



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 carry out ground investigation works in the River Foyle, Strathfoyle as part of
the NI Water Strathfoyle sewage Siphons upgrade**

Licence Number: ML2021013

Part 1 - Particulars

1. Licensee(s) Name & Address:

AECOM (On behalf of NI Water)

Dr Gabriel Gallagher
AECOM Ltd
Clarence Street West Building
10th Floor
2 Clarence Street West
Belfast
BT2 7GP

John Graham Construction Ltd
101 Airport Road West
Belfast
BT3 9ED

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

N/A

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

The Ground Investigation (GI) works comprise of over-river working using a jack-up barge as the drilling platform. The GI within [below] the MHWS would include five over-water boreholes (possibly reducing to four if the bathymetric survey indicates that the water depth limits access near the east bank of the river). The GI would inform the design of the proposed replacement siphon pipes which is required due to the existing infrastructure deteriorating and being undersized for existing and future flows.

4. Location of works:

River Foyle, North West of Strathfoyle Pumping Station, Co. Londonderry

The GI within [below] the MHWS would include five over-water boreholes with the centre of the investigation site located at IGR 246574 421298. The boreholes are separated across the river channel by an approximate distance of 60m.

BH101 - E 246661.20 , N 421257.82
BH102 - E 246598.99 , N 421279.90
BH103 - E 246557.69 , N 421329.33
BH104 - E 246531.54 , N 421380.82
BH105 - E 246482.34 , N 421393.13

5. Valid:

From: 1st September 2021
Until: 1st September 2022

Works must only take place between 31st March and 30th September

PART 2: CONDITIONS

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

Licence Condition(s):

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

1. All conditions of this licence bind any persons whom, for the time being, owns, occupies or enjoys any use of the works for which this licence has been granted, in relation to those licensed activities authorised under section 66 of the 2009 Act, whether or not the licence has been transferred to that person.
2. The licensee(s) must receive written authorisation from the licensing authority to assign or transfer the consent. The licensing authority must confirm in writing to both the original Licensee(s) and any proposed new Licensee(s) that the licence has been transferred/assigned before any works may commence under the new Licensee(s).
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 29th April 2021. 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. Project vessels utilised within this operation must maintain a distance of at least 5m from the historic jetty (as shown on Sheet number 60643807-ACM-XX-DR-C-1002, Appendix B of the marine licence application dated 29th April 21). No ropes, anchors or other equipment may be attached to this jetty or be placed within 5m of this jetty.

Reason: to prevent damage or disturbance to the historic jetty which is within the application site.

8. In the event of a discovery of an archaeological object and/or remains during works, the Department requires that you: (1) record the position and details of the site; (2) do not disturb the site further and (3) contact DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA for further advice. The DAERA document *Guidance Note: For the Discovery of Unanticipated Underwater Archaeological Heritage* (<https://www.daera-ni.gov.uk/publications/guidance-note-discovery-unanticipated-underwater-archaeological-heritage>) sets out best practice and legal responsibilities in the reporting of unanticipated finds of archaeological interest made during the course of marine construction and/or dredging projects.

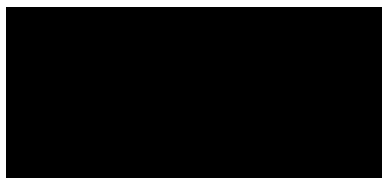
Reason: to ensure that any marine archaeological remains which may exist within the application site are identified and recorded.

9. Access shall be afforded to the site at all reasonable times to any Marine Historic Environment Advisor nominated by DAERA – Marine & Fisheries Division to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to ensure that the specific works required by the archaeological conditions are satisfactorily completed.

10. Mitigation measures mentioned within the application should be implemented to prevent pollution of adjacent waters by fuel oil or other toxic substances.
11. All works should remain within the project footprint are shown in the original drawings.
12. Mitigation measures should be applied to prevent impacts on Salmon and Otter features including using low-speed rotary drilling to reduce noise impacts on salmon and otter, using 'soft-start' boring to enable otters to avoid the area, pollution prevention measures, biosecurity measures and carrying out the works outside of the Atlantic Salmon spawning season (31st October to 31st March).
13. Following completion, any navigational aids and/or the topography must be returned to the original profile, or as close as reasonably practicable. Appropriate steps must be taken to minimise damage to the shoreline resulting from the works.
14. The licensee must notify the UK Hydrographic Office at least 5 days before commencement of works to permit the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system.
15. Notify UK Hydrographic Office within 5 days after completion that work has been completed. Provide change details for permanent Notice to Mariners purposes eg: engineering drawings, post dredge surveys, details of new or changed aids to navigation.
16. In case of damage to, or destruction or decay of, the authorised project seaward of MHWs or any part thereof, the applicant must as soon as reasonably practicable and no later than 24 hours following becoming aware of any such damage, destruction or decay, notify DAERA, MCA, the Commissioner of Irish Lights, the Seafish Kingfisher Information Service and the UK Hydrographic Office.
17. A non-dedicated Marine Mammal Observer (MMO) who has undertaken formal training on a JNCC recognised course shall be used during the geophysical survey. A MMO is not required for the borehole drilling operations. The MMO should apply the mitigation measures outlined in *JNCC guidelines for minimising the risk of injury to marine mammals from geophysical surveys (August 2017)*.

18. The licensee(s) shall ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:
- The premises of the licensee(s)
 - The premises of the operating facility
 - The site of the works (including on board vessels)
19. The licensee(s) must notify The Source Data Receipt team, UK Hydrographic Office, Taunton. Somerset, TA1 2DN (Email: sdr@ukho.gov.uk; Tel: 01823 337900) at least 4 weeks before commencement of the works, to allow for any necessary amendments to nautical charts. The UK Hydrographic Office must also be notified upon completion of the works. **This office must be copied into all notifications.**
20. The licensee(s) shall ensure that measures are in place to prevent pollution of surface or ground water as a result of the activities on site, both during construction and thereafter.
21. 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.
22. 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*
23. 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*
24. Mitigation measures outlined within the application should be implemented to prevent pollution of adjacent waters by fuel oil or other toxic substances.
25. All works should remain within the project footprint as shown in the original drawings.
26. Mitigation to protect fisheries interests should be adhered to, as per Loughs Agency advice.
27. No work should take place within the river channel between the dates 31st October to 1st March (both dates are inclusive), in order to protect fisheries interests, with all work completed no later than 30th September as per Loughs Agency advice.



Signed on behalf of the Department:

..Claire Vincent.....

Dated: ...23 August 2021.....



NOTE:

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

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

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

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

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

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

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

Further information from consultation:

1. Northern Ireland Environment Agency – Water Management Unit

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. Maritime & Coastguard Agency – Navigational Safety Branch

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

intended to supplement the Code. This can be found here: <https://www.gov.uk/government/publications/a-guide-to-good-practice-on-port-marine-operations>”

3. Maritime & Coastguard Agency

- a) The Consent Holder should ensure suitable bunding, storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.
- b) Any jack up barges / vessels utilised during the works/laying of cable, when jacked up, should exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations and or COLREGS.
- c) The site is within port limits and the applicant should gain the approval/agreement of the responsible local navigation authority or the Harbour Authority/Commissioners/Council in this case Londonderry port. They may wish to issue local warnings to alert those navigating in the vicinity to the presence of the works, as deemed necessary.

4. DAERA Marine & Fisheries – Monitoring and Assessment Team

DAERA Monitoring and Assessment Team refer to standing advice:-

<https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-including-groundwater-and-fisheries>

5. Foyle Port

- The contractor must take all reasonable steps to avoid any spills into the river during construction or survey.
- Foyle Port must be contacted immediately on VHF channel 14 in the event of any oil spill.
- If the contractor is utilising Lisahally terminal they must abide by all Harbour Regulations regarding Health and Safety. They must contact Foyle Port prior to commencing any operations and provide risk assessments and Safe Systems of work if applicable.
- Any marine operations must be carried out in accordance with Harbour Regulations including bye-laws and in line with the Port Marine Safety Code and Foyle Ports Marine Safety Management systems (contact Harbour Master on 02871860555)
- If any unexploded ordnance (UXO) is found the harbour authority must be informed immediately

6. Loughs Agency

Work to be completed within appropriate time frame to protect fisheries interests. All works should be completed between 31st March and 30th September (both dates inclusive), finishing no later than the 30th September. Any deviation from this timeframe must be agreed with the Licensing Authority beforehand.

7. NIEA Conservation and Designations Protection (CDP)

NI Water are proposed to drill boreholes, both on land and in-river in order to investigate geophysical conditions for the replacement of deteriorating wastewater treatment siphon pipes.

Five of the proposed boreholes are near the mouth of the River Foyle. Although not within a designated site, the proposal is hydrologically connected to the River Foyle ASSI/SAC and Lough Foyle ASSI/SPA. As such, there is potential for mobile features of the River Foyle ASSI/SAC to be impacted such as Salmon and Otter, while sedimentation and chemical release may degrade habitat quality downstream, impacting bird features of Lough Foyle ASSI/SPA.

The HRA submitted screens out impacts to Lough Foyle ASSI/SPA at stage 1 of HRA. It states that low numbers of the assemblage birds (redshank, curlew, teal, oystercatcher, and mallard) are recorded on the mudflats of the River Foyle, regardless of busy port and train station activity, therefore further activities are unlikely to significantly disturb them. In addition any small sediment released is unlikely to impact on the mudflat habitat which is created from sediment deposits

NED CDP agree with this finding provided that no cement or bentonite grout is released into the river as part of the works

For River Foyle and Tributaries, impacts on the otter feature and salmon feature could not be ruled out at stage 1, with possible noise disturbance or injury caused to otters and possible noise disturbance to salmon. An otter survey of the area found signs of otter activity including spraints, but no otter holts were found. Stage 2 appropriate assessment has given mitigation measures to prevent these impacts including using low-speed rotary drilling to reduce noise impacts on salmon and otter, using 'soft-start' boring to enable otters to avoid the area, pollution prevention measures, biosecurity measures and carrying out the works outside of the Atlantic Salmon spawning season (31st October to 31st March).

NED CDP are content that these mitigation measures, combined with the short period of works (2 weeks) will result in no impacts to the designated features of River Foyle and Tributaries SAC. CDP advice that the above mitigation measures are made conditions within the Marine Construction Licence Application.

8. Commissioners for Irish Lights

Application should be made to the Commissioners of Irish Lights for temporary Statutory Sanction for any aid-to-navigation lighting that the Local Lighthouse Authority deems to be appropriate throughout the duration of the works.

9. DAERA Marine & Fisheries Division – Marine Conservation & Reporting

Invasive Species

The applicants attention is drawn to Article 15 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence if any person releases or allows to escape into the wild any animal which—

- a) is of a kind which is not ordinarily resident in and is not a regular visitor to Northern Ireland in a wild (or is a hybrid of any animal of that kind), or
- b) is included in Part I of Schedule 9 (or is a hybrid of any animal included in that Part)

; he shall be guilty of an offence.

List of Part I, Schedule 9 species

<https://www.legislation.gov.uk/nisi/1985/171/schedule/9>

Article 15 of the Wildlife (Northern Ireland) Order 1985

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

Please see the following link for Best Practice Guidance:

[marine_biosecurity_planning_guidance_for_wales_and_england_november_2015.pdf \(naturalresourceswales.gov.uk\)](https://www.naturalresourceswales.gov.uk/marine_biosecurity_planning_guidance_for_wales_and_england_november_2015.pdf)

Further advice can be sought from the Wildlife Team, DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA. Tel: 028 90 569 262.

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 disturb, 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.

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 disturb, deliberately capture, injure or kill a wild animal included in Schedule 5 of this Order. This includes the Common/ Harbour seal (*Phoca vitulina*) and Grey seal (*Halichoerus grypus*).

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. Under this legislation a licence may be required for any operations which might impact on National Protected Species.

For more information please see:

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

For more information on marine wildlife disturbance please see:

<https://www.daera-ni.gov.uk/publications/watch-out-wildlife-crime-marine-wildlife-disturbance>

Further information

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

- [Standing advice for development that may have an effect on the water environment \(including groundwater and fisheries\)](#)
- [Marine Map Viewer](#)
- [Decisions affected by marine policy - authorisation decisions](#)

Further advice can be sought from the Marine Conservation Advice Team, DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA. Tel: 028 90 569 757 or email: Marine.Wildlife@daera-ni.gov.uk