



**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 for the construction of ferry terminal facilities on land adjacent to
80 Greencastle Pier Road, Greencastle, Co. Down**

Licence Number: ML 33/12 – Variation 1

Part 1 - Particulars

1. Licensee(s) Name & Address:

Mr. Paul O'Sullivan
Frazer Ferries Ltd
23 Howleys Quay
Limerick
Ireland

L & M Keating Limited
Kilmihil
Kilrush
Co. Clare

**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:

- Construction of a reinforced concrete suspended pier supported by vertical tubular piles and a reinforced concrete slipway to allow vehicular access to the ferry and 12 berthing piles with fenders and steel gangway to facilitate berthing and tying up of vessels overnight.
- Floating navigational marks anchored to the bed of the Lough and laid at the edges of the navigable channel to delineate appropriate channel boundaries or to mark shallow rock outcrops and provide safety of navigation.

4. Location of works:

The proposed works are located on land adjacent to 80 Greencastle Pier Road, Greencastle, Co. Down as described in the marine licence application dated 23rd June 2014.

The co-ordinates of the rectilinear boundary of the site, including the area from High Water Mark to the seaward limit of the works are (Easting, Northing to Irish Grid):

NE corner: 324630, 311572

NW corner: 324605, 311581

SW corner: 324498, 311469

SE corner: 324515, 311452

Drawing No. IBM0358-210 provides an extract from an Ordnance Survey map showing the outline of works in relation to the surrounding area.

5. Valid:

From: 1st September 2016

Until: 31st August 2017

PART 2: CONDITIONS

The Department of Agriculture, Environment and Rural Affairs (referred to as the licensing authority) authorises **Frazer Ferries Limited** and **L&M Keating, Kilmihil, Kilrush, Co. Clare**, to deposit in the sea the substances or articles (except for dredge spoil) used in the execution of works, described in Part 1 of this licence. This licence is subject to the under mentioned condition(s):

Licence Condition(s):

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

1. The licensee(s) 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.
2. The licensee(s) shall not deposit any other material than that detailed in the Marine Licence application form received by the licensing authority, dated 23rd June 2014.
3. 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, dated 23rd June 2014.
4. A final Construction Environmental Management Plan (CEMP), associated method statements and finalized layout design shall be submitted to and agreed by the Department, prior to any works commencing on site. This must reflect all mitigation and avoidance measures to be employed as outlined in the Construction Environmental Management Plan, the Environmental Statement dated June 2013 and all additional environmental information submitted.
5. An Environmental Clerk of Works must be assigned for this scheme. Contact details for the designated Environmental Manager must be submitted to the Department at least **8 weeks** prior to the commencement of pre-construction development or construction works on site. This information may be contained within a Construction Environmental Management Plan.

6. If impact piling or blasting is required during construction, the Department must be notified **one week** in advance of commencement. A noise risk impact assessment must be produced and submitted to the Department for approval before impact piling can begin to prevent disturbance to sensitive receptors such as seals or cetaceans.
7. If impact piling or blasting is required during construction, the licensee shall maintain a record of beginning and end times, duration and noise levels, e.g. hammer energy blow or explosive charges. Records must be submitted to the Department within **eight weeks** of completion of the licensed works.
8. An independent, qualified and experienced Marine Mammal Observer (MMO) shall be appointed to monitor for marine mammals. The MMO shall conduct a pre start up constant effort monitoring for at least 30 minutes before any sound producing activity commences and continue monitoring for 30 minutes following commencement of any activity. No sound producing activity shall commence until a 30 minute period has elapsed where no marine mammals have been detected. Sound producing works shall begin with a 'soft start' period of not less than 20 minutes. The MMO must be present during any construction activities where noise is produced. If marine mammals are detected within 500 m of the works (the mitigation zone), which is measured from the location of the noise, the MMO will issue a delay in the commencement of piling or other significant noise disturbance activity, until they are satisfied that the animals have left the mitigation zone. The MMO should carry out all works in accordance with the JNCC Guidelines "The Protection of Marine Protected Species from Injury and Disturbance, October 2010." Mitigation for marine mammals should be agreed with the Department prior to works commencing.
9. All marine mammal monitoring measures shall recommence from the beginning if there is any break in the sound producing activity (which includes pile driving) for a period greater than 10 minutes.
10. A full MMO report on operations and mitigation measures contained within the Environmental Statement, dated June 2013, shall be provided in writing and agreed by the Department once the development phase is complete and prior to commencement of the operational phase. A record of the beginning, end times and duration of impact piling or other significant noise disturbance activity, e.g. hammer energy blow should be kept and submitted to the licensing authority within eight weeks of completion of the licensed work.
11. If the Department has reason to believe that a marine mammal has been injured or killed by the works, the Department will require cessation of the piling, pending an assessment of the situation.
12. Where the Department instructs the licensee to stop the operation of the works, works can only be resumed on receipt of permission to do so from the Department.
13. No pile driving works shall take place during April to October.
14. The ferry route shall maintain a minimum distance of 230m from all haul out sites identified within the Environmental Statement, page 7, figure 7.15.
15. Monthly seal counts at haul out sites in close proximity to the operational ferry route shall be conducted, prior to and during, the operational phase. These will be submitted to and agreed in writing by the Department. This must cover a 12 month survey period prior to commencement of the operational phase to provide baseline data.
16. No development of the welfare facilities hereby approved shall take place until either a relevant consent has been issued under the Water (NI) Order or a method of sewage disposal has been submitted, which does not involve a discharge and can be agreed in writing with the Planning Authority. This is to demonstrate that the waste water treatment solution ensures <230 E.coli colony forming units (cfu) per 100mls of water over the shellfish harvesting area for >75% of the time.
17. Turbidity monitoring must be carried out at an area close to the adjacent shellfish beds, during the operation of the ferry, to ensure suspended solid levels do not impact on shellfish health. Details of this monitoring must be included in the Construction Environmental Management Plan.
18. Access shall be afforded to the site, at all reasonable times, to any archaeologist nominated by the Department of Agriculture, Environment and Rural Affairs to observe the operations and to monitor the implementation of archaeological requirements.

19. 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
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, Pollution, Prevention Guidelines PPG5 and
 - Prevent Pollution, & Construction and Demolition sites: Pollution, Prevention Guidelines PPG6: Prevent Pollution.
22. Maintenance to the ferry must be carried out at a facility where potentially contaminating material cannot enter the marine environment.
23. 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.**
24. The licensee(s) shall inform the licensing authority of the finishing date of the work within **1 week** of completion.
25. 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.

Signed on behalf of the Department:

M. J. L.

Dated: 30th June 2016

Departmental Stamp



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 paragraph 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 may be subject to a fine of up to £50,000 or to imprisonment for a term not exceeding two years or to both. Further details can be found our guidance note

http://www.doeni.gov.uk/niea/ni_guidance_on_enforcement_of_marine_licensing_final_version_21_october_2011-2.pdf

Further information from consultation:

1. Department of Agriculture, Environment and Rural Affairs - Marine & Fisheries Division

Marine Conservation

European Protected Species

- The licensee(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: *Caretta caretta*, *Chelonia mydas*, *Lepidochelys kempii*, *Eretmochelys imbricata* and *Dermochelys coriacea*.

(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 to 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.

Any person who knowingly causes or permits an act which is made unlawful under any of these provisions shall also be guilty of an offence.

If there is evidence of Schedule 2 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Gasworks Business Park, Cromac Avenue, Belfast BT7 2JA.

Under this legislation a licence may be required for any operations which might impact on protected species.

Schedule 5 Species – Wildlife Order:

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 maximum*), angel shark (*Squatina squatina*), common skate (*Dipturus batis*) short snouted sea horse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus elaphus*) and fan mussel (*Atrina fragilis*).

Under this regulation it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks.

It is also an offence 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 of the Wildlife (Northern Ireland) Order 1985 (as amended) it is an offence to sell or transport any Schedule 7 animal dead or alive at any time **.

Any person who knowingly causes or permits an act which is made unlawful under any of these provisions shall also be guilty of an offence.

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

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

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

If there is evidence of Schedule 5 animals and Schedule 7 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Gasworks Business Park, Cromac Avenue, Belfast BT7 2JA.

Fisheries

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

The applicant should be made aware that it is an offence under Article 136 of the **Fisheries Act (Northern Ireland) 1966**, to disturb or injure in any manner, the fishery or shellfish within a licensed shellfish fishery.

2. Department of Agriculture, Environment and Rural Affairs - Northern Ireland Environment Agency – Water Management Unit

The licensee should 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. 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.

*For your information I have attached **Pollution Prevention Guidelines for 'Works in, or liable to effect watercourses'**, PPG5.*

3. Department for Infrastructure - Rivers Agency

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 Rivers Agency 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.
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 Rivers Agency.
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 Rivers Agency office to contact in respect of Schedule 6 applications and any other general enquiries is:

**Lisburn Area Office,
Ravernet House, Altona Road,
LISBURN, BT27 5QB
Tel: 028 9260 6100**

