



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 install two siphons beneath the River Foyle at Strathfoyle as part of the upgrade to the NI Water sewage infrastructure in the Culmore Catchment of Londonderry.

Licence Number: ML2023024

PART 1 – PARTICULARS

1. Licensee(s) Name & Address:

Northern Ireland Water
Wastewater Capital Procurement 3
Asset Delivery Directorate
40 Old Westland Road
Belfast
BT14 6TE

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

To be supplied

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

The construction will involve the installation dual 500mm (day flow) and 560mm (storm flow) polyethylene (PE) pipelines, approximately 490m in length passing between 13-25m beneath the River Foyle installed using Horizontal Directional Drilling (HDD), as part of the upgrade to the existing NI Water sewage pipeline infrastructure in the Culmore catchment at Strathfoyle, Londonderry.

4. Location of works:

The centre of the works is beneath the River Foyle at Strathfoyle

IGR 246600E 421380N

(Refer to **Appendix A**: As denoted by the red crosshatch area - Site Location Map)

5. Valid:

From: 22nd March 2024

Until: 31st October 2025

Condition 16 states: Works must not take place between November and February due to the presence of wintering waterbirds.

6. Licence Documentation

- Marine Construction Licence Application form (dated 05/10/2023)
- Habitats Regulation Assessment (March 2024)
- Outline CEMP (September 2023)
- Site Location Plan (dated 29/03/2023)
- Horizontal Directional Drilling Specification (14/03/2023)
- Archaeological Report (December 2023)

PART 2 - CONDITIONS

The Department of Agriculture, Environment & Rural Affairs (referred to as the licensing authority) authorises **NI Water** 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. The Licensee(s) must commence works with **12 months** of the date of this licence.
2. 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 authorised under section 66 of the 2009 Act, whether or not the licence has been transferred to that person.

3. The Licensee(s) must receive written authorisation 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).
4. The Licensee(s) shall not carry out any licensable activity other than that detailed in the Marine Licence application documents received by the licensing authority and deemed complete on 20th December 2023. 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, noted in Chapter 3 of the outline Construction Environmental Management Plan (oCEMP) dated September 2023 and Chapter 3.2 of the shadow Habitats Regulations Assessment dated March 2024.
5. The Licensee(s) must commence works in line with Condition 1 and complete works within the valid dates of this licence. After that date, the licence will expire in accordance with section 71(4) of the Act.
6. The Licensee(s) shall ensure that the Department is informed of any contractor appointed to carry out part or all of the works by email to MLCompliance&Enforcement@daera-ni.gov.uk no less than 24 hours before the commencement of the licensed activity. The licence holder must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors or sub-contractors that will carry on any licensed activity authorised by this licence on behalf of the licence holder.
7. Any person authorised by the licensing authority will be permitted to inspect the licensed activity at any reasonable time.
8. 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)

Prior to the commencement of the Licensed Activity

9. A final Construction Environmental Management Plan (CEMP) must be submitted to DAERA NIEA Conservation, Designation & Protection (CDP) (CDP@daera-ni.gov.uk) for approval, at least **4 weeks prior** to the commencement of construction to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment. MLCompliance&Enforcement@daera-ni.gov.uk must be copied in on the correspondence.
Reason: To ensure effective mitigation methodologies have been planned for the protection of the water environment.
10. The Licensee(s) must notify The Source Data Receipt team, UK Hydrographic Office, Taunton, Somerset, TA1 2DN (Email: sdr@ukho.gov.uk; Tel: 01823 337900) at least **4 weeks** before commencement of the works, to allow for any necessary amendments to nautical charts. The UK Hydrographic Office must also be notified upon completion of the works. MLCompliance&Enforcement@daera-ni.gov.uk must be copied into all notifications.
Reason: To adhere to Maritime Safety Legislation and to protect human health and marine users

11. The licensee must ensure invasive species biosecurity measures are in place for all stages of the works and for all equipment used. A copy of the biosecurity plan should be submitted to Marine.Wildlife@daera-ni.gov.uk and CDP@daera-ni.gov.uk **4 weeks prior** to works commencing. MLCompliance&Enforcement@daera-ni.gov.uk must be copied in on the correspondence.
Reason: To prevent the introduction and minimise the spread of marine invasive Non-Native Species.
12. The drilling works must be limited to 0700 to 1900 hours Monday to Friday 0700 to 1200 on Saturdays and with no work on Sundays in the summer months (June, July & August) and shorter periods in the winter months (December, January & March). Any potential extensions to be agreed with Derry City & Strabane District Council Environmental Health team as noted in Chapter 6.0 of the oCEMP dated September 2023.
MLCompliance&Enforcement@daera-ni.gov.uk must be copied in on the correspondence.
Reason: To ensure effective management of noise and vibration during drilling and to prevent unnecessary/ excess disturbance to the ecological receptors in the River Foyle.
13. Prior to works commencing, an Otter survey must be carried out and the survey report submitted to DAERA NIEA Conservation, Designation & Protection (CDP) (CDP@daera-ni.gov.uk) for review **4 weeks** before any construction works commence.
MLCompliance&Enforcement@daera-ni.gov.uk must be copied in on the correspondence.
Reason: To identify any Otter population within the works area and to ensure appropriate measures are taken to protect the local biodiversity

During the Licensed Activity

14. In the event of a discovery of an archaeological object and/or remains during the works the licensee(s) must: (1) record the position and details of the site; (2) not disturb the site further and (3) report your discovery to and contact MLCompliance&Enforcement@daera-ni.gov.uk immediately so further advice may be sought.
Reason: To ensure that historic monuments and archaeological objects are protected.
15. In the event of a discovery of wreck material during the works, the Licensee must report it to the 'Receiver of Wreck' (Maritime and Coastguard Agency) **within 28 days**.
Reason: To ensure that recovered wreck material is declared and dealt with appropriately.
16. Works must not take place between November and February due to the presence of wintering waterbirds.
Reason: To limit disturbance to wintering waterbirds using adjacent mudflats during construction

Upon Completion of the Licensed Activity

17. The Licensee(s) shall inform the licensing authority of the finishing date of the licensed work within **28 days** of completion.
18. 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. This report is to be submitted to MLCompliance&Enforcement@daera-ni.gov.uk

Signed on behalf of the Department:



Dated: 22nd March 2024

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/dae/marine-licensing-guidance-enforcement-under-part-4-marine-and-coastal-access-act%2C-2009-may-2016.pdf>

INFORMATIVES:

Maritime & Coastguard Agency advice on Navigational Safety

- The Licencee(s) 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>

- 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.

DAERA advice on preventing water pollution

- The Licensee(s) should comply with all the relevant NIEA Standing Advice documents and Guidance for Pollution Prevention (PPG/GPPs) available at:
<https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-including-groundwater-and-fisheries>
- The Licensee(s) shall ensure that measures are in place to prevent pollution of surface or ground water as a result of the activities on site, both during construction and thereafter. Guidance for Pollution Prevention (GPPs) documents can be obtained at:
<https://www.netregs.org.uk/environmental-topics/guidance-for-pollution-prevention-gpp-documents/>
- The contractor / person carrying out the works is responsible for ensuring that any and all required mitigation measures are in place and ultimately under the Water (Northern Ireland) Order 1999 is liable for any discharge or deposit, whether knowingly or otherwise, of any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.
- 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 years imprisonment.

Other information from consultation:

The applicant's attention is drawn to the following links which provide standing advice to be considered:

- [Planning in the Coastal Area](#)
- [DAERA Standing Advice - Marine Litter.pdf \(daera-ni.gov.uk\)](#)
- [Marine Non-Native Species](#)
- [Marine Wildlife Disturbance](#)
- [Marine Map Viewer](#)
- [Decisions affected by marine policy - authorisation decisions](#)

DAERA Natural Environment Division advice on Otters

- [CCL PLANNING - DAERA - STANDING ADVICE - NED - OTTER - Review August 2023 - FINAL.pdf \(daera-ni.gov.uk\)](#)

DAERA advice on protection of archaeological objects

- The Licensee(s) attention is drawn to Article 42 of the **Historic Monuments and Archaeological Objects (NI) Order 1995** that requires finders of archaeological objects to report within 14 days to a relevant authority.

DAERA advice on recovery of wreck material

- The Licensee(s) must report any recovered wreck material to the Receiver of Wreck (Maritime and Coastguard Agency) in accordance with the **Merchant Shipping Act 1995**.

APPENDIX A – Site Location map of works – denoted by red crosshatch area

