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MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) 2017 REGULATIONS (AS AMENDED)

DECISION NOTICE – MARINE LICENCES TO CONSTRUCT, ALTER OR IMPROVE WORKS, DREDGE AND DEPOSIT DREDGED SUBSTANCES OR OBJECTS ASSOCIATED WITH THE UIG FERRY TERMINAL DEVELOPMENT AT UIG HARBOUR, ISLE OF SKYE

1. Application and description of the works

1.1 On 19 February 2019 The Highland Council ("the Applicant") having its registered office at Council Headquarters, Glenurquhart Road, Inverness, Scotland, United Kingdom, IV3 5NX submitted to the Scottish Ministers applications under Part 4 of the Marine (Scotland) Act 2010 ("the 2010 Act") for the construction, alteration or improvement, dredging and deposit of dredged substances or objects associated with the upgrading of the existing Ferry Terminal at Uig, Isle of Skye (hereinafter collectively referred to as "the Works"). In addition to the licensable marine activities referred to as the Works, the Applicant has requested the opening of a new dredge material deposit site within the Outer Uig Bay (as shown in Appendix 1) (hereinafter

referred to as "the Proposed Sea Deposit Site"). The applications were accompanied by an Environmental Impact Assessment Report ("EIA Report") in accordance with The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) ("the 2017 MW Regulations").

1.2 The Works cover an area of approximately 0.07 square kilometres ("km^2") and involve upgrading the existing infrastructure at Uig Harbour to accommodate the new, larger ferry vessel that will provide vital ferry services to the community. The location and boundary of the site in Uig Bay, Loch Snizort is shown in Appendix 1. The marine and terrestrial elements of the Uig Ferry Terminal development are shown in Appendix 2.

1.3 The Uig Ferry Terminal development includes the following components located below the Mean High Water Springs ("MHWS") line:

- Widening of the pier approachway;
- Widening and strengthening of the existing berthing structure;
- Installation of new linkspan, lifting dolphins and bankseat;
- Dredging and deposit of dredge materials at the Proposed Sea Deposit Site;
- Proposed Sea Deposit Site creation (Appendix 1);
- Extension of marshalling area by land reclamation (11,000 square metres ("m^2")) and associated rock armouring; and
- Construction of three oil separators and extension of a culvert pipe.

1.4 The Ferry Terminal development will be carried out either as one continuous delivery programme or as a three phase project with phase one consisting of "essential upgrades" comprising almost all Works below MHWS (including but not limited to widening of the approachway, re-fendering of the approachway, widening the berthing structure, installing a new wave wall and dredging with sea deposit of dredge material). Phase two would involve the land reclamation to accommodate the new marshalling area and fisherman's compound. Phase three would involve terrestrial works above MHWS. If the Works are to be carried out as one continuous programme, the expected time to complete the development will be 24 months and if the three phase programme is selected then 40 working months will be required, with 18 months for phase one, 18 months for phase two and the remaining 4 months for phase three.

1.5 Both vibratory and impact piling may be used during the Works. The simultaneous use of two or more piling rigs will be minimised but remains a possibility. Construction works will only be carried out between 07:00 to 19:00 Monday to Friday and 07:00 to 13:00 on Saturday. Whilst the construction programme is scheduled to last several months, the duration of impact piling, expressed as an average number of hours per day, is estimated to be a maximum of 0.9 hours per day but only for a period of 7-8 months. Vibratory piling during the first eight months will be carried out for up to 5.7 hours per day, depending on the construction programme selected. After that the duration will reduce to 0-1.7 hours per day.

Approachway upgrades

1.6 The current approachway is to be widened by 6m from the original fisherman's compound to the end of the old pier head. This will require the use of 82 tubular steel piles of 559mm diameter while pre-cast concrete crosshead units will be placed directly onto driven bearing piles. The existing concrete deck will be repaired while a combination of pre-cast and in situ concrete will be used to construct the rest of the deck. The existing timber grillage, fenders, steel boat deflectors and boat steps that are used by fishing and other smaller vessels will also be replaced.

Berthing structure upgrades

1.7 The Works involve extending the width of the berthing structure by 16m to an overall width of 25.5m. A new wave wall will be constructed along the western side of the widened structure. This will replace the existing wall which will be demolished. In addition, the existing waiting shelter will be demolished, to be replaced by a new relocated shelter. The demolition works will most likely be through cutting or using hydro demolition. The widened berthing structure will comprise 9 circular cells, each of 14.09m diameter and 8 arc cells. To complete these, a total of 1,096 straight web piles and 61 H piles will be required. The Applicant estimates that 1400 cubic metres ("m^3") of sand and gravel infill will be required for the circular cells and 700m^3 for the arc cells. The last arc cell and the two final circular cells will be infilled with concrete. Pre-cast concrete deck units will be placed between the crossheads and the completion of the deck will be achieved through the placement of pre-cast and existing concrete. To tie the approachway to the circular cells, 25 U piles will be used. The widened berthing structure will have new fendering, provided by 9 fender piles. For the purposes of scour protection, rock armour and/or a grout filled blanket will be placed along the toe of the circular cell walls.

Linkspan, bankseat and lifting dolphin upgrades

1.8 The existing linkspan will be removed with the existing piles cut to 600mm below the seabed. The new linkspan will be positioned up to 10m to the north of the current position and will be rotated by up to 5°. To facilitate this, up to 10m of the existing pier head needs to be demolished where the existing linkspan meets the pier head. The pier will be cut using a diamond core or using hydro demolition. The linkspan will sit on a new reinforced concrete bankseat that will supported by either 50 steel sheet piles or 6 vertical and 4 raker piles. The new lifting dolphins will be placed on concrete blocks and be supported by 10 steel piles.

Dredging

1.9 Dredging will be carried out in two dredge pockets, the first being the berthing area which will be dredged to -5.9m Chart Datum ("CD") by removing approximately 29,642m^3 of material. The second dredge pocket is along the approachway and will be dredged to a depth of -0.7m CD, removing approximately 1,150m^3 of material. It is likely that a cutter suction hopper dredger will be used due to the hard ground conditions. The dredge material

will be deposited at the sea deposit site within the outer Uig Bay, 2km south west of the pier. The size of the sea deposit site is 0.125km^2. The Applicant estimates that maintenance dredging will be required every 3-5 years.

Land reclamation

1.10 The existing marshalling area will be extended by reclaiming approximately 11,700m^2 of land. This will require approximately 50,000m^3 of infill material to achieve a level of 8m CD. The area will be infilled with an inert mixture of sand and gravel. Rock armour revetment and/or a sheet pile wall will be constructed around the reclaimed area and approximately 30 piles will be installed within the area of reclamation to support the ticket office.

Upgrades to utilities

1.11 Three oil separators will be constructed during the Works. These will be located at the edge of the marshalling area, the approachway and the berthing structure. Surface water drainage from the marshalling area and parts of the approachway will drain by pipework and gullies and tie into a diverted, extended culvert located at the current marshalling area. The existing concrete pipe culvert will be extended to approximately 220m, an increase of 78m.

1.12 The EIA Report received was also submitted to The Highland Council planning department in relation to planning permission for the associated onshore works and also to Transport Scotland in support of a Harbour Revision Order. This decision notice considers only the information relevant to the marine environment.

1.13 This decision notice contains the Scottish Ministers' decision to grant regulatory approval for the Works as described above, in accordance with the 2017 MW Regulations.

2. Summary of environmental information

2.1 The environmental information provided by the Applicant was:

- An EIA Report that provided an assessment of the impact of the Works on a range of receptors.

2.2 A summary of the environmental information provided in the EIA Report is given below.

Marine Physical Environment

2.3 The Applicant considered the potential of the Works to affect coastal and marine processes including waves, tides and tidal currents, sediment transport, suspended sediment concentration ("SSC") and geomorphological processes. The main impact pathways include changes in the water column SSC during the Works and changes in substrate type through the re-deposition of suspended sediments and placement of materials at the Proposed Sea Deposit Site. Additionally, changes in local hydrodynamic

regime and wave conditions were assessed. The assessments carried out by the Applicant were informed by project survey data, including bathymetric survey data, sediment grab sampling and borehole logs, desk based numerical modelling studies and regional mapping of seabed geology. The sediment sampling supported the site selection of the new Proposed Sea Deposit Site and focused on sediment composition and concentration of compounds like heavy metals.

2.4 The modelling conducted to assess impacts on hydrodynamics and wave climate showed that most of the change is due to wave reflection off the new pier and is limited to the immediate vicinity of the structure. Any impacts will therefore be minor or negligible. The modelling undertaken to assess the impacts of construction, dredging and sea deposit of dredge material on water column SSC indicates that any increases in SSC during dredging and sea deposit activities will be short-term, rapidly returning to background levels following completion of the activity. The greatest increases are predicted to occur at the dredge pockets themselves and at the point of sediment release at the Proposed Sea Deposit Site, reducing rapidly with distance from source. Furthermore, the increased SSC at the Proposed Sea Deposit Site will be highest during the construction phase as any maintenance dredging and subsequent sea deposit is likely to be intermittent and at much lower volumes. Sediment sampling indicates that the material in the dredge areas is 80% sand and gravel, whereas at the Proposed Sea Deposit Site the seafloor is 94% silt. The surface sediment type will, therefore, change from fine to coarse material. Impacts of changes in substrate type at the Proposed Sea Deposit Site are considered further in the benthic ecology chapter. To reduce the scale of this impact, the size of the Proposed Sea Deposit Site has been minimised while ensuring sufficient capacity for the dredge material associated with the Works.

2.5 Overall, the EIA Report concludes that any impacts of the Works on the marine physical environment will be localised and short lived and therefore have a negligible to minor adverse effect. No mitigation is proposed.

Marine Water and Sediment Quality

2.6 The Applicant considered that effects on water and sediment quality could arise from the potential to disturb, re-distribute and release contaminated sediments into the water column as a result of dredging and deposit of dredge material at the Proposed Sea Deposit Site. The potential for increased SSC within the water column to reduce dissolved oxygen concentrations in the water was also considered, as well as accidental pollution due to spillages and leaks during construction.

2.7 The sediment sampling conducted by the Applicant showed that the high background levels of heavy metals, especially chromium, nickel and copper, in the sediments at the dredge area were similar to the naturally occurring levels within Uig Bay. The Applicant notes that these heavy metals are hydrophobic and will remain bound to the sediment with only a small fraction becoming dissolved in the water column and more readily bioavailable.

Sediment disturbance and redistribution as a result of dredging is therefore not expected to result in any significant change in heavy metal concentrations within the bay. The Applicant also undertook modelling to predict the movement of sediment plumes from the deposit of dredge material within Uig Bay. Although the sensitivity to reduction in dissolved oxygen was deemed to be medium to high, due to the nearby finfish farms, the overall magnitude of effect was considered negligible. This is due to the coarseness of the sediment from the dredge pockets which means that any effects caused by the sediment plume will be localised and short term, returning to background levels within one day of cessation of works. The Applicant therefore concludes that any effects of dredging and deposit of dredge material on marine water and sediment quality will be minor adverse and no mitigation will be required.

2.8 As part of the assessment of the impact on water and sediment quality, the Applicant carried out a Water Framework Directive ("WFD") assessment. This found that the Works would be unlikely to result in a deterioration in the WFD status of the Loch Snizort coastal water body, which is currently rated as good.

2.9 There is the potential for an accidental spillage during both the construction and operational phases and, due to the variety of substances that could enter the water, the assessed significance of effects is moderate adverse. The Applicant proposed several mitigation measures to reduce the risk of accidental pollution. To mitigate the impacts of dredging during both construction and operation, deposited material is to be evenly distributed across the deposit site while over-spilling of dredge material loaded on the barge will not be undertaken.

2.10 During construction, suitable bunding and storage facilities to prevent the release of fuel oils and lubricating fluids associated with the plant and equipment into controlled waters will be employed, along with contractors adhering to best practices and safety precautions such as Scottish Environment Protection Agency ("SEPA") Guidance for Pollution Prevention.

2.11 Once these mitigation measures are implemented, the potential for a significant adverse impact on marine water and sediment quality during construction phase will be reduced to negligible.

Flood Risk and Climate Change

2.12 The EIA Report detailed the key impacts for the construction phase of the Works. Construction activities and modifications to the coastal structures and defences, specifically the existing wave wall and rock armour, were identified as having the potential to result in a temporary change in flood risk to the pier. Sections of the existing pier wall are to be demolished and new sections constructed, which may lead to temporary localised exposure of the pier users and construction equipment to waves to a greater extent than they currently experience during adverse weather. It is proposed to mitigate the risk to pier users through the use of temporary barriers, warning signs and monitoring of flood and weather warnings. To ensure surface water drainage is

appropriately managed during construction, it is proposed for drainage arrangements to be agreed with the SEPA, The Highland Council and Scottish Water. To minimise the risk of flooding to construction equipment and the site compound, the construction laydown, site offices and site compound will be located away from the harbour area and on higher ground. In addition, the Applicant will adhere to their Flood Risk Management Plan which is secured as a condition on the construction licence. The EIA Report concluded that, following the implementation of the above mitigation measures, no significant residual effects are anticipated as a result of the construction phase of the Works.

2.13 With regards to the impacts from the operational phase of the Works, the EIA Report highlighted that the new ferry is expected to be able to operate under more adverse conditions than the current vessel. It is therefore likely that ferry/pier workers and users will be exposed to harsher conditions than at present. The Works are also predicted to increase wave overtopping of the pier and approachway, which will potentially increase the risk to users from wave overtopping. A covered walkway is to be installed for the operational phase to protect pier users in all conditions in which the ferry is able to operate. In addition, warning signs will be used to deter people from using the pier in dangerous conditions.

2.14 The baseline assessment in the EIA Report identifies that residential and commercial properties are already at a continued risk of flooding from wave overtopping. Modelling carried out by the Applicant indicated that there may be an increase in wave heights which could result in wave overtopping of the existing defences in the vicinity of the Bakur Bar and Uig pottery. These increases are predicted as a result of the solid nature of the proposed pier structure. The EIA Report however assessed that due to the gently sloping topography behind the coastline the increase in overtopping is unlikely to cause a significant change in flood extent or depth in the vicinity. The EIA Report concluded that whilst the Works are predicted to result in a small increase in wave overtopping affecting properties adjacent to the pier this increase represents a minor change relative to the existing baseline condition. Whilst the Applicant does not propose any mitigation measures, it is indicated that they will engage with the residents of the affected properties to explore if any opportunity exists for the Works to voluntarily contribute towards an improvement to the baseline condition

Marine Nature Conservation Areas

2.15 The Inner Hebrides and the Minches Special Area of Conservation ("SAC") lies within 1km of the ferry terminal and the Ascrib, Isay and Dunvegan SAC lies approximately 5.5km from the site of Works. These are designated for harbour porpoise and harbour seals, respectively. The Sea of the Hebrides proposed Marine Protected Area is 25km from the site of the Works with basking shark and minke whale as the qualifying features. The Proposed Sea Deposit Site is within the Inner Hebrides and Minches SAC.

2.16 The Applicant identified a likely significant effect on the harbour porpoise feature of the Inner Hebrides and the Minches SAC from the propagation of underwater sound from the piling works, and the changes to water quality from increased suspended sediments and the mobilisation of heavy metals from the dredging and deposit of dredge material. The potential impacts on the species of concern and subsequently identified mitigation measures are detailed in the Marine Mammals section of this decision notice.

2.17 The EIA Report found that there was sufficient distance between the construction site and the Ascrib, Isay and Dunvegan SAC that there would be no connectivity between the two. It concluded that piling works and water quality changes will have a negligible impact on the harbour seal feature of the Ascrib, Isay and Dunvegan SAC and there will be no likely significant effect on the species from the Works.

2.18 The EIA Report considered there to be limited connectivity between the qualifying species of the Sea of the Hebrides proposed Marine Protected Area and site of the Works. The Works are not capable of affecting the basking sharks or minke whales within the Sea of the Hebrides proposed Marine Protected Area.

Benthic Ecology

2.19 Benthic surveys carried out by the Applicant included intertidal visual surveys, grab sampling, video surveys of subtidal seabed (especially around the Proposed Sea Deposit Site) and desk based studies. Intertidal and subtidal surveys identified multiple biotypes in Uig Bay and the wider Loch Snizort and these are dominated by sands and muds. Subtidal sediments at the Proposed Sea Deposit Site are dominated by polychaete worms and molluscs with recordings of two different species of seapens along with burrows in the seabed indicating the potential for the Scottish Priority Marine Feature ("PMF") habitat "Seapens and burrowing megafauna in circalittoral fine mud". "Kelp and red seaweed on sublittoral sediments" PMF is also likely to be present in Uig Bay. Previous records have identified a further PMF habitat "Inshore Deep Mud with Burrowing Heart Urchins" on the far side of Uig Bay, but no heart urchins were identified during the subtidal surveys for these Works. These PMF habitats are of regional importance, being widespread across Uig Bay and around the coast of Scotland. Sublittoral PMF habitats are therefore considered to have low to medium sensitivity/importance. No PMF or high value species were found in the intertidal zone.

2.20 The construction phase of the Works is likely to impact benthic ecology through habitat loss, physical disturbance during dredging and dredge material deposit operations, increased sediment loading in the water column. In addition, there is the potential accidental spillage of hazardous substances and introduction of non-native marine species. Issues of non-native introduction are believed to be minor due to the majority of materials being brought to site via roads however, the Applicant expects that the new linkspan may be brought to site by barge. A Construction Environmental Management

Document ("CEMD") will be produced and will outline the mitigation required to control and limit the risks in line with best practice. There will be a permanent loss of benthic flora, fauna and habitat in the extended marshalling area footprint and temporary loss in the dredge area, but no species of high ecological value have been found in these areas.

2.21 Dredge material deposit will cause a localised change in sediment particle size at the Proposed Sea Deposit Site which is likely to result in a localised change in subtidal habitat composition in the affected area. The sediment plume formation at the Proposed Sea Deposit Site is discussed in detail under the Marine Water and Sediment Quality section. Burrowing megafauna can tolerate being covered (smothered) with some sediment and the natural burrowing process (bioturbation) as a result of these species is also expected to help medium to long term recovery of the seabed and supporting habitats. In addition, although dredging activities may result in some redistribution of heavy metals within sediments, the concentrations are likely to be similar to the in situ levels and therefore not result in any significant change within the sediments in Uig Bay. It is expected that the high value habitats and species affected will recover, at least in part, in the medium to long term after the Works have ceased. Burrowing organisms can tolerate smothering and *Virgularia* seapens can tolerate a wide range of sediment types. Even if the benthic community changes as a result of the deposit of dredge material, the species that will persist will be tolerant to sediment deposition events. The deposit of dredge material during possible future maintenance dredging campaigns during the operation of the harbour is therefore not likely to impact the remaining benthos. Population level effects are not expected as the PMF loss is limited to the vicinity of the Proposed Sea Deposit Site and the sublittoral PMF habitats are widespread across Uig Bay and the coast of Scotland.

2.22 The Applicant has concluded that no significant impacts to benthic habitats are predicted as a result of the construction, dredging and sea deposit of dredge material or operation of Uig Ferry Terminal.

Fish and Shellfish Ecology

2.23 The Works could impact fish and shellfish through the noise created by the piling, increased SSC and release of heavy metals from the sediments during construction and dredging activities. The potential for the release of heavy metals from sediment, as previously been discussed in section 2.7, is considered to be unlikely and will therefore not pose an increased threat to fish or shellfish. Furthermore, the local species are likely to be adapted to the high in situ heavy metal concentrations. A desk based study and underwater noise and sediment dispersal modelling were conducted to consider the effect of the Works on fish and shellfish. Fish species including basking shark, herring, cod, mackerel, whiting and Atlantic salmon were identified as potentially being present in the vicinity of the Works within Uig Bay. The assessment found that Atlantic salmon are likely to be present approximately 1km from the Works as they transit to and from their natal rivers through Loch

Snizort. Furthermore, caged salmon are present at a fish farm 1km from the site of Works. No shellfish species of conservation importance were identified in the vicinity of the Works.

2.24 Basking sharks are not expected to be present in high densities within Uig Bay and Loch Snizort, although sightings have been recorded. The Works are in shallow enclosed waters which are not anticipated to provide valuable habitat for basking sharks and there have been no recorded sightings since 2010. Basking sharks are also classed as having low sensitivity to noise due to not having a swim bladder. It is therefore concluded that it will be unlikely that basking sharks will be present in the vicinity of Uig Bay and, if they are, they will be unaffected by the Works. Herring are a high sensitivity hearing fish and the threshold for recoverable injury from vibratory piling is 170 root mean square decibels ("dB_{rms}") sound level at the receiver for a period more than 48 hours. The EIA Report concludes that because no piling activities will exceed 170dB_{rms} at a distance of 10m from the source, the only responses to the Works would be temporary behavioural responses limited to swimming away and change of swimming direction. No more than 1 hour of impact piling and 5.7 hours of vibratory piling will be undertaken per day at most which means that the 48 hour threshold will not be exceeded. Additionally Loch Snizort and Uig Bay are not areas with notable densities of high hearing sensitive species.

2.25 The short duration of piling will mean that any behavioural impacts on individual fish, including wild and farmed salmon, basking shark and species of the herring family that have the most sensitive hearing will be short-term and low level. Significant effects such as long-term changes in behaviour and distribution, including moving from preferred sites for feeding and reproduction, or alteration of migration patterns are not anticipated.

2.26 Potential adverse effects on fish and shellfish from an increase in SSC due to dredging activities are predicted to be negligible. The Works will have a short term impact on the SSC and, once the dredging and sea deposit operations are complete, the water quality is predicted to return to baseline conditions. Therefore there is no anticipated long-term impact of the dredging and sea deposit operations on the fish and shellfish populations of Uig Bay. During the operational phase of the Works, the Applicant approximates that dredging will be carried out to maintain the water depths every 3 to 5 years. Due to the negligible impacts of increased SSC on fish and shellfish species no mitigation is proposed for the impacts of the suspended sediment.

Marine Mammals

2.27 A desk based study and underwater noise and sediment dispersion modelling were undertaken to assess the impact of the Works on marine mammals. Harbour porpoise, bottlenose dolphin, short-beaked common dolphin, minke whale and harbour seal have all been identified as being present in Loch Snizort and the vicinity of Uig Bay. The Works have the potential to impact marine mammals through noise generated from piling and disturbance caused

by changes to water quality resulting in increased SSC or mobilisation of contamination as a result of dredging and dredge material deposit activities.

2.28 The impact of an increased SSC on marine mammals was considered to be low due to the short duration and the relatively low concentration of suspended sediments. Many marine mammal species are observed in areas with high sediment load such as estuaries, demonstrating tolerance for turbid waters. Higher turbidity than usual may reduce visual foraging in seals but cetaceans are able to locate prey using sound. Marine mammals can easily move away from more turbid areas if required. Due to the already high concentrations of some heavy metals found around Uig Bay and the low likelihood of the heavy metals becoming bioavailable during dredging, the impacts of increased SSC are considered to be minor for cetaceans and negligible for seals.

2.29 During the construction phase, unmitigated noise from both vibratory and impact piling could adversely impact marine mammals, particularly harbour porpoise, in the vicinity of the Works.

2.30 The Applicant proposes several mitigation measures against the impacts of piling noise on marine mammals. These include compliance with the Joint Nature Conservation Committee ("JNCC") piling mitigation protocol, including the establishment of a 500m mitigation zone that will be monitored by suitably qualified Marine Mammal Observers ("MMO") positioned at vantage points in Uig Bay. Pre-piling MMO watch will begin 30 minutes before the commencement of any piling activity and piling will not commence if any marine mammals are detected within the mitigation zone or until 20 minutes after the last visual or acoustic detection. Passive acoustic monitoring ("PAM") equipment positioned in a suitable location close to the entrance to Uig Bay will be used to monitor for presence of harbour porpoise if any impact piling commences during periods of darkness, poor weather conditions or reduced visibility. A soft-start procedure will be used for all impact piling with initial power levels to be approximately 10% of the final level. The Applicant also aims to minimise the simultaneous use of two piling rigs at the site during the Works and no simultaneous in water impact piling will occur. The Applicant will produce a Marine Mammal Management Plan ("MMMP") prior to works commencing, which will include further consideration of the mitigation required.

2.31 Individual marine mammals within the area of potential temporary threshold shift are expected to move away from the site for the duration of the pilling activities due to the noise disturbance and so avoid any auditory impairment. The magnitude of the effect is considered to be negligible because there is only the occasional presence of low or mid-frequency cetaceans and with the implementation of the proposed mitigation measures, effects will only be behavioural. Through implementation of the mitigation measures outlined within the MMMP, no significant impacts to marine mammals, as a result of the Works of the Uig Ferry Terminal, are predicted.

Marine Ornithology

2.32 Desk based and field surveys (for both breeding and wintering birds) were carried out to understand the types of birds present, along with the usage and value of the habitats in Uig Bay and surrounding areas to birds. The bird survey indicated that the habitats within and immediately around Uig Bay are generally of low value to breeding bird species, other than bird species which are common and widespread. The Works below MHWS could impact breeding and nesting birds during the construction and operation phases due to displacement of prey species, loss of habitat and disturbance during dredging, the widening of the pier and the deposit of dredge material.

2.33 Bird prey such as adult fish are likely to move away from or avoid areas of high turbidity, but the suspended sediment modelling shows that the increased sediment load during construction and dredging operations will not be greater than what could be expected from stormy conditions and therefore any effect would be negligible and not require further mitigation.

2.34 The loss of intertidal habitat to accommodate the extended marshalling area will cause the birds that make use of this area to be permanently displaced. The Applicant states that this area is small and that the birds that use the area would likely relocate to other parts of Uig Bay where there will still be suitable habitat.

2.35 Up to 25 eider and 27 herring gull are likely to be disturbed by works during widening of the pier but these are considered to be of local value only and not sensitive to disturbance. Additionally, it is understood that these birds can relocate to other habitats within Uig bay and so there is no significant effect on birds (either resting or foraging) with no mitigation required.

2.36 Birds within the harbour are already habituated to the regular ferry service and other boat movements so disturbance from this activity will be negligible. Additionally the bird species in the immediate area around the proposed dredge areas are not protected species and are capable of relocating to other more suitable areas within Uig bay.

2.37 When depositing the dredge material at the deposit site there is the potential to disturb birds either at the deposit site or along the route of the barge. The majority of birds expected on this route and at the deposit site are habituated to the regular ferry movements and so are unlikely to be disturbed. Any of these birds that are disturbed will likely move to another area of the bay where there is suitable alternative habitat.

2.38 There is a breeding site of white tailed eagles in the vicinity of the barge route and any disturbance to these will likely result in lower breeding success. White-tailed eagles are reported to have used a breeding site within 10km of Uig for at least the last three years, and it is assumed that they will continue to do so. Breeding behaviour may be adversely affected if disturbance occurs within 500-750m and possibly (in the extreme) up to 1km from the breeding site. Consequently, the nesting white-tailed eagle is considered to be of high

sensitivity. To mitigate for any effects on white-tailed eagles, dredge material will be deposited in the outer part of Uig Bay at the Proposed Sea Deposit Site, located >1km from the eagle breeding zone, and the hopper barge depositing the dredge material will follow as direct a route as possible to this location.

2.39 The Applicant concludes that whilst there may be disturbance to birds from pier widening, dredging and deposit of dredge material as well as an impact on the availability of prey and turbidity impacts on hunting, these effects are not likely to be significant on the majority of birds. The Applicant acknowledges however the potential to impact on the breeding success of white tailed eagles from the transport of dredge material. To mitigate against any significant effects on the white tailed eagles from the Works, the Applicant has committed to the barge taking a direct route to the Proposed Sea Deposit Site ensuring it will not pass within 1km of the white-tailed eagles breeding site. The barge route will be included as a marine licence condition. With the mitigation applied the Works are not expected to have any significant effects on marine ornithological features.

Socio-Economics, Tourism and Public Access

2.40 The Isle of Skye, the largest island in the Inner Hebrides, welcomes large numbers of tourists every year and is known for its dramatic landscapes, wilderness and local history. The ferry services and the associated tourism trade make a significant contribution to the economy of Uig, which includes service providers catering for tourists including hotels, bed and breakfast accommodation, caravan parks, restaurants and cafes. A number of marine businesses also operate from Uig harbour including commercial fisheries activities, fish farm operators and an outdoor adventure centre.

2.41 Construction activities will generate some noise which will be heard within the local community with some temporary loss of amenity. Noise disturbance will be minimised, including through the use of noise barriers where feasible, and carrying out the noisiest activities during the least sensitive times of day. Construction noise is not expected to cause significant loss of amenity for visitors.

2.42 The construction phase of the Works will require employment of part of the local workforce as well as bringing in skilled work from elsewhere to Uig which could be expected to bring income into the local economy.

2.43 Other pier users include fishing boats, fish farm boats and tourist boats. Their access to the pier could be impacted during the Works. This will be mitigated through either maintaining the berthing facilities or providing alternative berthing facilities at the harbour for other harbour users during the Works.

2.44 The ferry service will continue to operate throughout the majority of the construction works. Any necessary closure will be publicised well in advance, alternative services will be provided from other west coast ports and the length

of time that the ferry service is suspended for will be kept to a necessary minimum, therefore there will be no significant adverse effect.

2.45 Once completed, the new ferry will offer increased capacity as well as an improvement in the ability to operate a ferry service during poor weather conditions. As a result the Works are expected to result in an increase in both vehicle and footfall numbers through Uig, bringing potential long term benefit to the local community.

Commercial and Recreational Navigation

2.46 The ferry service operated by Calmac Ferries Limited is the main user of Uig harbour, which is also used by both local and visiting fishing vessels, as well as vessels involved in the aquaculture industry. In addition, a small number of recreational vessels are regularly or occasionally moored in the harbour, with the closest Royal Yachting Association ("RYA") affiliated clubs based at Portree on the eastern coast of the Isle of Skye and at Lochmaddy in the Western Isles.

2.47 The majority of vessel traffic in the harbour area results from the ferry passages operating between Uig, Lochmaddy and Tarbert. The ferry will be using the area where dredging operations will be carried out. This means that there is potential for accidents or incidents resulting from this interaction.

2.48 The Applicant is the Statutory Harbour Authority at Uig Harbour. The Applicant will update the Uig Harbour Navigational Risk Assessment to include the Works and dredge and construction vessels are to carry appropriate vessel identification system to allow other vessels and the Applicant to monitor their movements. During the construction phase of the Works a number of mitigation measures will be employed to reduce the effects on vessel navigation. These measures include notification to other marine users, coordination of dredging with ferry operations and availability of pollution response equipment. Works affecting existing berths will be phased to ensure berths will remain available for use throughout construction. These mitigation measures are secured through marine licence conditions. Access to these berths is not expected to be significantly affected as sufficient navigable water is available within the Bay to avoid construction activities. Impacts of the Works on commercial and recreational navigation are considered negligible.

Commercial Fisheries

2.49 Two commercial finfish farms are located within close proximity to the Works, Uig Bay (Rubha Riadhain) and Loch Snizort East. There is likely to be an effect on these farms from increased SSC during dredging activities, a decrease in dissolved oxygen levels in the water column during deposit of dredge material, an increase in the level of heavy metals in the water column and the redistribution of sediment-bound chemical heavy metals. Furthermore, construction noise, especially piling, may impact the farmed fish. The results of sediment plume modelling are shown in the marine water and sediment quality and marine physical environment sections of the decision notice. The

fish and shellfish section of the decision notice provides an assessment of the impacts of increased SSC and construction noise on farmed fish. Overall, any impact of the Works on farmed fish will be minor, short-lived and limited to behavioural changes.

2.50 Consultation with the local fishing community indicates that the local area supports some commercial fisheries activity, although at low intensity when compared to other fishing grounds in the area. A small number of fishing vessels operate out of Uig Harbour on a permanent basis whilst a larger number of fishing vessels use the harbour on a less regular basis. Both trawlers and creelers utilise the harbour facilities, making Uig Harbour of local importance to the fishermen.

2.51 The presence of the dredger and construction vessels and the transit of the dredger between the dredge pockets and the Proposed Sea Deposit Site has the potential to displace or disrupt vessels berthing at the pier and navigation routes between the pier and fishing grounds or fish farms. In order to mitigate the effects on the fishing community the approachway widening is to be phased and a temporary compound area will be provided during the Works. Access to the harbour for fishing boats will be maintained throughout construction including additional temporary moorings if necessary, minimising the impact. A stakeholder group will be established with harbour users and community groups to ensure all interested parties are kept informed of progress and any alternative arrangements for berthing. This is secured through a marine licence condition. No significant impact on the fishing fleet is predicted.

Marine Archaeology and Cultural Heritage

2.52 Several archaeological or cultural heritage sites have been identified within the bounds of the areas of Works including two shipwrecks, the King Edward pier and peaty deposits and organic sediments. The two wrecks which were identified are the fishing vessel Sarah Lena which was lost on 25 June 2010 and the steamship Irlanda which was stranded and sunk at Idrigill Point in 1943. The Irlanda is not expected to be impacted by the Works but the Sarah Lena lies close to the deposit site. Sediment plume modelling shows that increased SSC due to deposit of dredge material will not have a significant impact on the wreck.

2.53 During the Works, the King Edward Pier, a non-designated heritage asset of local importance, will be widened and all existing dock furniture including bollards, mooring rings, ladders and access steps will be reinstated along the northern face of the pier once work has been completed, resulting in a very low impact on the pier.

2.54 Piling could directly impact any submerged peaty deposits and organic sediments, but the area is currently assessed as being of low (local) importance. Dredging of sediment will not directly impact on the peaty deposits or organic sediment but there would be a reduction in depth of sediment

covering the deposits and so there would be a higher potential for scouring action from maritime vessels. Overall it is deemed that this would have a moderate significance of effect.

2.55 A staged programme of investigation will be undertaken to determine the palaeoenvironmental potential of the peaty deposits and organic sediments which potentially contain archaeological remains. The results of the investigations will inform detailed measures such scientific dating and analysis to mitigate impacts from the Works. With mitigation implemented, the residual environmental impact is assessed as minor.

3. Consultation

3.1 In accordance with the 2017 MW Regulations, advertisement of the applications and EIA Report was made in the local and national press and on the Applicant's website. Notices were placed in the public domain and the opportunity given for those wishing to make representations to do so.

3.2 The Works were consulted on and adverts were placed in the West Highland Free Press and the Edinburgh Gazette as well as being published on the Highland Council's website (https://www.highland.gov.uk/info/1523/transport_and_streets/832/uig_harbour_redevelopment). Documentation was also published on Marine Scotland Information (http://marine.gov.scot/ml/uig-ferry-terminal-development-uig-isle-skye). All responses received have been taken into consideration. Where matters have not been fully resolved, conditions have been included to ensure appropriate action is taken after regulatory approval is granted.

3.3 A summary of the responses is set out at sections 4, 5 and 6. The responses are available to view in full here.

4. Summary of statutory consultee responses

4.1 SEPA responded on 28 March 2019 initially objecting to the Works on the basis of flood risk. SEPA sought clarity in respect of the conclusions of the modelling in the EIA Report and also queried the appropriateness of the culvert sizing in relation to both storm water flow and the additional flows of any surface water drainage. SEPA also advised that whilst it accepted that surface water would be passed through oil/petrol separators before being discharged into the sea, the Works involve a large area with a high level of traffic and therefore the separators would require continued maintenance. SEPA advised therefore an oil separator inspection and maintenance plan should be secured as a condition.

4.2 The Applicant subsequently provided clarification on the matters queried by SEPA. On 21 May 2019, SEPA consequently withdrew its objection subject to the inclusion of the oil separator inspection and maintenance plan condition. SEPA advised that the Works lie within the medium likelihood flood extent of the SEPA flood maps and may therefore be at a medium to high risk of flooding. SEPA noted however that as the Works are for the upgrade to an existing ferry terminal they are considered as being a water compatible use and must therefore be located within the functional floodplain for operational reasons.

4.3 SEPA advised that the Works would potentially increase the flood risk to the area and properties in the vicinity of the junction of the pier and land at Uig. SEPA disagreed with the EIA Report conclusions that the potential effects in the vicinity of the Bakur Bar and Uig Pottery and adjacent properties is a minor risk of increased tidal flooding to residential and commercial properties as a result of the Works. SEPA advised however that with regards to these specific Works, where the proposed terminal re-development is considered essential infrastructure, it considers the Applicant to have provided sufficient information on flood risk. SEPA did however request that The Highland Council Flood Risk Management Team be advised that there may be an increase in flood risk directly resulting from the Works. In addition, SEPA confirmed that it considers the water quantity aspects of surface water drainage as well as the culvert extension considerations to also be within the remit of the local authority's Flood Risk Management Team. The Applicant has subsequently confirmed that The Highland Council Flood Risk Management Team have been informed.

4.4 Historic Environment Scotland ("HES") responded on 28 March 2019 stating that its view is that the Works do not raise any historic environment issues of national significance and it does not object to the marine licence applications. HES welcomed the mitigation measures detailed in the EIA Report.

4.5 Scottish Natural Heritage ("SNH") provided responses on 29 April 2019 and 20 March 2020 advising that there will be a likely significant effect on the harbour porpoise qualifying feature of the Inner Hebrides and the Minches SAC and the harbour seal qualifying feature of the Ascrib, Isay and Dunvegan

SAC due to the Works. Harbour porpoise may be affected by underwater noise produced during the Works. The most significant source of underwater noise will be from piling associated with the construction of the pier extension, however noise will also be produced by dredging and deposit of dredge material and the associated increase in vessel movements during construction. SNH advised that if the Works are carried out in line with the proposed mitigation, there will be no adverse effect on the site integrity of the Inner Hebrides and the Minches SAC. SNH noted several shortcomings in the underwater noise modelling conducted by the Applicant, but advised that while the noise modelling is basic, it is sufficient, alongside other readily available information, to reach a conclusion on the impacts of the noise generated by the Works. SNH advised that the risk of instantaneous auditory damage is low and can be adequately mitigated using the JNCC mitigation protocol for piling. SNH advised that in its view, use of multiple piling rigs simultaneously could shorten the period of disturbance and can therefore be permitted, provided the proposed mitigation is adhered to. Similarly, provided that the JNCC piling mitigation guidance is followed, the potential of marine mammal injury is minimised. SNH notes that the JNCC piling mitigation protocol does not protect harbour porpoise against disturbance. The disturbance zone can extend to >10km from the Works but due to the temporary nature of the piling disturbance it is not significant and presents no risk to site integrity.

4.6 SNH considers dredging and sea deposit of dredge material to have the potential to increase sediment suspension and dispersal, change water chemistry and release heavy metals into the water column and to the seabed. SNH notes that the predicted concentrations of heavy metals are lower than the Environmental Quality Standard values, indicating a low eco-toxicological risk. Furthermore, due to the short-term nature of the changes, SNH considers any impacts to be of low significance.

4.7 With regards to the harbour seal qualifying feature of the Ascrib, Isay and Dunvegan SAC, SNH advised that the because the Works take place within the foraging range of the seals that haul out within the SAC, the Works are likely to have a significant effect on them. SNH advised that the Works must be undertaken in accordance with the mitigation proposed by the Applicant to avoid having an adverse impact on site integrity. SNH considers there to be a low risk of hearing damage (PTS) to seals due to the Works and advised that the seals are unlikely be disturbed within the Ascrib, Isay and Dunvegan SAC and any disturbance outwith the SAC is unlikely to affect the conservation objectives.

4.8 SNH provided specific advice to inform the content of the MMMP. The advice includes reducing the piling mitigation zone for seals to 100m. SNH also requests that details of the locations and experience of the MMO and PAM operators, location of the PAM system and when it is to be used, and details of the communication protocol between the MMO and PAM operators and piling contractors are provided in the MMMP. Details of any underwater noise measurement protocol should be provided, including the type of system to be used, how the noise levels will be analysed and calibrated and how the levels

will be reported to Marine Scotland. The provision of these will be included as marine licence conditions.

4.9 SNH also advised that a licence to disturb European Protected Species ("EPS") would be required in respect of the piling works but advised there would not be a negative impact on their favourable conservation status.

4.10 SNH also provided advice on the impacts of the Proposed Sea Deposit Site creation on PMFs. SNH advised that the benthic habitat in the Proposed Sea Deposit Site search area is dominated by burrowed muds, including the PMF "Seapens and burrowing megafauna in circalittoral fine mud", although the surveys carried out by the Applicant suggest that *Penatula* and *Virgularia* seapens are rare. SNH noted that this biotope is extensively distributed throughout the sea lochs of the west coast of Scotland. SNH stated that neither the grab samples nor the remotely operated vehicle footage found evidence of rarer biotopes and species, such as the burrowing heart urchin (*Brissopsis lyrifera*) or the *Funiculina* sea pen, PMFs which have both been recorded nearby in earlier surveys. SNH advised that although the surveys were not conclusive it considers them to be adequate for identifying environmental effects associated with the Works. SNH therefore advised that there are likely to be impacts on PMFs but without significant impacts on regional or national status. SNH also advised that while ten *Maera loveni* amphipods, another PMF, were recovered in one sediment grab sample, the species is a good burrower and therefore likely to quickly recover after a sea deposit event. The species does not appear to be widespread as it was not found in other grab samples. SNH advised that there is no evidence that the PMF "Inshore deep mud and burrowing heart urchins" is present but that there is too much uncertainty surrounding the surveys to demonstrate this conclusively.

4.11 While SNH originally advised that utilising an existing sea deposit site would be good practice and appears to be more in line with Scotland's National Marine Plan ("NMP"), it recognises that opening a new deposit site in close proximity to the Works could be a better option from an environmental perspective than using the existing Ullapool designated sea deposit site. SNH acknowledged that the need for the creation of the new deposit site is due to the high levels of heavy metals present in the sediments of Uig Bay and that this material is therefore unsuitable to be deposited at other designated deposit sites. In its second consultation response dated 20 March 2020, SNH considered the impacts of deposit of maintenance dredge material on the PMFs found at the Proposed Sea Deposit Site. SNH advised that the long-term effect of the dredge material deposit on the benthic communities will depend on sediment type, depth of sediment and duration between deposit events. A permanent change to seabed habitat type is likely to lose the characterising community and even if the majority of species within the Proposed Sea Deposit Site are burrowing megafauna able to burrow through the additional layer of sediment, this will have energetic costs that depend on the depth of material deposited. SNH advised that different species are characteristic of specific sediment types, and some species, such as *Virgularia* seapens, appear more tolerant to a wider range of sediment types than others. SNH concluded that the community will be altered by the initial deposit of

dredge material during the construction phase and any species that persist will be tolerant to deposit events. Because of this, SNH's view is that depositing future maintenance dredge material at the Proposed Sea Deposit Site is the best environmental option in the future.

4.12 The Highland Council, in their response dated 24 October 2019, advised that the marine licensable aspects of the Works did not raise any issues that the Council were unaware of through the planning process and therefore they have no further comments to make.

5. Summary of non-statutory consultee responses

5.1 The Maritime and Coastguard Agency ("MCA") responded on 04 April 2019 stating it has no objections to regulatory approval being granted provided all maritime safety legislation is followed and a marine licence condition requiring the Applicant to contact HM Coastguard prior to commencement is secured. Advice was also provided regarding suitable bunding and storage facilities and communication with the Statutory Harbour Authority.

5.2 The Northern Lighthouse Board ("NLB") responded on 15 March 2019. NLB had no objections to the Works but advised that the Applicant should contact the NLB about permanent and temporary Aids to Navigation, issue notifications to marine users and on completion of the Works, supply "as built" plans, revised water depths and details of the new sea deposit area to the UK Hydrographic Office to enable them to revise nautical charts. These will be included as conditions on the marine licences.

5.3 RYA responded on 21 March 2019, offering no other comments except that it recognises that the upgrade to the ferry provision is necessary and that the proposed Works will not impede recreational traffic.

5.4 Scottish Water responded on 06 March 2019 stating no objection to the Works, however noted that this does not preclude that service to the site will be available. Scottish Water advised the Applicant to get in touch to discuss the water supply and foul water discharge requirements of the development as well as to identify any potential conflicts with Scottish Water existing assets. Scottish Water also stated that it will not accept any surface water connections into its combined sewer systems.

5.5 Health and Safety Executive had no comments to make on the Works in its response dated 11 March 2019.

5.6 Visit Scotland, in its response of 20 March 2019, stated it recognised the significant opportunities that exist to grow marine tourism and that these Works will assist this development as well as recognising that the Works would have a strong role to play in the Scottish Government's Year of Coasts and Waters initiative. Visit Scotland did not raise any concerns relating to the Works.

6. Representations from other organisations and members of the public

6.1 No representations were received from other organisations or members of the public.

7. Advice from 3rd Parties

7.1 No advice was sought or received from 3rd parties.

8. The Scottish Ministers' Considerations and Main Determinative Issues

8.1 The Scottish Ministers, having taken account of all relevant information, consider that the main determining issues are:

- the extent to which the Works accord with and are supported by Scottish Government policy and the terms of Scotland's NMP and relevant government and local development plans;

- the significant effects of the Works on the environment, which are in summary:

    - Marine Water and Sediment Quality;
    - Marine Nature Conservation Areas and Marine Mammals;
    - Benthic Ecology; and
    - Flood Risk

8.2 Policy Context

8.3 As the Works are proposed to take place within the Scottish marine area they are subject to the 2010 Act. The NMP covering inshore waters is a requirement of the 2010 Act. The NMP lays out the Scottish Minister's policies for the sustainable development of Scotland's seas and provides General Planning Principles ("GEN"), most of which apply to the Works. In addition, the NMP lays out sector specific objectives and policies for shipping, ports, harbours and ferries and specifically to safeguard the ferry routes and maritime transport to island and remote mainland areas which provide essential connections. The relevant policies were considered as part of the EIA process with the Works being deemed to meet the requirements of the NMP and to be contributing towards achieving relevant sector specific policies and objectives. The Works are also considered to align with the Scottish Government's Climate Change Plan, the Highland Wide Local Development Plan and the West Highlands and Islands Local Development Plan.

8.4 The closest designated sea deposit sites in Ullapool and Stornoway are tens of nautical miles from Uig. Transporting several loads of dredge material over great distances would contribute significantly more to carbon emissions than depositing the material at the Proposed Sea Deposit Site, making the opening of a new site compliant with GEN 5 of Scotland's NMP on climate change and the Scottish Climate Change Plan. Furthermore, depositing the dredge material within Uig Bay where the heavy metal concentrations are naturally high is compliant with GEN 12 on water quality and resource and deposit of

the material in Ullapool or Stornoway would potentially lead to introduction of contamination within those sites. Finally, Scotland's NMP recognises the need to deposit dredge material at appropriate locations and that licensed sea deposit sites may change as a result of the need for sites in additional locations.

8.5 The Scottish Ministers are satisfied that the Works accord with and are supported by Scottish Government policy and the terms of the NMP.

Environmental Matters

8.6 The Scottish Ministers are satisfied that an environmental impact assessment has been carried out. Environmental information including the EIA Report has been produced and the applicable procedures regarding publicity and consultation laid down in regulations have been followed. The environmental impacts of the Works have been assessed and the Scottish Ministers have taken the environmental information into account when reaching their decision.

8.7 The Scottish Ministers have considered fully and carefully the applications, supporting documentation and all relevant responses from consultees.

Marine Water and Sediment Quality

8.8 The Scottish Ministers are content that impacts on water quality associated with the Works will not be significant on the basis that increased SSC associated with dredging and sea deposit of dredge material will be temporary and short-lived and the sediment plume formation is limited to the vicinity of the dredge pockets and the Proposed Sea Deposit Site. The heavy metal concentrations in the dredge material are similar to those found within the wider Uig Bay and therefore are not considered to significantly change the levels on the seafloor or in the water column. The Scottish Ministers are also content with the WFD assessment completed by the Applicant and its conclusion of no predicted reduction in the WFD status of and the Loch Snizort transitional water body water quality and a Morphological Impact Assessment carried out by the Marine Scotland Licensing Operations Team ("MS-LOT") shows that the water body status of Loch Snizort will remain high. Pollution prevention measures and best practice with regards to construction will be implemented to reduce the risk of accidental pollution.

Marine Nature Conservation Areas & Marine Mammals

8.9 The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) ("the 1994 Habitats Regulations") require the Scottish Ministers to consider whether the Works would be likely to have a significant effect on a European site or European offshore marine site (either alone or in combination with other plans or projects), as defined in the 1994 Habitats Regulations.

8.10 Owing to the view of SNH that the Works are likely to have a significant effect on the harbour porpoise qualifying interest of the Inner Hebrides and the

Minches SAC and the harbour seal qualifying interest of the Ascrib, Isay and Dunvegan SAC, MS-LOT, on behalf of the Scottish Ministers, as the "competent authority", was required to carry out an Appropriate Assessment ("AA"). Having had regard to the representations made by SNH it can be ascertained that the Works will not adversely affect the integrity of the SACs providing the conditions in the AA and the marine licences is adhered to. Having had regard to the reasons for which the sites were designated and the associated conservation objectives, the Scottish Ministers are content that the Works will not, on their own or in combination with other projects, adversely affect the integrity of the Inner Hebrides and the Minches SAC or the Ascrib, Isay and Dunvegan SAC.

8.11 A full explanation of the issues and justification for decisions regarding site integrity is provided in the AA .

8.12 The Scottish Ministers are content that significant marine mammal impacts will be appropriately mitigated providing the Applicant adheres to the conditions set out in the AA and marine licences.

Benthic Ecology

8.13 The Scottish Ministers are satisfied that any impacts of the Works on benthic ecology, primarily the seapens and burrowing megafauna in circalittoral fine mud PMF within the Proposed Sea Deposit Site, will not be significant on the basis that any change in benthic substrate will be limited to the Proposed Sea Deposit Site and the PMF is widely spread across Uig Bay and west coast of Scotland. Any significant regional or national impacts are therefore unlikely. Furthermore, the remotely operated vehicle footage and grab samples only recorded a few seapens within the Proposed Sea Deposit Site and found no evidence of rarer biotypes and species. The heavy metal concentrations in the dredge pockets are similar to those found in the Proposed Sea Deposit Site and the deposit of dredge material will not increase the levels naturally occurring in the area. While the benthic community at the Proposed Sea Deposit Site is likely to change, the new community will be tolerant to periodic sedimentation events and any impacts of maintenance dredging campaigns are likely to be less than those of the deposit of dredge material during the Works. Following consultation with SNH, the Scottish Ministers are satisfied that the deposit of dredge material at the Proposed Sea Deposit Site is the best environmental option.

Flood Risk

8.14 The Scottish Ministers are content that any potential effects from the Works on flooding risk during the construction phase will be appropriately mitigated, including adherence by the Applicant to their Flood Risk Management Plan. The Scottish Ministers recognise that the Works may result in an increase in the existing flooding risk to the area and properties in the vicinity of the junction of the pier and land at Uig. Following consultation with SEPA however the Scottish Ministers are content that the Works are considered essential infrastructure and the Applicant has provided sufficient information on flood

risk. Furthermore, the Scottish Ministers are content that any concerns regarding surface water drainage and the culvert extension will be appropriately considered by The Highland Council Flood Risk Management Team. SEPA's request that an oil separator inspection and maintenance plan will be included within the CEMD to be approved by the Scottish Ministers, provision of which is included as a marine licence condition.

9. The Scottish Ministers' Determination and Reasoned Conclusion

9.1 The Scottish Ministers are satisfied that an environmental impact assessment has been carried out, and that the applicable procedures regarding publicity and consultation in respect of the applications have been followed.

9.2 The Scottish Ministers have weighed the impacts of the Works, and the degree to which these can be mitigated, against the economic benefits which would be realised. The Ministers have undertaken this exercise in the context of national and local policies.

9.3 The Scottish Ministers have considered the extent to which the Works accord with and are supported by Scottish Government policy, the terms of the NMP and local development plans and the environmental impacts of the Works. In particular the Scottish Ministers have considered the impacts on marine water and sediment quality, Marine Nature Conservation Areas and marine mammals, benthic ecology and flood risk.

9.4 The Scottish Ministers are satisfied that the environmental issues associated with the Works have been appropriately addressed by way of the design of the Works and mitigation. In particular, the Scottish Ministers are satisfied that the Works will not adversely affect the integrity of the Inner Hebrides and the Minches and the Ascrib, Isay and Dunvegan SACs. The Scottish Ministers are satisfied that the licensing tests in respect of an EPS disturbance application have been met and an EPS licence will be granted.

9.5 The Scottish Ministers have had regard to the requirements of Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds, and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

9.6 In their consideration of the environmental impacts of the Works, the Scottish Ministers have identified conditions to be attached to the licences to reduce environmental impacts. These include development and adherence to an approved CEMD and a MMMP.

9.7 The Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion is still up to date.

9.8 The Scottish Ministers **grant marine licences subject to conditions** under Part 4 of the Marine (Scotland) Act 2010 for the construction, dredging and deposit of dredged substances or objects associated with the ferry terminal

upgrade associated with the Uig ferry terminal development, Uig Harbour, Isle of Skye. The marine licences are attached at Appendix 3.

9.9 In accordance with the 2017 MW Regulations, the Applicant must publicise notice of this determination and how a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette and a newspaper circulating in the locality to which the applications relate are situated. The Applicant must provide copies of the public notices to the Scottish Ministers.

9.10 Copies of this decision notice have been sent to the bodies consulted on the applications including the relevant planning authority, SNH, SEPA and HES. This decision notice has also been published on the Marine Scotland Information website.

9.11 The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts – http://www.scotcourts.gov.uk/rules-and-practice/rules-of-court/court-of-session-rules. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely,

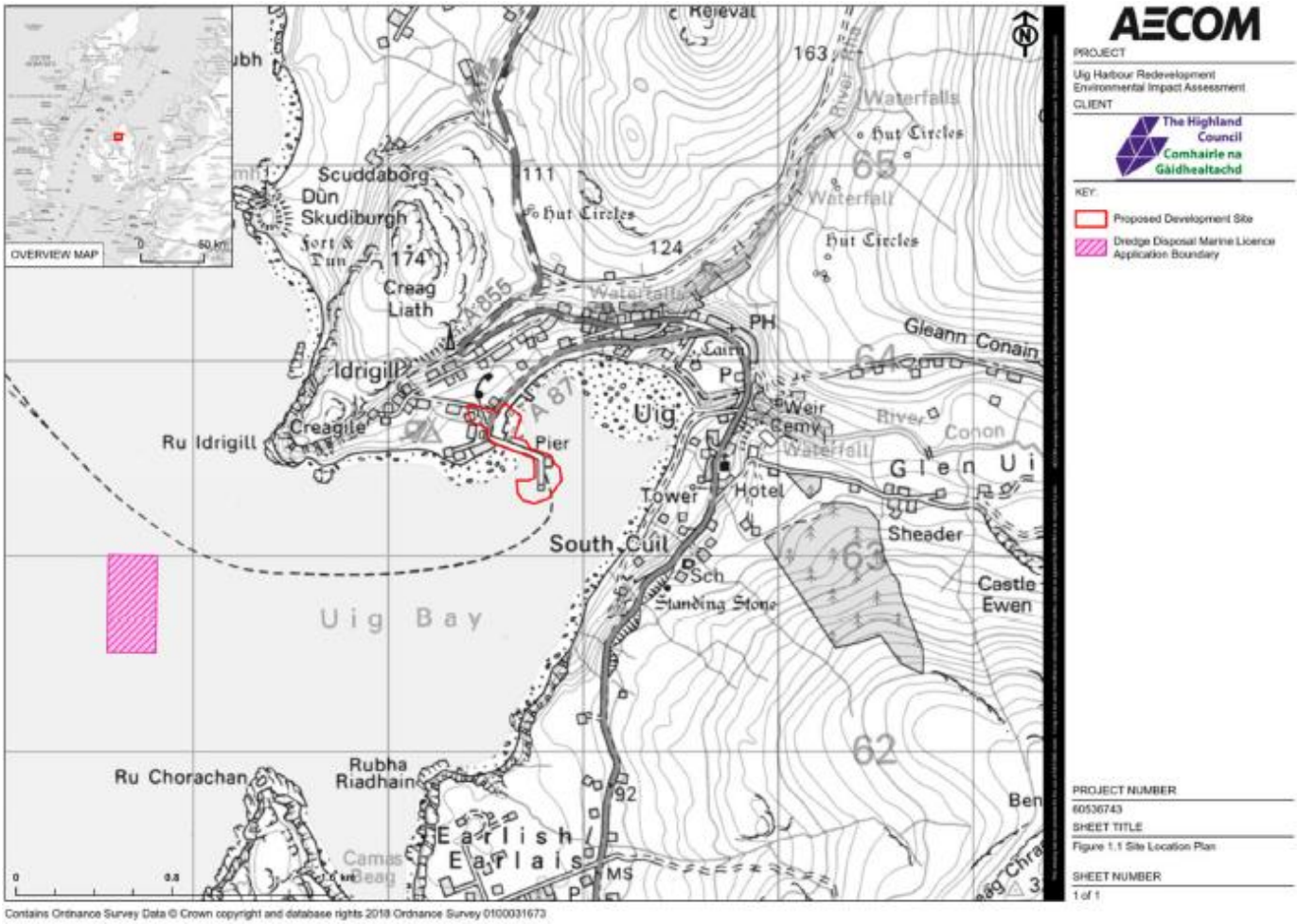
Malcolm Rose

Marine Licensing Group Leader, Marine Scotland Licensing Operations Team

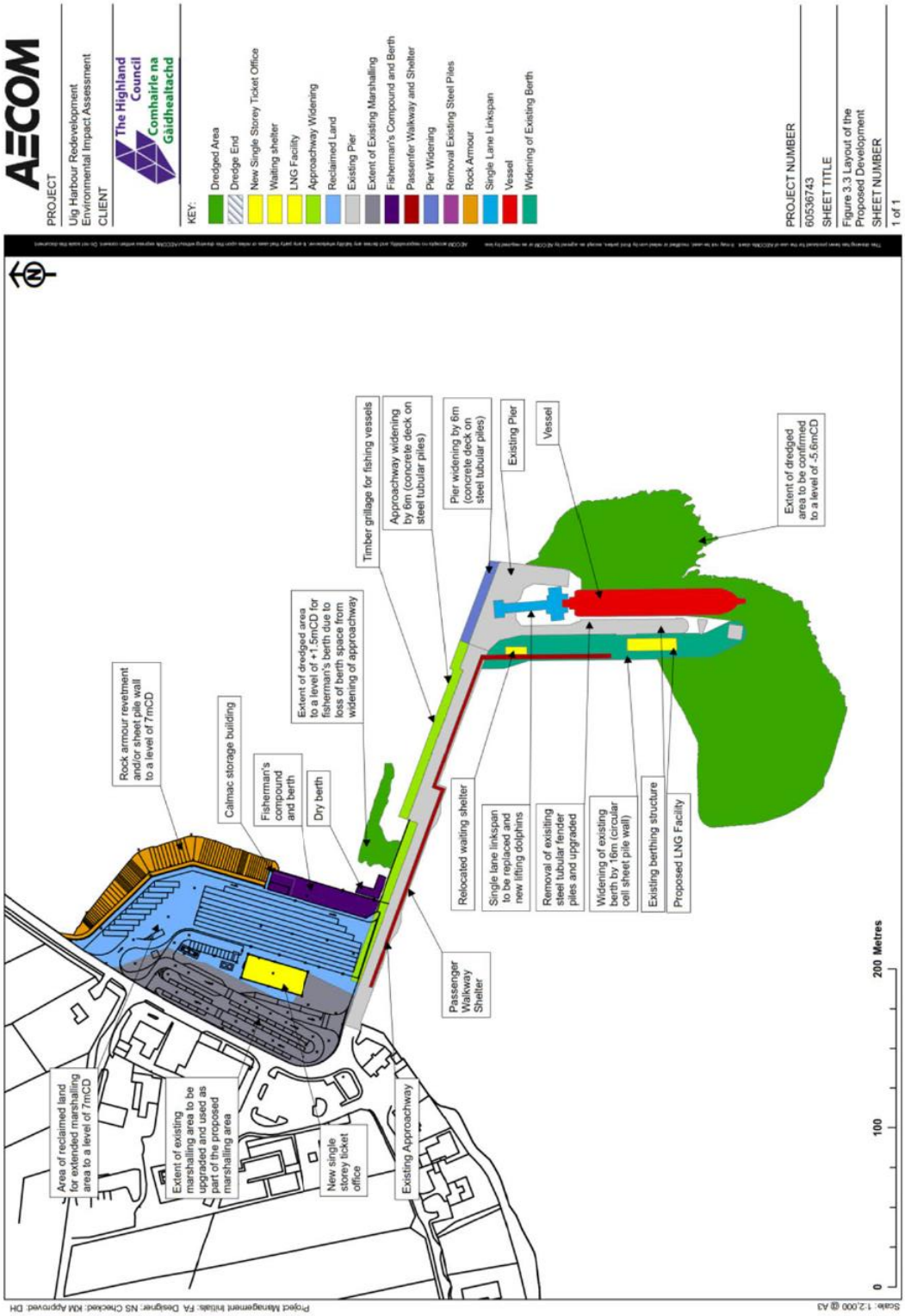
A member of the staff of the Scottish Ministers

11 June 2020

Appendix 1. The position of the Proposed Sea Deposit Site relative to the site of the Works.



Appendix 2. The marine and terrestrial elements of the Uig Ferry Terminal Development.



Appendix 3. Marine licences.

marinescotland

Scottish Government
Riaghaltas na h-Alba
gov.scot

T: +44 (0)300 244 5046
E: ms.marinelicensing@gov.scot

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT, ALTER OR IMPROVE ANY WORKS WITHIN THE SCOTTISH MARINE AREA AND TO USE A VEHICLE, VESSEL, AIRCRAFT, MARINE STRUCTURE OR FLOATING CONTAINED TO REMOVE SUBSTANCES OR OBJECTS FROM THE SEABED WITHIN THE SCOTTISH MARINE AREA

Licence Number: 06909/20/0 Reference Number: 06909

Scottish Ministers (hereinafter referred to as "the licensing authority") hereby authorise:

The Highland Council
Materials Testing Lab
Diriebught Depot
94 Diriebught Road
Inverness
IV2 3QN

to construct, alter or improve any works within the Scottish marine area and to remove substances or objects from the seabed within the Scottish marine area as described in Part 2 of the attached Schedule. The licence is subject to the conditions of use set out, or referred to, in Part 3 of the said Schedule.

The licence shall be valid from 01 December 2020 until 30 November 2022.

Signed: .....

Malcolm Rose

For and on behalf of the licensing authority

Date: 11 June 2020

SCHEDULE TO LICENCE NUMBER: 06909/20/0 DATED: 11 June 2020

1. PART 1 – GENERAL

1.1. Interpretation

In this licence, unless otherwise stated, terms are as defined in sections 1, 64 and 157 of the Marine (Scotland) Act 2010:

a) "the 2010 Act" means the Marine (Scotland) Act 2010
b) "licensable marine activity" means any activity listed in section 21 of the 2010 Act
c) "licensee" means the recipient of the licence
d) "the licensing authority" means the Scottish Ministers
e) "mean high water springs" ("MHWS") means the average of high water heights occurring at the time of spring tides
f) "seabed" means the ground under the sea

All geographical co-ordinates contained within this licence are in latitude and longitude format WGS84.

1.2. Contacts

All correspondence or communications relating to this licence should be addressed to:

Marine Scotland
Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB

Tel: +44 (0) 300 244 5046
Email: ms.marinelicensing@gov.scot

1.3. Other authorisations and consents

The licensee is deemed to have satisfied themselves that there are no barriers or restrictions, legal or otherwise, to the carrying out of the licensed operations. The issuing of this 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 of the 2010 Act the licensing authority may by notice vary, suspend or revoke this licence granted by them if it appears to the licensing authority that there has been a breach of any of the provisions of this licence or for any such other reason that appears to be relevant to the authority under section 30(2) or (3) of the 2010 Act.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, vary this licence if satisfied that the variation being applied for is not material.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, transfer this 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 provide full details of the matter to 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, either 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 by 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 the sheriff of any sheriffdom against a decision taken by the Scottish Ministers under section 29(1) of the 2010 Act.

2. PART 2 – PARTICULARS

2.1. Name(s) and address(es) of any other agents acting on behalf of licensee:

AECOM Limited
7th Floor Aurora
120 Bothwell Street
Glasgow
G2 7JS

2.2. Name(s) and address(es) of any contractors or sub-contractors acting on behalf of licensee:

As per Annex One

See condition 3.1.2

2.3. Name, description, registration number and country of registration of vessel(s) to be employed to undertake the removals:

As per Annex One

See condition 3.1.3

The vessels referred to above must be so constructed and equipped as to be capable of the proper performance of the licensed activities in compliance with the conditions set out in the Schedule.

2.4. Location of the licensed activities (hereinafter referred to as "the site"):

Uig Ferry Terminal, below MHWS within the area bounded by joining the points:

57° 35.277' N	006° 22.526' W
57° 35.265' N	006° 22.445' W
57° 35.185' N	006° 22.484' W
57° 35.151' N	006° 22.273' W
57° 35.112' N	006° 22.275' W
57° 35.111' N	006° 22.304' W
57° 35.049' N	006° 22.296' W
57° 35.046' N	006° 22.361' W
57° 35.142' N	006° 22.373' W
57° 35.174' N	006° 22.581' W

2.5. Description of the licensed activities:

The Uig Ferry Terminal development includes the following components located below the MHWS line:

- Widening of the pier approachway;
- Widening and strengthening of the existing berthing structure;
- Installation of new linkspan, lifting dolphins and bankseat;
- Extension of marshalling area by land reclamation (11,000m^2) and associated rock armouring; and
- Construction of three oil separators and extension of a culvert pipe.

2.6. Nature and indicative quantity of substances or objects to be removed and materials to be used in the construction, alteration or improvement of any works as described in Part 2.5 of the licence:

Materials to be used in construction

17,625 tonnes of steel
45.9 tonnes of timber
32,944 tonnes of concrete
20,250m^2 of plastic/synthetic material
109,422 tonnes of sand
66,031 tonnes of gravel
9,733 tonnes of cobbles
34,845 tonnes of boulders
1,425 tonnes of bricks, glass and tarmac
180m of pipe

Substances or objects to be removed

5,290 tonnes of steel
193.8 tonnes of timber
1,028 tonnes of concrete
55m of pipe

3. PART 3 – CONDITIONS

3.1. General conditions

3.1.1. Licence conditions binding other parties

All conditions attached to this licence bind any person who for the time being owns, occupies or enjoys any use of the works for which this licence has been granted in relation to those licensed activities authorised under item 5 in section 21(1) of the 2010 Act whether or not this licence has been transferred to that person.

3.1.2. Agents, contractors, sub-contractors and vessels

The licensee must provide, as soon as is reasonably practicable prior to the licensed activities commencing, the name and function of any agent, contractor or sub-contractor appointed to undertake the licensed activities.

Any changes to the supplied details must be notified to the licensing authority, in writing, prior to any agent, contractor or sub-contractor undertaking any licensed activity.

The licensee must ensure that only those agents, contractors or sub-contractors notified to the licensing authority are permitted to undertake the licensed activities.

The licensee must give a copy of this licence and any subsequent variations that have been made to this licence in accordance with section 30 of the 2010 Act to any agent, contractor or sub-contractor appointed to carry out any part, or all, of the licensed activities. The licensee must satisfy themselves that any such agent, contractor or sub-contractor is aware of the extent of the licensed activity for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence.

3.1.3. Vessels

The licensee must submit full details of the vessels to be utilised in respect of the licensed removal of substances or objects, and their anticipated movements, to the licensing authority no later than one month, or at such a time as agreed with the licensing authority, prior to the commencement of the licensed activity. The vessel details provided must include the vessel type, vessel IMO number and vessel owner or operating company.

The licensee must ensure that a copy of this licence and any subsequent variations made to it in accordance with section 30 of the 2010 Act have been read and understood by the masters of any vessels being used to carry on any licensed activity under this licence, and that a copy of this licence is held on board any such vessel.

3.1.4. Material alterations to the licence application

The licensee must, where any information upon which the granting of this licence was based has, after the granting of the licence, altered in any material respect, notify the licensing authority of this fact, in writing, as soon as is practicable.

3.1.5. Submission of reports to the licensing authority

Where it would appear to the licensee that there may be a delay in the submission of the reports, studies or surveys to the licensing authority then the licensee must advise the licensing authority of this fact as soon as is practicable and no later than the time by which those reports, studies or surveys ought to have been submitted to the authority under the terms of this licence.

The reports, studies and surveys must include executive summaries, assessments and conclusions and any data may, subject to any rules permitting non-disclosure, be made publically available by the licensing authority, or by any such party appointed, at their discretion.

3.1.6. Environmental protection

The licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to minimise damage to the Scottish marine area caused by the licensed activity authorised under this licence.

The licensee must ensure that any unauthorised debris or waste materials arising during the course of the licensed activities are removed from the site for disposal at an approved location above the tidal level of MHWS.

The licensee must ensure that all substances and materials used during the execution of the licensed activities are inert (or appropriately coated or protected so as to be rendered inert) and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

The licensee must ensure that the risk of transferring non-native species to and from the site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the licensed activities.

3.1.7. Availability of the licence for inspection

The licensee must ensure that copies of the licence are available for inspection by any persons authorised by the licensing authority at:

a) the premises of the licensee;
b) the premises of any agent, contractor or sub-contractor acting on behalf of the licensee;
c) the site of the licensed activities; and
d) any onshore premises directly associated with the licensed activities.

3.1.8. Inspection of the licensed activities

Any persons authorised by the licensing authority, must be permitted to inspect the licensed activities at any reasonable time.

3.1.9. Safety of Navigation

Prior to commencement of the licensed activities, the licensee must notify the UK Hydrographic Office to permit the promulgation of maritime safety information through the national Notice to Mariners system.

The licensee must remove the works from below the level of MHWS, or such alterations made, 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 consent by the licensing authority. The licensee shall be liable for any expense incurred.

3.2. <u>Prior to commencement of the licensed activity</u>

3.2.1. The licensee must notify the licensing authority of the date of commencement of all licensed activities relating to the licence.

3.2.2. The licensee must liaise with the Northern Lighthouse Board to discuss the navigational marking requirement prior to each phase of the construction works. This will include the permanent Aids to Navigation ("AtoN") as well as any temporary AtoN required during the construction phases.

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 activities prior to commencement.

3.2.4. The licensee must issue a Notice to Mariners in advance of the proposed start date, clearly stating the nature and duration of these operations.

3.2.5. The licensee must complete and submit a Proposed Activity Form in the online Marine Noise Registry for all licensable marine activities that will produce loud, low to medium frequency (10Hz-10kHz) impulsive noise no later than 7 days prior to commencement of the licensable marine activity. If any aspects of the licensable marine activities differ 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 7 days prior to commencement of the licensable marine activity.

3.2.6. The licensee must produce and adhere to a Flood Risk Management Plan as detailed in the Flood Risk and Climate Change mitigation section of the Environmental Impact Assessment Report.

3.2.7. The licensee must ensure that the activities are carried out in accordance with a Marine Mammal Management Plan ("MMMP") which the licensee must submit, in writing, to the licensing authority for their written approval, no later than two months prior to the activities commencing or at such a time as agreed with the licensing authority. It is not permissible for any activities 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 MMMP, 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 activities associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The MMMP must include consideration of:

a) the employment of a Marine Mammal Observer ("MMO")
b) details of the locations and experience of the MMO
c) details of the experience of the Passive Acoustic Monitoring ("PAM") operators
d) location of the PAM system and when it is to be used
e) details of the MMO pre-piling watch

f) details of the communication protocol between the MMO and PAM operators and piling contractors
g) details of any underwater noise measurement protocols, including the type of system to be used, how the noise levels will be analysed and calibrated and how the levels will be reported to the licensing authority
h) establishment of a 100m piling mitigation zone for harbour seals and 500m piling mitigation zone for cetaceans
i) details of the piling soft start procedure.

3.2.8. The licensee must ensure that the licensed activities are carried out in accordance with a Construction Environmental Management Document ("CEMD") which is to be submitted to the licensing authority no later than two months prior to the start of licensed activities for approval. In the event that the licensee wishes to update or amend the CEMD, the licensee must submit, in writing, details of proposed updates or amendments to the licensing authority for their written approval, no later than two 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 activities associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The CEMD must remain consistent with the application and supporting information. The CEMD must contain, but is not limited to containing:

a) Control measures to limit the risk of marine invasive non-native species;
b) An oil separator inspection and maintenance plan; and
c) A programme of archaeological investigations to determine the palaeoenvironmental potential of the peaty deposits and organic sediments.

3.3. <u>During the licensed activities</u>

3.3.1. The Licensee must ensure that the Joint Nature Conservation Committee ("JNCC") guidelines for minimising the risk of injury to marine mammals from piling noise dated August 2010 ("JNCC guidelines") are followed at all times in connection with piling unless further written approval is given by the licensing authority. The guidelines are available from the JNCC website http://data.jncc.gov.uk/data/31662b6a-19ed-4918-9fab-8fbcff752046/JNCC-CNCB-Piling-protocol-August2010-Web.pdf.

3.3.2. If it is desired by the licensee to display any marks or lights not required by this licence then details of such marks or lights must be submitted to the Northern Lighthouse Board and their ruling must be complied with. The display of unauthorised marks or lights is prohibited.

3.3.3. The licensee must adhere to the Commercial and Recreational Navigation mitigation detailed in chapter 18 of the Environmental Impact Assessment Report.

3.3.4. The licensee must adhere to the Commercial Fisheries mitigation detailed in chapter 19 of the Environmental Impact Assessment Report.

3.3.5. The licensee must ensure that the works are maintained at all times in good repair.

3.3.6. The licensee must ensure suitable bunding and storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.

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. In the event of the licensed activities being discontinued the works must be removed and the site cleared to the satisfaction of the licensing authority.

3.3.9. If in the opinion of the licensing authority the assistance of a Government Department, including the broadcast of navigational warnings, is required to deal with any emergency arising from:

a) The failure to mark and light the works as required by licence.
b) The maintenance of the works.
c) The drifting or wreck of the works.

The licensee shall be liable for any expenses incurred in securing such assistance.

3.3.10. The licensee must ensure that no deviation from the schedule specified in the licence is made without the further written approval of the licensing authority.

3.4. On completion of the licenced activities

3.4.1. The licensee must notify the licensing authority of the date of completion of all licensed activities relating to the licence.

3.4.2. The licensee must submit a written report regarding the materials used and substances or objects removed during the licensed activities to the licensing authority. The written report must be submitted on completion of the licensed activities and on the forms provided by the licensing authority no later than 31 October 2023.

3.4.3. 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 licensed activities supply a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

3.4.4. The licensee must complete and submit a Close-out Report for the licensable marine activities that produced loud, low to medium frequency (10Hz-10kHz) impulsive noise in the online Marine Noise Registry at 6 month intervals during the validity of the licence.

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.

3. Under Section 30 of the Marine (Scotland) Act 2010, the licensing authority may vary, suspend or revoke the licence, if it appears to the licensing authority that there has been a breach of any of the provisions of the licence or for any other reason that appears to be relevant to the licensing authority.

4. Under Section 39 of the Marine (Scotland) Act 2010, it is an offence to carry on a licensable marine activity or cause or permit any other person to carry on such an activity without a marine licence or fails to comply with any condition of a marine licence. It is a defence for a person charged with an offence under Section 40 in relation to any activity to prove that the activity was carried out for the purpose of saving life, or for the purposes of securing the safety of a vessel, aircraft or marine structure ('*force majeure*'), and that the person took steps within a reasonable time to provide full details of the incident to the licensing authority. (Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-East Atlantic, the licensing authority is obliged to immediately report '*force majeure*' incidents to the Convention Commission).

5. <u>All correspondence or communications relating to the licence should be addressed to</u>:

Licensing Operations Team
Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Tel: +44 (0)300 244 5046
Email: ms.marinelicensing@gov.scot

marinescotland

Scottish Government
Riaghaltas na h-Alba
gov.scot

T: +44 (0)300 244 5046
E: ms.marinelicensing@gov.scot

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CARRY OUT ANY FORM OF DREDGING WITHIN THE SCOTTISH MARINE AREA AND TO DEPOSIT ANY SUBSTANCE OR OBJECT WITHIN THE SCOTTISH MARINE AREA

Licence Number: 06910/20/0 Reference Number: 06910

The Scottish Ministers (hereinafter referred to as "the licensing authority") hereby authorise:

The Highland Council
Materials Testing Lab
Diriebught Depot
94 Diriebught Road
Inverness
IV2 3QN

To carry out any form of dredging within the Scottish marine area and to deposit in the Scottish marine area any substances or objects particulars of which are described in Part 1 of the attached Schedule. The licence is subject to the conditions of use set out, or referred to, in Part 2 of the said Schedule.

This licence shall be valid from 01 December 2020 until 30 November 2022.

Signed: .....

Malcolm Rose

For and on behalf of the licensing authority

Date: 11 June 2020

1. PART 1 – GENERAL

1.1. Interpretation

In this licence, unless otherwise stated, terms are as defined in sections 1, 64 and 157 of the Marine (Scotland) Act 2010:

a) "the 2010 Act" means the Marine (Scotland) Act 2010
b) "licensable marine activity" means any activity listed in section 21 of the 2010 Act
c) "licensee" means the recipient of the licence
d) "the licensing authority" means the Scottish Ministers
e) "mean high water springs" ("MHWS") means the average of high water heights occurring at the time of spring tides
f) "seabed" means the ground under the sea

All geographical co-ordinates contained within this licence are in latitude and longitude format WGS84.

1.2. Contacts

All correspondence or communications relating to this licence should be addressed to:

Marine Scotland
Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB

Tel: +44 (0) 300 244 5046
Email: ms.marinelicensing@gov.scot

1.3. Other authorisations and consents

The licensee is deemed to have satisfied themselves that there are no barriers or restrictions, legal or otherwise, to the carrying out of the licensed operations. The issuing of this 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 of the 2010 Act the licensing authority may by notice vary, suspend or revoke this licence granted by them if it appears to the licensing authority that there has been a breach of any of the provisions of this licence or for any such other reason that appears to be relevant to the authority under section 30(2) or (3) of the 2010 Act.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, vary this licence if satisfied that the variation being applied for is not material.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, transfer this 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 provide full details of the matter to 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, either 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 by 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 the sheriff of any sheriffdom against a decision taken by the Scottish Ministers under section 29(1) of the 2010 Act.

2. Part 2 - Particulars

2.1. Name and address of the producer of the substances or objects:

As per licensee.

2.2. Name and address of any other agent acting on behalf of licensee (if appropriate):

AECOM Limited (Returns Agent)
7th Floor Aurora
120 Bothwell Street
Glasgow
G2 7JS

2.3. Name(s) and address(es) of deposit contractor(s), if different from Section 1 of Part 1 of the Schedule:

As per Annex One

See condition 3.1.1

2.4. Name, description, registration number and country of registration of vessel(s) to be employed to undertake the deposits:

As per Annex One

See condition 3.1.2

The vessels referred to above must be so constructed and equipped as to be capable of the proper performance of the licensed activity in compliance with the conditions set out in the Schedule.

2.5. Place of production of the substances or objects:

Uig Harbour Berthing Area, within the area bounded by joining the points:

57° 35.196' N : 006° 22.485' W
57° 35.183' N : 006° 22.400' W
57° 35.166' N : 006° 22.409' W
57° 35.172' N : 006° 22.448' W
57° 35.169' N : 006° 22.450' W
57° 35.176' N : 006° 22.497' W.

Uig Harbour Approachway, within the area bounded by joining the points:

57° 35.140' N : 006° 22.283' W
57° 35.126' N : 006° 22.235' W
57° 35.082' N : 006° 22.216' W
57° 35.066' N : 006° 22.251' W
57° 35.037' N : 006° 22.288' W

57° 35.017' N : 006° 22.361' W
57° 35.025' N : 006° 22.421' W
57° 35.044' N : 006° 22.446' W
57° 35.076' N : 006° 22.456' W
57° 35.078' N : 006° 22.392' W
57° 35.101' N : 006° 22.313' W
57° 35.115' N : 006° 22.314' W
57° 35.116' N : 006° 22.290' W
57° 35.120' N : 006° 22.285' W

2.6. Description and composition of the substances or objects:

Capital dredging and sea deposit of dredged substances or objects at the authorised Bàgh Ùige sea deposit site HE034 to facilitate upgrades to Uig Ferry Terminal as described in the application dated 19 February 2019, and correspondence submitted in support of the application.

There are two areas to be dredged; The berthing area and the approachway. The berthing area dredge area will be dredged to -5.9m Chart Datum ("CD") (including 300mm of over dredge) and the approachway area will be dredged to -0.7m CD. The substances or objects consist of approximately 18% clay and silt, 57% sand and 25% pebbles, cobbles and boulders in the berthing dredge area. In the approachway dredge area the substances or objects consist of approximately 61% clay and silt, 30% sand and 9% pebbles, cobbles and boulders.

2.7. Quantity of materials to be dredged:

55,426 wet tonnes.

2.8. Quantity of dredged substances of objects to be deposited at authorised sea deposit area HE034 - Bàgh Ùige.

55,426 wet tonnes of capital dredge substances or objects may be deposited 01 December 2020 and 30 November 2022.

2.9. Quantity of dredged substances or objects to be beneficially used for land reclamation purposes or as infill:

55,426 wet tonnes of dredged substances or objects less any material deposited at Bàgh Ùige sea deposit area as per point 2.8 above.

3. PART 3 – CONDITIONS

3.1. General conditions

3.1.1. Agents, contractors and sub-contractors

The licensee must provide, as soon as is reasonably practicable prior to the licensed activity commencing, the name and function of any agent, contractor or sub-contractor appointed to undertake the licensed activity.

Any changes to the supplied details must be notified to the licensing authority, in writing, prior to any agent, contractor or sub-contractor undertaking any licensed activity.

The licensee must ensure that only those agents, contractors or sub-contractors notified to the licensing authority are permitted to undertake the licensed activity.

The licensee must give a copy of this licence and any subsequent variations that have been made to this licence in accordance with section 30 of the 2010 Act to any agent, contractor or sub-contractor appointed to carry out any part, or all, of the licensed activity. The licensee must satisfy themselves that any such agent, contractor or sub-contractor is aware of the extent of the licensed activity for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence.

3.1.2. Vessels

The licensee must submit full details of the vessels to be utilised in respect of the licensed activity, and their anticipated movements, to the licensing authority no later than one month, or at such a time as agreed with the licensing authority, prior to the commencement of the licensed activity. The vessel details provided must include the master's name, vessel type, vessel IMO number and vessel owner or operating company.

The licensee must ensure that a copy of this licence and any subsequent variations made to it in accordance with section 30 of the 2010 Act have been read and understood by the masters of any vessels being used to carry on any licensed activity under this licence, and that a copy of this licence is held on board any such vessel.

3.1.3. Force Majeure

If by any reason of force majeure any substance or object is deposited other than at the site which is described in this licence, then the licensee must notify the licensing authority of the full details of the circumstances of the deposit within 48 hours of the incident occurring (failing which as soon as reasonably practicable after that period of 48 hours has elapsed). Force majeure may be deemed to apply when, due to stress of weather or any other cause, the master of a vessel, vehicle or marine structure determines that it is necessary to deposit the substance or object other than at the specified site because the safety of human life or, as the case may be, the vessel, vehicle or marine structure is threatened. Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-east Atlantic, the licensing authority is obliged to immediately report force majeure incidents to the Convention Commission.

3.1.4. Material alterations to the licence application

The licensee must, where any information upon which the granting of this licence was based

has, after the granting of the licence, altered in any material respect, notify the licensing authority of this fact, in writing, as soon as is practicable.

3.1.5. Submission of reports to the licensing authority

Where it would appear to the licensee that there may be a delay in the submission of the reports, studies or surveys to the licensing authority then the licensee must advise the licensing authority of this fact as soon as is practicable and no later than the time by which those reports, studies or surveys ought to have been submitted to the authority under the terms of this licence.

The reports, studies and surveys must include executive summaries, assessments and conclusions and any data may, subject to any rules permitting non-disclosure, be made publically available by the licensing authority, or by any such party appointed, at their discretion.

3.1.6. Environmental protection

The licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to minimise damage to the Scottish marine area caused by the licensed activity authorised under this licence.

The licensee must ensure that any unauthorised debris or waste materials arising during the course of the licensed activity are removed from the site of the licensed activity for deposit at an approved location above the tidal level of MHWS.

The licensee must ensure that the risk of transferring non-native species to and from the site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the licensed activity.

3.1.7. Availability of the licence for inspection

The licensee must ensure that copies of the licence are available for inspection by any persons authorised by the licensing authority at:

a) the premises of the licensee;
b) the premises of any agent, contractor or sub-contractor acting on behalf of the licensee;
c) the site of the licensed activity;
d) onboard any vessel carrying out the licensed activity; and
e) any onshore premises directly associated with the licensed activity.

3.1.8. Inspection of the licensed activity

Any persons authorised by the licensing authority, must be permitted to inspect the licensed activity at any reasonable time.

3.2. <u>Prior to commencement of the licensed activity</u>

3.2.1. 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.

3.2.2. The licensee must notify the licensing authority of the date of commencement of all licensed activity relating to the licence. Separate notifications are required at the times of commencement and completion.

3.3. <u>During the licensed activity</u>

3.3.1. The licensee must adhere to the Commercial and Recreational Navigation mitigation detailed in chapter 18 of the Environmental Impact Assessment Report

3.3.2. The licensee must adhere to the Commercial Fisheries mitigation detailed in chapter 19 of the Environmental Impact Assessment Report

3.3.3. The licensee must ensure that the barge transporting dredged substances or objects takes a route to the authorised sea deposit site which avoids sailing within 1km of the white tailed eagle breeding site.

3.3.4. The licensee must ensure that a sea deposit site monitoring plan is submitted to the licensing authority for its written approval within three months of the beginning of the first dredging campaign. The plan should include, but not be limited to, sampling and chemical testing of the deposit site sediment in line with the Marine Scotland Pre-disposal Sampling Guidance, bathymetric surveys and video or drop camera surveys.

3.3.5. Only those substances or objects described in Part 2 of the Schedule shall be deposited under authority of the licence. Any unauthorised materials associated with the substances or objects scheduled for deposit, including debris such as demolition waste, wood, scrap metal, tyres and synthetic materials, must be disposed of on land at an approved location above the tidal level of MHWS.

3.3.6. The licensee must ensure that deposited substances or objects are evenly distributed across the authorised sea deposit site and no over-spilling of dredge material loaded on the barge will be undertaken.

3.3.7. The licensee must deposit all dredged substances and objects to be deposited in the following area:

Deposit Area Name and Code: Bàgh Ùige, HE034

Within the area bounded by joining the points:

57° 34.800’ N	006° 24.522’ W
57° 34.806’ N	006° 24.270’ W
57° 34.536’ N	006° 24.246’ W
57° 34.530’ N	006° 24.498’ W

Up to a maximum of 55,426 wet tonnes may be deposited within the area during the period of validity of this licence.

3.3.8. All tank/hopper washings must be deposited in the authorised deposit area: Bàgh Ùige (HE034) .

3.3.9. The method of deposit must be:

BOTTOM DUMPING

3.3.10. The licensee must ensure that a log of operations is maintained on each vessel employed to undertake the deposit activity. The log(s) must be kept onboard the vessel(s) throughout the deposit activity, and be available for inspection by any authorised Enforcement Officer. The log(s) must be retained for a period of six calendar months following expiry of the licence, and copies of the log(s) may be requested during that period for inspection by the licensing authority.

3.3.11. The log(s) must record in English the following information:

a) the name of the vessel;

b) the nature and quantity of each substance or object loaded for deposit;

c) the date and time of departure from port, and the date and time of arrival at the deposit area(s), on each occasion that the vessel proceeds to the deposit area(s);

d) the date, time and position of commencement, and the date, time and position of completion, of each deposit;

e) the course(s) and speed(s) throughout each deposit. (Multiple changes may be recorded as "various");

f) the weather, including wind strength and direction, sea-state and tidal set throughout each deposit;

g) the rate of discharge during each deposit, if appropriate, and the duration of each deposit. (If the rate of discharge is not constant, the maximum and mean rates of discharge must be indicated);

h) comments on the deposit activity, including any explanations for delays in the deposit;

i) the signature of the Master at the foot of each page of the record.

3.3.12. The licensee must ensure that no deviation from the schedule specified in the licence is made without the further written approval of the licensing authority.

3.4. On completion of the licensed activity

3.4.1. The licensee must notify the licensing authority of the date of completion of all licensed activity relating to the licence.

3.4.2. The licensee must submit written reports, to the licensing authority stating the nature and total quantity, in wet tonnes, of all substances or objects deposited under authority of the licence. The written reports must be submitted to the licensing authority annually and on the forms provided by the licensing authority.

3.4.3. 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 licensed activity to notify UKHO about the revised water depth at the sea deposit site.

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.

3. Under Section 30 of the Marine (Scotland) Act 2010, the licensing authority may vary, suspend or revoke the licence, if it appears to the authority that there has been a breach of any of the provisions of the licence or for any other reason that appears to be relevant to the authority.

4. Under Section 39 of the Marine (Scotland) Act 2010, it is an offence to carry on a licensable marine activity or cause or permit any other person to carry on such an activity without a marine licence or fails to comply with any condition of a marine licence. It is a defence for a person charged with an offence under Section 40 in relation to any activity to prove that the activity was carried out for the purpose of saving life, or for the purposes of securing the safety of a vessel, aircraft or marine structure ('*force majeure*'), and that the person took steps within a reasonable time to provide full details of the incident to the licensing authority. (Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-east Atlantic, the licensing authority is obliged to immediately report '*force majeure*' incidents to the Convention Commission).

5. <u>All correspondence or communications relating to the licence should be addressed to</u>:

Licensing Operations Team
Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Tel: +44 (0)300 244 5046
Email: ms.marinelicensing@gov.scot