

TRANSPORT SCOTLAND
HARBOURS ACT 1964 (AS AMENDED)

PROPOSED MONTROSE HARBOUR
REVISION ORDER 202[]

STATEMENT IN SUPPORT OF APPLICATION

FOR ORDER BY:

MONTROSE PORT AUTHORITY

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1. INTRODUCTION

- 1.1. This statement relates to the application by Montrose Port Authority for the proposed Montrose Harbour Revision Order 20[] (“the HRO”). Montrose Port Authority (“the Authority”) is the statutory harbour authority for Montrose.
- 1.2. The application, made in an email to Transport Scotland dated 06 October 2023 (updated February 2026) is accompanied by:
 - (a) a copy of the draft HRO;
 - (b) copies of the three plans to be annexed to the HRO;
 - (c) this statement; and
 - (d) the fee for the application, by BACS, in the sum of £4,000.00; and
 - (e) copies of the following legislation:
 - (i) The Montrose Harbour Act 1837 (“1837 Act”)
 - (ii) The Montrose Harbour Act 1850 (“1850 Act”)
 - (iii) The Montrose Harbour Act 1866 (“1866 Act”)
 - (iv) The Montrose Harbour Order 1878 (confirmed by the Pier and Harbour Orders Confirmation Act 1878 (No. 2)) (“1878 Order”)
 - (v) The Montrose Harbour Order 1894 (confirmed by the Pier and Harbour Order Confirmation (No. 4) Act 1894 (“1894 Order”)
 - (vi) The Montrose Harbour Revision Order 1974 (“1974 Order”)
 - (vii) The Montrose Harbour Revision Order 1991 (“1991 Order”)
 - (viii) The Montrose Harbour Revision Order 1993 (“1993 Order”)
 - (ix) The Montrose Harbour Revision Order 1999 (“1999 Order”)
 - (x) The Montrose Port Authority Harbour Revision (Constitution) Order 2003 (“2003 Order”)
- 1.3. The application is for a harbour revision order to be made under the powers conferred on the Scottish Ministers by section 14 of the Harbours Act 1964. The functions of the Minister of the Crown were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.
- 1.4. The HRO clarifies the limits of the port to expressly include the port premises. It also confers further modernised powers on the Authority considered conducive to the efficient and economical operation, maintenance, management and improvement of Montrose Port (“the port”). These include modern powers conferred on the Authority to give general directions to vessels and persons using the port, together with powers exercisable by the Harbour Master appointed by the Authority to give special directions in respect of vessels. In respect of special directions and general directions, these powers are required to support the effective management of Montrose Port as recommended in the Ports and Marine Facilities Safety Code.

2. MONTROSE PORT AUTHORITY

- 2.1. The Port of Montrose (“the port”) is located in the North East of Scotland between Aberdeen and Dundee and is a gateway to the North Sea.

- 2.2. The proposed port limits under the HRO are set out in the plans annexed to the HRO. The Port Limits Plan and the Port Premises Plan entitled “The Montrose Harbour Revision Order 202[] Port Premises Plan - Harbour” encompass all of the land, including land covered by water, forming part of the port (as defined in article 2 of the Montrose Harbour Revision Order 1991) in 2023. In October 2024, the Authority purchased a strategic piece of commercial land (45 acres) in Montrose, with excellent connectivity to the existing port premises. The acquisition of this land was supported by Angus Council and Scottish Enterprise, and complements Montrose’s growing position as one of the world’s leading Operations & Maintenance (O&M) hubs for offshore wind. Montrose is the O&M base for Seagreen, Scotland’s largest operational offshore wind farm, and the upcoming Inch Cape offshore wind project. Once Inch Cape is fully operational, Montrose Port is expected to support 2.5GW of offshore wind capacity, reinforcing its pivotal role in the global offshore energy market. As a trust port, the Authority’s focus with this acquisition is to drive sustainable growth that benefits not only the port but the entire local community, creating opportunities for new businesses, local jobs and economic growth. This acquisition maximises the efficient utilisation, expansion and regeneration of the port by capitalising on the opportunity to position the port at the forefront of Scotland’s energy transition to a green economy, which in turn will provide increased financial security to the port. The location of this land is shown on “The Montrose Harbour Revision Order 202[] Port Premises Plan – Montrose Commercial Park”, with an overview provided in the Overview Location Plan contained in the Annex to this statement in support.
- 2.3. The port is classed as a Trust Port (the statutory harbour authority has operated for nearly 200 years). The Authority, as the Statutory Harbour Authority (“SHA”) is governed by its own local legislation collectively known as the Montrose Acts and Orders 1837 to 2003. The Authority is responsible for the administration, maintenance and improvement of the port which is more fully described in section 4 below.
- 2.4. The Authority is also the Competent Harbour Authority under the Pilotage Act 1987.
- 2.5. The port offers approximately 1000 metres of quayside on both the north and south sides. The port operates 24/7 and its facilities include water berths to a depth of 8 metres, 130,000 metres squared of open storage, 42,000 metres squared warehousing and over 2000 metres squared of office space. An economic impact assessment conducted in 2022 concluded that the port generates £12 million in annual salaries and £24 million Gross Value Added, which derives from operations at the port and brings economic benefits to the wider Angus region. Montrose is the port of choice for key oil and gas suppliers, as well as the growing offshore renewables and decommissioning sectors. The port is also a destination for traditional general cargo imports and exports, and the cruise industry.
- 2.6. In managing the port, the Authority strives to observe industry standards set out in Government guidelines including the Modern Trust Ports for Scotland: Guidance for Good Governance. The Authority is committed to complying with the principles of the various codes and reports applying to the ports and harbours industry, except where not relevant to the Authority’s constitution.

3. THE PORTS AND MARINE FACILITIES SAFETY CODE

- 3.1. As the SHA for the port, the Ports and Marine Facilities Safety Code (April 2025) published by the Department for Transport (“the Code”) applies to the Authority as well as to all statutory harbour authorities and other marine facilities, berths and terminals in the UK. The Executive Summary to the Code explains that:

“1. The Ports & Marine Facilities Safety Code (the Code) sets out a national standard for every aspect of port and marine facility safety. Its aim is to enhance safety for everyone who

works in, or uses, ports, harbours, marinas and other marine facilities. Recognising the significant differences in the role, powers, duties, responsibilities and risks that different organisations have and manage, the Code is intended to be sufficiently flexible to enable its principles to be applied in a manner proportionate to local requirements. [...]

3. The Code includes references to the statutory responsibilities some organisations have for marine safety but does not purport to cover all legal duties or any wider, non-marine, safety responsibilities. Other legislation, such as that relating to security, can also impact marine safety. It is important for organisations to recognise this and strive to deliver cohesive and consistent policies and management across all these responsibilities.”

- 3.2. The Code identifies a number of tasks which harbour authorities should undertake in order to comply with the Code including reviewing and being aware of existing powers based on local and national legislation and advises that harbour authorities should seek additional powers if the existing powers are insufficient to meet their obligations to provide safe navigation. In particular, in the Executive Summary *“organisations must ensure that risks are formally assessed and are eliminated or reduced to the lowest possible level, so far as is reasonably practicable, in accordance with good practice.”*
- 3.3. paragraph 4.20 of the Code states *“Those SHAs which do not have powers to set general directions are recommended to consider acquiring them, typically through a harbour revision order”*. The Authority is seeking to obtain modern powers of General Direction as recommended by the Code.

4. THE HARBOURS ACT 1964

- 4.1. Section 14 of the Harbours Act 1964 (“the 1964 Act”) confers powers which have been devolved to Transport Scotland (see paragraph 1.3 above) to make an order under that section (known as a harbour revision order) in relation to a port or harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties for achieving all or any of the objects specified in Schedule 2 of the 1964 Act.
- 4.2. Section 14(2)(a) of the 1964 Act requires that a written application be made to Transport Scotland by the authority engaged in improving, maintaining or managing the harbour or port in question and section 14(2)(b) provides that the Minister must be:

“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 facilitating the efficient and economic transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships”.

The matters set out in Schedule 2 to the 1964 Act include, in particular, at paragraph 4:

“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above”.

And, at paragraph 6:

“Settling (either for all purposes or limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled”.

- 4.3. Because this is not an application for a harbour revision order which, directly or indirectly, authorises a project (within the meaning of paragraph 1 of Schedule 3 to the 1964 Act), prior notification to Transport Scotland under paragraph 3(a) of Schedule 3 to the 1964 Act is not required.
- 4.4. The application for the HRO under section 14 of the 1964 Act meets the conditions set out in that section. In particular, the application meets the requirements of:

- (a) section 14(1) of the 1964 Act because it is made in relation to a port which is being improved, maintained or managed by a harbour authority in the exercise and performance of its statutory powers and duties for the purpose of achieving objects falling within Schedule 2 to the Act.
- (b) section 14(2) of the 1964 Act because:
 - (i) the application is made upon the written application of a harbour authority engaged in improving, maintaining or managing the port; and
 - (ii) the making of the HRO is desirable in the interests of securing the improvement, maintenance or management of the port in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships.
- (c) section 14(2A) of the 1964 Act because the proposed harbour revision order repeals superseded, obsolete or otherwise unnecessary statutory provisions for the existing local legislation applying to Montrose Port Authority.
- (d) section 14(3) of the 1964 Act because the proposed harbour revision order includes appropriate penal provisions, a provision for incorporating *any other enactment*, namely the Harbours, Docks and Piers Clauses Act 1847, and provisions for modifying or repealing existing local legislation applying to Montrose Port Authority.

5. NEED AND JUSTIFICATION FOR HRO

A. GENERAL

- 5.1. The proposed HRO clarifies the port limits (including port premises) and confers further modernised powers on the Authority considered conducive to the efficient and economical operation, maintenance, management and improvement of the port. These include modern powers conferred on the Authority to give general directions to vessels, persons and vehicles using the port, together with powers exercisable by the Harbour Master appointed by the Authority to give special directions in respect of vessels. In respect of special directions and general directions related to the Authority's area of jurisdiction below the level of mean high water springs, these powers are required to support the effective management of the port as recommended by the Code and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within a harbour.
- 5.2. It is considered that it is desirable in the interests of securing the improvement, maintenance or management of the port in an efficient and economical manner that the Authority is provided with a set of modern flexible statutory powers contained within the proposed HRO and that the majority of current local statutory harbour legislation is repealed. Some of the relevant provisions are fragmented, complex and in some cases no longer fit for purpose and others are being consolidated into the proposed HRO.
- 5.3. The modernised and additional powers include powers reflective of that contained in modern HROs. Other HROs which contain some similar provisions include the Eyemouth Harbour Revision Order 2021, the Caledonian Maritime Assets (East Loch Tarbert) Harbour Revision Order 2019, and the Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018. They include statutory harbour powers, such as the power to borrow, reserve fund powers, powers to dispose of and develop land, powers associated with charges and miscellaneous powers including a power of general

direction, a power to dredge, powers related to the removal of wrecks and other obstructions and various powers related to commercial activities.

- 5.4. The proposed HRO also includes a clear statement of the Authority's general functions, an updated definition of "vessel" (and replaces the definition of vessel in article 3 of the 1974 Order) and updated charging provisions for the Authority in place of the repealed charging provisions contained in article 7 of the 1993 Order and section 49 of the 1850 Order.
- 5.5. All of the provisions in the proposed HRO are considered conducive to the efficient and economical operation, improvement, maintenance or management of the port.
- 5.6. An explanation of, and the need for, each substantive article in the HRO is set out below. Some examples of how the powers may be exercised are described below. These examples are not intended to be exhaustive of the ways in which the powers may lawfully be exercised.

B. PART 1: ARTICLES 1 – 3: PRELIMINARY

- 5.7. Articles 1 and 2 are not dealt with below since they are ancillary to the substantive provisions of the HRO.
- 5.8. **Article 3 of the Order – Incorporation of provisions of Harbours, Docks and Piers Clauses Act 1847**
 - 5.8.1. This article incorporates the 1847 Act apart from the sections listed as being excluded into the HRO and replaces the current incorporation of the 1847 Act in the 1894 Order and the 1974 Order (article 2) to ensure consistency of incorporation across the remaining pieces of local legislation applying to the port. The incorporation of the 1847 Act in the local legislation applying to the port has not been updated since 1974 and the Authority considers the revised incorporation set out in this article necessary. Those sections included predominantly relate to:
 - (a) Power to construct warehouses and other works (section 21);
 - (b) Rates and the Open Port Duty (sections 27 and 33);
 - (c) Collection of rates (sections 34 – 40 and 43 – 46 and 48);
 - (d) Harbour, dock and pier master (sections 51 – 65);
 - (e) Relating to the discharge of cargoes, removal of goods and the protection of the harbour, dock and pier (sections 68, 69, 72 – 74 and 76);
 - (f) Lights, beacons, or sea-marks (section 78)
 - (g) Harbour and dock police (sections 79, 80);
 - (h) Meters and weighers (sections 81 – 82);
 - (i) Byelaws (section 83);
 - (j) Recovery of damages and penalties (section 94);
 - (k) Act not to exempt the undertakers from the provisions of any general Act (section 103).
 - 5.8.2. Article 3(7)(e) construes section 53 of the 1847 Act (penalty on shipmasters not complying with directions of the harbour master) so that the notice of a direction by the harbour master can be served orally or otherwise, not just restricted to written service. This provision reflects the dynamic, and sometimes fast pace, nature of port operations and ensures safety in the port. Providing the Harbour Master with the ability to serve special directions on a vessel

orally or otherwise ensures directions are conveyed efficiently to the vessel to ensure safety in the port.

- 5.8.3. It is considered appropriate to incorporate a number of the key provisions of the 1847 Act (as listed above) and apply them to the whole of the Port. It is further considered that the provisions incorporated are conducive to the efficient and economical operation, maintenance, management and improvement of the Port.

C. PART 2: ARTICLES 4 – 22: DUTIES AND POWERS OF THE AUTHORITY

5.9. Article 4 of the Order – Continued Incorporation

5.9.1. This article provides that the Authority shall continue to be incorporated with a common seal and perpetual succession. This is necessary due to the repeals and revocations set out in article 55 and the Schedule to the HRO.

5.10. Article 5 of the Order – Limits of port

- 5.10.1. This article provides that the Authority shall exercise jurisdiction as harbour authority, and the powers of the harbour master shall be exercisable within the port (which includes the port premises), the limits of which are described fully in article 5(1).
- 5.10.2. Due to the proposed repeal of most of the current statutory harbour legislation, it is important that the Authority's jurisdiction as statutory harbour authority is clearly set out. Therefore, it is conducive to the efficient and economic management of the port to express the Authority's jurisdiction clearly in this article and to deposit plans clearly delineating the port limits and port premises. All of the land (including land covered by water) that is currently understood to fall within the port limits has been included. Article 5(2) makes it clear that the port premises are operational land within the meaning and for the purposes of the Town and Country Planning (Scotland) Act 1997.
- 5.10.3. Article 5(3) makes it clear that tidal works fall within the area of Angus Council. This is to ensure planning jurisdiction over all tidal works. In *R (oao Carralyn Parkes) v Dorset Council* [2024] EWHC 1253 (Admin) (the English case about the Bibby Stockholm barge housing asylum seekers) the court held that the planning authority had no jurisdiction over any land below low water (i.e. land always covered by water). As such, the purpose of the provision is to ensure that there are no issues relating to local planning control over tidal works.
- 5.10.4. In respect of the port premises, in the event of any future alteration to the extent of the port premises (because the Authority buys, sells etc. land), the Order requires the Authority to publish an illustrative plan on the port website within 30 days of the alteration and to keep this plan available for inspection at its port office. The Authority's powers to make byelaws and general directions can be exercised over the entire area of jurisdiction.
- 5.10.5. As stated above in October 2024, the Authority purchased a strategic piece of commercial land (45 acres) in Montrose with excellent connectivity to the then existing port premises. The acquisition of this land was supported by Angus Council and Scottish Enterprise, and complements Montrose's growing position as one of the world's leading Operations & Maintenance (O&M) hubs for offshore wind. Montrose is the O&M base for Seagreen, Scotland's largest operational offshore wind farm, and the upcoming Inch Cape offshore wind project. Once Inch Cape is fully operational, Montrose Port is expected to support 2.5GW of offshore wind capacity, reinforcing its pivotal role in the global offshore energy market. As a trust port, the Authority's focus with this acquisition is to drive sustainable

growth that benefits not only the port but the entire local community, creating opportunities for new businesses, local jobs and economic growth. This acquisition maximises the efficient utilisation, expansion and regeneration of the port by capitalising on the opportunity to position the port at the forefront of Scotland's energy transition to a green economy, which in turn will provide increased financial security to the port. The location of this land is shown on "The Montrose Harbour Revision Order 202[] Port Premises Plan – Montrose Commercial Park", with an overview provided in the Overview Location Plan contained in the Annex to this Statement in Support.

5.10.6. The Authority has no current plans to purchase any additional land at this time. However, the definition of port premises (defined in article 2(1) of the Order) is flexible, meaning that if further land was purchased in the future, adjacent to the wet port area, for the port undertaking, it would automatically become part of the undertaking (or if land no longer required for the purposes of the port undertaking was sold, it would cease to be a part of the port undertaking). This is considered to support the efficient and economic management of the port, because if a further harbour order was required every time the Authority sold or purchased land it would lead to increased costs (i.e. costs of obtaining a harbour order), delay (i.e. the delay in obtaining a harbour order), and is likely to leave the Authority unable to take advantage of the commercial opportunities within a commercially acceptable timescale. For example, it is unlikely that a commercial user in the offshore wind sector is going to be prepared to wait potentially in excess of 12 months for land to become (or cease to become) port premises. In addition, it ensures that the Authority's statutory powers and duties apply (or cease to apply) over any land within the definition of port premises, purchased or sold. Noting the Authority can only dispose of the freehold of land which is not required for the purpose of the port undertaking (for example, it could not sell land which it requires for compliance with the open port duty).

5.10.7. Article 5(9) authorises the Authority to appoint a harbour master to perform its Statutory Harbour Authority functions. This provision is necessary for the functioning of the port, harbour masters are integral to implementing the statutory functions of SHAs, as such a provision enabling the Authority to appoint a harbour master to do so is important and necessary.

5.10.8. This article is authorised by paragraph 6 of Schedule 2 to the 1964 Act, as follows:

"Settling (either for all purposes or for limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled."

5.11. Article 6 of the Order – General Powers of the Authority

5.11.1. This article provides that the Authority may take such steps as it may consider necessary or desirable from time to time for the operation, maintenance, management and improvement of the port, its approaches and facilities.

5.11.2. For those purposes article 6 authorises the Authority to improve maintain, regulate, manage, mark and light the port and provide port facilities; carry out various activities related to works, structures and equipment at the port and do all other things which in its opinion are expedient to facilitate the proper operation, improvement or development of the port including acquiring land. Although the port has implied powers to acquire land for the port, it is sensible to include an express reference to the power within the Order. The article does not replace the need to obtain (if required) planning permission, a marine licence or a Harbour Revision Order to authorise specific works.

- 5.11.3. The definition of port facilities highlights the importance of a number of industries including shipping, offshore renewables and the cruise industry to the future viability of the port.
- 5.11.4. 6(2)(d)-(f) provide that the Authority may acquire undertakings, shares or securities in body corporates and lend monies to undertakings. This enables the Authority to respond to future opportunities and supports the exercise of the powers contained in articles 7 (Development of land) and 9 (Other commercial activities).
- 5.11.5. This article is authorised by:
- 5.11.6. paragraph 3 of Schedule 2:
"Varying or abolishing duties or powers imposed or conferred on the authority by a statutory provision of local application affecting the harbour, being duties or powers imposed or conferred for the purpose of- (a) improving, maintaining or managing the harbour; (b) marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof; or (c) regulating the carrying on by others of activities relating to the harbour or of activities on harbour land" and;
- 5.11.7. paragraph 13 of Schedule 2:
"Regulating the application of moneys in the nature of revenue received by the authority and securing that the financial affairs of the authority are properly managed." and;
- 5.11.8. paragraph 17 of Schedule 2:
"Any object which, though not falling within any of the foregoing paragraphs, appears to the appropriate Minister to be one the achievement of which will conduce to the efficient functioning of the harbour."
- 5.11.9. As a result of the majority of existing local legislation being repealed, it is efficient and economic in the interests of the management of the port to have a clear statement relating to the Authority's general functions in relation to it, as it reduces the likelihood of needing to rely on implied and / or existing powers.

5.12. **Article 7 of the Order – Development of land etc.**

- 5.12.1. This article provides that the Authority may, alone or with others, (including through a company) develop land required for the purposes of the port undertaking. In addition, where land is not required for the purposes of the port undertaking, it may develop it with a view to disposing of the land. The article also authorises the Authority to acquire land for the purpose of developing it, alone or with other land, provided that in all cases it is conducive to the improvement, maintenance or management of the port undertaking in an efficient and economical manner.
- 5.12.2. Article 7, as far as applying to land not required for the port, is authorised by paragraph 9A of Schedule 2 of the 1964 Act: *"Empowering the authority (alone or with others) to develop land not required for the purposes of the harbour with a view to disposing of the land or of interests in it, and to acquire land by agreement for the purpose of developing it together with such land"*. So far as relating to port land, it is considered that article 7 is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a harbour revision order if the object of the provision appears to Transport Scotland to be one the achievement of which will conduce to the efficient functioning of the port. The case for this is set out below as an integral justification for article 7.

- 5.12.3. The purpose of article 7 is to give the Authority the flexibility, subject to obtaining the necessary rights in or over land, to exploit opportunities to develop land (including port land) to maximise the efficient utilisation, expansion and regeneration of the port. The profits and revenues derived by the port undertaking from the development of any land under article 7 would be used to improve and develop the port and provide increased financial security.
- 5.12.4. An example of how this power could be used is the development of an offshore wind operations and maintenance welfare hub in conjunction with the offshore wind customer. This may occur where the welfare hub is required for the port to be used as the operations and maintenance base and the offshore wind customer is going to fund part of the development cost of the welfare hub, and as such a joint venture company is required. The benefit to the port would be securing the use of the port as a major operations and maintenance base.
- 5.12.5. It should be noted that the powers in article 7 can only be exercised if *“it is conducive to the improvement, maintenance or management of the harbour in an efficient and economical manner”*. This limitation brings article 7 within the powers of section 14(2)(b) of the 1964 Act.

5.13. **Article 8 of the Order – Powers to grant tenancies and to dispose of land**

- 5.13.1. Article 8(1) gives power to the Authority, for the purposes of or in connection with the carrying on of the undertaking, to grant leases and other rights or interests over its land or other property forming part of the port.
- 5.13.2. Article 8(3) provides that the Authority may also dispose of land or property if it considers that the property is surplus to port requirements; or it would conduce to the improvement, maintenance or management of the port in an efficient and economical manner or the property to be held by a person other than the Authority.
- 5.13.3. Article 8(1), which is needed to manage the port, is authorised by paragraph 3(a) of Schedule 2 of the 1964 Act which relates to powers conferred for the purposes of “improving maintaining or managing the harbour”.
- 5.13.4. Article 8(3)(a) is authorised by paragraph 9 of Schedule 2: “Empowering the authority to dispose of property vested in them and held for the purpose of the harbour which is no longer required for those purposes.”
- 5.13.5. It is considered that article 8(3)(b) is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a harbour revision order if the object of the provision appears to Transport Scotland to be one the achievement of which will conduce to the efficient functioning of the port. The case for this is set as an integral part of the need for article 8.
- 5.13.6. Article 8(1) and 8(3)(a) are needed to enable the Authority to manage the Port undertaking effectively.
- 5.13.7. Article 8(2) would enable the Authority to, in a lease or grant under (1), delegate functions of the Authority to the lessee or grantee. This power is needed to enable the Authority to have sufficient flexibility in how to structure the port undertaking in the future.

5.14. **Article 9 of the Order – Other commercial activities**

- 5.14.1. Article 9(1)(a) provides that the Authority may carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person. Article 9(1)(b) enables the Authority to form, invest in and promote, or join with another person in forming, investing in and promoting, a company for carrying on any part of the undertaking

or carrying on at any place a trade or business of any kind. Article 9(2) provides that a company established under paragraph 9(1)(b) may have powers to do anything necessary or expedient for the purposes of the objects for which it has been established notwithstanding that the Authority would not itself have the power to do that thing.

- 5.14.2. It is considered that article 9 is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a Harbour Revision Order if the object of the provision appears to Transport Scotland to be one the achievement of which will conduce to the efficient functioning of the port. The case for this is set out below as an integral part of the need for article 9.
- 5.14.3. Article 9(1)(a) would assist the Authority to maximise the potential of the port undertaking by enabling it to carry on any business which could conveniently be carried on with the port undertaking. For example, the Authority could utilise and develop the skill and experience of its staff by providing services to other port undertakings or to carry out business activities which are incidental to running a port.
- 5.14.4. Article 9(1)(b) would enable the Authority to carry on such a business as part of a joint venture with another person or persons, for example enabling the Authority to contribute land and/or port related expertise to the venture while the other party contributes complementary specialist business expertise.
- 5.14.5. The profits and revenues derived from the business ventures under article 9 would be used to improve and develop the port and ensure increased financial security.
- 5.14.6. A trust port, as a statutory entity, only has the powers provided to it under statute. If a company was set up, it is important that it can exercise any powers exercisable by other companies. It should be noted that the powers in article 9 can only be exercised if *"it is conducive to the improvement, maintenance, operation or management of the port in an efficient and economical manner"*. This limitation brings article 9 within the powers of section 14(2)(b) of the 1964 Act (set out in paragraph 4.2 above).

5.15. **Article 10 of the Order – Power to delegate functions**

- 5.15.1. This article provides that the Authority may delegate the performance of any of its functions (except those which cannot be delegated under a Harbour Revision Order) to be carried out by any such company as referred to in article 9(1)(b).
- 5.15.2. Article 10 is authorised by paragraph 9B of Schedule 2: *"Empowering the authority to delegate the performance of any functions of the authority except- (a) a duty imposed on the authority by or under any enactment; (b) the making of byelaws; (c) the levying of ships, passenger and goods dues; (d) the appointment of harbour, dock and pier masters; (e) the nomination of persons to act as constables; (f) functions relating to the laying down of buoys, the erection of lighthouses and the exhibition of lights, beacons and seamarks, so far as those functions are exercisable for the purposes of the safety of navigation."*
- 5.15.3. The power to delegate functions is needed to enable the Authority to carry out day to day activities through a subsidiary or joint venture company. The power does not apply to the key functions which cannot be delegated under paragraph 9B of Schedule 2 to the 1964 Act.

5.16. **Article 11 of the Order – Moorings**

- 5.16.1. This article provides the Authority with powers related to the provision, maintenance and licensing of moorings within the port. The Authority already licences moorings within the port as an important part of its management of the port and charges a licence fee.

5.16.2. A similar provision can be found in article 22 of the Caledonian Maritime Assets (East Loch Tarbert) Harbour Revision Order 2019.

5.16.3. Article 11(3) provides owners and users of existing lawfully laid moorings with a 12-week period to obtain the consent required under subparagraph (2) once the HRO comes into force.

5.17. **Article 12 of the Order – Power to regulate pleasure craft**

5.17.1. This provision provides the Authority with the power to regulate the let or hire of pleasure craft within the port.

5.17.2. The provision provides for a level 4 fine for contravention of article 12(1) or 12(6) (on summary conviction).

The Authority considers it necessary to obtain the power to regulate pleasure craft in order to achieve the purposes set out in section 14(b) of the 1964 Act. Additionally, this power is required in the interest of providing safe navigation for a variety of vessels within a busy port and safety to all port users.

5.17.3. A similar provision can be found in article 24 of the Caledonian Maritime Assets (East Loch Tarbert) Harbour Revision Order 2019.

5.18. **Article 13 of the Order – Bunkering**

This article provides the Authority with powers in relation to licensing those persons carrying out commercial refuelling activities related to vessels in the port. To comply with the environmental duties contained in s48A of the Harbours Act 1964, the Port considers that it is important that it has express powers to licence such activities so that proper risk assessments can be carried out and persons carrying out such activities can be required to comply with terms and conditions, designed to mitigate against risks associated with such activities (including environmental).

5.19. **Article 14 of the Order – Aids to Navigation**

This article provides that the Authority may, with the approval of the Commissioners of Northern Lighthouses, erect, place, alter, discontinue or remove any aids to navigation in any place adjacent to the port (subject to obtaining the necessary interest in or over land). This power is important for enabling the Port to meet its navigational safety duties.

5.20. **Article 15 of the Order – Power to dredge**

5.20.1. This article provides the Authority with a power to dredge. The power to dredge is a standard statutory harbour power and under the 1993 Order the Authority already has the power to dredge with respect to the bed channel and foreshore of the port and its approaches.

5.20.2. Historically dredging has been carried out at the port on a regular basis (at least once per year). It is anticipated that this will continue in the future. It is therefore important that the Authority is provided with the power so that it is able to dredge if and when required.

5.20.3. If dredging is carried out at the port under the provision in the future, then in line with articles 3 and 26 of the Marine Licensing (Exempted Activities) (Scottish Inshore Region) Order 2011, the Authority will not need to obtain a marine licence for the dredging activity. However, the disposal of dredged sediment may require a marine licence.

- 5.20.4. A similar provision can be found in article 6 of the Highland Council (Uig, Isle of Skye) Harbour Revision Order 2020 and article 9 of the Caledonian Maritime Assets (Brodick) Harbour Revision Order 2015.

5.21. **Article 16 of the Order – Repair of landing places, etc.**

- 5.21.1. This article provides that the Authority may by notice require the owner or occupier of any landing place, jetty, wall, pontoon, pile, embankment, bridge, structure or other work in the port or on land immediately joining the waters of the port to repair it, within a reasonable time, to its reasonable satisfaction, if it is a danger to persons or vessels using the port or a hindrance to navigation of the port.
- 5.21.2. The provision provides for a level 4 fine for non-compliance (on conviction) and a power for the Authority to carry out the works and recover the cost from the person on whom the notice was served. There is right of appeal to the Scottish Ministers.

5.22. **Article 17 of the Order – Obstruction of works**

- 5.22.1. This provision provides the Authority with the power to find any person guilty of an offence who intentionally causes an obstruction in relation to any works. This provision is important to enable the Authority to comply with its duties related to navigational safety, the Open Port Duty and in respect of the environment (in particular s48A of the 1964 Act).
- 5.22.2. The provision ensures that the Authority can require suitable safeguards to be put in place when works and dredging are being conducted. As such, the level 3 fine in article 17 for breach is considered appropriate and proportionate.
- 5.22.3. Paragraph 17 of Schedule 2 provides that a Harbour Revision Order may include provision for:

“Any object which, though not falling within any of the foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”

5.23. **Article 18 of the Order - Parking places and related facilities**

- 5.23.1. This article provides that the Authority may provide parking spaces and connected works within the port.
- 5.23.2. This power has been expressly included because the port includes car parks which form part of the undertaking. A similar provision can be found in article 21 of the Caledonian Maritime Assets (East Loch Tarbert) Harbour Revision Order 2019.
- 5.23.3. The charging for such facilities is authorised by paragraph 11 of the 1964 Act:

“Empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than as aforesaid) levied by them at the harbour.”

- 5.23.4. With regard to the provision of parking and related facilities generally, paragraph 17 of Schedule 2 provides that a Harbour Revision Order may include provision for:

“Any object which, though not falling within any of the foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”

And, as such, it is considered that this article is justified.

5.24. **Article 19 of the Order - Removal of vehicles**

- 5.24.1. This article authorises the Authority to remove vehicles and vessels from the port that have been left in a place where they will or are likely to interfere with the use of the port or in any part of the port where parking is prohibited.
- 5.24.2. This power is important in assisting the Authority in managing efficiently traffic within the Port.
- 5.24.3. This article is also desirable in the interests of securing the improvement, maintenance or management of the port in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act as the Authority must be able to remove vehicles and vessels that contradict a prohibition notice (which must be conspicuously placed where appropriate) or that otherwise cause an obstruction or interfere with the use of the port. It would not be consistent with section 14(2)(b) of the 1964 Act if the Authority were not afforded this express power.
- 5.24.4. The article also provides the Authority with the “lawful authority” required under section 52(1) of Part 4 Chapter 2 of the Protection of Freedoms Act 2012, to remove vehicles, as the Authority ought not commit an offence if it removes vehicles in such circumstances, for the reasons set out above.
- 5.24.5. It is considered that the interests of people who aren't the Authority and otherwise entitled to remove said vehicles are sufficiently safeguarded by the provisions of article 19(2) – (7).
- 5.24.6. A similar provision can be found in article 23 of the Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018.

5.25. **Article 20 of the Order - Power with respect to disposal of wrecks**

- 5.25.1. This article extends the powers of the Authority under section 252 Merchant Shipping Act 1995. In particular it extends the circumstance in which the Authority may recover expenses reasonably incurred by them in exercising said power from the owner of any such vessel. The provision includes notice requirements to the owner of the vessel and a period in which the vessel owner may dispose of the vessel itself.
- 5.25.2. This extension of the power in s252 Merchant Shipping Act is common and important in other UK ports and assists with the port being run in an efficient and economic manner. A similar provision can be found in article 52 of the Portsmouth International Port and Camber Harbour Revision Order 2025, article 11 of the Dee Estuary Conservancy Harbour Revision (No. 2) Order 2023, and article 60 of the Cornwall Harbours Harbour Revision Order 2023.

5.26. **Article 21 of the Order - Power to deal with unserviceable vessels**

This article provides that the Authority may sell, break up or otherwise dispose of any vessel which is unserviceable and had been laid by or neglected in the port or on land immediately adjoining the port. It is important for this power to extend to land immediately adjoining the port because it makes the power applicable to vessels for example that are on the foreshore adjoining the Authority's wet limits, situated very close to the high water mark. If this power did not extend to land immediately adjoining the port, the Authority would potentially have to wait for the vessel to be washed out to sea into their wet limits to be able to deal with it, causing a higher risk to navigational safety in the port.

5.26.1. **Article 22 of the Order - Removal of obstructions other than vessels, vehicles or wrecks**

5.26.2. This article provides that the Authority may remove under the powers of this article anything other than vessels, vehicles or wrecks which are causing or likely to become an obstruction to, or cause interference with navigation in any part of the port or its approaches. The provision deals with the recovery of costs by the Authority of reasonable expenses incurred by them in relation to the exercise of the power and sale of the item(s) recovered.

5.26.3. This power is important in assisting the Authority in meeting its duties with regard to navigational safety and the safety of port users, and important if the port is to be run in an efficient and economic manner. Similar provisions can be found in article 22 of the Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018.

5.27. **Article 23 of the Order - Power to remove goods**

5.27.1. This provision provides the Authority with the power to require the owner of goods to move them, and if not done so within six hours the Authority may remove them at the expense and risk of the owner.

5.27.2. Article 23(2) allows the Authority to subject the goods to a lien for the cost of removal and any charges or goods payable to the Authority by the owner.

5.27.3. This article is also desirable in the interests of securing the improvement, maintenance or management of the port in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act as the Authority must be able to remove goods that cause an obstruction or interfere with the use of the port. It would not be consistent with section 14(2)(b) of the 1964 Act if the Authority were not afforded this express power.

5.27.4. A similar provision can be found in article 24 of the Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018.

PART 3: ARTICLES 24 – 34: PORT REGULATIONS

5.28. **Articles 24 to 30 of the Order – General Power of Direction and Special Directions**

5.28.1. These articles provide the Authority with a power of General Direction and extended powers of Special Direction. They also set out the consequences of failing to comply with a General or Special Direction. Such powers are now relatively common in port legislation and General Direction powers have been granted in articles 5 - 10 of the Clydeport (COP 26 etc.) Harbour Revision Order, articles 25, 26, 28 - 30 of the Eyemouth Harbour Revision Order 2021, and articles 28 – 32 and 35 of the Caledonian Maritime Assets (East Loch Tarbert) Harbour Revision Order 2019.

5.28.2. The Authority considers it necessary to obtain powers of general direction in order to achieve the purposes set out in section 14(b) of the 1964 Act.

5.28.3. To assist in the management of the port in compliance with the Ports and Marine Facilities Safety Code (the Code), the Authority is seeking a modern power to issue general directions, and to update the harbour master's powers to issue special directions, as recommended by the Code. These powers are required in the interests of providing safe navigation for a wide variety of vessels within a busy port.

5.28.4. In terms of the precise scope of general directions, it will be seen that article 24(1) would allow the Authority to give or amend directions “...in order to promote or secure conditions conducive to the ease, convenience or safety of navigation or the safety of persons, and for

the conservation of the port's flora, fauna and geographical and physiographical features of special interest".

- 5.28.5. Article 24(1) and (3) set out the standard consultation requirements the Authority must adhere to before implementing new general directions. Similar provisions can be found in article 5(1) and (3) of The Clydeport (COP 26 etc.) Harbour Revision Order 2021, article 17(1) and (3) of The St. Andrews Harbour Revision Order 2025, article 17(1) and (4) of The Dumfries and Galloway Council (Stranraer) Harbour Revision Order 2024, and article 24(1) and (3) of The Eyemouth Harbour Revision Order 2021. These consultation requirements do not apply, as per article 24(4) and (5), where the Authority proposes to give, amend or revoke a general direction in an emergency in the interests of navigational safety, or the safety of persons. It is crucial that the Authority is able to make general directions in an emergency without the time delay of having to consult as per the requirements of article 24(1) and (3) as there might not be sufficient time to consult individual bodies. Additionally, it is important for the Authority to be able to amend or revoke general directions in an emergency without having to consult before doing so because if it is not afforded this ability, a situation could occur where a special direction given to deal with the emergency conflicts with the pre-existing general directions, resulting in the public committing a criminal offence for non-compliance with one or other of the directions. Article 24(4) and (5) are required not only for the Authority's compliance with the Ports and Marine Facilities Safety Code, but also for the safe management of the port more generally. It is also important to note that any general directions made under article 24(4) and (5) will only remain in force for the period of the emergency.
- 5.28.6. Similar provisions to article 24(4) and (5) can be found in article 5(4) and (5) of The Clydeport (COP 26 etc.) Harbour Revision Order 2021, and article 39(4) and (5) of the Cromarty Firth Port Authority Order 1973 (as amended by article 3(28) of The Cromarty Firth Port Authority Harbour Revision Order 2025). Article 39(4) of the Cromarty Firth Port Authority Order 1973 goes further than article 24(4) in this proposed HRO because it enables Cromarty Firth Port Authority to give, amend or revoke a general direction in an emergency, or relating to an intended, potential or actual activity or operation within the Port, whereas the proposed article 24(4) in this HRO only allows the Authority to give, amend or revoke a general direction in an emergency.
- 5.28.7. Failure to comply with a General Direction or Special Direction without reasonable excuse is punishable, on conviction, by a fine not exceeding level 4 on the standard scale. This is the same level of fine as can be seen in the Clydeport (COP 26 etc.) Harbour Revision Order 2021.

5.29. **Article 31 of the Order – Boarding of vessels and vehicles**

- 5.29.1. This article provides that any duly authorised officer of the Authority may enter and inspect a vessel or vehicle in the port, subject to producing their authority where requested for the purposes of any enactment relating to the Authority, byelaw or general direction of the Authority including its enforcement, or to prevent or extinguish fire, giving such advance notice as is reasonably practicable in the circumstances (except in the case of emergency or where doing so would obstruct the purpose of exercising the power).

5.30. **Article 32 of the Order – Byelaws**

- 5.30.1. This article provides the Authority with the power to make byelaws in a range of circumstances in addition to the purposes in section 83 of the Harbours, Docks and Piers Clauses Act 1847 (as incorporated under article 3 of this Order) and is in line with the modern

practice of setting out a wide range of matters upon which the Authority will have the power to make byelaws.

- 5.30.2. The power to make byelaws is authorised by paragraph 4 of Schedule 2 of the 1964 Act. A similar provision can be found in article 25 of the Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018.

5.31. **Article 33 of the Order – Confirmation of byelaws**

- 5.31.1. This article sets out the procedure by which byelaws made under the HRO shall be confirmed by the Scottish Ministers.

- 5.31.2. A similar provision can be found in article 26 of the Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018.

5.32. **Article 34 of the Order – Saving for existing directions, byelaws, etc.**

- 5.32.1. Due to the proposed repeal of the majority of the local legislation currently in force in respect of the port, it is necessary to include a saving provision for existing byelaws etc. They will then remain in force until replaced in the future.

- 5.32.2. A similar provision can be found in article 11 of the Clydeport (COP 26 etc.) Harbour Revision Order 2021.

PART 4: ARTICLES 35 – 47: FINANCIAL PROVISIONS

5.33. The articles contained within Part 4 of the HRO set out the Authority's powers with respect to borrowing and charges it may levy. They are reflective of modern statutory harbour powers relating to charges and conducive to the improvement, maintenance or management of the port in an efficient and economical manner. A similar suite of powers conferred by articles 37 – 45 has been conferred on the Dumfries and Galloway Council in articles 27 – 36 of the Dumfries and Galloway (Kirkcudbright) Harbour Revision Order 2018.

5.34. **Article 35 of the Order – Borrowing powers**

- 5.34.1. This article provides that the Authority may borrow such sums of money as it considers necessary for the purpose of meeting its obligations in carrying out its functions and that it may secure such borrowing against the assets and revenues of the port undertaking.

- 5.34.2. This article reflects modern statutory harbour borrowing powers as can be seen in the powers conferred by article 29 of the Stornoway Port Authority Harbour Revision Order 2019.

- 5.34.3. There is no need to place a limit on the amount of money which can be borrowed by the Authority because, in reality, borrowings will be limited by the amount a lender is prepared to loan. In addition, the unlimited borrowing power will avoid the requirement for an HRO at a future date to extend the borrowing powers as the value of money decreases as a result of inflation.

- 5.34.4. This article is authorised by paragraph 10 of Schedule 2 of the 1964 Act:

“Empowering the authority to borrow money, with or without limitation with respect to the amount that may be borrowed or the time or manner in which the power may be exercised.”

5.35. **Article 36 of the Order – Temporary Borrowing powers**

- 5.35.1. This article provides that the Authority may temporarily borrow by way of overdraft or otherwise.

5.36. **Article 37 of the Order – Charges other than ship, passenger and goods dues**

5.36.1. This article provides that in addition to ship passenger and goods dues under section 26 1964 Act, the Authority may demand, take and recover reasonable charges in respect of all vessels. It also expressly states that charges may be made in respect of a variety of other floating platforms etc. so that no dispute will arise as to whether such structures fall within the definition of vessel contained within the Order.

5.36.2. In a relatively small port such as Montrose, it is important to future viability that all users of the port contribute to the cost of the management and maintenance of the port. It would be detrimental to the improvement, maintenance or management of the port in an efficient and economical manner if charging powers did not exist in respect of one type of vessel or floating structure using the port (exemptions are provided in article 45). This provision is particularly important because the Order provides for the existing charging provisions in current local statutory harbour legislation to be repealed.

5.37. **Article 38 of the Order – Charges for services or facilities**

5.37.1. This article provides that in addition to ship, passenger and goods dues under section 26 1964 Act, the Authority may demand, take and recover reasonable charges for services provided by them.

5.38. **Article 39 of the Order – Payment of charges**

5.38.1. This article provides that charges are payable before the vessel or goods against which they are payable are removed from the port or port premises. It also sets out who charges are payable by and who they can be recovered from and when.

5.39. **Article 40 of the Order – Recovery of charges by seizure, etc.**

5.39.1. This article provides the Authority with a power to board a vessel and take, seize or arrest it and the tackle and cargo thereof if there is a default of payment of any charge in respect of the vessel.

5.39.2. This article also allows the Authority to sell the same if the charge remains unpaid for 7 days after seizure, settle the unpaid charge and expenses of seizure or arrestment and pay the surplus (if any) to the owner of the vessel.

5.39.3. An application in relation to the amount of charge due or expenses of seizures or arrestment may be made to the sheriff.

5.39.4. This power is important in assisting the Authority in managing vessels efficiently within the port.

5.39.5. This article is also desirable in the interests of securing the improvement, maintenance or management of the port in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act because the Authority must be able to remove vessels that cause an obstruction or interfere with the use of the port. It would not be consistent with section 14(2)(b) of the 1964 Act if the Authority were not afforded this express power.

5.40. **Article 41 of the Order – Power to grant exemptions, rebates, etc., in respect of charges**

5.40.1. This article provides the Authority with a power to confer exemptions from dues, allow rebates or make compositions with any person with respect to charges. In addition, it provides that the Authority does not have to include on its list of ship, passenger and goods

dues kept at the harbour office, charges which have been reduced by a rebate or a compounding arrangement in respect of a due included on the list.

5.41. **Article 42 of the Order – Security for charges**

5.41.1. This article provides that the Authority may require from a person who incurs or is about to incur a charge with them, a reasonable deposit or guarantee. It also provides the Authority with the power to detain a relevant vessel or goods until the deposit has been paid or the required guarantee made.

5.42. **Article 43 of the Order – Liens for charges**

5.42.1. This article provides for a right of lien over goods on the possession or custody respectively of a person collecting charges on behalf of the Authority or, a wharfinger or carrier, who has paid or given security for charges on those goods.

5.43. **Article 44 of the Order – Refusal to pay charges for a landing place, etc.**

5.43.1. This article provides that a vessel may be prevented from using a landing place supplied by the Authority, if the master of the vessel refuses to pay the related charges.

5.44. **Article 45 of the Order – Exemptions from ship, passenger and goods dues**

5.44.1. This article is similar to other modern provisions providing for an exemption for harbour dues for certain vessels, persons and government departments (or their equivalent) whilst in the exercise of their core duties.

5.45. **Article 46 of the Order – Recovery of charges**

5.45.1. This article provides that in addition to any other powers of recovery available to it, the Authority may recover any charges payable to it as a debt in Court.

5.46. **Article 47 of the Order – Harbour master may prevent sailing of vessels**

5.46.1. This article provides that the Harbour Master may prevent the removal or sailing from the port of any vessel until evidence is produced that any charges payable in respect of the vessel, its passengers or goods have been paid.

F. PART 5: ARTICLES 48 – 55: MISCELLANEOUS AND GENERAL

5.47. **Article 48 of the Order – Notices**

5.47.1. This article sets out how notices required under the Order are served (except where the Order expressly provides otherwise).

5.47.2. A similar provision can be found in article 13 of the Clydeport (COP 26 etc.) Harbour Revision Order 2021.

5.48. **Article 49 of the Order - Saving for the Commissioners of Northern Lighthouses**

5.48.1. This article provides the standard saving provision for the rights of the Commissioners of Northern Lighthouses.

5.48.2. A similar provision can be found in article 14 of the Clydeport (COP 26 etc.) Harbour Revision Order 2021.

5.49. **Article 50 of the Order – Crown rights**

5.49.1. This article provides the standard saving provision for Crown rights.

5.49.2. A similar provision can be found in article 15 of the Clydeport (COP 26 etc.) Harbour Revision Order 2021.

5.50. **Articles 51 – 54 of the Order - Amendment of the 1894, 1974, 1991 and 2003 Orders**

5.50.1. These articles provide for the amendment of the 1894, 1974, 1991 and 2003 Orders from the date of the HRO. These amendments are necessary to complete the process of modernisation of the Authority's powers as a statutory harbour authority in conjunction with the provisions of the HRO and the revocations contained in article 55 and the Schedule of the HRO.

5.51. **Article 55 of the Order – Repeals and revocations**

5.51.1. This article provides for the revocation of the local legislation listed in the Schedule from the date of the HRO. These Acts and Orders (in so far as they are revoked) either are or will become obsolete once the HRO is fully in force.

6. COMPLIANCE WITH UK MARINE POLICY STATEMENT AND SCOTLAND'S NATIONAL MARINE PLAN

6.1. Montrose is situated within the Forth and Tay marine region. The proposed HRO is a non-works HRO (i.e., it does not authorise a plan or project). Its provisions are focused on modernising the Authority's existing statutory powers to support the efficient and economical operation, maintenance, management and improvement of Montrose Port. Predominantly this modernisation of powers relates to the Authority's enforcement activities. The modernisation, amends the process by which such enforcement provisions can be made, amended and repealed.

6.2. The proposed HRO also clarifies the existing port limits and expressly includes the port premises. The other provisions of the proposed HRO are predominantly administrative (updating the definition of vessel and relating to payment of charges). As such it is expected that the effects of the proposed HRO on the Forth and Tay Marine Plan area will be very limited and that any effects will be positive as the proposed HRO supports the economic and efficient management of Montrose Port (including with respect to environmental considerations). A brief summary of compliance is nevertheless set out below.

6.3. **Compliance with UK Marine Policy Statement**

6.3.1. The UK Marine Policy Statement ('MPS') sets out (in section 2.1) that the UK vision for the marine environment is for '*clean, healthy, safe, productive and biologically diverse oceans and seas*'. One of the core purposes of the proposed HRO is to modernise the Authority's enforcement powers enabling it to keep its enforcement provisions under review and to update, amend and repeal them in a more timely and efficient manner than through byelaws. This will support the Authority in ensuring it meets, both its environmental duties under s48A of the Harbours Act 1964 and compliance with the Ports and Marine Facilities Safety Code. Both of which will support the vision of ensuring that the marine environment in and around Montrose Port is kept '*clean, healthy, safe, productive and biologically diverse*'. The provisions of the proposed HRO also support the following high level objectives contained in the MPS:

(a) Achieving a sustainable marine economy: Marine businesses are acting in a way which respects environmental limits and is socially responsible.

(b) Ensuring a strong, healthy and just society: The coast, seas, oceans and their resources are safe to use.

(c) Living within environmental limits: Biodiversity is protected, conserved and where appropriate recovered and loss has been halted.

(d) Promoting Good Governance: Marine businesses are subject to clear, timely, proportionate and, where appropriate, plan-led regulation.

6.4. Compliance with Scotland's National Marine Plan

6.4.1. The proposed HRO supports the statement at Chapter 4.1 of the National Marine Plan *"Achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits."*

6.4.2. In particular it supports *"GEN 4 Co-existence: Proposals which enable coexistence with other development sectors and activities within the Scottish marine area are encouraged in planning and decision making processes, when consistent with policies and objectives of this Plan"* by supporting the Authority in managing navigational safety and the environment efficiently within a busy part of the Scottish Marine Area.

6.4.3. By supporting compliance with the Ports and Marine Facilities Safety Code, it also supports the Objectives in Chapter 13 of the National Marine Plan to support:

- (a) Safeguarded access to ports and harbours and navigational safety.
- (b) Sustainable growth and development of ports and harbours as a competitive sector, maximising their potential to facilitate cargo movement, passenger movement and support other sectors.

7. CONCLUSION

7.1. In addition to the specific provisions of Schedule 2 to the 1964 Act, paragraph 17 of Schedule 2 provides that a Harbour Revision Order may include provision for:

"Any object which, though not falling within any of the foregoing paragraphs, appears to the [Transport Scotland] to be one the achievement of which will conduce to the efficient functioning of the harbour."

7.2. For the reasons mentioned above, it is considered that to the extent that any provision contained in the HRO does not fall specifically within any other paragraph of Schedule 2, the provisions of the HRO would be conducive to the efficient functioning of Montrose Port and it is therefore within the scope of the 1964 Act for them to be included in the HRO.



Dated 17 February 2026

Ashfords LLP

Ashford House

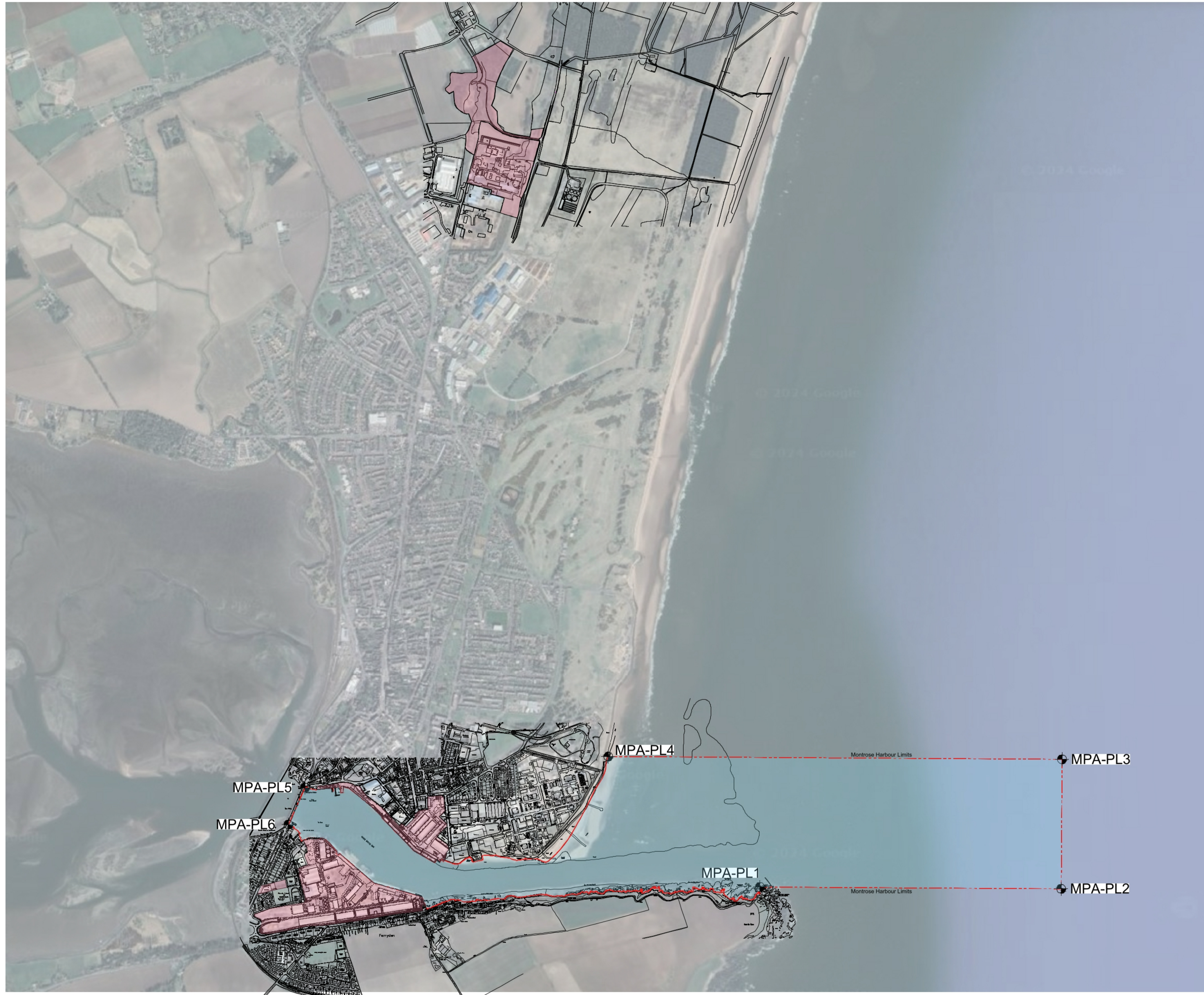
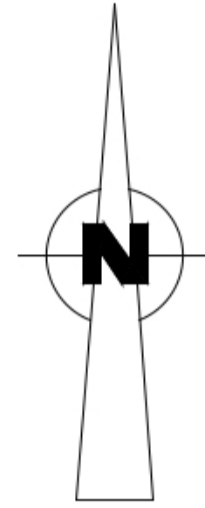
Grenadier Road


Exeter

EX1 3LH

Solicitors on behalf Montrose Port Authority.


Annex 1 – Overview Location Plan



LEGEND...:
 MONTROSE PORT HARBOUR LIMITS
 INDICATED BY INSIDE EDGE OF RED LINE

 MONTROSE PORT AUTHORITY
 PORT PREMISES

Heights in metres above Chart Datum (Montrose)			
MHWS	MHWN	MLWN	MLWS
4.9	3.8	1.9	0.8

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MONTROSE PORT AUTHORITY : CO-ORDINATES			
Point Reference	Latitude/Longitude		Remarks
	Latitude	Longitude	
MPA-PL1	56°42.14'N	002°26.24'W	60m north of Scurdie Ness
MPA-PL2	56°42.14'N	002°24.76'W	
MPA-PL3	56°42.49'N	002°24.76'W	
MPA-PL4	56°42.49'N	002°26.99'W	
MPA-PL5	56°42.40'N	002°28.48'W	North end of New Bridge
MPA-PL6	56°42.30'N	002°28.56'W	South end of New Bridge


Draft for Discussion
 Tue 29/10/2024

PRELIMINARY DRAWING

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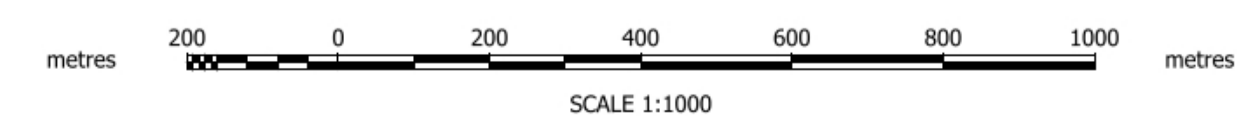
PROJECT :
MONTROSE PORT AUTHORITY

TITLE :
OVERVIEW LOCATION PLAN

DRAWN : K.M.	DATE : 28.10.24	CHECKED : CS	APPROVED : 28.10.24
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SCALE : (A1) 1:10000	DRAWING STATUS : INFORMATION
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DRAWING No : 234005 - 103	REV : -
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PROPOSED MONTROSE HARBOUR
REVISION ORDER 202[]

STATEMENT IN SUPPORT OF APPLICATION
FOR ORDER BY:

MONTROSE PORT AUTHORITY

ashfords

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