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Mr B Philp
The Gables
Netherley Park
Netherley
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Date: 23 August 2019

Our Ref: 06812

Dear Mr Philp,

Marine Scotland Licensing Operations Team ("MS-LOT") has considered your marine licence application for the installation of moorings associated with a houseboat. MS-LOT has considered the application as the deposit of objects, in this instance a pontoon, and the construction of pipes within the Scottish marine area.

You should note that we do not consider the proposed houseboat a vessel. Due to the novel nature of the proposal in the Scottish marine area we sought advice from the Maritime and Coastguard Agency ("MCA") and looked at how other regulators in the UK deal with the regulating of houseboats. MCA confirmed that, although there are multiple definitions of what a vessel is, if it is permanently moored and not under its own propulsion, it falls outside of MCA jurisdiction and is not considered a vessel. As the proposed houseboat is not considered a vessel, the deposit of the pontoon on which the houseboat sits is a licensable marine activity.

MS-LOT carried out a consultation on your proposal in line with section 27(4) of the Marine (Scotland) Act 2010 ("the Act") and received responses from Scottish Natural Heritage, Northern Lighthouse Board, MCA, Royal Yachting Association and the Scottish Environment Protection Agency ("SEPA"). Comments were also received from the Scottish Sea Farms. The consultation responses have been attached for your consideration. SEPA objected to the marine licence application in principle on the grounds of flood risk. SEPA noted that –

"Dwelling houses are considered highly vulnerable to flood risk given the impacts - which includes risk to life - in the event of flood inundation. In this case, due to the remote and isolated location proposed for the dwelling, we consider it would be a 'most vulnerable use' and development of this type generally needs to be free of flood risk up to the 1 in 1000 year design flood event. Due to the design of the dwelling, there would be no safe access/egress in the event of a coastal flood weather event. More information on vulnerability is published in [SEPA's Land Use Vulnerability Guidance](#). The licence application site is almost entirely within the open sea and would therefore be at risk of flooding or damage from coastal flooding, wave

action and tidal processes. We therefore unfortunately object in principle to the marine licence on the basis that this location is not suitable for a dwelling house and the development would place people and property at flood risk."

SEPA's Land Use Vulnerability Guidance can be accessed at <https://www.sepa.org.uk/media/143416/land-use-vulnerability-guidance.pdf>.

MS-LOT does not consider the proposed houseboat to be a vessel, and we understand the Highland Council has informed you that you will need a building warrant for the entirety of the houseboat. MS-LOT considers SEPA's advice to be appropriate and relevant.

Under section 27(1) of the Act the Scottish Ministers must have regard to the need to protect the environment, the need to protect human health, the need to prevent interference with legitimate uses of the sea and such other matters as the Ministers consider relevant when determining an application for a marine licence. Under section 29(1) of the Act the Scottish Ministers, having considered an application for a marine licence, must grant the licence unconditionally, grant the licence subject to such conditions as they consider appropriate or refuse the application. In this instance, based on advice received from SEPA regarding the risk to people and property in case of flooding, the Scottish Ministers are refusing the application because of the risk posed to human health.

Under regulation 3(1) of The Marine Licensing Appeals (Scotland) Regulations 2011, you may by summary application appeal to the sheriff of any sheriffdom against a decision taken by the Scottish Ministers under section 29(1) of the Act.

[Redacted]

Malcolm Rose
Licensing Operations Team
Marine Scotland