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Ken MacLeod  
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13 Lombard Street  
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Your ref:  
Our ref:

Date:  
29 March 2012

*Dear Mr MacLeod,*

## **HARBOURS ACT 1964 - MALLAIG HARBOUR REVISION (CONSTITUTION) ORDER 2012**

1. I refer to the application submitted on behalf of your client, the Mallaig Harbour Authority, on 31 March 2011 for the making of the Mallaig Harbour Revision (Constitution) Order (the "HRO") under section 14 of the Harbours Act 1964 ("the 1964 Act"). This letter conveys the Scottish Ministers' decision on this application.

### **Purpose of HRO**

2. The purpose of the HRO is to modernise the constitution of the Authority and bring it in line with the principles outlined in *Modernising Trust Ports: A guide to good governance*, which was published by DETR in 2000 with the assistance and approval of the then Scottish Executive and continues to apply pending our consideration of a revised version.

### **The Application**

3. Mallaig Harbour Authority is the statutory harbour authority for Mallaig Harbour in the Highland Council area.

4. Mallaig Harbour Authority submitted an application for an HRO to the Scottish Government on 31 March 2011. Notices of the application were advertised in the *West Word* April edition, *The Oban Times* on 14 April, the *Press and Journal* on 12 April and the *Edinburgh Gazette* on 12 April 2011.

### **Objections**

5. Scottish Ministers received no objections to the HRO within the statutory period of forty-two days provided for in Schedule 3 of the Harbours Act 1964.

## **Consideration of Environmental Impact**

6. As the HRO does not authorise any works, there was no requirement to consider the need for an Environmental Statement or Appropriate Assessment.

## **The Scottish Ministers' Consideration**

### **The Decision**

7. Section 14 of the 1964 Act sets out the objectives for the achievement of which a harbour revision order may be made. The Scottish Ministers are satisfied that this HRO meets these objectives and that the HRO should be made in the interests of securing the improvement, maintenance and management of the harbour in an efficient and economical manner.

8. The Scottish Ministers have decided to make the Order with modifications which do not appear to them to substantially affect the character of the order. The proposed modifications are:-

- Deletion of the definition of 'stakeholder' in article 2, as this term does not appear within the HRO.
- Deletion of Article 20 'Authentication of documents', as this is not necessary as paragraph 5 of schedule 2 of the Requirements of Writing (Scotland) Act 1995 will apply

### **Right to Challenge Decision**

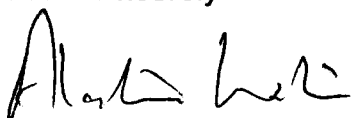
9. The foregoing decision of the Scottish Ministers is final but any person who desires to question the making of the HRO on the ground that there was no power to make the HRO or that a requirement of the 1964 Act was not complied with in relation to the HRO may, within six weeks from the date on which the HRO becomes operative, make an application for the purpose to the Court of Session as the case may be.

**A person who thinks that they may have grounds for challenging the decision to make the HRO is advised to take legal advice before taking any action.**

### **Availability of Decision**

10. A copy of this letter has been sent to all those who were consulted on the Order and will be published on the Transport Scotland website.

Yours sincerely



**ALASTAIR WILSON**  
Director