

Neil Amner  
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Dalmore House  
310 St Vincent street  
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G2 5QR

28 January 2009

Dear Neil,

## **HARBOURS ACT 1964 - PORT BABCOCK ROSYTH HARBOUR EMPOWERMENT ORDER**

I refer to the application submitted on behalf of your client, Port Babcock Rosyth Limited ("the Company") on 25 April 2008 for the making of the Port Babcock Rosyth Harbour Empowerment Order ("the HEO") under section 16 of the Harbours Act 1964 ("the 1964 Act"). This letter conveys the Scottish Ministers' decision on this application.

### **Application**

The Company submitted an application to the Scottish Government on 25 April 2008.

Notice of the application for the HEO was advertised in the Dunfermline Press on 1 and 8 May 2008, and in the Edinburgh Gazette on 29 April 2008.

Scottish Ministers received no objections to the application.

### **Purpose of the HEO**

The primary purpose of the HEO is to empower the Company to operate and maintain a port at the former Royal Dockyard at Rosyth on the Firth of Forth and to confer powers on the Company to operate as a statutory harbour authority, to define those powers and to define the limits of jurisdiction of the Company. The order would regularise the existing operations at the port.

## Scottish Ministers' Decision

Section 16 of the 1964 Act sets out the objectives for the achievement of which a harbour empowerment order may be made. Scottish Ministers are satisfied that this HEO meets these objectives.

Scottish Ministers are also satisfied that making the HEO is desirable in the interests of facilitating the efficient and economic transport of goods and passengers by sea.

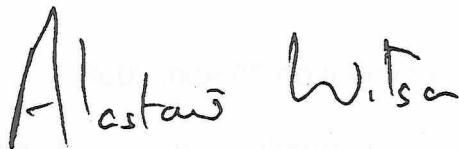
Scottish Ministers have decided to make the Port Babcock Rosyth Harbour Empowerment Order with modifications which appear to them to be necessary but which do not substantially affect the character of the order. The proposed modifications are minor and consist of a few amendments to the incorporation of sections of the Harbours, Docks and Piers Clauses Act 1847, modifications to some defined terms, clarification of the port limits, additional byelaw provisions which eliminate the need to incorporate similar powers from the 1847 Act, the inclusion of a savings provision requiring all other necessary consents to be obtained for any works and to reflect the proper form for a Scottish Statutory Instrument. The modifications are shown as track changes in the copy of the order appended to this letter.

### Right to challenge decision

The foregoing decision of the Scottish Ministers is final but any person who desires to question the making of the HEO on the ground that there was no power to make the HEO or that a requirement of the 1964 Act was not complied with in relation to the HEO may, within six weeks from the date on which the HEO 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 HEO is advised to take legal advice before taking any action.**

Yours sincerely



**ALASTAIR WILSON**  
Deputy Director - Aviation, Ports, Freight & Canals