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11 March 2025

Dear Caroline

I refer to the application submitted by Mackinnons Solicitors on 25 July 2024 on behalf of the St. Andrews Harbour Trustees (the Trustees), to enact the St. Andrews Harbour Revision Order 2024 (the Order) under Article 14 of the Harbours Act 1964 (the 1964 Act).

This letter conveys the Ministers' decision following their consideration of the application.

Purpose of the Order

This Order redefines the harbour limits and confers updated powers on the Trustees, including powers to lease and powers as regards the issuing of general and special directions. The Order will enable the Trustees continue to improve, maintain and manage St. Andrews Harbour via the exercise and performance of their statutory powers and duties.

Specifically, the Order proposes to:

- Set out new identifiable harbour limits to clarify the area these limits encompass (this was determined in conjunction with Forth Ports who run nearby ports); and
- Achieve the objective contained in paragraph 4 of Schedule 2 of the Order:

Imposing or conferring on the authority for the purposes aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred.

In addition, following Section 14(2A) to the 1964 Act, which allows for "repealing superseded, obsolete or otherwise unnecessary statutory provisions of local application affecting the harbour," the Order repeals:

- The provisions in the St. Andrews Harbour Order 1897, which set out the existing statutory harbour limits, which harbour limits are now obsolete and superseded by the provisions of this Order; and
- The provision in The St. Andrews Harbour Revision (Constitution) Order 2010, which provides for the Trustees' annual statement of accounts to be audited each year. The audit process is a costly burden and an unnecessary statutory provision of local application affecting the harbour.

Public notices were placed in the Edinburgh Gazette on 2 August and the St Andrews Citizen newspaper on both 2 and 9 August 2024. The 42-day statutory notice period concluded on 13 September 2024.

Objections

No objections were received; however, observations were made by the Royal Yachting Association and the Northern Lighthouse Board, which resulted in the modifications outlined below in bold.

Proposed modifications

The Trustees accepted the changes recommended by the Royal Yachting Association:

- Article 2 of the Order has replaced the definition for “personal watercraft” with one for “watercraft”:

“watercraft” means any type of craft which is capable of moving under its own mechanical power, is used, navigated or situated wholly or partly in or on water, and is capable of being used to carry one or more persons but does not include a ship or fishing vessel within the meanings given in section 313(1) of the 1995 Act.

- Article 12(5) of the Order has been expanded to include section (c):

(5) Approval under this article shall not be required for—

- any craft which has a relevant certificate issued by the Maritime and Coastguard Agency and valid for the voyage intended or, in the case of hovercraft within the meaning of the 1968 Act, a certificate of safety valid for the voyage intended;
- a pleasure boat or pleasure vessel which is licensed under section 94 of the 1907 Act; or
- any vessel otherwise authorised by or on behalf of the Maritime and Coastguard Agency.**

- Article 14(1) of the Order has the following addition:

Sections 1 to 4, **33 to 34**, 38 to 39, 42 to 46, 51, 56 to 58 and 63 to 65 of the 1847 Act (so far as applicable and not inconsistent with the St. Andrews Harbour Orders 1897 to 2025 shall be incorporated with this Order, subject to the modifications stated in paragraphs (2), (3) and (4).

The Trustees accepted the Northern Lighthouse Board’s amendments to Article 3(1)(a)(ii):

Enclosed by straight red lines commencing at a point 1 at 56°26’00’’N, 2°48’15.00’’W and extending from there in an easterly direction to a point 2 at 56°26’00’’N, 2°38’00’’W and extending from there in a south easterly direction to a point 3 at **56°17’41.82’’N, 2°34’18.54’’W** and extending from there in a south westerly direction to a point 4 at **56°16’44.82’’N, 2°36’11.76’’W**.

A number of stylistic, spelling and numbering corrections have also been carried out by Transport Scotland.

None of the proposed modifications are considered to substantially affect the character of the Order.

Scottish Ministers' consideration

Article 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 Harbour Revision Order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, or of facilitating the efficient and economical transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships.

Our assessment is that the proposed Order is conducive to improving the management of the harbour in an efficient and economical manner.

Ministers agreed that the Order be made with the modifications set out above.

Right to challenge decision

Any person who desires to question the making of this Order 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

Once the Order is made, the applicant must:

- Publish notice of the making of the Order in the Edinburgh Gazette and one local paper;
- Send copies of the notice to those individuals/organisations notified of the original application; and
- Forward copies of all the notices to Transport Scotland.

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

Yours sincerely



Dario Dalla Costa
Ports Policy Advisor