

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

**LICENCE TO REMOVE ANY SUBSTANCE OR OBJECT FROM THE SCOTTISH MARINE AREA**

Licence Number: **MS-00009623**

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

**Shetland Islands Council  
Ports & Harbours  
Sella Ness  
Shetland  
ZE2 9SQ**

to remove any substance or object 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 **01 February, 2023** until **31 August, 2023**

Signed: .....

Thomas Inglis

For and on behalf of the Licensing Authority

Date of issue: 18 October, 2022

## **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 Shetland Islands Council
- 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**

Stantec  
3rd Floor,  
Randolph House,  
4 Charlotte Ln  
Edinburgh  
EH2 4QZ

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

North Haven, Fair Isle, At the following points:

#### Boreholes

59° 32.299' N 01° 36.278' W  
59° 32.304' N 01° 36.217' W  
59° 32.315' N 01° 36.245' W  
59° 32.317' N 01° 36.270' W  
59° 32.325' N 01° 36.186' W  
59° 32.329' N 01° 36.213' W

#### Vibracores

59° 32.296 'N 01° 36.280 'W  
59° 32.303 'N 01° 36.216 'W  
59° 32.313 'N 01° 36.248 'W  
59° 32.317 'N 01° 36.273 'W  
59° 32.327 'N 01° 36.194 'W  
59° 32.327 'N 01° 36.216 'W

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

Removal of sediment through borehole and vibrocoring as part of ground investigation works for harbour development.

As described in the application dated 10 November, 2021 and correspondence submitted in support of the application.

### **2.4 Descriptions of the substances or objects to be removed**

The licence authorises the removal of the undernoted substances and objects required in connection with the licensed activity, subject to the maximum amounts as specified below:

Material to be removed:

via Boreholes - 0.653702599 cubic metres  
via Vibrocoring - 0.049027695 cubic metres

## 2.5 Contractor and Vessel Details

### **3. PART 3 – CONDITIONS**

#### **3.1 General Conditions**

3.1.1 In the event of any breach of health and safety or environmental obligations relating to the Licensed Activity during the period of the 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.

3.1.2 The Licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk) of the progress and upon completion of the 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.

3.1.3 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.

3.1.4 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.

3.1.5 The Licensee must only remove the Substances or Objects listed in Part 2 of the licence in accordance with the licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.6 The Licensee must ensure that no works are to take place on the four borehole and vibrocore sampling sites closest to the Stack of North Haven between 15 April to 1 August inclusive. If this cannot be avoided during this time, works must begin on borehole and vibrocore sampling sites most distant from the Stack of North Haven first before moving inward.

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

3.2.1 The Licensee must notify the Licensing Authority in writing of the name and address of any agent, contractor or sub-contractor not already listed in Part 2 of the licence being used to carry out any Licensed Activity listed in Part 2 of the licence. Such notification must be received by the licensing authority no less than 24 hours before the commencement of the Licensed Activity

3.2.2 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.

3.2.3 The Licensee must contact the local statutory harbour authority, in this case Shetland Islands Council, prior to Commencement of the Licensed Activity to discuss the requirements for navigational warnings and a works licence.

#### **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 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 Licensed Activity.

3.3.4 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed to undertake 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 The Licensee must ensure appropriate steps are taken to minimise damage to the seabed by 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 If a new licence is required, the Licensee must make an application at least fourteen weeks before the expiry date of the licence. This licence shall not continue in force after the expiry date of 31 August 2023.

3.4.2 The Licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable, following the completion of the Licensed Activity.

## **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.