



Department of
**Agriculture, Environment
and Rural Affairs**

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**Department of Agriculture, Environment & Rural Affairs
Marine & Fisheries Division**

**LICENCE ISSUED UNDER THE MARINE AND COASTAL ACCESS ACT 2009, PART 4, MARINE
LICENSING**

MARINE CONSTRUCTION LICENCE

**Licence to Replace up to 30 Mooring weights Moorings at Ballywalter
Harbour**

Licence Number: ML 2020_010

Part 1 - Particulars

1. Licensee(s) Name & Address:

Mr. William Angus
On behalf of ANDBC
44 the parade
Donaghadee
BT21 OHE

Strangford Moorings
3 The Anchorage
Sketrick Island Whiterock
Killinchy
BT23 6QH

**2. Names, and operators, of the vessels to be employed to undertake or support the deposit, relocation or
removal operations:**

n/a

3. Description of works and nature and quantity of all deposits below Mean High Water Springs:

To remove 30 concrete and metal blocks from the harbour sea bed at Ballywalter Harbour, by way of mechanical digger.

To insert 30 new pre-cast concrete weights, into existing holes and back fill with arisings from the excavation, by way of mechanical digger. The excavations shall be localized around each individual mooring.

4. Location of works:

Ballywalter Harbour

Grid Ref: 54 54.31 N 005 48.2 W

5. Valid:

From: 1st February 2021
Until: 31st January 2022

PART 2: CONDITIONS

The Department of Agriculture, Environment & Rural Affairs (referred to as the licensing authority) authorises **Ards and North Down Borough Council and Strangford Moorings Ltd.**, to deposit in the sea the substances or articles (except for dredge material) used in the execution of works described in Part 1 of this licence. This licence is subject to the under mentioned condition(s):

Licence Condition(s):

NOTE: FAILURE TO COMPLY WITH THE LICENCE CONDITIONS BELOW MAY RESULT IN ENFORCEMENT ACTION BEING TAKEN

1. All conditions of this licence bind any persons whom, 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 authorized under section 66 of the 2009 Act, whether or not the licence has been transferred to that person.
2. The Licensee(s) must receive written authorization from the licensing authority to assign or transfer the consent. The licensing authority must confirm in writing to both the original Licensee(s) and any proposed new Licensee(s) that the licence has been transferred/assigned before any works may commence under the new Licensee(s).
3. The licensee(s) shall inform the licensing authority of the finishing date of the licensed work within **28 days** of completion.
4. The licensee(s) shall not carry out any licensable activity other than that detailed in the Marine Licence application form received by the licensing authority, dated 2nd June 2020. The licensee(s) shall contact the Department if it is proposed to vary the materials or methods to be used from those described in the documentation supplied in connection with the Marine Licence application.
5. The licensee(s) shall ensure that a copy of this licence is given to each contractor appointed to carry out part or all of the works. The extent of the works for which the licence has been given and the conditions that are attached to the licence should be made clear to the contractors.
6. The licensee(s) shall ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:
 - a. The premises of the licensee(s)
 - b. The premises of the operating facility
 - c. The site of the works (including on board vessels)
7. The licensee(s) shall, within **eight weeks** after the completion of the licensed works, make a written report to the licensing authority stating the quantity and description of all articles and substances deposited under the authority of this licence.
8. The licensee(s) shall ensure that if works are to proceed beyond November that, in the event of severe weather resulting in the imposition of a wildfowling ban, all work should be halted for the duration of that ban.

Reason; to protect over wintering birds
9. The licensee(s) shall ensure that a detailed Construction Method Statement is submitted to NIEA, Water Management Unit as soon as possible, at least 8 weeks prior to the commencement of construction in order to specify and ensure all effective avoidance and mitigation methodologies have been planned for the protection of the water environment during the project. Details of what all should be included in a Construction Management Statement (CMS) can be found under the aforementioned DAERA Standing Advice on Pollution Prevention

Guidance. The CMS can be sent directly to Water Management Unit Pollution Prevention Team [redacted]@daera-ni.gov.uk) who will be only too happy to advise.

- 10. The licensee(s) shall ensure that prior to works commencing a biosecurity protocol shall be submitted and approved by the Department.

Reason: to minimise the impact of the proposal on marine protected areas.

- 11. The licensee(s) shall ensure that existing moorings are inspected for marine non-native species prior to disposal at a licensed disposal site.

Reason: to further the conservation of biodiversity at the site in line with the local authority's obligations under the Wildlife and Natural Environment Act (Northern Ireland) 2011 (the WANE Act).

- 12. In the event of a discovery of an archaeological object and/or remains during works, the Department would ask that the licensee(s): (1) record the position and details of the site; (2) do not disturb the site further and (3) contact DAERA Marine and Fisheries Division, [redacted]@daera-ni.gov.uk for further advice.

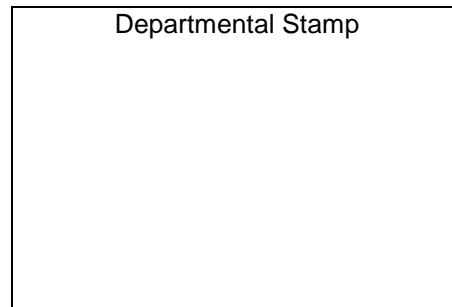
Reason: for the protection of underwater archeological heritage.

- 13. The Licensee must ensure that HM Coastguard, in this case [redacted]@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the works prior to commencement.

Signed on behalf of the Department:

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Dated:



NOTE:

(1) The licensing authority would advise that this licence does not negate the licensees' responsibility to gain any other environmental or access permissions that may be required to progress the works.

(2) Under Part 4, Chapter 1, paragraph 72 of the **Marine and Coastal Access Act 2009**, the licensing authority may revoke, vary or suspend this licence if it appears to the authority that the holder is in breach of a condition included in it, or if it appears to the authority that the licence ought to be varied, suspended or revoked because of a change of circumstances relating to the marine environment or human health, including a change in scientific knowledge. A revocation, variation or suspension may also be enforced in the interests of safety of navigation.

(3) A person who deposits material in contravention of the terms of a licence is guilty of an offence under Section 85 of the Act. It is a defence under paragraph 86 (1) for a person charged with such an offence to prove 'force majeure'. However they are also required to prove that they took steps within a reasonable time to inform the licensing authority of all details pertaining to the incident contained in paragraph 86 (2). The licensing authority shall be obliged to report force majeure cases immediately to the OSPAR Commission.

(4) Attention is drawn to the necessity of complying where appropriate with the **Radioactive Substances Act 1960**, the **Prevention of Oil Pollution Act 1971** and to the **Merchant Shipping (Dangerous Goods) (Amendment) Rules 1968**.

(5) If within 28 days of the issue of a licence the person to whom it was issued requests the licensing authority to give him notice in writing of the reasons for the inclusion of any provision in it, the Authority shall comply with his request within 28 days of receiving it.

(6) Anyone who fails to comply with a condition on a Marine Licence commits an offence under Section 85 of the **Marine and Coastal Access Act 2009**, and may be subject to enforcement action. Possible enforcement actions are compliance notices, remediation notices, fixed monetary penalties and variable monetary penalties. In the worst cases, a person found guilty of an offence on summary conviction may be subject to a fine not exceeding £50,000. In addition, a person found guilty of an offence on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both. Further details can be found at our guidance note

<https://www.daera-ni.gov.uk/sites/default/files/publications/doe/marine-licensing-guidance-enforcement-under-part-4-marine-and-coastal-access-act%2C-2009-may-2016.pdf>

Further information from consultation:

1. Northern Ireland Environment Agency – Water Management Unit

The licensee(s) should be aware that it is an offence under the **Water (Northern Ireland) Order 1999** to discharge or deposit whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and /or three months imprisonment.

Water Management Unit would refer the applicant to DAERA's Standing Advice on Pollution Prevention and Discharges to the Water Environment, available at: <https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-including-groundwater-and-fisheries>

2. DAERA Marine & Fisheries – Inland Fisheries & Sea Fisheries

The licensee(s) should be made aware that it is an offence, under Section 47 of the Fisheries Act (Northern Ireland) 1966, to cause pollution which is subsequently shown to have a deleterious effect on fish stocks.

3. DAERA Marine & Fisheries – Marine Conservation

European and National Marine Protected Areas

The applicant's attention is drawn to the fact that the proposed works are in close proximity to the boundary of several Marine Protected Areas and precautions should be taken to ensure the integrity of these areas will not be damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002 (as amended) and require consent from the Northern Ireland Environment Agency, Conservation, Designations and Protection Unit, Klondyke Building, Gasworks Business Park, Belfast BT7 2JA.

Marine National Protected Species – Seals and basking shark

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly disturb, capture, injure a harbour seal (*Phoca vitulina*), grey seal (*Halichoerus grypus*) or basking shark (*Cetorhinus maximus*).

It is also an offence to intentionally or recklessly:

disturb any such animal while it is occupying a structure or place which it uses for shelter or protection, damage or destroy, or obstruct access to, any structure or place which any such animal uses for shelter or protection, damage or destroy anything which conceals or protects any such structure;

or

to have in possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal.

Where impact cannot be avoided or mitigated, a wildlife licence may be required for operations and DAERA Marine Wildlife Team should be consulted.

The Wildlife (Northern Ireland) Order 1985

<http://www.legislation.gov.uk/nisi/1985/171/part/II/crossheading/protection-of-other-animals>

Marine European Protected Species

The applicant's attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, disturb, injure or kill a wild animal of a European Protected Species included in Schedule 2 to these Regulations. This includes all species of dolphin, porpoise and whale and the marine turtle species.

For more information please see:

<https://www.daera-ni.gov.uk/articles/marine-wildlife-licensing#toc-2>

Invasive Species

The applicant's attention is drawn to Article 15 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to release or allow to escape into the wild any plant or animal which;

is of a kind which is not ordinarily resident in and is not a regular visitor to Northern Ireland in a wild state (or is a hybrid of any animal of that kind), or

is included in Part I of Schedule 9 (or is a hybrid of any plant or animal included in that Part).

Article 15 of the Wildlife (Northern Ireland) Order 1985

<https://www.legislation.gov.uk/nisi/1985/171/article/15>

4. DAERA Marine & Fisheries – Marine Archaeology

The License Holder should be aware of the need to pay due regard to coastal and marine historic assets where they remain as archaeological material and attention is drawn to Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (PPS6) and the UK Marine Policy Statement (UK MPS).

There is a legal obligation to report archaeological objects within 14 days under the provisions of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 and to report historic wreck material to the Receiver of Wreck under the Merchant Shipping Act 1995.

The DAERA document **Guidance Note: For the Discovery of Unanticipated Underwater Archaeological Heritage**

(<https://www.daera-ni.gov.uk/publications/guidance-note-discovery-unanticipated-underwater-archaeological-heritage>) sets out best practice and legal responsibilities in the reporting of unanticipated finds of archaeological interest made during the course of marine construction and/or dredging projects.

5. Maritime and Coastguard Agency

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

The site is within port limits and the applicant should gain the approval/agreement of the responsible local navigation authority or the Harbour Authority/Commissioners/Council. They may wish to issue local warnings to alert those navigating in the vicinity to the presence of the works, as deemed necessary.

The licensee should consider adopting the Port Marine Safety Code (PMSC), which sets out a national standard for every aspect of port marine safety. The Code is not mandatory, however it is endorsed by the UK Government, devolved administrations and representatives from across the marine industry sector. It is applicable to both Statutory Harbour Authorities (SHA) and non-SHAs including marinas, terminals, marine berths and jetties. The Department for Transport also publishes the PMSC Guide to Good Practice which provides useful information and detailed guidance on the safe management of these facilities and is intended to supplement the Code. This can be found here:

<https://www.gov.uk/government/publications/a-guide-to-good-practice-on-port-marine-operations>