

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: **MS-00009582**

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

**Staffin Community Trust
Church of Scotland
Staffin, Isle of Skye
IV51 9JX**

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 **01 June, 2023** until **31 May, 2026**

Signed:
Anni Mäkelä

For and on behalf of the Licensing Authority

Date of issue: 06 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 Staffin Community Trust
- 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

Affric Limited
 Lochview Office
 Loch Duntelchaig
 Farr
 IV2 6AW

2.2 Location of the Licensed Activity

Staffin Harbour, Isle of Skye, within the boundary found by joining the points:

57° 38.002' N 006° 11.923' W
 57° 38.049' N 006° 11.934' W
 57° 38.063' N 006° 11.976' W
 57° 38.119' N 006° 12.024' W
 57° 38.142' N 006° 11.922' W
 57° 38.144' N 006° 11.814' W
 57° 38.051' N 006° 11.805' W
 57° 38.046' N 006° 11.809' W
 57° 38.046' N 006° 11.795' W
 57° 38.044' N 006° 11.795' W
 57° 38.045' N 006° 11.811' W
 57° 37.976' N 006° 11.873' W
 57° 37.964' N 006° 11.897' W

2.3 Description of the Licensed Activity

Construction activities associated with a harbour redevelopment consisting of:

- Land reclamation and extension of existing hardstanding area;
- Deconstruction and removal of an existing breakwater;
- Construction of a new breakwater;
- Construction of new slipway and modification of an existing slipway;
- Construction of pontoons;
- Construction of outfall pipeline

As described in the application dated 04 October, 2021 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:

Materials to be used in the course of the Licensed Activity:

Marine Laboratory, 375 Victoria Road,
 Aberdeen AB11 9DB
www.scotland.gov.uk/marinescotland



- Steel/Iron - 150 tonnes
- Timber - 15 tonnes
- Concrete - 900 tonnes
- Plastic/Synthetic - 30 tonnes
- Sand - 1000 tonnes
- Gravel - 2200 tonnes
- Cobbles - 40000 tonnes
- Boulders - 40000 tonnes
- Tarmac - 150 cubic metres
- Rubber - 10 tonnes

Materials to be removed in the course of the Licensed Activity:

- Steel/Iron - 20 tonnes
- Concrete - 100 tonnes
- Sand - 450 tonnes
- Gravel - 1000 tonnes
- Cobbles - 8000 tonnes
- Boulders - 17500 tonnes

Materials to be used to construct temporary structures to support undertaking the Licensed Activity:

- Timber - 10 tonnes
- Plastic/Synthetic - 4 tonnes

2.5 Contractor and Vessel Details

As per Annex Two

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only construct 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.

3.1.2 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, substances and objects 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 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.

3.1.8 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 the Licensed Activity. Such notification must include a copy of the licence, and wherever possible, 'as built plans', along with details of the unlit buoys, unlit lateral pole and revised water depths 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 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.

3.1.11 Where any damage, destruction or decay is caused to the works, the Licensee must notify the Licensing Authority, Maritime and Coastguard Agency, Northern Lighthouse Board, Kingfisher Information Services of Seafish and the UK Hydrographic Officer, in writing, of such damage, destruction or decay as soon as reasonably practicable but no later than 24 hour after becoming aware of any such damage, destruction or decay.

3.1.13 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.

3.1.14 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 ensure that the Licensed Activity is carried out in accordance with the mitigation measures outlined in Chapter 19: Schedule of Mitigation of the Staffin Community Harbour Development - Environmental Impact Assessment Report, Volume 2: Main Assessment submitted to the Licensing Authority dated 30 September 2021, subject to the modifications outlined in this Licence.

3.1.17. The Licensee must complete a statutory sanction application prior to the installation or discontinuation of any Aids to Navigation. Applications must be made to the Northern Lighthouse Board via navigation@nlb.org.uk.

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 as soon as reasonably practicable, and in any case no less than 24 hours, prior to the 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, in writing, of the date of Commencement of the Licensed Activity authorised under this licence.

3.2.3 The Licensee must issue local notification to marine users – including fisherman’s organisations, neighbouring port authorities and other local stakeholders – at least 5 days Prior to Commencement of the Licensed Activity to ensure that they are made fully aware of the Licensed Activity. A copy of the notification must be provided to the Northern Lighthouse Board via navigation@nlb.org.uk.

3.2.4 The Licensee must notify the Maritime and Coastguard Agency (Zone36@hmcg.gov.uk) prior to commencement of any Licensed Activity.

3.2.5 The Licensee must notify the local MCA Marine Office (glasgowmo@mcga.gov.uk) at least five days prior to the commencement of of any Licensed Activity.

3.2.6. The Licensee must ensure that the Licensed Activity is carried out in accordance with a Construction Environmental Management Document ("CEMD") which the Licensee must submit, in writing, to the Licensing Authority for its written approval, no later than two months prior to the Licensed Activity 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 CEMD, the Licensee must submit, in writing, details of proposed updates or amendments to the Licensing Authority for its 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 CEMD must include;

- a protocol for archaeological discoveries;
- a marine safety management plan;
- a navigational risk assessment considering the impact of increased vessel presence and movements on sea users during construction and operation of the Licensed Activity. The navigational risk assessment must feed into and support the marine safety management plan;
- a protocol for the implementation of a watching brief and fossil survey to be carried out by a specialist palaeontologist prior to the works commencing; and,
- a plan outlining the measures taken to prevent oil spills and contingencies for such an event if it should occur. The Applicant must contact the local HM Coastguard Counter Pollution and Salvage officer to discuss the oil spill contingency plan and the impact of the completed works on oil spill risk and pollution mitigation measures in the local area prior to submission to the Licensing Authority.
- Construction methodology including the measures to be taken to ensure that the breakwater can be built without the risk of any washout occurring.

3.2.7. The Licensee must mark the entrance channel from Staffin Bay with three port and three starboard unlit lateral buoys and have the associated shape and/ or topmark fitted to each buoy.

3.2.8. The Licensee must install an unlit port lateral pole with can shaped topmark at the end of the breakwater, at least 2 metres above the surface of the breakwater.

3.2.9. 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) before commencement of the works. The information supplied must include the start date and end date, a description of the works, positions of the work area (WGS84), and details of any marking arrangements.

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 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

3.3.4 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.

3.3.5 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed to undertake the Licensed Activity.

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

3.3.8 The Licensee must ensure appropriate steps are taken to minimise damage to the foreshore or seabed by the Licensed Activity.

3.3.10 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 2027.

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

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