Activity which are likely to cause significant noise or vibrational disturbance, in particular piling and demolition works, are undertaken within the period 1 April to 31 August inclusive.

3.3.7. The Licensee must employ soft-start up procedures during any piling undertaken in the course of the Licensed Activity.

3.3.8. If the Licensed Activity is to take place from 1 September to 31 March inclusive, the Licensee must employ a suitably qualified Environmental Clerk of Works ("ECoW) who must be present during all construction and demolition activities, and be involved with the scheduling of the works during this period. If Redshanks are observed by the ECOW to be feeding or roosting within a buffer zone of 150 metres from boundary of site of works, works must stop until the birds have moved outwith the buffer zone.

3.3.9. If the Licensed Activity is to take place from 1 September to 31 March inclusive in any year, the Licensee must erect a screening barrier at the northern end of the boundary of the site of works by 25 August. The screening barrier must be sufficient to visually screen any demolition activities, construction activities and site access from redshanks within 150m of the site boundary. The screening barrier must remain in place until 05 April of that year. The screening barrier must be maintained in good condition at all times.

3.3.10. If the Licensed Activity is to take place from 1 September to 31 March inclusive, the Licensee must not use any night lighting at the northern end of the site of works which would illuminate areas of the Inner Clyde Special Protection Area in excess of 1 lux.

3.3.11. The Licensee must ensure that if unexpected contamination is discovered during the works, the Licensed Activity must cease, the Licensing Authority must be notified and, if requested, must submit of reports regarding the contamination for approval by the Licensing Authority on additional investigations, risk assessments and remediation

strategy/schemes as required.

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

3.3.13. In the event of the Licensed Activity being discontinued the materials used or substances and objects deposited under the authority of the licence shall be removed to the satisfaction of the Licensing Authority.

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

3.4 Upon Completion of the Licensed Activity

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

3.4.2. The Licensee must, no later than 14 days following the Completion of the works and/or Licensed Activity notify the Licensing Authority, in writing, of the date of the Completion of the works and/or Licensed Activity.

3.4.3. The Licensee must notify the UK Hydrographic Office to permit the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system.

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

3.4.5. 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.