

Ports and shipping

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Dear Emily

I refer to the application submitted by Ashfords LLP on 17 March 2025 on behalf of Caledonian Maritime Assets Ltd (CMAL) to enact the “Caledonian Maritime Assets (Port Ellen Works) Harbour Revision Order 2025” (the Order) under Article 14 of the Harbours Act 1964.

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

Purpose of the Order

The Order empowers Caledonian Maritime Assets (CMAL) to construct, maintain and operate in the Isle of Islay and on land at Port Ellen, harbour works and harbour related facilities at the harbour. Specifically the Order will enable CMAL to carry out the following:

- Provide for the redevelopment of the Ferry Terminal which is within the statutory harbour limits of the Harbour.
- Construct the infrastructure, which will be owned wholly by CMAL, required to support the ferry services run solely by CMAL. CMAL’s sole shareholder is the Scottish Government, and the majority of funding for its capital projects come from Scottish Government, with the primary function of providing the vessels and infrastructure necessary for lifeline ferry services. Thus, the primary function of the Ferry Terminal is to support the lifeline ferry services, as a ferry terminal. It will also accommodate use by other vessels.

The ferry services serve the mainland of Scotland. The works are being progressed primarily to address a lack of vehicle marshalling capacity for current ferries servicing Port Ellen, and for new Islay ferries in the future. The Ferry Terminal requires upgrades, including berthing structures, equipment such as fendering, linkspan and bollards, and dredging to accommodate the Islay ferries.

Specifically, the works will:

- Address traffic and pedestrian management concerns relating to the ferry service and third party vehicle movements in a confined area.
- Modernise the terminal building to ensure compliance with modern standards.
- Provide onsite short term parking capacity and associated vehicle drop off / pick up facilities.
- Optimise safety arrangements for commercial activities at the Ferry Terminal.
- Replace and modernise the current Ferry Terminal infrastructure.

Consultation

Public notices were placed in the Edinburgh Gazette on 31 March 2025, and in both the Argyllshire Advertiser and Campbeltown Courier on 28 March and 4 April 2025. The 42-day statutory notice period concluded on 9 May 2025.

Objections

No objections were received; however, observations were made by the Marine and Coastguard Agency, NatureScot, the Northern Lighthouse Board and the Royal Yachting Association Scotland.

Proposed modifications

The Order has been modified as outlined below in response to those observations, along with a number of stylistic and numbering changes. Sections in bold are new additions, while those struck out have been deleted.

Article 2 – Interpretation:

- The “Harbours, Docks and Piers Clauses Act 1847” and the “Harbours Act 1964” have been deleted as they are not referred to in the main body of the Order.
- The “Scottish Transport Group (Port Ellen Harbour) Order Confirmation Act 1975” has been replaced by the “Scottish Transport Group (Port Ellen Harbour) Order 1975” as the former is not referred to in the Order.
- The definitions for “Harbour Master” and “the level of low water” have been removed as these are not mentioned in the Order.

Article 3 – Power to construct works:

- The final sentence of “Work No. 3” has one addition: “The location of which is shown outlined black on sheet 4, the section of which is shown on sheet 4, and the **floor plan and** elevations of which are shown on sheet 5.” This sentence was updated to include the text in bold to acknowledge the floor plan was also included on sheet 5.
- The final sentence of “Work No. 5” has been amended to read: “The location of which is shown outlined blue on sheet 1, ~~the section of which is shown on sheet 7,~~ and the **floor plan and** elevations of which are shown on sheet 7”. This has been corrected because there are no sections on sheet 7 but there is a floor plan with elevations.

Article 10 – Provision against danger to navigation – has been amended as follows:

- (1) In the case of injury to, or destruction or decay of, a tidal work or any part thereof, CMAL **must—**
(a)—shall as soon as practicable notify the Commissioners of Northern Lighthouses **and the UK Hydrographic Office;** and
(a)(b)—shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

Article 14 – Period for completion of works – has been amended as follows:

- (1) Subject to paragraph (2), if the works **authorised by this Order** are not substantially completed within ten years from the coming into force of this Order or such extended time as the Ministers may on the application of CMAL allow, then on the expiration of that period or such extended time (as the case may be) the powers by this Order granted to CMAL for making and maintaining the works shall cease except as to so much of those works as are then substantially commenced.
- (2) Nothing in paragraph (1) shall apply to any works carried out under article **Error! Reference source not found.** (subsidiary works) **or under article** **Error! Reference source not found.** ~~to reconstruct, extend, enlarge, replace or relay works authorised by article~~ **Error! Reference source not found.** ~~(power to construct works).~~

Article 15 – Works to be within area of Argyll and Bute – has one addition: “The works **authorised by this Order** shall, to the extent that they lie outside the area of Argyll and Bute Council, be annexed to and incorporated within that area.”

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

Scottish Ministers’ consideration

Article 14(2)(b) of the Harbours Act 1964 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 Harbours Act 1964 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.
- 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 published on the Transport Scotland website.

Yours sincerely



Dario Dalla Costa
Ports Policy Advisor