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Kilfinichen Farms LLP
Kilfinichen Estate
Tiroran
Isle of Mull
PA69 6ER

14 January 2019

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

DECISION NOTICE – MARINE LICENCE FOR THE CONSTRUCTION ACTIVITIES ASSOCIATED WITH THE PIER DEVELOPMENT AT KILFINICHEN, ISLE OF MULL

1. Application and description of works

- 1.1. On 23 August 2018 Kilfinichen Farms LLP (“the applicant”) registered at Kilfinichen Estate, Tiroran, Isle of Mull, PA69 6ER, submitted to the Scottish Ministers an application under Part 4 of the Marine (Scotland) Act 2010 to construct a timber loading pier (“the works”) at Kilfinichen, Isle of Mull. The application was accompanied by an Environmental Impact Assessment report (“EIA report”) as required under The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the 2017 MW Regulations”). In addition, a Navigation Risk Assessment (“NRA”) was also provided.
- 1.2. The works involve the construction of a 140m long rock armoured causeway with a 60m long L-shaped hammerhead. This will be surfaced with a 6m wide track and various furnishings will also be installed. The rock extracted during the construction of the onshore timber stacking area is anticipated to be re-used for the construction of the causeway.
- 1.3. A pre-fabricated 40m access bridge and mobile floating pier will be connected to the causeway to provide access. Both the access bridge and floating pier

are designed to be detachable and compatible with the existing timber export pier at Pennyghael.

- 1.4. The existing pontoon at the site will be relocated and secured next to the causeway and a 12m access bridge will be attached to the pontoon.
- 1.5. The works are located in Loch Scridain, Kilfinichen on the west coast of the Isle of Mull. The causeway has an overall footprint of 0.8Ha. The location and boundary of the site is shown in Appendix 1.

This decision notice contains the Scottish Ministers' decision to grant regulatory approval for the works as described above, in accordance with regulation 23 of 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; and
- A NRA

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

Benthic Ecology

- 2.3. To assess the potential effects on benthic ecology the applicant undertook a literature review and benthic survey to understand the baseline condition. This included benthic video transects and grab samples which observed habitats and species present in the area.
- 2.4. The benthic survey identified several habitat types, one of which is a Scottish Priority Marine Feature ("PMF"), "*Laminaria saccharina* and *Chorda filum* on sheltered upper infralittoral muddy sediment". No protected or invasive species were identified.
- 2.5. During construction the benthic ecology of the site may be impacted through habitat loss and the introduction of invasive non-native marine species ("INNS"). The construction of the causeway will result in benthic habitat loss however, the area lost is very small in the context of the wider Loch Scridain, approximately 0.03%. The potential for the introduction of invasive non-native marine species is considered to be very low as machinery and equipment will be sourced locally and best practice INNS mitigation measures will be adhered to during the construction phase.
- 2.6. The impact on the reduction of water quality was assessed as unlikely as standard best practice mitigation will be implemented.

- 2.7. None of the potential impacts were assessed as significant as best practice mitigation measures will be adhered to. No cumulative effects with any other projects were predicted due to the distances involved.

Ornithology

- 2.8. To assess the potential effects on ornithology the applicant undertook an extensive literature review and a wintering bird survey to understand the baseline condition.
- 2.9. The works are adjacent to the Cnuic agus Cladach Mhuile Special Protection Area ("SPA") which is designated for breeding golden eagles (*Aquila chrysaetos*). Birds have the potential to be impacted due to foraging habitat loss, disturbance from construction site activity, reduction in water quality and physical interactions with construction equipment.

The wintering bird survey did not identify significant breeding bird habitat within the development area. The impacts are assessed as not significant due to the small nature of the project and limited extent of construction activities.

No golden eagles were observed during the survey thus, no impacts are predicted on the SPA. In addition, the site is not a suitable breeding area or foraging habitat for golden eagles and the habitat loss is outwith the SPA.

No significant effects were identified on ornithological features however, standard best practice will be followed and construction personnel will be vigilant during construction operations. Cumulative impacts were assessed as non-significant due to the localised nature of the works.

Otters

- 2.10. To assess the potential effects on otters the applicant carried out an extensive literature review and undertook two otter surveys in 2014 and 2017 to understand the baseline condition.
- 2.11. No evidence of otter activity was identified in the 2014 survey however, numerous field signs and two potential holts were identified in the 2017 survey. In addition, several sightings were recorded in the immediate vicinity of the site. It was concluded the coastal region surrounding Kilfinichen provides a good quality habitat for otters.
- 2.12. The construction phase and operation phase of the pier may cause disturbance and displacement of otters and increase risk of injury. Several potentially significant impacts on otters were identified without any mitigation in place.
- 2.13. The Otter Protection Plan ("OPP") mitigates the potential significant effects. The OPP contains pre-construction otter surveys, otter checks, etc and the installation of a culvert allowing otters to cross the causeway. The implementation of the OPP reduces the potential impacts on otters to non-significant.

- 2.14. A European Protected Species licence may be required and will be informed by the pre-construction surveys. No cumulative impacts were identified due to the distances involved.

Navigation

- 2.15. The applicant provided a NRA as a standalone document to support the EIA report as requested by the Maritime Coastguard Agency ("MCA") at the scoping stage.
- 2.16. The NRA identified navigation hazards associated with the construction phase, timber export operations and shifting between Kilfinichen Pier and Pennyghael Pier. It is anticipated Kilfinichen Pier will generate an additional 16 vessel movements within Loch Scridain each year. The navigation risks associated with the development and operation of the pier are considered to be low however, actions have been recommended for the applicant to adopt and implement throughout the lifetime of the project.

3. Consultation

- 3.1. In accordance with the 2017 MW Regulations advertisement of the application and EIA report was made in the local and national press and the application website. Notices were placed in the public domain and the opportunity given for those wishing to make representations to do so.
- 3.2. The dates for the consultation exercises are given below. The regulatory requirements regarding consultation and public engagement have been met and the responses received taken into consideration. Where matters have not been fully resolved, conditions have been included to ensure appropriate action is taken post consent.

Document	Date received	Consultation Period	Publication
EIA report & Appendices	23 August 2018	04 October 2018 – 03 November 2018	Marine Scotland Information website (02 October 2018)
Marine licence application & supporting documentation			Kilfinichen website (02 October 2018) Edinburgh Gazette (02 October 2018) Oban Times (04 October 2018)

- 3.3. A summary of the responses is set out at sections 4, 5 and 6. The responses are available in full [here](#).

4. Summary of statutory consultee responses

- 4.1. Argyll & Bute Council responded on 26 November 2018 advising they have no comments on the proposed works. Planning Consent for the works above mean low water springs was granted on 11 September 2018 (Ref No. 18/01537/PP).
- 4.2. Scottish Natural Heritage ("SNH") expressed no concerns in their response dated 07 November 2018. They advised the works will result in a small loss to the PMF, *Laminaria saccharina* and *Chorda filum* on sheltered upper infralittoral muddy sediment however, advised the small loss of the PMF will not have a significant impact.
- 4.3. Scottish Environmental Protection Agency ("SEPA") responded on 22 October 2018 referring to their standing advice which states they have no objection or site-specific advice or comments to make.
- 4.4. Historic Environment Scotland ("HES") responded on 25 October 2018 advising they have no objections to the proposed works. HES advised at the scoping stage historic environment interests were scoped out thus no separate cultural heritage chapter was included in the EIA report.
- 4.5. Northern Lighthouse Board responded on 09 October 2018 stating no objections and advising no navigational lighting or marking is required. Their recommendation to notify the UK Hydrographic Office of the "as-built" drawings is included as a condition in the marine licence.
- 4.6. Maritime Coastguard Agency ("MCA") responded on 30 October 2018 confirming no objections to the works, subject to all maritime safety legislation being followed and the inclusion of standard conditions in the marine licence. MCA noted they were pleased a professional NRA was included as recommended at the scoping stage.

5. Summary of non-statutory consultee responses

- 5.1. Royal Yachting Association Scotland had no objections in their response dated 09 October 2018.
- 5.2. Health and Safety Executive had no comments in their response dated 10 October 2018.
- 5.3. Ministry of Defence in their response dated 22 October 2018 confirmed they had no objections.

6. Representations from other organisations or members of the public

- 6.1. One representation from a member of the public was received on 18 November 2018 which expressed support for the project.

7. Advice from 3rd parties

7.1. The Scottish Ministers' sought advice from Marine Scotland Science ("MSS") on the works and received a response on 02 November 2018. MSS advised they were content with the evaluation of the benthic and ornithological impacts of the development and had no concerns.

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 the national marine plan and relevant local development plans
- the significant effects of the works on the environment, which are on otters

Policy Context

8.2. As the works are proposed to take place within the Scottish marine area they are subject to the Marine (Scotland) Act 2010 ("the 2010 Act"). The 2015 Scottish National Marine Plan ("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"), and sector specific objectives and policies, which were considered as part of the EIA process.

8.3. The proposed works received planning consent for the components above mean low water springs. In Scotland, the frameworks for considering planning applications are:

- The National Planning Framework ("NPF");
- Strategic Development Plans ("SDPs"); and
- Local Development Plans ("LDPs").

8.4. The Scottish Ministers are satisfied the works accord with and are supported by Scottish Government policy and the terms of the NMP, the NPF and aligns with the objectives of the relevant LDPs. The SDPs are not relevant to this project as the location is not within one of the four SDP areas.

Environmental Matters

8.5. 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 project have been assessed and the Scottish Ministers have taken the environmental information into account when reaching their decision.

- 8.6. The Scottish Ministers have considered fully and carefully the application, EIA report, supporting documentation and all relevant responses from consultees.

Possible effects on Otters

- 8.7. The Scottish Ministers are content that significant impacts on otters will be appropriately mitigated providing the applicant adheres to the OPP and mitigation measures compiled into the Schedule of Mitigation ("SoM") detailed in the EIA report. Adherence to the SoM will be included as a condition in the marine licence.

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 application have been followed.
- 9.2. The Scottish Ministers have weighed the impacts of the works, and the degree to which these can be mitigated. 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 project accords with and is supported by Scottish Government policy, the terms of the NMP and local development plans and the environmental impacts of the project, in particular the impacts on otters.
- 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 project and mitigation.
- 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 project, the Scottish Ministers have identified conditions to be attached to the licence to reduce environmental impacts. These include adherence to the mitigation measures detailed within the SoM in the EIA report.
- 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 a marine licence subject to conditions** under Part 4 of the Marine (Scotland) Act 2010 for the construction activities associated with the Pier Development at Kilfinichen, Isle of Mull. The marine licence is attached at Appendix 2.
- 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 application relates is situated.

9.10. Copies of this decision notice have been sent to the bodies consulted on the application including the relevant planning authority, SNH, SEPA and HES.

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,

A handwritten signature in black ink, appearing to read 'Michael Bland', with a stylized, cursive script.

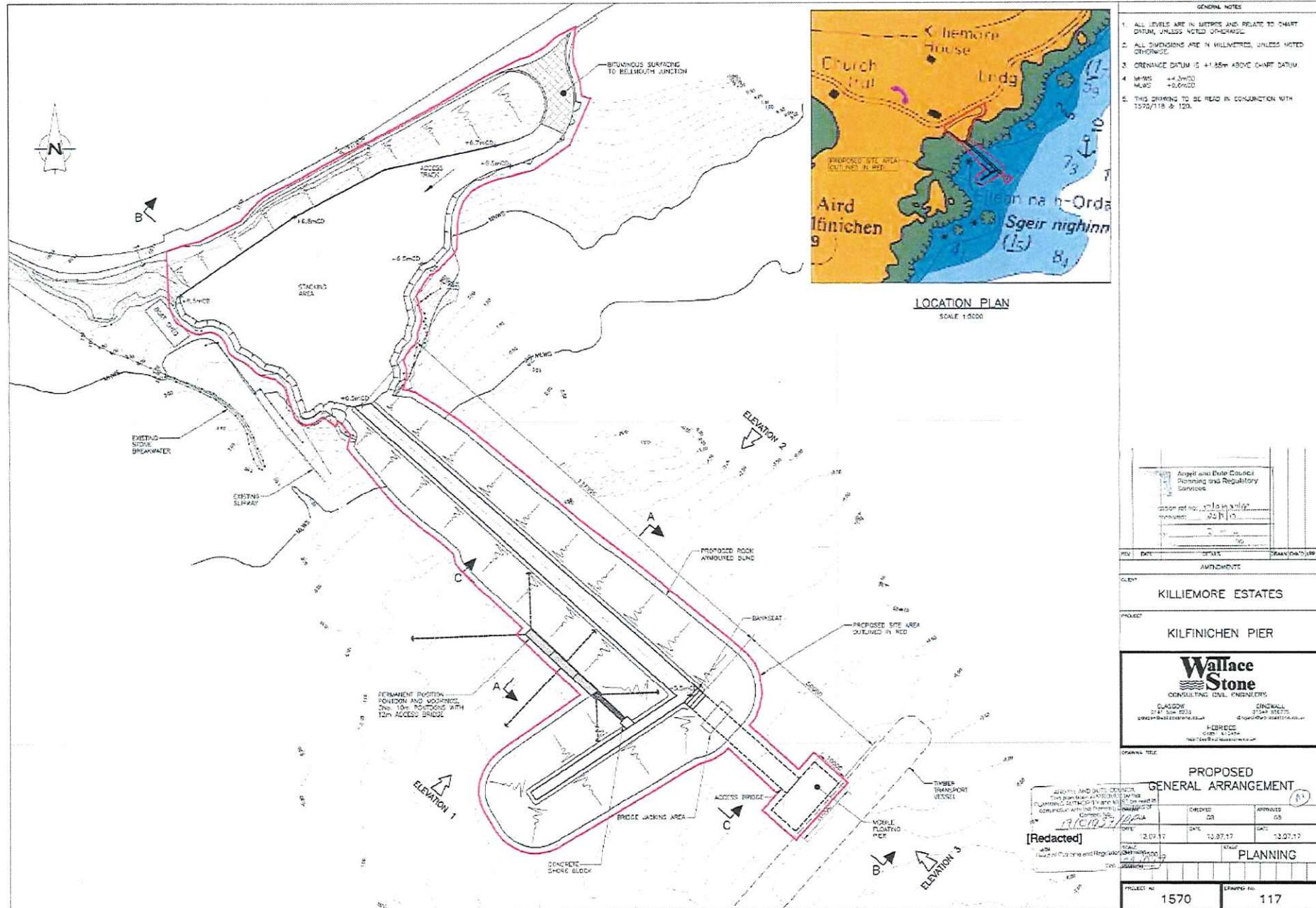
Michael Bland

Licensing and Consents Section Leader, Marine Scotland Licensing Operations Team

A member of the staff of the Scottish Ministers

14 January 2019

Appendix 1 – Kilfinichen Pier Development Location



GENERAL NOTES

1. ALL LEVELS ARE IN METRES AND RELATE TO CHART DATUM, UNLESS NOTED OTHERWISE.
2. ALL DIMENSIONS ARE IN MILLIMETRES, UNLESS NOTED OTHERWISE.
3. ORANGE DATUM IS 41.85m ABOVE CHART DATUM.
4. MMS: +4.3mCD
MWS: +0.6mCD
5. THIS DRAWING TO BE READ IN CONJUNCTION WITH 1570/118 & 120.

Approved by: Project Manager Date: 12/07/17	
REV	DATE
AUTHORITY KILLIMORE ESTATES	
PROJECT KILFINICHEN PIER	

WALLACE Stone CONSULTING CIVIL ENGINEERS GLASGOW 101 GLEN ROAD GLASGOW G4 0LJ 0141 271 1111 www.wallacestone.co.uk		DUNDEE 101 GLEN ROAD DUNDEE DD1 1LJ 01392 551 111 www.wallacestone.co.uk
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PROPOSED GENERAL ARRANGEMENT		
CHECKED DATE: 12.07.17	APPROVED DATE: 12.07.17	DATE: 12.07.17
PLANNING		
PROJECT NO. 1570	DRAWING NO. 117	

Appendix 2 – Marine licence

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MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT WORKS AND TO DEPOSIT PONTOONS WITHIN THE
SCOTTISH MARINE AREA

Licence Number: 06790/19/0

Reference Number: 06790

The Scottish Ministers hereby authorise:

**Kilfinichen Farms LLP
Kilfinichen Estate
Tiroran
Isle of Mull
PA69 6ER**

to construct works and to deposit pontoons within the Scottish marine area as described in Part 2 of the attached Schedule.

This licence is subject to the conditions set out in Part 3 of the said Schedule and is valid from **14 January 2019** until **30 June 2020**.

Signed:



Michael Bland

For and on behalf of the licensing authority

Date: 14 January 2019

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” 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
Marine Laboratory
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, contractors or sub-contractors acting on behalf of licensee:**

Affric Limited
 Lochview Office
 Loch Duntelchaig
 Farr
 IV2 6AW

See condition 3.1.2.

2.2. Location of the works:

Kilfinichen Pier Development, Isle of Mull within the area bounded by joining the following points:

56° 22.834' N	006° 03.217' W
56° 22.832' N	006° 03.213' W
56° 22.829' N	006° 03.214' W
56° 22.801' N	006° 03.159' W
56° 22.799' N	006° 03.192' W
56° 22.797' N	006° 03.192' W
56° 22.799' N	006° 03.158' W
56° 22.794' N	006° 03.149' W
56° 22.784' N	006° 03.164' W
56° 22.783' N	006° 03.161' W
56° 22.793' N	006° 03.146' W
56° 22.790' N	006° 03.140' W
56° 22.780' N	006° 03.163' W
56° 22.774' N	006° 03.168' W
56° 22.770' N	006° 03.166' W
56° 22.765' N	006° 03.160' W
56° 22.764' N	006° 03.152' W
56° 22.765' N	006° 03.142' W
56° 22.783' N	006° 03.094' W
56° 22.776' N	006° 03.079' W
56° 22.773' N	006° 03.083' W
56° 22.768' N	006° 03.072' W
56° 22.778' N	006° 03.057' W
56° 22.783' N	006° 03.068' W
56° 22.780' N	006° 03.073' W
56° 22.787' N	006° 03.088' W
56° 22.793' N	006° 03.085' W
56° 22.799' N	006° 03.089' W
56° 22.836' N	006° 03.182' W
56° 22.839' N	006° 03.194' W
56° 22.840' N	006° 03.198' W

56°	22.837' N	006°	03.207' W
56°	22.835' N	006°	03.216' W

As per the plan detailed in Appendix 1.

2.3. Description of the works:

Construction of a new timber loading pier consisting of the following:

- Construction of 140m long rock armoured causeway with a 60m long L-shaped hammerhead;
- Installation of an access bridge and floating pontoon; and
- Relocation of an existing pontoon.

As described in application dated 23 August 2018, all correspondence submitted in support of the application and all other associated information.

2.4. Nature and quantity of materials and deposits*:

Materials used in construction

Concrete (incl. bankseat, pontoon base and jacking points), 144 tonnes
Steel (incl. jacking points and furnishings), 15 tonnes
Boulders $\geq 256.0\text{mm}$ (rock armour), 22,500 tonnes
Cobbles and boulders (rock fill) ≥ 64.0 , 65,000 tonnes
Geotextile (synthetic geotextile fabric), $1,700\text{m}^2$

Permanent deposits

Access bridge and floating pier, $20\text{m} \times 10\text{m} \times 50\text{m}$
Existing pontoon, 3 No. $\times 10\text{m}$
Pontoon metal access bridge, $12\text{m} \times 2\text{m}$
Anchor chains, 200m
Anchors, 6 No.

**Indicative only*

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 and sub-contractors

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 works 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 works, 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 works. 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.

3.1.4. 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.

3.1.5. 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.

3.1.6. 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 must, subject to any rules permitting non-disclosure, be made publically available by the licensing authority, or by any such party appointed, at their discretion.

3.1.7. Environmental protection

The licensee must ensure that all required mitigation identified in the Environmental Impact Assessment ("EIA") process is implemented to address significant environmental effects. This must include the Schedule of Mitigation in chapter 8 of the EIA report.

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 debris or waste materials placed below MHWS during the construction of the works are removed from the site, as soon as is reasonably practicable, for disposal at a location above MHWS approved (as appropriate) by the Scottish Environment Protection Agency ("SEPA").

The licensee must ensure that all substances and materials used during the execution of the works 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 SEPA's [biosecurity and non-native species guidance](#) is followed during the works to reduce the risk of transferring non-native species to and from the site.

3.1.8. Safety of Navigation

The licensee must ensure that all works are carried out in accordance with the Navigational Risk Assessment, dated 16th August 2018, submitted in support of the application.

3.1.9. 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; and
- c) any onshore premises directly associated with the licensed activities.

3.1.10. Inspection of the works

Any persons authorised by the licensing authority, must be permitted to inspect the works at any reasonable time. The licensee must, on being given reasonable notice by the licensing authority (of at least 72 hours), provide transportation to and from the site (weather permitting) for any persons authorised by the licensing authority to inspect the site.

3.2. Prior to commencement of the works

- 3.2.1. The licensee must, no later than 7 days prior to commencement of the works, notify the licensing authority of the proposed start date of the works.
- 3.2.2. The licensee must ensure that local notice to mariners and fishermen's organisations are made fully aware of the activity through local notice to mariners.
- 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 works prior to commencement.

3.3. During the works

- 3.3.1. The licensee must ensure that only the deposits listed in Part 2 of this licence are deposited during the execution of the works and that all substances or objects deposited during the execution of the works are inert and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.
- 3.3.2. The licensee must co-ordinate the movements of any vessels utilised in respect of the works with the vessel movements of any other developments or activities, taking place at the same time, to spread out vessel activity as far as is practically possible so that it does not occur simultaneously.
- 3.3.3. The licensee must ensure that all stakeholders and users of the area who may be subject to temporary disruption as a result of the works are kept informed with regards to the progress of the works as far as is reasonably practicable.
- 3.3.4. 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.

- 3.3.5.** The licensee must ensure that the works are maintained at all times in good repair.
- 3.3.6.** In the event of the works being discontinued prior to their completion, the licensee must remove the works and clear the site to the satisfaction of the licensing authority.
- 3.3.7.** 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; or
 - c) The drifting or wreck of the works.

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

- 3.3.8.** The licensee must ensure that all recoveries of wreck material are reported to the Receiver of Wreck within 28 days of recovery. Failure to report the recovery of wreck material to the Receiver is a criminal offence. Additional information and a report of wreck and salvage form can be found at: www.gov.uk/guidance/wreck-and-salvage-law.
- 3.3.9.** The licensee must ensure that no deviation from the schedule specified in the licence is made without the further written consent of the licensing authority.
- 3.3.10.** The licensee must remove all substances, objects or materials temporarily deposited during the works before the expiry of this licence.

3.4. On completion of the works

- 3.4.1.** The licensee must, within 7 days of completion of the works, notify the licensing authority of the date of completion of the works.
- 3.4.2.** The licensee must, within 28 days of completion of the works or within 28 days of the date of expiry of the licence, whichever is the sooner, submit a written report to the licensing authority stating the nature and quantity of all materials placed and removed under authority of the licence. Where appropriate, nil returns must be provided.
- 3.4.3.** The licensee must, within 28 days of completion of the works, supply Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (email: sdr@ukho.gov.uk; tel.: 01823 337900) with a copy of the 'as built plans', in order that all necessary amendments to nautical publications are made. The licensee must notify the licensing authority of the notification at the time it is made.