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MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

DECISION NOTICE – MARINE LICENCE TO CONSTRUCT, ALTER OR IMPROVE WORKS ASSOCIATED WITH THE STAFFIN HARBOUR DEVELOPMENT AT STAFFIN HARBOUR, ISLE OF SKYE

1. Application and description of the work

1.1 On 5 October 2021, Staffin Community Trust having its registered office at Staffin Community Trust, Church of Scotland, Staffin, Isle of Skye, IV51 9JX ("the Applicant") submitted to the Scottish Ministers an application under Part 4 of the Marine (Scotland) Act 2010 ("the 2010 Act") for the construction and land reclamation activities associated with the Staffin Community Harbour project at Staffin, Isle of Skye (hereinafter collectively referred to as "the Works"). The application was accompanied by an Environmental Impact Assessment Report ("EIA Report") in accordance with The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 MW Regulations").

1.2 The EIA Report was also submitted to The Highland Council in relation to the associated onshore, terrestrial works and for which planning permission has been granted. This decision notice considers only the information relative to the marine environment in the decision making process.

1.3 The Works are located at the existing Staffin Slipway in Òb nan Ron, Garafad, Staffin in the north of Skye as shown in Appendix 1 and involve the following activities:

- Land reclamation and extension of existing hardstanding area;
- Deconstruction and removal of existing breakwater;
- Construction of a new breakwater;
- Construction of new slipway and modification of existing slipway;
- Construction of pontoons; and
- Construction of an outfall pipeline

Land reclamation and extension of hardstanding

1.4 The Works include land reclamation from the sea of an area of 2,022 square metres ("m²") at a height of +6.65 metres ("m") chart datum. The land reclamation and existing hardstanding will provide approximately 3,200 m² of area for onshore facilities, including an area for harbour users and the public. Rock-fill material will be sourced from the disused quarry which is to be re-stablished as part of the terrestrial works ('the Borrow Pit'") . Land-based plant will be utilised to place this rock-fill in the area adjacent to the existing hardstanding area, progressing outwards to form the reclaimed area. Rock armour will then be built up to cover the rock-fill along the seaward edge to protect from erosion. The infill will then be compacted, creating a permeable surface to allow storm-water to drain through and once completed, this area will provide necessary space for materials such as breakwater rock armour to be stockpiled for construction purposes.

Dismantle and removal of existing breakwater

1.5 The Works will include the removal of the existing breakwater which will involve dismantling the steel berthing structure; breaking out the concrete ledge; and the removal of 26,950 tonnes of rock material. This rock material will be stockpiled for re-use in construction of the new breakwater. All dismantling works will be undertaken using land based plant.

Construction of new breakwater

1.6 The Works include the construction of a new curved breakwater, which is to be approximately 350 m in length. A 5 m wide flat section will be created at the top of the breakwater which will be surfaced to provide access to the slipway. The access track will extend just past the slipway to create a turning point before narrowing out to form a footpath to provide pedestrian access to the pontoons. The new breakwater will be constructed by placing rock infill on the seabed to form the base of the breakwater and then reinforced with rock armour placed over the infill. This will require 83,200 tonnes of sand, gravel, cobble and boulder rock material. 26,950 tonnes of rock material will be sourced from the existing breakwater and the remainder will be sourced from the Borrow Pit. Cables for electricity, pipelines for fuel and the outfall outlined

below will then be laid into the structure, and the surface then tarmacked to form access to the slipway and pontoons.

Construction of new slipway and existing slipway modification

1.7 The Works will include the construction of a 10 m wide slipway, which will be 70 m in length. The new slipway will be constructed on the western side of the new breakwater and will extend 8 m beyond Mean Low Water Springs ("MLWS") to allow operations at low tide. Construction of the slipway will first comprise of casting a 500 mm thick concrete wall along the northern edge of the slipway within a dry working area formed using a cofferdam. Rockfill material will then be utilised to form the base of the slipway which will then be reinforced with rock armour at its southern end. The structure will be topped using a concrete slab will may be pre-cast or may be poured in-situ.

1.8 The existing slipway will remain in place but will be modified using the same techniques as the new slipway, including an extension of approximately 15 m to the northern end of the slipway and making the east side suitable for temporary berthing.

Pontoons Installation

1.9 The Works will include the installation of pontoons, at the newly created sheltered area provided by the breakwater. The pontoons will be able to accommodate 15 boats of up to 12 m length overall with provision for an additional 15 small boats on the rear side of the berth. Access to the pontoons will be along the top of the breakwater and down a pontoon bridge. GRP Mini Mesh decking surface will be utilised for pontoons. These pontoons will be formed by depositing pre-made pontoon sections into the water and holding them in place using concrete anchor blocks. The pontoons sections will then be bolted together as well as being connected to a bridge from the breakwater to allow access.

Construction of outfall pipeline

1.10 The Works will include the construction of an outfall pipeline, which will run under the breakwater and through the rock armour, running approximately 45 m before reaching the discharge point below MLWS. The pipeline will be laid and encased within concrete and rocks will be placed on top to cover the encased pipeline within the breakwater.

1.11 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.

Air Quality

2.3 The Applicant assessed the effects from the construction phase of the Works on air quality as negligible. A full assessment of the effects from the terrestrial works, in relation to the Borrow Pit was however undertaken by the Applicant. This was been considered by The Highland Council when granting planning permission and therefore no further consideration will be given to the impact upon air quality from the Works.

Archaeological and Cultural Heritage

2.4 In order to assess the impact of the Works upon an cultural heritage or archaeological receptors, the Applicant reviewed historic maps, relevant literature and undertook marine surveys within a 10 kilometre ("km") radius of the site of the Works. No finds or features of an archaeological nature were observed or recorded during these surveys. Existing records show six vessels being wrecked within the survey area, however no evidence of these wrecks were found during the surveys. It is considered that there is a low potential for finds or remains from these vessels to be uncovered during the Works, and therefore any impacts upon them are considered negligible.

2.5 While no significant effects were noted, the Applicant will put a Protocol for Archaeological Discovery ("PAD") in place for the Works which will detail the actions to be taken in the event of any heritage assets being uncovered in the course of the Works.

Hydrology and water quality

2.6 The Applicant considered the effects on local coastal waters and rivers within 1 km as a result of the Works. The Works will be carried out within the Ob nan Ron within the Northern Skye waterbody. The waterbody is currently classified as being of a good status in relation to its water quality under the Water Framework Directive.

2.7 During construction and operational phases of the Works, there is the potential for the release of hazardous substances into the marine environment from various sources including fuel and plant storage areas which may result in fuel, hydraulic fluid, concrete or cement wash being discharged in to the marine environment. These substances can cause acute or chronic harm to various ecological receptors within the marine environment including benthic, fish and marine mammal receptors. Without mitigation in place, the effect of this impact may range from negligible to significant depending on the receptor in question. The Applicant intends to mitigate against the risk of these events occurring through a strict set of controls on fuels, oils, chemicals, and concrete wash, locating containers for hazardous materials away from the watercourses and having only trained personal carry out refuelling. Further, a set of Site Spillage and Emergency Procedures will be implemented and

displayed prominently around the site of the Works based on appropriate best practice. These will include emergency measures for rectifying and reporting an spills that do occur. These measures, while not reducing the magnitude of the impact upon water quality, will result in the likelihood of such an event being very unlikely and therefore non-significant against all receptors.

2.8 The Applicant also considered litter being introduced into the marine environment as a result of poor waste management during both construction and operation. The likelihood of this occurring is considered to be probable, however given the small scale of magnitude of the impact, it is unlikely to be significant. The Applicant has committed to the adoption of best practice principles, the placement of waste bins and appropriate waste management training further reducing the risk of litter entering the marine environment regardless.

Benthic Ecology

2.9 In order to assess the impact of the Works upon benthic ecology, the Applicant undertook an extensive literature review and field surveys, to understand the baseline conditions. The surveys consisted of video transects of the site, a dive survey, and aerial photography. The surveys observed a number of biotypes; *Laminaria hyperborea* and foliose red seaweeds on moderately exposed infralittoral rock, Kelp and seaweed communities on sublittoral sediment and a patch of *Laminaria saccharina* and red seaweeds on infralittoral sediments. In Scottish Terrestrial Waters these are classed as Priority Marine Features ("PMF") under 'Kelp beds' and 'Kelp and seaweed communities on sublittoral sediment'. Other benthic species were observed during the surveys that are not considered to be of conservation importance.

2.10 Potential impacts upon benthic species arising from the construction aspects of the Works are identified as occurring through habitat loss, physical disturbance by rock activities or spills; and the introduction of non-native marine species.

2.11 Permanent loss of intertidal benthic flora, fauna and habitat is expected within the footprint of land reclamation, new breakwater and slipway. 11,000 m² of the kelps and seaweed communities identified above are situated within the boundary of the Works. It is anticipated that 5% of this habitat could be subject to direct loss of habitat due to the construction of these features which will amount to approximately 2,000 m^2. As the loss of these biotopes is limited compared to the overall size of the colonies within the region together with the knowledge that rock armour could provide a new substrate to aid recolonization, the effects of the Works will not have a significant effect as a result of the direct loss of habitat.

2.12 The construction of the breakwater, slipway and reclaimed land area have the potential to cause physical disturbance to the seabed and resulting in the release of fine sand and sedimentation into the marine environment due to the placement of rock and infill materials. This may result in smothering or a reduction in available light, both of which may cause damage or loss to benthic

habitats where sedimentation exceeds natural levels. The seabed within the area of the Works was characterised by cobbles, pebbles and hard rock substrate with limited fine sand sediment and as such is expecting to disperse quickly where disturbed and not settle on an kelp or seaweed habitats. The magnitude of the impact upon the identified kelp receptors has therefore been assessed at low at a regional level and is considered to be potentially reversible over time. As such, it is expected to have a non-significant effect.

2.13 As noted in paragraph 2.7, there is the potential for the release of hazardous substances or litter into the marine environment, as well as the introduction of non-native marine specie which may cause an impact upon benthic receptors during both construction and operation. No marine non-native invasive species were noted as being present in the area during the surveys, therefore assuming the mitigation measures referred to in paragraph 2.7 are employed and best practice followed, the impacts of both the release of hazardous material and the introduction of non-native species are anticipated to be non-significant.

Fish Ecology

2.14 In order to assess the impact of the Works upon benthic ecology, the Applicant conducted a desk based review to identify species in the marine environment near the proposal. The review identified basking sharks and three diadromous fish species (Atlantic salmon, sea trout and European eel) as potentially being present in marine environment around the area of the Works. The Atlantic salmon and European eel species are considered to be of international importance whereas sea trout are considered to be of national importance. The Sea of the Hebrides Marine Protected Area ("MPA", designated for basking sharks), and Red Rocks and Longay urgent MPA (designated for flapper skate) are considered to have connectivity to the site, however the protected species in both areas are known to prefer deeper waters which means that they are unlikely to be within the immediate area of the Works. As such, no significant impacts were identified on either basking sharks or flapper skate. The literature review found that Atlantic salmon, sea trout, and European eel are likely to be present in coastal areas. The Applicant considered the two closest rivers; the River Stenscholl and the River Brogaig (1.1 km north west and 1.8 km north-west along the coastline of the proposal respectively), which are both known as spawning sites for salmon and sea trout. It is also possible that migrating diadromous fish will transit through and be present in the vicinity of the proposed construction works although the exact routes of returning salmon are unknown.

2.15 The Applicant identified that the construction activities associated with the new breakwater construction, could cause obstruction to migratory pathways. This is unlikely to obstruct adults of any of the diadromous fish species identified as being present, but may have negative effects on the presence and feeding capabilities of the juveniles of the species on the marine stage of their migratory path. However due to the topography of the coastline and as the breakwater construction is on an existing shallow rocky outcrop, it is unlikely to form the principal route for migratory fish. It is suggested that some post-

smolts may be diverted when travelling from the north, however this is not anticipated to affect a large number of smolts and will not cause a significant diversion in terms of expended energy to get back on route. As such, it is considered that the development will not add to any existing pressures or obstructions to the migration pathways of diadromous fish species. As such, the obstruction effect of the breakwater is considered to be non-significant for all diadromous species.

2.16 As noted above, in paragraph 2.7, there is the potential for the accidental release of hazardous substances or litter in the marine environment to cause an impact upon fish ecological receptors during both construction and operation. Therefore, assuming the mitigation measures referred to in paragraph 2.7 are employed and best practice followed, the risk of release of hazardous substances or litter into the marine environment will be significantly reduced or removed, rendering the effects of these impacts upon fish ecology to be non-significant during both construction and operation.

Marine Mammals

2.17 In order to assess the impact of the Works upon marine mammals, the Applicant undertook a desk-based review which identified relevant designated sites and features that have potential connectivity to the Works. The relevant designated sites in relation to the Works are; the Inner Hebrides & the Minches Special Area of Conservation ("SAC") designated for harbour porpoises and sitting within the footprint of the Works; the Ascrib, Isay, & Dunvegan SAC which is designated for common seals and located 28 km west of the Works; the Sea of the Hebrides MPA which is designated for minke whale and located 46 km southwest of the Works; the North East Lewis MPA which is designated for Risso's dolphin and located 52 km north of the Works; and the Monach Islands SAC which is designated for grey seals and is located 102 km west of the proposed Works. The study also identified cetaceans and pinnipeds that have known to be in the area of the Works. The following species were noted as having been sighted in the region of the Works: Harbour porpoise, white-beaked dolphin, Risso's dolphin, minke whale, killer whale, bottlenose dolphin, short beaked common dolphin, Atlantic white sided dolphin, humpback whale, common seal and grey seal.

2.18 The Applicant identified two potential impacts upon marine mammals arising from the construction aspects of the Works; impacts upon water quality and physical injury or disturbance. Similar impacts on water quality are anticipated during the operational aspects of the Works.

2.19 As noted above, in paragraph 2.7, there is the potential for the accidental release of hazardous material or litter in the marine environment to cause an impact upon marine mammal receptors during both construction and operation. Therefore, assuming the mitigation measures committed to in those paragraphs is employed and best practice followed, the risk of release of hazardous substances into the marine environment will be significantly reduced or removed, rendering the effects of these impacts upon marine mammals to be non-significant during both construction and operation. The

effects on the marine mammals as a result of litter into the marine during construction and operation are also considered non-significant in light of the mitigation outlined.

2.20 It is not considered likely that cetaceans would enter an area of the Works where they would risk physical injury or disturbance, nor is there are activity planned which would cause disturbance through underwater noise. There is a risk that pinnipeds may be present in areas of the Works where they could suffer physical injury or disturbance. However, pinnipeds are likely to be deterred from these areas by human and machine presence at the site of the Works and therefore the chance of physical injury is extremely low. While the risk of disturbance still exists which may displace seals, this is unlikely to have a noticeable effect on an individual or population level and therefore is considered non-significant. While no significant effects are anticipated, the Applicant has committed to having staff keep watch for seals during construction and halting works should pinnipeds come within 50 m of the Works taking place. Construction activities will only recommence once the animal spotted has moved more than 50 m away.

2.21 The Applicant assessed three offshore projects including Stornoway Deep Water Port, Lochmaddy Ferry Terminal and the Uig Ferry Terminal Development, as part of a cumulative assessment with regards to marine mammals. Due to large distances between the projects and the likelihood that potential impacts will be localised, there are no significant cumulative effects are anticipated.

Terrestrial Ecology

2.22 The Applicant considered potential effects on terrestrial ecology receptors including vegetation and habitats, otters and birds. However, much of this assessment relates to aspects of the Works that take place above MHWS and have been considered by the local authority during the terrestrial planning process. The exceptions to this are the impacts upon otters and birds as a result of the Works, and therefore only these receptors will be considered going forward.

2.23 In order to assess the impact of the Works on these receptors, the Applicant carried out site visits and surveys for each receptor. This included a number of surveys for raptors and breeding birds. There are no designated sites with connectivity to the site of the Works that are designated for any ornithological interests or otters. The data from the site visit showed that there was no definitive evidence the otters were using any part of site of the Works, however there were a number of areas that would be suitable for them to utilise. The bird surveys and site visits showed limited presence of raptors in the vicinity of the cliffs close to the site of the Works, and higher levels and varieties of breeding birds utilising the grasslands and coastlines near the Works.

2.24 Disturbance to a species can cause disruption to commuting and foraging patterns. It is considered likely that otters will pass through the site of the Works at some point and may be disturbed by the construction noise or

through visual disturbance. Should this result in displacement of the otter, it is considered that there is sufficient high quality habitat available nearby and the schedule of the Works allows for exploitation of the site out-with working hours. Given these factors, while disturbance or displacement is likely during the Works, the effects upon otters are considered to be non-significant. However, should an otter couch, layup, holt or natal holt are present and in use at the site of the Works during construction, the effects would be significant and an European Protected Species (EPS) Licence would be required from NatureScot. Disturbance to bird receptors in the area are possible during breeding season (March to September) however as the nests are unlikely to be within the site of the Works, the nests are unlikely to be disturbed and therefore the effect of this impact upon birds is considered to be non-significant.

2.25 The risk of species becoming injured or killed through interactions with machinery or plant have been assessed against both receptors. In the absence of mitigation, it is considered possible that this may occur in relation to otters and therefore the effect of this impact is considered to be significant as it may result in the death of an individual. It is noted that it is very unlikely that this could occur at a frequency to affect population levels however. Non-significant effects are anticipated in relation to the effects of this impact upon breeding bird species due to the nests being outside of the vicinity of the Works rendering the risk of injury occurring as unlikely.

2.26 To mitigate the significant effects identified, the Applicant will implement a Species Protection Plan which will include mitigation such as sensitive positioning of artificial lighting, capping pipes, providing escape ramps in open excavations, adhering to site speed limits and minimising the area and duration of disturbance sources. Pre-construction surveys will also determine the need for any additional licences required. The Applicant will also conduct ongoing bird nest checks throughout the breeding season (May-September inclusive) and establish exclusion zones around any nests discovered to reduce the impact on the birds. Provided mitigation measures are followed and the Species Protection Plan is implemented, the impacts associated with disturbance and physical harm to breeding birds and otters are deemed not to have significant effect. This mitigation has been secured by the Highland Council as part of the terrestrial planning consent.

Soils and Geology

2.27 A number of elements relating to the wider development at the Staffin Community Harbour will have an impact upon soil and ecology receptors. However both the elements that will impact upon the receptors, as well as the receptors themselves are outside of the marine environment. As such, there is not expected to be any impacts upon soil and ecology from the Works as described. A full assessment of the effects from the terrestrial works was undertaken by the Applicant. This was been considered by The Highland Council when granting planning permission and therefore no further consideration will be given to the impact upon air quality from the Works.

Palaeontology

2.28 The Applicant considered the dinosaur footprints at An Corran Beach, approximately 450 m from the existing slipway. The foreshore area west of the existing slipway is designated as a Geological Conservation Review ("GCR") area. The Applicant undertook a palaeontological assessment and a desk-based assessment to consider these sites and features.

2.29 During construction, construction around the existing slipway will result in direct physical impacts on the immediate area around the slipway through the covering of the surrounding bedrock. This is significant as the bedrock covered includes the Duntulm Formation, the rock layer which has produced fossil footprints and bones along other parts of the foreshore and in the GCR area. It was also noted that increased traffic and footfall could cause deterioration to these paleontological features during construction. While these impacts are unlikely to extend into the GCR area, the sensitivity of the receptor and magnitude of the impact is sufficient to consider these effects to be significant. Similar impacts in relation to increased traffic and footfall are anticipated to occur during the operation of the Works, however these effects were considered to be non-significant by themselves and may result in positive effect should a greater number of fossil be uncovered as a result of this impact.

2.30 To mitigate against the significant effect that could occur the Applicant has scheduled all works to explicitly not encroach upon the An Corran GCR area and to make employees aware of existing assets. Furthermore, there will be a visual search for any fossils or palaeontological assets that may be uncovered after the removal of boulders or prior to construction. If any new assets are discovered a designated person shall be notified and the arrangements for the fossil to be placed in a collection or sent for study will be made.

Landscape, Seascape and Visual

2.31 The Applicant assessed Landscape, Seascape and Visual with consideration to the Trotternish National Scenic Area ("NSA") and the Trotternish and Tianavaig Special Landscape Area ("SLA"). The Works and Borrow Pit lie within these designated sites respectively and both are categorised as Smooth Stepped Moorland.

2.32 The Applicant assessed this receptor by undertaking computer modelling, to produce zones of theoretical visual influence and key viewpoints. The assessment concluded significant effects at two viewpoints due to the storage of materials and construction activities.

2.33 The Applicant has taken the characteristics of the area into consideration with regards to the design, with use of natural materials of the infrastructure construction. The Applicant concluded that impacts are subjective and are likely to be influenced by viewer familiarity and use of the harbour, however

with consideration to the existing containers, the design of the new buildings could be more aesthetically pleasing.

2.34 The Applicant further concluded that the proposal is unlikely to impact significantly on landscape within the Stepped Smooth Moorland landscape character type. The Applicant predicted no adverse effect on the special qualities of the NSA or on its integrity and no adverse effect is predicted on the special qualities of the SLA or on its integrity.

In-Air Noise

2.35 A full assessment of the effects of the impact upon in-air noise from the Works has been undertaken by the applicant. However, the only impacts identified by the applicant relate to operations occurring within the Borrow Pit site and therefore are above MHWS. These have been considered by the local authority when granting planning permission and therefore no further consideration will be given to the impact upon in-air noise from the Works.

Traffic and Access

2.36 The Applicant assessed traffic and access in light of the construction materials and equipment that must be delivered on road to the site which will increase vehicle movement and traffic locally. The Applicant undertook a Traffic Impact Assessment, which considered users and nearby residents of the A855, the main access road into the harbour as well as the road used to transport material from the Borrow Pit. The assessment assessed severance; driver delay; pedestrian delay; pedestrian amenity; fear and intimidation; and accidents and safety.

2.37 The Applicant predicted peak traffic flows of up to 74 movements per day (37 trips in and 37 trips out). This includes 26 light vehicles and 48 Heavy Goods Vehicles (“HGV”. The assessment identified the existing road network from the Borrow Pit to the proposed The site of the Works has the capacity to accommodate the construction traffic, but due to a lack of inter-visibility between passing places on the single-track access road, which will lead to additional reversing and manoeuvers that may increase the risk of accidents occurring. The effect of the increased risk of collision on this road is assessed as being significant. No other significant impacts during construction or operation were identified.

2.38 In order to mitigate against the anticipated significant effect, The Applicant has identified a number of passing places and minor road improvements which can be added to the A855 and will be implemented prior to the commencement of construction. Further the Applicant has committed to producing a suitable Construction Traffic Management Plan to be agreed with Transport Scotland and The Highland Council ahead of the Works commencing. These measures, alongside adequate notification to the public that the Works are ongoing, will reduce the effect on the Works on Traffic and Access to non-significant levels. This mitigation has been secured by the Highland Council as part of the terrestrial planning consent.

Navigation

2.39 The existing slipway is owned and maintained by the Highland Council and there is no statutory harbour authority and no formal management of the facilities. The slipway is currently utilised by commercial fishermen, fish farm operators, non-commercial users and local visiting recreational users during summer months.

2.40 The Applicant has identified two impacts upon navigation arising from the construction aspects of the Works; increased risk of vessel collision and reduced access to the existing slipway.

2.41 During construction there are likely to be safety and small work boats and the construction related plant and equipment will be utilised in close proximity to the navigational route to the existing slipway, which is likely to increase the risk of collision. The Applicant assessed that no significant adverse effects were predicted due to light existing traffic in the area and regular use of the slipway only occurring during daylight hours when visibility is good.

2.42 During aspects of the Works that involve the existing slipway or areas adjacent to it, there is a need to limit the use of the slipway to the public. This will most strongly impact fish farming and commercial fisheries personnel who use the slipway to conduct their businesses and will be highly sensitive to disruption. While arrangements are possible with these receptors to allow them to use the slipway in the mornings and evenings so as not to disrupt the work, the methodology of the EIA Report does not take into account possible agreements or arrangements with third parties as mitigation. As such, the effect of this impact is considered to be significant due to the noticeable deterioration in access during the construction period.

2.43 In relation to the operational aspects of the Works, the Applicant has committed to a series of aids to navigation which will reduce the risk of vessels running aground and provide a significant benefit to those sea users not accustomed to the area. The implementation of new safe berthing at the pontoons and improved launching and hauling of boats are similarly anticipated to have a beneficial impact on the safety of navigation ranging from non-significant to significant, with the variance depending on the type of sea user. The new breakwater and increased vessel traffic anticipated upon completion of the harbour also carry an increased risk of collision and therefore potential negative impacts upon navigational risk, however it is presumed that any collision that occurs from these will not be significant.

2.44 While there will be no significant negative effects upon navigation, the Applicant has proposed mitigation during construction to mitigate the risk of vessel collision in the form of employing a local liaison officer for the site, appropriate lighting and marking around the site, local notifications ahead of restriction of use of the slipway and setting aside times for non-commercial users to use the slipway. For the operational phase of the Works, the Applicant has committed to creating and implementing a Marine Safety

Management Plan, continuing to use adequate lighting and marking around the site and advertising the new facilities to regional sea-users.

Coastal Processes and Sediment Transport

2.45 The Applicant considered coastal processes as the Works are directly connected to the Atlantic ocean and are subject to tidal and wave regimes. The Applicant undertook hydraulic modelling to help design the development of the breakwater, to ensure it is effective in providing an appropriate wave climate at the pontoons and slipway. The Applicant concluded that the construction of the breakwater will not give rise to significant effects on coastal processes due to the lack of expected change in wave conditions and currents speeds in the Staffin area despite a reduction in wave height in the harbour area.

2.46 The Applicant assessed the wave climate and seabed materials, and concluded that the location of the breakwater will slightly alter the flow of currents just to the north of the proposed breakwater, which will change sediment transport in this isolated area but will unlikely affect the coastline. The change is unlikely to be noticeable and there will be no significant effects on sediment transport within the Staffin area.

3. Consultation

3.1 In accordance with the 2017 MW Regulations advertisement of the marine licence application and EIA Report was made in the local and national press and 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 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	05 October 2020	16 December 2021 – 27 January 2022	Marine Scotland Information website (23 November 2021) Staffin Community Trust website (14 December 2021) Edinburgh Gazette (17 December 2021)
Marine licence application & supporting documentation			

			West Highland Free Press (24 December 2021)

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

4. Summary of statutory consultee responses

4.1 Historic Environment Scotland ("HES") responded on 7 February 2022 stating that the proposal is not likely to have a significant impact on marine archaeological assets providing the proposed archaeological mitigation is implemented. HES also welcomed the intention to implement suitable measures for unexpected discoveries in the form of a PAD. HES recommended that submission and approval of the PAD prior to works commencing be included as a condition in any marine licence granted.

4.2 NatureScot, operating name of Scottish Natural Heritage, responded on 24 February 2022, and then provided a further response on 18th May 2022. In its response dated 24 February 2022, NatureScot provided advice in relation to all designated sites affected by the Works as well as advice in relation to PMFs.

4.3 NatureScot stated that the Works were unlikely to have a significant effect on the Inner Hebrides and the Minches SAC and the harbour porpoise qualifying interest it is designated for. This is due to no construction activities taking place that will generate significant levels of underwater noise. It was further noted that the location of the Works is unlikely to be an important feeding area for harbour porpoise. NatureScot are content with the Applicant's commitment to best practice mitigation detailed in the EIA Report in relation to spills and other marine pollution which will help protect marine mammals.

4.4 NatureScot also concluded that the Works were unlikely to have a significant effect on the Ascrib, Isay and Dunvegan SAC designated for its grey and common seal qualifying interests which is 29 km away Based on the assumption that good practice will be implemented throughout the Works NatureScot advised the Works would result in only the minor displacement of small numbers of seals in the immediate vicinity. In respect of the Shiant Isles Special Protection Area located 25 km away from the Works, NatureScot concluded that there would be unlikely significant effect directly or indirectly on the breeding seabird qualifying interest.

4.5 As the Works lies within Trotternish NSA, NatureScot considered the landscape character, visual impacts and effect on the special qualities from the Work. NatureScot concluded that the Works will not have an adverse effect on the site integrity of the NSA or the objectives of its designation. NatureScot came to this conclusion provided the mitigation outlined in the EIA Report was followed.

4.6 NatureScot noted that the Applicant's surveys showed that most of the subtidal area where the Works are to take place are mapped as 'Kelp Beds' or 'Kelp and Seaweed Communities on Sub-littoral sediment'. NatureScot notes that these PMFs are sensitive to substratum loss, changes in water flow or wave exposure. NatureScot advised that there would be direct loss of habitat as a result of aspects of the Works as well as additional loss in the harbour area due to wave exposure. However, NatureScot advised that partial recolonisation of the affected areas is possible and that the adverse impacts will be localised. Given this, NatureScot concluded that given the widespread nature of these types of PMFs in the local area and the region, the impacts will not be significant nor will they result in a significant impact upon the national status of either PMF.

4.7 The Works are directly adjacent to An Corran GCR and the Skye Nature Conservation Order area which are of national and international importance for dinosaur footprints; vertebrate fossils and the Jurassic sedimentary rock strata. NatureScot stated there was insufficient detail provided on the construction process and working methods to provide a conclusive assessment on whether there is a likely significant effect and subsequently whether such risk could be adequately mitigated.

4.8 NatureScot advised that scientific study of the GCR could be hindered if lighter fractions of the rockfill material from the breakwater were to be transported by storm waves into the GCR site during construction. NatureScot considered there to be insufficient detail on the construction process and working methods to establish whether a significant adverse effect is likely and whether such risks can be adequately mitigated. To address this, NatureScot recommended the submission of a brief assessment, either prior to determination or as part of conditions. In follow up advice, NatureScot confirmed this is unlikely to be a fundamental issue, on the basis that, even in a worst case scenario an appropriate breakwater construction method would adequately mitigate the risks highlighted.

4.9 NatureScot also considered the likelihood of sand deposition within the GCR site once the breakwater is completed. NatureScot advised that the EIR report appeared to underestimate potential natural sand deposition resulting from the new breakwater, due to limitations in the wave modelling, the analysis of littoral current modelling, and assertions about sediment availability. NatureScot confirmed however, that by itself, the degree of potential sand deposition is unlikely to amount to a significant adverse impact on the GCR site; as the sand would not prevent scientific access and because the area potentially affected is unlikely to include the area with the dinosaur footprints. Supporting the mitigation proposed in the EIA report, NatureScot recommended that a specialist palaeontologist should have a geological watching brief during construction.

4.10 Scottish Environment Protection Agency ("SEPA") did not provide a formal response to consultation, however the SEPA Standing Advice for the

Department of Business, Energy and Industrial Strategy and Marine Scotland on Marine Consultation was been considered during determination. The standing advice relevant to the Works does not raise any significant environmental concerns providing best practice measures are followed.

4.11 The Highland Council, in its response dated 10 March 2022, advised that the Works were consistent with those approved under the approved planning application and they had no further comment to make.

5. Summary of non-statutory consultee responses

5.1 Scottish Water responded on 20 December 2021 stating it has no objections to the Works. They advised that no Scottish Water drinking water catchments or water abstraction sources, in the area. Scottish Water also stated that they will not accept any surface water connections into its combined sewer system apart from possible limited exceptional circumstances. The Applicant should contact Scottish Water at the earliest opportunity if this is anticipated.

5.2 Royal Yacht Association Scotland responded on 20 December 2021 stating that it has no objections to the Works.

5.3 Defence Infrastructure Organisation responded on 06 January 2021 stating that it, on behalf of the Ministry of Defence, has no objection to the Works occurring.

5.4 UK Chamber of Shipping responded on 27 January 2022 stating that they did not have any comments on the Works.

5.5 The Skye District Salmon Fisheries Board responded on 27 January 2022, stating they were no longer operating and no comment was provided.

5.6 Staffin Community Council responded on 27 January 2022, confirming full support for the proposals. In particular they stated that the Works, and the supporting improvements to the local infrastructure will add great value to the area of North East Skye.

5.7 Northern Lighthouse Board ("NLB") responded on 19 January 2022 stating no objections to the Works. NLB went on to make a number of recommendations. Firstly, NLB recommended marking and lighting requirements for the new breakwater and entrance channel to the harbour stating that the applicant would need to seek the statutory sanction of the NLB prior to any aids to navigation being installed. NLB also recommended that a Notice to Mariners was issued ahead of the Works commencing and that the UK Hydrographic Office was provided with as built plans upon completion of the construction aspects of the Works in order for charts and publications to be updated with details of the redeveloped harbour.

5.8 Marine and Coastguard Agency ("MCA"), in its response on 04 February, and then provided a further response on 14 September 2022. In its responses, MCA welcomed the navigation impacts being scoped in to the EIA

assessment, and noted that as the harbour development is likely to attract more boats, especially visiting vessels, there is an increased risk of grounding due to skippers being unfamiliar with the shallow nature of the water. The MCA would expect the Applicant to address the impact of the Works on the safety of navigation and recommend this is carried out in a Navigation Risk Assessment to support the Marine Safety Management Plan committed to. The MCA confirmed that they had no objections to a licence being granted if the requirement for a navigational risk assessment is included in the marine licence alongside a set of standard conditions and adherence to all maritime safety legislation.

5.9 MCA recommend that the applicant should consider discussion with Transport Scotland for an appropriate Harbour Empowerment Order ("HEO"), to provide the necessary powers to manage the harbour to ensure the safe ongoing operation of the site. MCA state that establishing an HEO legally establishes the role of a harbourmaster who would be responsible for the safety of navigation at the site, the control of vessel movements, responding to pollution events and other emergencies, and maintaining navigational aids. MCA also advise that non-statutory harbours should be guided by compliance with the Port Marine Safety Code and without the statutory power there would be no clear accountability for overseeing the navigational safety at the site.

6. Advice from 3rd Parties

6.1 Marine Scotland Science ("MSS") provided advice on 9 March 2022 which provided advice on marine mammals, diadromous fish, marine fish ecology, commercial fisheries, benthic ecology, physical environment/coastal processes.

6.2 In relation to marine mammals, diadromous fish, commercial fisheries and physical environment/coastal processes, MSS stated that they did not have any concerns in regards to any impacts upon these receptors and agreed with the assessments and mitigation provided for them in the EIA Report. In regards to benthic ecology, MSS stated that they concurred with the advice provided by NatureScot in their initial response, which is summarised above in paragraphs 4.2 – 4.9.

6.3 MSS noted that in relation to marine fish ecology, that beyond diadromous fish species, flapper skate and basking sharks, no other marine fish species were considered in the EIA Report. MSS considered that consideration of these species in the EIA Report would have been appropriate given that they were not scoped out in a formal scoping process, but concluded that the Works were unlikely to have a significant effect on any marine fish species due to the scale and duration of construction activities.

6.4 Transport Scotland provided advice on 24 January 2022 stating that they are satisfied with the approach taken by the applicant in the EIA Report as noted that the increased number of HGV movements during both the construction and operational phases of the Works do not require further detailed assessment of the environmental effects associated with the increased traffic.

This advice is provided on the assumption that there is no requirement for abnormal load deliveries as there is no mention of those in the EIA Report. On this basis, Transport Scotland stated it is satisfied with the EIA Report submitted and therefore has no objections to the Works.

7. Representations from other organisations and members of the public

7.1 A local resident responded on 29 December 2021, objecting to the Works. They raised concerns related to the increase in road traffic and possible impact on safety of local residents and visitors.

7.2 The Scottish Ministers note that following submission of a planning application supported by a transport assessment, The Highland Council granted consent for road improvements on 30 November 2021.

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 National Marine Plan ("NMP"); and

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

    - Water Quality;
    - Palaeontology; and
    - Landscape and Visual

Policy Context

8.2 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.

Environmental Matters

8.3 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.

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

Water Quality

8.5 The effects of a potential spill of hazardous substances into the marine environment during either construction or operation of the harbour are considered significant in relation the direct effect on the quality of the water and various receptors in the water around the immediate spill area. The Applicant has proposed mitigation measures in relation to this risk which aim to reduce the risk of such an event occurring as far as possible. The mitigation measures can be found under section 17.6 of the EIA Report and are captured within the Applicant's Schedule of Mitigation within section 19 of the same report. NatureScot and MSS have confirmed that the measures are sufficient to reduce the risk of such an event occurring. As such, the Scottish Ministers are content that these receptors will not be significantly impacted during construction or operation of the Works provided that adherence to the measures in the Schedule of Mitigation are secured any Marine Licence issued.

Palaeontology

8.6 Potentially significant adverse impacts have been identified within the EIA Report by NatureScot at consultation. In relation to those raised in the EIA report, it has been confirmed by NatureScot that the An Corran GCR will not suffer a significant adverse impact upon its site integrity in relation to those impacts identified in the EIA Report provided that the mitigation suggested by the applicant in section 12.6 of the EIA Report are adhered to. The mitigation outlined in that section is captured in the Applicant's Schedule of Mitigation as outlined in section 19 of the EIA Report and therefore compliance with that Schedule of Mitigation will be secured as a licence condition.

8.7 NatureScot also raised an additional impact that was not covered by the Applicant in the EIA Report relating to the risk of infill material from the breakwater being forcibly moved by storm waves onto the dinosaur footprints of the An Corran GCR which could hinder scientific study of the feature. While a full assessment of this impact has not been provided, NatureScot stated that this is not a fundamental issue and can be dealt with through the conditions applied to a marine licence. As such, it is the opinion of the Scottish Ministers that as long as measures are included within the Applicant's CEMD that outlines how the breakwater can be built without the risk of any washout occurring and implements provisions for a satisfactory geological watching brief, this would be an acceptable resolution to this issue. The CEMD will require regulatory approval by the Scottish Ministers and NatureScot will be

consulted as part of that process which will ensure that any mitigation outlined is appropriate and effective.

Landscape and Visual

8.8 Impacts upon landscape and visual receptors have been assessed in the Applicant's EIA Report as resulting in significant effects on two viewpoints from designated monuments. Impacts upon landscape and visual receptors are considered to be unavoidable given the scale of the Works. However, the Scottish Ministers are satisfied that the design of the Works and the mitigation proposed by the Applicant in their EIA Report and summarised in section 13.5 of the EIA Report, have reduced the impact upon these receptors as far as practicable. This concurs with the advice provided by NatureScot at consultation who conclude that this mitigation is sufficient to avoid significant adverse impact upon the designated Trotternish NSA. The mitigation outlined in section 13.5 is captured in the Applicant's Schedule of Mitigation as outlined in section 19 of the EIA Report and therefore compliance with that Schedule of Mitigation will be secured as a 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 water quality, palaeontology, and landscape & visual.

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. An EPS licence may need to be obtained from NatureScot for disturbance to otters. However, the Scottish Ministers have no concerns that a licence would not be granted based on the information provided in the EIA report.

9.5 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 the mitigation measures outlined the Schedule of Mitigation in the Applicant's EIA Report and the submission of an appropriate CEMD including a PAD,

navigational risk assessment, Marine Safety Management Plan and mitigation to be implemented relating to securing breakwater infill material during construction.

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

9.7 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 Staffin Harbour development. The marine licences are attached at Appendix 2.

9.8 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. The Applicant must provide copies of the public notices to the Scottish Ministers.

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

9.10 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.

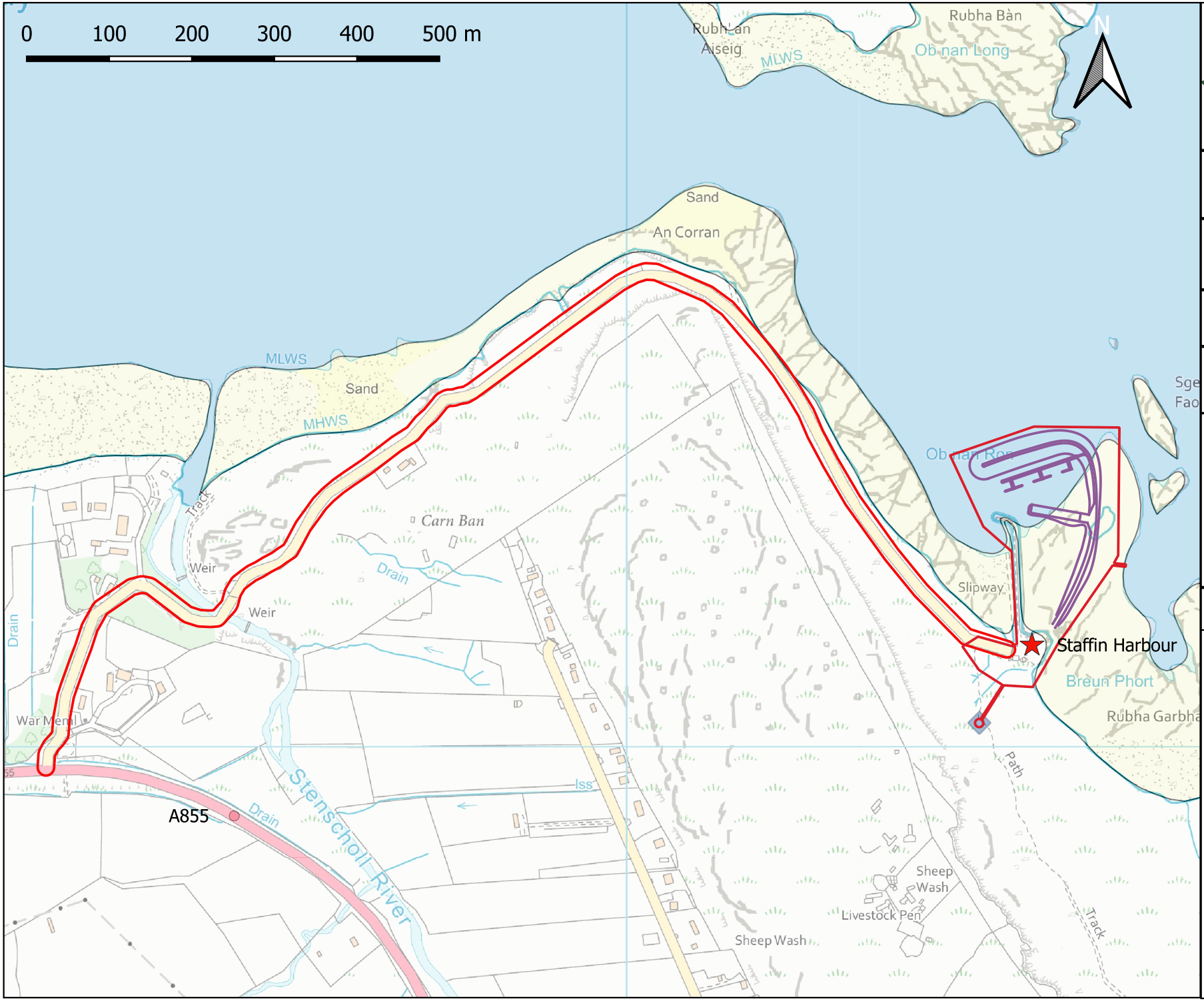
Yours sincerely,

Anni Mäkelä

Marine Licensing Group Leader, Marine Scotland - Licensing Operations Team

A member of the staff of the Scottish Ministers

Appendix 1 – Site of the Works



Affric
making it happen

Registered Office:
Lochview Office, Loch Duntelchaig
Farr, Inverness, IV2 6AW

Telephone: 01808 521 498
Email: info@affriclimited.co.uk
www.affriclimited.co.uk

Title: 73.04.01 Project Development Boundary

Projection: OSGB 1936/British National Grid EPSG: 27700

Page 1	Rev No: 1	Drawing Date: 08/09/2021

Legend

- Staffin Harbour
- Development Boundary
- Proposed Harbour Development
- Minor Road
- A855 Road

Appendix 2 – Marine Licence

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: **MS-00009582**

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

Staffin Community Trust
Church of Scotland
Staffin, Isle of Skye
IV51 9JX

to construct, alter or improve works as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid from **01 June, 2023** until **31 May, 2026**

Signed: ……..
Anni Mäkelä

For and on behalf of the Licensing Authority

Date of issue: 06 October, 2022

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are as defined in Section 1, 64 and 157 of the Marine Scotland Act 2010, and
a) **"the 2010 Act"** means the Marine (Scotland) Act 2010;
b) **"Licensed Activity"** means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
c) **"Licensee"** means Staffin Community Trust
d) **"Mean high water springs"** means any area submerged at mean high water spring tide;
e) **"Commencement of the Licensed Activity"** means the date on which the first vehicle or vessel arrives on the site to begin carrying on any activities in connection with the Licensed Activity;
f) **"Completion of the Licensed Activity"** means the date on which the Licensed Activity has been installed in full, or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

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

Marine Scotland
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.Marinelicensing@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the licensed activity. The issuing of the licence does not absolve the Licensee from obtaining such other authorisations and consents, which may be required under statute.

1.4 Variation, suspension, revocation and transfer

Under section 30 (1) of the 2010 Act the Licensing Authority may by notice vary, suspend or revoke the licence granted by them if it appears to the Licensing Authority that there has been a breach of any of its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act. Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the Act.
Under section 30 (7) of the 2010 Act, on an application made by a licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.
Under section 30 (8) of the 2010 Act, on an application made by the licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 Act it is an offence to carry on a Licensable Marine Activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6 Defences: actions taken in an emergency

Under section 40 of the 2010 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act in relation to any activity to prove that –
the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure (‘force majeure'), and
that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act.

1.7 Offences relating to information

Under section 42 of the 2010 Act it is an offence for a person to make a statement which is false or misleading in a material way, knowing the statement to be false or misleading or being reckless as to whether the statement is false or misleading, or to intentionally fail to disclose any material information for the purpose of procuring the issue, variation or transfer of a marine licence or for the purpose of complying with, or purporting to comply with, any obligation imposed by either Part 4 of the 2010 Act or the provisions of this licence.

1.8 Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Agent

Affric Limited
Lochview Office
Loch Duntelchaig
Farr
IV2 6AW

2.2 Location of the Licensed Activity

Staffin Harbour, Isle of Skye, within the boundary found by joining the points:

57° 38.002’ N 006° 11.923’ W
57° 38.049’ N 006° 11.934’ W
57° 38.063’ N 006° 11.976’ W
57° 38.119’ N 006° 12.024’ W
57° 38.142’ N 006° 11.922’ W
57° 38.144’ N 006° 11.814’ W
57° 38.051’ N 006° 11.805’ W
57° 38.046’ N 006° 11.809’ W
57° 38.046’ N 006° 11.795’ W
57° 38.044’ N 006° 11.795’ W
57° 38.045’ N 006° 11.811’ W
57° 37.976’ N 006° 11.873’ W
57° 37.964’ N 006° 11.897’ W

2.3 Description of the Licensed Activity

Construction activities associated with a harbour redevelopment consisting of:

• Land reclamation and extension of existing hardstanding area;
• Deconstruction and removal of an existing breakwater;
• Construction of a new breakwater;
• Construction of new slipway and modification of an existing slipway;
• Construction of pontoons;
• Construction of outfall pipeline

As described in the application dated 04 October, 2021 and correspondence submitted in support of the application.

2.4 Descriptions of the materials to be used during the Licensed Activity

The licence authorises the use of the undernoted construction materials required in connection with the licensed activity, subject to the indicative amounts as specified below:

Materials to be used in the course of the Licensed Activity:

• Steel/Iron - 150 tonnes
• Timber - 15 tonnes
• Concrete - 900 tonnes
• Plastic/Synthetic - 30 tonnes
• Sand - 1000 tonnes
• Gravel - 2200 tonnes
• Cobbles - 40000 tonnes
• Boulders - 40000 tonnes
• Tarmac - 150 cubic metres
• Rubber - 10 tonnes

Materials to be removed in the course of the Licensed Activity:

• Steel/Iron - 20 tonnes
• Concrete - 100 tonnes
• Sand - 450 tonnes
• Gravel - 1000 tonnes
• Cobbles - 8000 tonnes
• Boulders - 17500 tonnes

Materials to be used to construct temporary structures to support undertaking the Licensed Activity:

• Timber - 10 tonnes
• Plastic/Synthetic - 4 tonnes

2.5 Contractor and Vessel Details

As per Annex Two

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only construct the works in accordance with the licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.2 The Licensee must maintain the works in accordance with the licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.3 All conditions attached to the licence bind any person who for the time being owns, occupies or enjoys any use of the works, whether or not the licence has been transferred to that person.

3.1.4 Only the materials listed in Part 2 of the licence may be used during the execution of the Licensed Activity.

3.1.5 All materials, substances and objects used during the execution of the Licensed Activity must be inert and must not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.6 The Licensee must ensure that the Licensed Activity does not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area as described in Part 2 of the Licence.

3.1.7 In the event of any breach of health and safety or environmental obligations relating to the Licensed Activity during the period of the licence, the Licensee must provide written notification of the nature and timing of the incident to the Licensing Authority within 24 hours of the incident occurring. Confirmation of remedial measures taken and/or to be taken to rectify the breach must be provided, in writing, to the Licensing Authority within a period of time to be agreed by the Licensing Authority.

3.1.8 The Licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 484444) of the progress and upon completion of the the Licensed Activity. Such notification must include a copy of the licence, and wherever possible, 'as built plans', along with details of the unlit buoys, unlit lateral pole and revised water depths in order that all necessary amendments to nautical publications are made.

3.1.9 Details of any marks or lights not required by the licence must be submitted to the Northern Lighthouse Board and its ruling complied with. The display of unauthorised marks or lights is prohibited.

3.1.10 The Licensee must remove the materials, substances or objects from below the level of Mean High Water Springs, or make such alterations as advised by the Licensing Authority, within one month of notice being given by the Licensing Authority at any time it is considered necessary or advisable for the safety of navigation, and not replaced without further approval by the Licensing Authority. The Licensee shall be liable for any expense incurred.

3.1.11 Where any damage, destruction or decay is caused to the works, the Licensee must notify the Licensing Authority, Maritime and Coastguard Agency, Northern Lighthouse Board, Kingfisher Information Services of Seafish and the UK Hydrographic Officer, in writing, of such damage, destruction or decay as soon as reasonably practicable but no later than 24 hour after becoming aware of any such damage, destruction or decay.

3.1.13 If governmental assistance is required (including UK governmental assistance or the assistance of any UK devolved government) to deal with any emergency arising from:

a) the failure to mark and light the works as required by the licence;

b) the maintenance of the works; or

c) the drifting or wreck of the works, to include the broadcast of navigational warnings

then the Licensee is liable for any expenses incurred in securing such assistance.

3.1.14 The Licensee must ensure that the works are maintained at all times in good repair.

3.1.15 The Licensee must ensure that the Licensed Activity is only carried out at the location of the Licensed Activity specified in Part 2 of the licence.

3.1.16. The Licensee must ensure that the Licensed Activity is carried out in accordance with the mitigation measures outlined in Chapter 19: Schedule of Mitigation of the Staffin Community Harbour Development - Environmental Impact Assessment Report, Volume 2: Main Assessment submitted to the Licensing Authority dated 30 September 2021, subject to the modifications outlined in this Licence.

3.1.17. The Licensee must complete a statutory sanction application prior to the installation or discontinuation of any Aids to Navigation. Applications must be made to the Northern Lighthouse Board via navigation@nlb.org.uk.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must notify the Licensing Authority in writing of the name and address of any agent, contractor or sub-contractor not already listed in Part 2 of the licence being used to carry out any Licensed Activity listed in Part 2 of the licence. Such notification must be received by the licensing authority as soon as reasonably practicable, and in any case no less than 24 hours, prior to the commencement of the Licensed Activity.

3.2.2. The Licensee must, prior to and no less than seven calendar days before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the date of Commencement of the Licensed Activity authorised under this licence.

3.2.3 The Licensee must issue local notification to marine users – including fisherman's organisations, neighbouring port authorities and other local stakeholders – at least 5 days Prior to Commencement of the Licensed Activity to ensure that they are made fully aware of the Licensed Activity. A copy of the notification must be provided to the Northern Lighthouse Board via navigation@nlb.org.uk.

3.2.4 The Licensee must notify the Maritime and Coastguard Agency (Zone36@hmcg.gov.uk) prior to commencement of any Licensed Activity.

3.2.5 The Licensee must notify the local MCA Marine Office (glasgowmo@mcga.gov.uk) at least five days prior to the commencement of of any Licensed Activity.

3.2.6. The Licensee must ensure that the Licensed Activity is carried out in accordance with a Construction Environmental Management Document ("CEMD") which the Licensee must submit, in writing, to the Licensing Authority for its written approval, no later than two months prior to the Licensed Activity or at such a time as agreed with the Licensing Authority. It is not permissible for the Licensed Activity 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 CEMD, the Licensee must submit, in writing, details of proposed updates or amendments to the Licensing Authority for its written approval, no later than one month 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 Activity associated with the proposed updates or amendments to proceed prior to the granting of such approvals. The CEMD must include;

- a protocol for archaeological discoveries;
- a marine safety management plan;
- a navigational risk assessment considering the impact of increased vessel presence and movements on sea users during construction and operation of the Licensed Activity. The navigational risk assessment must feed into and support the marine safety management plan;
- a protocol for the implementation of a watching brief and fossil survey to be carried out by a specialist palaeontologist prior to the works commencing; and,
- a plan outlining the measures taken to prevent oil spills and contingencies for such an event if it should occur. The Applicant must contact the local HM Coastguard Counter Pollution and Salvage officer to discuss the oil spill contingency plan and the impact of the completed works on oil spill risk and pollution mitigation measures in the local area prior to submission to the Licensing Authority.
- Construction methodology including the measures to be taken to ensure that the breakwater can be built without the risk of any washout occurring.

3.2.7. The Licensee must mark the entrance channel from Staffin Bay with three port and three starboard unlit lateral buoys and have the associated shape and/ or topmark fitted to each buoy.

3.2.8. The Licensee must install an unlit port lateral pole with can shaped topmark at the end of the breakwater, at least 2 metres above the surface of the breakwater.

3.2.9. 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) before commencement of the works. The information supplied must include the start date and end date, a description of the works, positions of the work area (WGS84), and details of any marking arrangements.

3.3 During the Licensed Activity

3.3.1 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the Licensed Activity.

3.3.2 The Licensee must ensure that any debris or waste materials arising during the course of the Licensed Activity are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.3.3 The Licensee shall ensure that prior to the expiry of the licence, the works must be altered by taking all temporary structures to a place above Mean High Water Springs

3.3.4 The Licensee must ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:

a) the premises of the Licensee;

b) the premises of any agent acting on behalf of the Licensee; and

c) the site of the Licensed Activity.

3.3.5 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed to undertake the Licensed Activity.

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

3.3.8 The Licensee must ensure appropriate steps are taken to minimise damage to the foreshore or seabed by the Licensed Activity.

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

3.4 Upon Completion of the Licensed Activity

3.4.1 The Licensee must submit a written report regarding the materials used during the works to the Licensing Authority. The written report must be submitted on completion of the works and on the forms provided by the Licensing Authority no later than 31 October 2027.

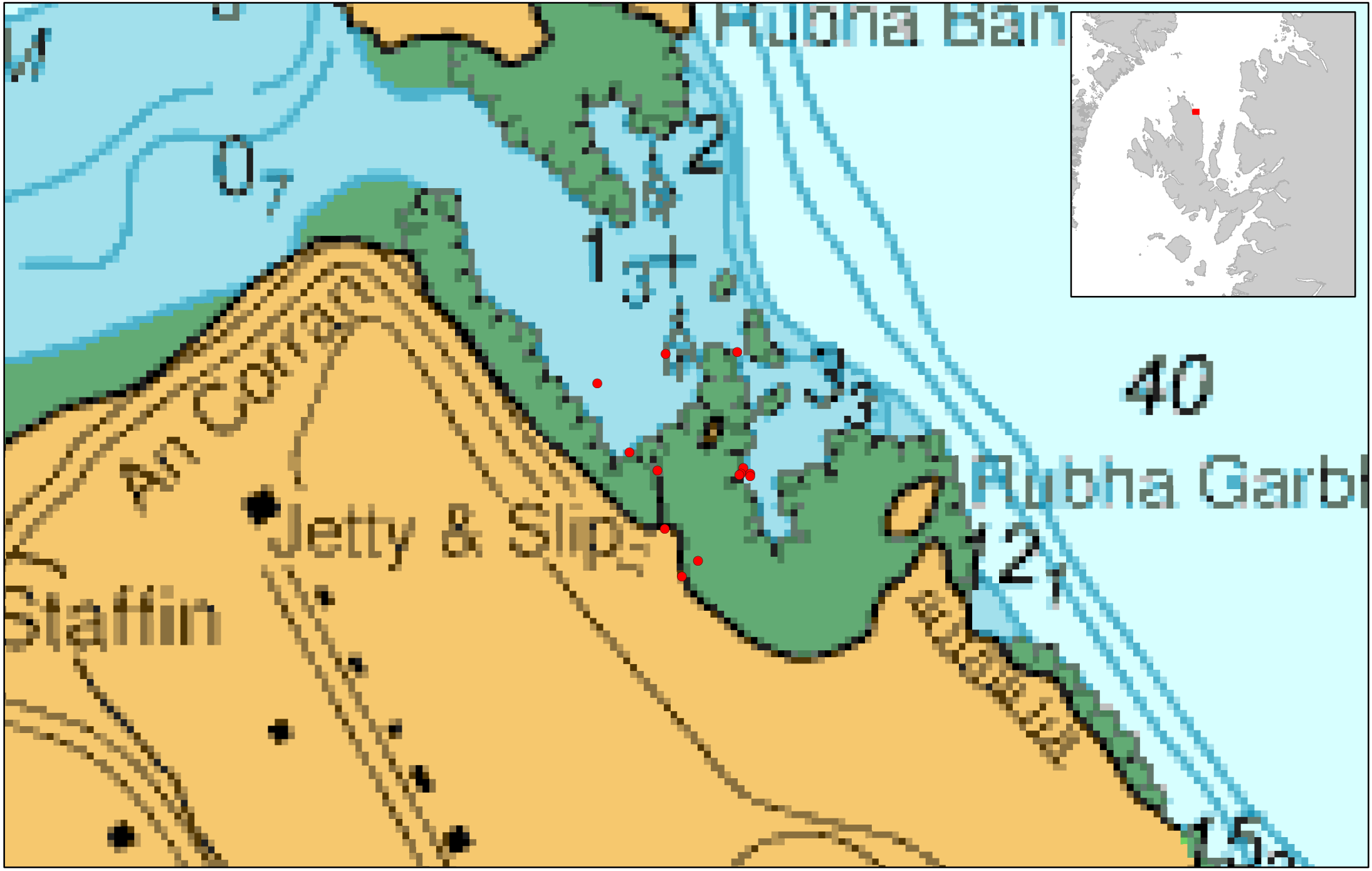
3.4.2 The Licensee must ensure the foreshore and seabed are returned to the original profile, or as close as reasonably practicable, following the completion of the Licensed Activity.

3.4.2. The Licensee must, no later than 14 days following the Completion of the Licensed Activity notify the Licensing Authority, in writing, of the date of the Completion of the Licensed Activity.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed activity. The issue of the licence does not absolve the licensee from obtaining such authorisations, consents etc which may be required under any other legislation.
2. In the event that the licensee wishes any of the particulars set down in the Schedule to be altered, the licensing authority must be immediately notified of the alterations. It should be noted that changes can invalidate a licence, and that an application for a new licence may be necessary.

ANNEX ONE to licence MS-00009582
Chart showing the location of Licensed Activity



ANNEX TWO

Contractors authorised to be used for construction works under authority of the following marine licence.

Licence Number:	Expiry Date:
MS-00009582	20 September 2027

Contractors and sub-contractors:

TBC

The agent or licensee must notify the licensing authority as soon as reasonably practical if a contractor not listed on the Annex Two is to be used for any construction works.

Signed:

_____

Thomas Inglis

For and on behalf of the licensing authority

Date: 21 September 2022