

Director
Aviation, Maritime, Freight & Canals

Victoria Quay, Edinburgh EH6 6QQ
T: 0131 244 0148
john.nicholls@transport.gov.scot



Kendra Lennox
Pinsentmasons
141 Bothwell Street
Glasgow
G2 7EQ

Date:
24 February 2017

By email to kendra.lennox@pinsentmasons.com

Dear Kendra,

HARBOURS ACT 1964 – WICK HARBOUR REVISION ORDER

I refer to the application submitted on behalf of your client, Wick Harbour Authority (WHA) on 13 December 2016 for the making of the Wick Harbour Revision Order (the order) under section 14 of the Harbours Act 1964 (the 1964 Act). This letter conveys the Scottish Ministers' decision following their consideration of the application and representations made on it.

Purpose of the HRO

The purpose of the order is to empower Wick Harbour Authority to construct, maintain and operate works at Wick Harbour and to delegate some functions in respect of these works and other powers and duties to Beatrice Offshore Windfarm Limited.

This would involve:

Work No. 1 – Demolition of any structures including slipways, plant, walls and fences together with associated infrastructure and other berthing structures in the area shown on the deposited plan.

Work No. 2 – Increase the height of existing quay wall located beneath the existing slipway in the area shown on the deposited plan to the height of the adjoining quay walls.

Work No. 3 – a service yard and storage area including a waste disposal area, a fuel header tank, telecommunications equipment and container storage area and stockpiling area for cranes and other quayside infrastructure, to be created by infilling and re-levelling the area shown on the deposited plan to the level of the adjoining quayside.

Work No. 4 - pontoons to be constructed in the north west corner of the inner harbour supported by piled foundations of steel connected to the quayside by linkspans and linked by walkways in the area shown on the deposited plan.

Work No. 5 – Associated security infrastructure within the limits of deviation.

Work No. 6 – Berth and associated harbour infrastructure including training ladders and cranes within the limits of deviation.

Pre-Application

Having been advised of the intention to make an application, Ministers consulted with Scottish Natural Heritage (SNH), Scottish Environment Protection Agency (SEPA) and Highlands Council to determine whether the proposal would authorise a project which falls within Annex I or II of the Directive 85/337/EEC as amended by 97/11/EC and 2003/35/EC and if so whether it was a relevant project in terms of paragraph 4 of schedule 3 to the 1964 Act.

Following that consultation Ministers concluded that the works were a project falling within Annex II and that it was not a relevant project. In accordance with paragraph 5 of schedule 3 to the 1964 Act they advised WHA of that decision on 30 November 2016.

This decision meant that no Environmental Statement was required.

The Application

WHA are the statutory harbour authority for Wick Harbour and they submitted an application for a revision order under section 14 of the 1964 Act to Scottish Ministers on 13 December 2016.

The application was advertised in the Edinburgh Gazette on 19 December and in the John O'Groats Journal on 16 and 23 December 2016.

Objections

The 42 day notice period ended on 27 January and no objections were received.

SNH did however, provide advice for the applicant with regards to protection of marine mammals during piling works.

The Scottish Minister's Consideration

Section 14(2)(b) of the 1964 Act requires that a Harbour Revision Order shall not be made in relation to a harbour unless the appropriate Minister is satisfied that the making of the Order is desirable in the "interests of securing the improvement, maintenance and management of the harbour in an efficient and economical manner, or by facilitating the efficient and economic transportation of goods or passengers by sea".

Our assessment is that the proposed HRO is conducive to the efficient management of the harbour and meets these criteria.

Scottish Ministers have decided to make the Wick Harbour Revision Order with a modification which appears to them to be necessary but which does not substantially affect the character of the order.

The modification below will be required to the order to ensure that the order delivers what is intended and provides clarity to the reader. This is as follows:

Article 15

Minor amendment to clarify the meaning of the term 'permitted' within the Order.

Right to Challenge Decision

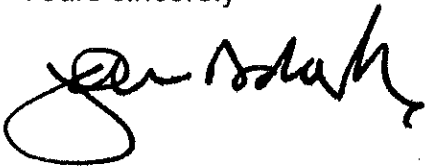
The foregoing decision of the Scottish Ministers is final but any person who desires to question its making on the grounds that there was no power to make it or that a requirement of the 1964 Act was not complied with in relation to it may, within six weeks from the date the order comes into force, make an application for this purpose to the Court of Session.

Any person thinking of challenging the decision to make the order is advised to seek legal advice before taking any action.

Availability of Decision

A copy of this letter is being sent to all those who were consulted/made objections or representations on the order and will be published on the Transport Scotland website.

Yours sincerely



John Nicholls
Director

Handwritten signature or scribble