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CÒMHDHAIL
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Ian McCulloch
Bircham Dyson Bell LLP
50 Broadway
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Your ref:

Our ref:

Date:
27 September 2012

Dear Ian,

HARBOURS ACT 1964 - Fraserburgh Harbour Revision Order

1. I refer to the application submitted on behalf of your client, Fraserburgh Harbour Commissioners (the Commissioners) for the making of the Fraserburgh 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 main purpose of the order is to further modernise the constitution of the trust port to fully meet the requirements of the guidance on governance by removing the election process and providing for all appointments to be made by the Commissioners in an open and transparent manner.

The Application

3. The Commissioners, as the authority engaged in improving, maintaining and managing the harbour, submitted an application for an HRO to Scottish Ministers on 11 June 2012.

4. Notice of the application was advertised in the Fraserburgh Herald and the Aberdeen Press & Journal on 14 and 21 June and in the Edinburgh Gazette on 15 June. Scottish Ministers received no objections within the 42 day statutory notice period provided for in Schedule 3 to the 1964 Act, which ended on 26 July 2012.

Consultation

5. Before Ministers determined the application they consulted with, Aberdeenshire Council, the Royal Yachting Association (RYA), and the Chamber of Shipping (CoS). No comments were received from any of the consultees.

The Scottish Ministers' Consideration and Decision

6. 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 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. Ministers consider that this Order meets these objectives. They have considered the application and the results of their consultation and they have decided to make the Order with minor modifications.

Modifications

7. The modifications include:-

- Minor changes to the definitions
- Removal of the incorporation of provisions of the 1847 Act. The reason for this is that applicant no longer proposes to repeal the Fraserburgh Harbour Order Confirmation Act 1990 which had already incorporated these provisions.
- Minor changes to the application procedure

None of these modifications are considered to substantially affect the character of the order.

Right to Challenge Decision

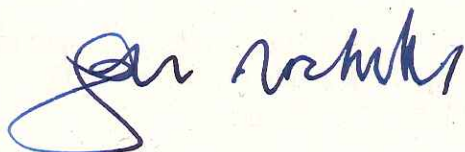
8. The foregoing decision of the Scottish Ministers is final but any person who desires to question the making of the HRO on the ground that there was no power to make the HRO or that a requirement of the 1964 Act was not complied with in relation to the HRO may, within six weeks from the date on which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

A person who thinks 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

12. A copy of this letter has been sent to all those who were consulted on the Order and will be published on the Scottish Government website.

Yours sincerely



JOHN NICHOLLS
Director