

NOTE ON AMENDMENTS TO THE OBAN HARBOUR REVISION ORDER BETWEEN SEPTEMBER 2022 AND AUGUST 2023

1 Introduction

- 1.1 Since September 2022 Argyll & Bute Council ("the Council") has engaged in informal pre-application consultation with, amongst other bodies, Transport Scotland, the Northern Lighthouse Board, CMAL and the Oban Community Harbour Development Association, in respect of the proposed harbour revision order ("the Order") for Oban harbour ("the Harbour"). As a result, the Council, with external legal support, has amended the draft Order.
- 1.2 The material changes made to the draft Order as a result of the informal consultation process are set out in this note. This note does not include those changes made for clarity or drafting reasons, or which are technical in nature.
- 1.3 It should also be noted that the order of provisions within the draft Order has changed. This note does not refer to any changes in the order of the provisions.

2 Material changes

- 2.1 **Limits of the Harbour (article 4)** – the limits of the Council's jurisdiction as harbour authority for the Harbour are now narrated within article 4 of the draft Order rather than being placed in a Schedule. Article 4 now states that the Council will not exercise jurisdiction over the railway pier, in respect of which CMAL is the harbour authority. However, this provision merely clarifies the existing position and does not reflect a substantive change.
- 2.2 **General powers of the Council (article 5)** – this provision has been amended to provide in greater specificity the general powers of the Council to manage the Harbour and is modelled on recent harbour orders conferring powers on harbour authorities.
- 2.3 **Harbour Master (article 5 of the original draft Order)** – this provision has been removed as the draft Order now incorporates provisions of the Harbours, Docks and Piers Clauses Act 1847 allowing it to appoint a harbour master.
- 2.4 **Restriction of works and dredging (article 10)** – article 10(1) has been amended to allow for persons who have been licensed by the Council, as well as contracted, to undertake works and/or dredging. Provision has been made at article 10(4) to the extent that CMAL's contractors are not bound by the restriction on dredging in the approaches to the railway pier, but prior to carrying out any such operations it must consult with the Council.
- 2.5 **Parking places (article 11)** – a new article 11 has been added allowing the Council to provide facilities within the Harbour for parking vehicles and to provide infrastructure and make charges for the use of the same.

- 2.6 **[Publication of Council's annual statement of accounts (article 19)** – a new article 19 has been added to require the Council to provide an annual statement of accounts in respect of the Harbour. This is in accordance with the provisions of the Harbours Act 1964.]
- 2.7 **Byelaws (article 20)** – this article has been consolidated to remove powers which are already contained within article 22 of the draft Order (General directions to vessels).
- 2.8 **General directions to vessels (article 22)** – this article now includes further provisions giving the Council greater powers to give general directions regulating the navigation and movement of vessels within the Harbour; the use of yachts, sailing boats, pleasure craft and other small craft within the Harbour; and the carrying out of specified harbour operations or conduct of persons in the Harbour. The article has also been amended to require consultation with the UK Chamber of Shipping, CMAL, the Commissioners of Northern Lighthouses, the Maritime and Coastguard Agency and other persons such as the Council considers are representative of users of the Harbour in respect of such general directions, as well as the Royal Yachting Association.
- 2.9 **Failure to comply with directions (article 25)** – it is now an offence for a person to fail to comply with a general direction as well as a special direction.
- 2.10 **Recovery of charges by seizure (article 33 of the original draft Order)** – this provision has been removed as the draft Order now incorporates provisions of the Harbours, Docks and Piers Clauses Act 1847 which grants the Council such powers.
- 2.11 **Saving for CMAL and ferry operator (article 41)** – provisions exempting vessels operated by the ferry operator in connection with the relevant ferry services have been removed. In addition, the provision providing that the Council cannot levy ship, passenger or goods dues in respect of any vessel entering the Council's jurisdiction solely to take access to and from the railway pier have been deleted in order to allow the Council to make such charges where appropriate.