

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

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

Licence Number: **MS-00010432**

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

**Argyll & Bute Council**  
**Operational Services**  
**1A Manse Brae**  
**Lochgilphead**  
**PA31 8RD**

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 **21 September, 2024** until **20 September, 2034**



Signed: .....

Neil MacLeod

For and on behalf of the Licensing Authority

Date of issue: 20 September, 2024

## **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 Argyll & Bute 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 Directorate - Licensing Operations Team  
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**

As per Licensee

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

Iona Ferry Terminal, Isle of Iona, within the area bound by joining points:

56° 19.816' N 06° 23.541' W  
56° 19.809' N 06° 23.494' W  
56° 19.827' N 06° 23.332' W  
56° 19.776' N 06° 23.314' W  
56° 19.757' N 06° 23.477' W  
56° 19.783' N 06° 23.561' W  
56° 19.798' N 06° 23.542' W

As shown in Annex One.

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

Construction of Rock Armour Breakwater

As described in the application dated 29 May, 2023 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 used to construct permanent works:

Steel / Iron - 1080 Kilograms  
Concrete - 26706 Kilograms  
Rock - 129900 Tonnes  
Geotextile Membrane - 12000 Square Metres

Materials to be removed in the construction of permanent works:

Iron Pipe - 24 Metres

Materials to construct temporary works:

Navigation Warning Buoys and Lights - 840 Metres  
1 No. 30 x 90 Metre Barge

## 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 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', 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 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.

3.1.12 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.

3.1.13 In the event of the Licensed Activity being discontinued the materials used under the authority of the licence must be removed 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 submit a Seagrass Mitigation and Monitoring Plan ("SMMP") which the Licensee must submit prior to the commencement of works for the written approval of the Licensing Authority. The SMMP must take an adaptive management approach and be submitted no later than 2 months prior to the commencement of the Licensed Activity, or at such a time as agreed with the Licensing Authority. In the event that the Licensee wishes to update or amend the SMMP, 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 prior, or at such a time as agreed with the Licensing Authority, to the changes being implemented. The SMMP can be presented in two parts, 1) Habitat Management and Mitigation plan and 2) Enhancement and Monitoring plan and must include, but is not limited to:

- An assessment of the maximum potential loss of seagrass, adopting a worst-case approach as a direct result of the Licensed Activities.
- Details as to how the seagrass habitats within the area affected by the Licensed Activities will be monitored throughout the course of the Licensed Activities.
- Mitigation measures to be taken to minimise the loss of seagrass anticipated as a result of Licensed Activities.
- Restoration and enhancement measures to be taken in the event that loss of seagrass is anticipated as a result of Licensed Activities.

All Licensed Activities must be undertaken in line with the SMMP once it has been approved.

3.1.17 The Licensee must make every effort to minimise working within seagrass habitat and must employ best practice measures at all times throughout the Licensed Activities to prevent loss or damage to seagrass habitats, directly or indirectly, resulting from any Licensed Activities.

3.1.18 The Licensee must ensure that, where seagrass habitat loss as a result of the Licensed Activity is deemed unavoidable as outlined by the SMMP, the Licensee must mitigate the impact on this Priority Marine Feature using restoration and enhancement measures. Any restoration and enhancement measures must be carried out within the Argyll Marine Planning Area and be agreed with the Licensing Authority. The Licensee must ensure that any restoration and enhancement carried out is at least equivalent to any seagrass lost, and ensuring that there is no overall effect on the national status of the seagrass Priority Marine Feature.

3.1.19 The Licensee must monitor any seagrass restoration and enhancement measures throughout the duration of the Licence.

3.1.20 Any damage to the seagrass that is detected and was not anticipated or outlined in the SMMP must be reported to the Licensing Authority as soon as reasonably practicable and the Licensee must produce measures to mitigate or restore any damage caused, which must be submitted to the Licensing Authority for its written approval.

3.1.21 The Licensee must ensure that the site is marked by means of an Aid to Navigation (AtoN) at the most seaward extent and at least 2 metres above the surface of the breakwater, exhibiting a red light with a nominal range of 2 miles flashing twice every six seconds [FI(2)R6s 2M].

3.1.22 The Licensee must obtain approval from the Northern Lighthouse Board for any temporary Aids to Navigation required during the construction of the project.

3.1.23 The Licensee must ensure any barges / vessels utilised during the works, when jacked up, should exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.

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

3.2.1 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.

3.2.2 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. Any issued Notice to Mariners should be copied to the Northern Lighthouse Board (email: navigation@nlb.org.uk).

3.2.3 The Licensee must ensure that HM Coastguard National Maritime Operations Centre, in this case Zone35@hmcg.gov.uk, is made aware of the Licensed Activity prior to commencement.

3.2.4 The Licensee must produce and submit an Invasive and Non-Native Species ("INNS") Management Plan for the written approval of the Licensing Authority prior to the commencement of works. The plan must detail the risk of introduction and spread of INNS and what measures will be in place to ensure vessels, plant, equipment and materials are used in accordance with best practice.

3.2.5 The Licensee must produce and submit a Construction Environmental Management Plan ("CEMP") for the written approval of the Licensing Authority prior to the commencement of works. The CEMP must include a Traffic and Navigation Management Plan and a Method Statement. The Licensee must adhere to the approved CEMP at all times throughout the duration of the works.

3.2.6 The Licensee must contact CalMac Ferries Ltd prior to commencement of the Licensed Activity to discuss the requirements for navigational warnings.

### **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.

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

3.3.7 The Licensee must ensure appropriate steps are taken to minimise damage to the beach, foreshore and seabed by the Licensed Activity.

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

3.3.9 The licensee must ensure that all vessels adhere to the best practice guidelines as set out in the Scottish Marine Wildlife Watching Code at all times.

3.3.10 The Licensee must adhere to the Otter Species Protection Plan, as outlined in Appendix 7.2 of Volume 3 - Technical Appendices in the Iona Breakwater Project Environmental Impact Assessment Report, dated August 2023, throughout the duration of the Licensed Activities.

3.3.11 The Licensee must the Licensee must appoint a suitably qualified and experienced Environmental Clerk of works ("ECoW") throughout the Licensed Activities. The ECoW must be on site during any Licensed Activities where otters might be disturbed. The ECoW must have authority to halt the Licensed Activities if any disturbance of otters is observed and the Licensing Authority must be notified. The ECoW must report to the Licensing Authority detailing monitoring and compliance with the Marine Licences on at least an annual basis.

### 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 2035.

3.4.2 The Licensee must ensure the beach, foreshore and 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.