



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 remove original Linkspan and infrastructure and construct a new two tier Linkspan
Victoria Terminal Two, Belfast Harbour**

Licence Number: ML 16_17

Part 1 - Particulars

1. Licensee(s) Name & Address:

Belfast Harbour Commissioners
Harbour Office, Corporation Square,
Belfast BT1 3AL

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

Graham
5 Ballygowan Road
Hillsborough
BT26 6HX

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

Licence to remove and construct a new berthing facility in Victoria Terminal Two, to facilitate the new RoRo ferry. The construction works will include as follows:

- Removal of existing VT2 linkspan by either crane located landside or by floating plant.

- Demolishment of reinforced concrete deck structures of existing lifting dolphins bankseat and berthing dolphins
- Potential removal of existing pile structures
- Construction of a rock armouring scour protection mattress (including deposit of rock armouring)
- Installation of new berthing and mooring dolphins, comprised of a multi-pile group with a reinforced concrete deck, installed from cranes on floating decks.
- Construction of two lifting dolphins with reinforced concrete deck
- Construction of dolphin Linkspan and associated infrastucture

4. Location of works:

Irish Grid Reference:

Easting	Northing
336466	377632
336610	377849
336582	377883
336528	377873
336507	377882
336248	377663
366275	377632
336311	377628
336355	377667
336390	377663
336390	377650

5. Valid:

From: 11TH March 2019
Until: 10th March 2020

PART 2: CONDITIONS

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

Licence Condition(s):

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

ACTION BEING TAKEN

1. All conditions of this licence bind any persons whom, for the time being, owns, occupies or enjoys any use of the works for which this licence has been granted, in relation to those licensed activities authorized under section 66 of the 2009 Act, whether or not the licence has been transferred to that person.
2. The Licensee(s) must receive written authorization from the licensing authority to assign or transfer the consent. The licensing authority must confirm in writing to both the original Licensee(s) and any proposed new Licensee(s) that the licence has been transferred/assigned before any works may commence under the new Licensee(s).
3. The licensee(s) shall inform the licensing authority of the finishing date of the licensed work within 28 days of completion.
4. The licensee(s) shall not carry out any licensable activity other than that detailed in the Marine Licence application form received by the licensing authority, dated 9 July 2018 and subsequent revised supporting application maps on 2nd November 2018. The licensee(s) shall contact the Department if it is proposed to vary the materials or methods to be used from those described in the documentation supplied in connection with the Marine Licence application.
5. The licensee(s) shall ensure that a copy of this licence is given to each contractor appointed to carry out part or all of the works. The extent of the works for which the licence has been given and the conditions that are attached to the licence should be made clear to the contractors.
6. The licensee(s) shall, 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.
7. 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)

Navigational Safety

8. The licensee(s) must notify The Source Data Receipt team, UK Hydrographic Office, Taunton. Somerset, TA1 2DN (Email: hdr@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. This office must be copied into all notifications.
9. A Notice to Mariners must be issued in appropriate and timely manner before works begin and should include details of the works, including any vessels involved and their radio frequencies. This should also be issued to local leisure organisations.
10. Any jack up barges/vessels used during the works, when jacked up, should exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.
11. The licensee must ensure that HM Coastguard, in this case hdrcontroller@hmcg.gov.uk, The National Maritime Operations Centre, is made aware of the works prior to commencement.

Environmental Management

12. The licensee(s) must provide a final Construction Method Statement (CMS) including a final Construction Environmental Management Plan (CEMP) to the licensing authority, before any works begin below the Mean High Water Spring Tide. This should be provided at least 28 days in advance of works taking place.
13. In granting approval for the CMS and the CEMP, the licensing authority may consult any such other advisors, stakeholders or organisations as may be required.
14. The CEMP should include the following:
 - Waste storage and disposal, in particular control methods for the prevention of pollution and details of an 'Oil Spill Contingency Plan' (specifically the measures listed in Section 2.2 and Table 3.1 of the HRA Screening report.
 - Odour and noise control
 - Noise management plan (separate to mitigation for impacts of noise on marine mammals).
 - Details of any environmental monitoring or management to be put in place, for example, Environmental Monitoring Officer roles and responsibilities and protection of wildlife habitat.
15. All operations should be carried out in accordance with the CMS and the CEMP. Any proposal to vary from the methods and mitigation plans set out in the CMS and CEMP, must be sent to the licensing authority for written approval, prior to the commencement of any changes.
16. The licensee(s) should ensure that all deposits made in the course of construction are inert and do not contain any toxic elements.
17. All equipment, temporary structures, debris or waste material generated during the course of construction must be removed within 6 weeks of all work being completed.
18. The licensee(s) shall adhere to the following:
 - Works in, near or over watercourses, PPG5 and
 - Prevent Pollution, & Construction and Demolition sites: PPG6: Prevent Pollution.

Marine Mammal Mitigation Plan

19. The licensee(s) must notify the licensing authority one week in advance of commencement of piling or any other significant noise disturbance activity.
20. The licensee(s) must submit information on the expected location, start and end dates of piling to the licensing authority, for each episode of piling works that take place.
21. The licensee(s) shall aim to avoid carrying out any piling or significant noise disturbance works during June to July, to avoid disturbance to the main breeding season for Harbour Seals, unless it can be demonstrated that seal movements between Belfast Lough/Outer Belfast Harbour and Musgrave Channel are unaffected by piling.

22. The licensee(s) shall appoint an experienced MMO (as defined by the JNCC guidance) in order to implement the Marine Mammal Observation Protocol included in Section 7.1 of the HRA report V3 dated 17.09.18. Any deviation to this protocol must be agreed with the licensing authority.
23. This protocol must be in place during all piling operations or significant noise disturbance activity.
24. As part of this protocol, the MMO credentials will be agreed with the licensing authority beforehand.
25. In order to verify the mitigation zone, the distances of local land marks should be worked out beforehand, in order to identify the range of view from a central point. The licensing authority must be notified of the location of the MMO during the proposed piling operations.
26. The mitigation zone under observation must be a minimum of 500 m, to ensure the entire channel is covered by the MMO during their observations.
27. A final report (as per Section 7.1.6 of the HRA Report) should be submitted to the licensing authority, detailing the piling activity and marine mammal mitigation protocol carried out, at the conclusion of piling activity.
28. This data should also be submitted online to the JNCC Marine Noise Registry Database:
<https://mnr.jncc.gov.uk/>
29. The Marine Noise Register (MNR) is a two-part database, one section providing a 'forward look' and the other providing a 'backward look'. The 'forward look' section collates estimated, planned information for proposed activities, while the 'backward look' section collates the actual (accurate) activity information, after the activity has taken place:
 - I. The 'forward look' data should be submitted to the MNR database at least one week in advance of commencement of piling or other significant noise disturbance activity.
 - II. The 'backward look' data should be submitted to the MR database at least 8 weeks after the completion of the licensed works.
 - III. Evidence should be provided to the licensing authority this data has been submitted.

Marine Archaeology

30. The licence holder must undertake an underwater archaeological assessment of the proposed area of seabed to be impacted by construction works in advance of works (new berthing dolphins and any new sub-tidal piled areas). This assessment will be undertaken by a qualified archaeological contractor and the results of the assessment compiled in a report and submitted to this office. The assessment should provide for the identification and evaluation of archaeological remains within the receiving environment; for further mitigation of the impacts of the proposal (if deemed necessary) and for preparation of an archaeological report. The underwater assessment should be diver-led and only be undertaken under the direction and control of, and in the regular presence of, at least one qualified underwater archaeologist with scientific competence appropriate to the project. A project plan or method statement prepared by a qualified archaeologist should be submitted by the applicant to this office for approval at least 4 weeks in advance of the dive inspection.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

31. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

32. 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. 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 seek further advice from the Department immediately.

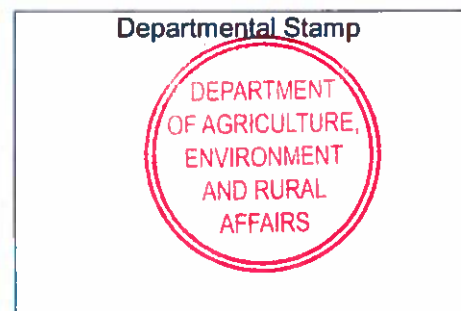
Reason: To ensure recovered archaeological material is recorded with the appropriate authority

33. 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.

Reason: To ensure recovered wreck material is recorded with the appropriate authority

Signed on behalf of the Department:

Dated: 11/3/2019



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>

Further information from consultation:

1. Northern Ireland Environment Agency – Water Management Unit

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

2. DAERA Marine and Fisheries Division - Marine Conservation and Reporting Team

Marine National Protected Species

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended), under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 to the Order. This includes the common seal (*Phoca vitulina*), grey seal (*Halichoerus grypus*), basking shark (*Cetorhinus maximus*), angel shark (*Squatina squatina*), common skate (*Dipturus batis*) short snouted seahorse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus elaphus*) and fan mussel (*Atrina fragilis*).

Article 11 of the Wildlife (Northern Ireland) Order 1985 (as amended) provides that a person shall not be guilty of an offence under Article 10 (killing or injuring a species listed in Schedule 5 (as amended)) if the act was incidental to a lawful operation (i.e. activity permitted by a Marine Licence or Planning Permission) and could not reasonably be avoided. A separate marine Wildlife Licence is therefore not required for national marine protected species if a Marine Licence/Planning Permission has been granted, since adherence to the conditions of the Marine Licence should reduce the likelihood of harm to marine national protected species.

Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks. It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 5) use for shelter or protection; damage or destroy anything which conceals or protects any such structure; or disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.

Under Article 13 it is an offence to sell or transport any Schedule 7 animal dead or alive at any time².

Any person who knowingly causes or permits an act which is made unlawful under Article 10 or Article 13 shall also be guilty of an offence.

It is the applicant's responsibility to ensure that an offence is not committed. Further advice can be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA.

Under the Wildlife (Northern Ireland) Order 1985 (as amended) a licence may be required for any operations which might impact on protected species.

¹ Common skate and angel sharks in respect to Article 10 (1) only and within 6 nautical miles of coastal water only.

² Schedule 7 species includes all Schedule 5 species listed in Appendix A, with the exception of the common skate and angel shark. Sea urchin is protected under Schedule 7 only.

Marine European Protected Species:

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

(1) It is also an offence to;

- (a) deliberately disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- (b) deliberately disturb such an animal in such a way as to be likely to;
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) impair its ability to hibernate or migrate;
- (c) deliberately take or destroy the eggs of such an animal;
- (d) deliberately obstruct access to a breeding site or resting place of such an animal; or
- (e) damage or destroy a breeding site or resting place of such an animal.

(2) It is an offence for any person;

- (a) to have in his possession or control,
- (b) to transport,
- (c) to sell or exchange, or

(d) to offer for sale or exchange, any live or dead animal which is taken from the wild and is of a species listed in Annex IV(a) to the Habitats Directive, or any part of, or anything derived from, such an animal.

It is the applicant's responsibility to ensure that an offence is not committed. Further advice can be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

Under this legislation a licence may be required for any operations which might impact on European Protected Species.

¹ Following two European Court of Justice cases (C-103/00 and C-221/04) "deliberate actions are to be understood as actions by a person who knows, in the light of the relevant legislation that applies to the species involved, and the general information delivered to the public, that his action will most likely lead to an offence against a species, but intends this offence or, if not, consciously accepts the foreseeable results of his action"

http://jncc.defra.gov.uk/PDF/consultation_epsGuidanceDisturbance_all.pdf

3. DAERA Marine and Fisheries – Sea Fisheries/Inland Fisheries

- It is an offence under Article 47 of the Fisheries Act (NI) 1966 to cause pollution, which is subsequently shown to have a deleterious effect on fish stocks.
- It is an offence under Article 136 of the Fisheries Act (NI) 1966 act to disturb or injure in any manner the fishery or shellfish within a licensed shellfish fishery.

4. DfI Rivers

Within the terms of the Drainage (Northern Ireland) Order 1973, Marine Construction Licence applicants are advised of the following legal requirements for ALL sites as follows:

1. If during the course of developing a site a watercourse is uncovered which was not previously evident, the appropriate DfI Rivers Office should be advised immediately in order that arrangements may be made for the investigation and direction in respect of any possible action necessary to deal with the watercourse. Piped storm drains, culverts, open channels etc. may be considered to be watercourses.
2. Any proposals either temporary or permanent, in connection with the development, which involve interference with any watercourse at the site such as culverting, bridging, diversion, building adjacent or discharge of storm water etc require the written consent (known as "Schedule 6 Consent") from DfI Rivers.
3. Failure to obtain Schedule 6 Consent is an offence under the provisions of the above Order, which may lead to prosecution or other statutory action as provided for.

In this instance the appropriate DfI Rivers office to contact in respect of Schedule 6 applications and any other general enquiries is:

**Greater Belfast Area Office,
Ravarnet House
15 Altona Road
Lisburn
BT27 5QB
Tel: 028 92 606100**

