



Statement in Support of Harbour Revision Order (HRO) Application

Table 1: Application details

1. Date application made to MMO	08 July 2020 (updated July 2021 and subsequently in November 2022).
2. Name of primary contact	Lara Moore
3. Contact details of primary contact	Lara Moore, Ashfords LLP l.moore@ashfords.co.uk
4. Address of primary contact	Ashfords LLP, Ashfords House, Grenadier Road, Exeter, EX1 3LH
5. Name of Statutory Harbour Authority	Dorset Council
6. Is this a Works Order?	No.
a. Brief description of proposed works	N/A
b. Date when notification of intention was submitted to MMO	N/A
c. Date when EIA screening opinion was issued by MMO	N/A

<p>d. If screened in, date when scoping opinion was issued by MMO</p>	<p>N/A</p>
<p>e. If screened in and if an optional ES review was undertaken, date when review was completed by MMO</p>	<p>N/A</p>
<p>7. Non-technical summary – please explain what you are seeking to achieve in this application in no more than 200 words.</p>	<p>The HRO consolidates existing local legislation applying to Lyme Regis and Bridport (West Bay) harbours and confers modernised powers on the Council conducive to the efficient and economical operation, maintenance, management and improvement of the harbours. All existing local legislation relating to the harbours is repealed under the HRO so that in the future they will both be governed by identical statutory provisions, significantly improving their efficient and economical management.</p> <p>The Council is also the statutory harbour authority for Weymouth harbour, and the provisions included are broadly the same as those in the Weymouth Harbour Revision Order 2021. Having all three harbours governed by very similar provisions will support the efficient and economic management of them.</p> <p>For both harbours, the HRO clearly defines the harbour limits and confers powers on the Council considered conducive to the efficient and economical operation, maintenance, management and improvement of them, including powers to give general directions (recommended by the Port Marine Safety Code) to vessels, persons and vehicles. To enable similar enforcement provisions to be in place at all three harbours, the HRO extends the existing powers of general direction in the Weymouth Harbour Revision Order 2021 to cover vehicles and harbour operations ashore.</p>
<p>8. Location (coordinates must be provided in WGS84 format if this is a works order)</p>	<p>Lyme Regis and Bridport (West Bay)</p>
<p>9. State the title of all relevant charts/maps/plans</p>	<ul style="list-style-type: none"> • Lyme Regis Harbour Limits Plan • Lyme Regis Harbour Premises Plan • Bridport (West Bay) Harbour Limits Plan

<p>included with application (if appropriate)</p>	<ul style="list-style-type: none"> • Bridport (West Bay) Harbour Premises Plan
<p>10. State the legislation relevant to the Harbour Authority and included with this application (if appropriate)</p>	<ol style="list-style-type: none"> 1. An Act for the maintenance of the Peere and Cobb of Lyme Regis, in the County of Dorset 1584 (“1584 Act”); 2. An Act for the Continuance and Repeal of divers Statute 1627 (“Continuance Act”); 3. An act for improving and maintaining the Harbour, Pier or Cobb, at the Port and Borough of Lyme Regis, in the County of Dorset 1821 (“1821 Act”); 4. Bridport Harbour Order 1918 (“1918 Order”); 5. Bridport Harbour Order 1921 (“1921 Order”).
<p>11. If you have received any pre-application guidance from the MMO in relation to this application please briefly describe this here.</p>	<p>Due to Covid-19 disruption and the MMO’s potential and significant HRO application fees increase which could have taken place any time from the 1 April 2020, it was not been possible to carry out a preapplication consultation with harbour stakeholders in respect of the proposed HRO before submission. However, the applicant has carried out a consultation with the formal stakeholder group for each harbour during June and early July 2021.</p> <p>Two responses were received. One from the Lyme Regis Harbour Consultative Group asking for clarifications about a number of points in the Harbour Revision Order (which the Council has responded to, but do not necessitate any update to the Order), and the other an objection (subject to clarification) to the draft Order from Lyme Regis Town Council, who would like a better understanding and reassurance from Dorset Council about the practical implications of the Order for the future control, management and use of land currently owned and controlled by the Town Council. It is hoped that by the end of the formal HRO consultation period the Town Council will be able to support the Order.</p>
<p>12. Have you included the required fee for your application?</p>	<p>Sent by BACS with reference HRO/2020/00004.</p>

Table 3: Statutory Harbour Authority background

Lyme Regis and Bridport (West Bay) Statutory Harbour Authority:

Lyme Regis and Bridport (West Bay) harbours (“the harbours”) are classed by the Department for Transport (“DfT”) as municipal ports. For ease of reference Dorset Council, in the exercise of the SHA functions at Lyme Regis and Bridport (West Bay) harbours, is referred to as ‘the Council’ throughout this Statement of Support. The Council, as the statutory harbour authority for each harbour is governed by its own local legislation. Although some of the provisions are similar, the local acts and orders applying at each harbours is unique. This makes the overall management of the harbours more complicated and less efficient for the Council, than if they were governed broadly by the same statutory provisions. At each of the statutory harbours, the Council is responsible for the administration, maintenance and improvement of the harbours, which are more fully described in section 3 below.

The Council is also the Local Lighthouse Authority for the harbours and surrounding area.

In managing the harbours, the Council strives to observe industry standards set out in Government guidelines. The Council 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 Council’s constitution.

The Harbours:

Lyme Regis Harbour

Lyme Regis harbour is located 23 miles northwest of Portland Bill and 30 miles northeast of Brixham and includes the famous Cobb.

Within Lyme Regis harbour, the Council provides 215 drying moorings, plus 25 commercial operations ranging from tripping boats to trawlers with diver charter vessels and self-drive boats operate from there. The Council also provides a 20m wide slipway and seasonal pontoons.

The proposed harbour limits under the HRO are set out in the plans annexed to the HRO. The current harbour limits are not completely clear as there was no plan deposited with any of the existing harbour orders as far as the Council is aware. However, the Harbour Limits plan encompasses land, including land covered by water, already understood to be currently within the harbour limits. In addition, the Harbour Premises plan identifies additional areas which currently form part of the harbour undertaking. Some of these areas have formed part of the harbour undertaking for many years. The current harbour premises shown shaded blue on the Harbour Premises Plan also contain some additional land necessary for operational harbour purposes. This additional land would provide an additional source of income revenue for the harbour undertaking of circa £20,000 per annum. It is anticipated going forwards to have an annual surplus of circa £5,000.

Bridport (West Bay) Harbour

Bridport (West Bay) harbour is located 15 miles west of Dorchester at the western end of Chesil Beach.

Within Bridport (West Bay) harbour, the Council provides 147 drying moorings with the majority let for private use. There are 15 commercial moorings for either fishing vessels or passenger vessels carrying fewer than 12 people. The Council also provides a 10m wide slipway and pontoons for passenger landing, loading and unloading boats launched on the slipway.

The proposed harbour limits under the HRO are set out in the plans annexed to the HRO. The Harbour Limits Plan encompasses all of the land, including land covered by water, currently within the harbour limits (as defined by s14 1921 Order and shown on the plan deposited with that Order). In addition, the Harbour Premises Plan identifies additional areas which currently form part of the harbour undertaking. Some of these areas have formed part of the harbour undertaking for many years. The current harbour premises shown blue on the Harbour Premises Plan also contain some additional land necessary for operational harbour purposes. The additional land would not provide an additional source of income revenue for the harbour undertaking. However, Bridport (West Bay) Harbour is anticipated going forwards to have an annual surplus of circa £30,000.

Table 3a: Need and justification for order

Port Marine Safety Code:

As the harbour authority for Lyme Regis and Bridport (West Bay) Harbours the Port Marine Safety Code (November 2016) published by the Department for Transport (“the Code”) applies to the Council 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:

“The Code has been developed to improve safety in the port marine environment and to enable organisations to manage their marine operations to nationally agreed standards. It provides a measure by which organisations can be accountable for discharging their statutory powers and duties to run harbours or facilities safely and effectively. It also provides a standard against which the policies, procedures and performance of organisations can be measured. The Code describes the role of board members, officers and key personnel in relation to safety of navigation and summarises the main statutory duties and powers of harbour authorities. The Code is designed to reduce the risk of incidents occurring within the port marine environment and to clarify the responsibilities of organisations within its scope.”

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, paragraph 2.5 of the Code states “... *harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already*”.

The Council is seeking to obtain modern powers of General Direction to enable it to have a single set of General Directions covering each harbour (with as much uniformity between the harbours as is appropriate on a risk led basis) instead of having separate byelaws and directions. The Council currently does not have powers of either General Direction or Harbour Direction in respect of Lyme Regis and Bridport (West Bay) harbours. As such, designation with powers of General Direction is an important tool which will assist the Council with compliance with the Port Marine Safety Code and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2, which enables a harbour revision order to confer powers for environmental conservation within the harbours.

Harbours Act 1964:

Section 14 of the Harbours Act 1964 ("the 1964 Act") confers powers which have been devolved to the MMO to make an order under that section (known as a harbour revision order) in relation to a 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.

Section 14(2)(a) of the 1964 Act requires that written application be made to the MMO by the authority engaged in improving, maintaining or managing the harbour in question and section 14(2)(b) provides that the MMO 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".

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 the MMO under paragraph 3(a) of Schedule 3 to the 1964 Act is not required.

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 harbours which are 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 harbours; and
- ii. The making of the HRO is desirable in the interests of securing the improvement, maintenance or management of the harbours in an efficient and economical manner.

General:

The proposed HRO would consolidate, modernise and extend the powers of the Council considered conducive to the efficient and economical operation, improvement, maintenance or management of the harbours. In addition, it would clarify the harbour limits (including harbour premises) and requires that all surplus harbour revenue is placed into a joint reserve fund for the harbours. Some of the benefits of surplus funds being ring fenced for the benefit of the harbour undertaking are highlighted in paragraph 4.19 of the Department for Transport's newly published Ports Good Governance Guidance (March 2018).

The clarified harbour limits would be conducive to the efficient management of the harbours. In addition, a small amount of additional land necessary for operational harbour purposes and additional harbour revenue would be included. The definition of harbour premises is flexible, meaning that if further harbour land within the definition of harbour premises under the Order were purchased in the future (or sold if no longer required for harbour purposes) such land would automatically become part of (or cease to be part of) the harbour undertaking.

It is considered that it is desirable in the interests of securing the improvement, maintenance or management of the harbours in an efficient and economical manner that the Council is provided with a set of modern flexible statutory powers contained within the proposed HRO and that all of the current local statutory harbour legislation for Lyme Regis and Bridport (West Bay) harbours is repealed due to the fact that the relevant provisions are fragmented, complex and in some cases no longer fit for purpose.

The modernised and additional powers include powers reflective of those contained in modern HROs. Other HROs which contain some similar provisions include the Weymouth Harbour Revision Order 2021, the Portland Harbour Revision Order 1997, the Poole Harbour Revision Order 2012, the Cowes Harbour Revision Order 2012 and the Dover Harbour Revision Order 2014. They include standard statutory harbour powers, such as the power to borrow, reserve fund powers, powers to dispose of and develop land, powers associated with charges (including deposits and liens 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. The provisions of the proposed HRO are broadly the same as those contained in the proposed Weymouth Harbour Revision Order 2021 as the Council is the statutory harbour authority for all three harbours and

a single Harbours Committee oversees all three harbours. As such it is considered conducive to the economic and efficient management of the harbours for them all to be governed by broadly the same statutory provisions.

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.

Articles 1 and 2 are not dealt with below since they are ancillary to the substantive provisions of the HRO.

Table 2b: Justification for inclusion of provisions

Article in HRO	Summary of Provision	Requirement for provision
<p style="text-align: center;">3</p> <p>Incorporation of the Harbours, Docks and Piers Clauses Act 1847</p>	<p>This article incorporates the said Act except in relation to the sections listed as being excepted. Those sections included predominantly relate to:</p> <p>Rates (sections 27 and 33).</p> <p>Collection of rates (sections 34 – 41 and 43 - 46).</p> <p>Harbour, dock and pier master (sections 51 - 65).</p> <p>Removal of goods (section 68).</p> <p>Protection of the harbour, dock and pier (sections 69, 72 - 76).</p> <p>Harbour and dock police (sections 79 – 80).</p> <p>Meters and weighers (sections 81 – 82).</p> <p>Byelaws (section 83).</p> <p>Recovery of damages and penalties (section 94).</p>	<p>This is an incorporation clauses of the Harbours, Docks and Piers Clauses Act 1847.</p>
<p style="text-align: center;">4</p> <p>Jurisdiction</p>	<p>This article provides that the Council shall exercise jurisdiction as a harbour authority, and the powers of the harbour master shall be exercisable within the harbours</p>	<p>Due to the proposed repeal of all of the current statutory harbour legislation it is important that the Council's jurisdiction as statutory harbour authority at each of the harbours is clearly set out in this article.</p>

	(which includes the harbour premises, the limits of which are described fully in article 6).	
5 General Functions	This article provides that Council may take such steps as it may consider necessary or desirable from time to time for the operation, maintenance, management and improvement of the harbours, their approaches and facilities.	<p>For those purposes, this article authorises the Council to improve maintain, regulate, manage, mark and light the harbours and provide harbour facilities; carry out various activities related to works, structures and equipment at the harbours (including the harbour premises) and do all other things which in its opinion are expedient to facilitate the proper operation, improvement or development of the harbours including acquiring land. Although the Council has implied powers to acquire land for the harbours, it is sensible to include an express reference to the power within the Order.</p> <p>The definition of harbour facilities highlights the importance of the fishing, leisure, recreational and tourism industries to the future viability of the harbours.</p> <p>This article is authorised by paragraph 3 of Schedule 2 to the 1964 Act:</p> <p><i>"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".</i></p> <p>Unlike many SHAs, the current local legislation relating to the harbours does not include a general statement of the Council's statutory functions. In addition all of this legislation will be repealed under the provisions of the HRO, and it is considered that, in the interests of clarity, it is desirable that the Council's powers to carry out the matters set out in this article should be set out expressly, rather than relying on implied powers.</p>
6	This article clarifies the harbour limits of each harbour with reference to the plans deposited with the proposed	The existing harbour limits for Lyme Regis harbour are not entirely clear. However, all of the land (including land covered by water) currently

<p>Harbour Limits</p>	<p>Order and provides for an illustrative plan to be made available at the relevant harbour office within 30 days in the event that the harbour premises are updated.</p>	<p>understood to fall within the harbour limits has been included along with some small additional areas of harbour premises required for operational and revenue generation purposes.</p> <p>The existing limits of Bridport (West Bay) harbour are more clearly defined in the existing local legislation (to be repealed in full). Again, all of the land (including land covered by water) currently understood to fall within the harbour limits has been included along with some small additional areas of harbour premises required for operational purposes.</p> <p>As explained above, the definition of harbour premises is flexible, meaning that if further land was purchased in the future for the harbour undertaking, it could automatically become part of the undertaking and fall within the harbour limits (or if land no longer required for the purposes of the harbour undertaking was sold in the future it would cease to be part of the harbour premises). The Council's enforcement powers as a statutory harbour authority will be enforceable over all land within the harbour limits including the harbour premises. Plans have been deposited with the HRO to provide further clarity of the current harbour premises.</p> <p>The clarified harbour limits are important to secure the management of the harbours in an efficient and economical manner because they remove the uncertainty over which land (including land covered by water) forms part of the current harbour undertaking. This article is authorised by paragraph 6 of Schedule 2 to the 1964 Act, as follows:</p> <p><i>“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.”</i></p>
<p>7 Application of Finances</p>	<p>This article provides that the Council shall apply the harbour revenue in the manner following and not otherwise:</p> <p>(a) first in payment of the working and establishment expenses and costs of maintenance of the harbours;</p>	<p>It is conducive to the efficient and economic operation of the harbours for the HRO to set out expressly provisions relating to the application of harbour revenue to the harbour undertaking.</p> <p>Article 7 is authorised by paragraph 13 of Schedule 2 to the 1964 Act:</p>

	<p>(b) secondly in payment of the interest on any moneys borrowed by the Council for the harbours under any statutory borrowing power;</p> <p>(c) thirdly in payment of all other expenses properly chargeable to harbour revenue;</p> <p>(d) fourthly to an account established as a reserve fund for the harbours.</p>	<p><i>“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.”</i></p>
<p>8</p> <p>Reserve Fund</p>	<p>This article provides that the Council shall establish and maintain a single reserve fund covering both of the harbours and carry to such a fund any part of its harbour revenue as is available for the purpose. Monies in the reserve fund can be used for either harbour.</p>	<p>Article 8 is authorised by paragraph 13 of Schedule 2 to the 1964 Act:</p> <p><i>“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.”</i></p> <p>It is an essential part of prudent financial management that the Council should have the power to maintain a reserve fund to enable the Council to plan for future expenditure across the harbours in an economic and efficient manner.</p>
<p>9</p> <p>Borrowing</p>	<p>This article provides that the Council may borrow such sums of money as it thinks 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 harbour undertaking.</p>	<p>The article reflects modern statutory harbour borrowing powers as can be seen in the powers conferred by article 9 of the Dover Harbour Revision Order 2014.</p> <p>There is no need to place a limit on the amount of money which can be borrowed by the Council, because, in reality its borrowings will be limited by the amount a lender is prepared to loan it. 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 decreased as a result of inflation.</p> <p>This article is authorised under paragraph 10 of Schedule 2 of the 1964 Act, as follows:</p> <p><i>“Empowering the authority to borrow money, with or without limitation with respect to the amount that may be borrowed or the time or manner</i></p>

		<i>in which the power may be exercised.”</i>
Charges (generally) Articles 10 to 20	<p>The articles contained within Part 4 of the HRO (Charges) set out the Council's powers with respect to 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 harbour in an efficient and economical manner. A similar suite of powers conferred by Articles 10 to 20 can be found in the Weymouth Harbour Revision Order 2021 and the Poole Harbour Revision Order 2012.</p>	<p>See below for further justification of particular provisions.</p>
10 Charges other than ship, passenger and goods dues	<p>This article provides that in addition to ship, passenger and goods dues under section 26 of the 1964 Act, the Council 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.</p>	<p>In relatively small harbours such as the Lyme Regis and Bridport (West Bay) harbours, it is important to future viability that all users of the harbours contribute to the cost of the management and maintenance of the harbours. It would be detrimental to the improvement, maintenance or management of the harbours in an efficient and economical manner if charging powers did not to exist in respect of one type of vessel or floating structure using the harbours (exemptions are provided in article 18). This provision is particularly important because the Order provides for the existing charging provisions in current local statutory harbour legislation to be repealed.</p> <p>This article is authorised by paragraph 11 of Schedule 2 to the 1964 Act:</p> <p><i>“empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than aforesaid) levied by them at the harbour”.</i></p>
11 Charges for services or facilities	<p>This article provides that in addition to ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Council may demand, take and recover reasonable charges for services and facilities provided by it. This provision is common as it is required for the harbours to be managed economically and efficiently.</p>	<p>This provision is common as it is required for the harbours to be managed economically and efficiently.</p> <p>This article is authorised by paragraph 11 of Schedule 2 to the 1964 Act:</p>

		<p><i>“empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than aforesaid) levied by them at the harbour”.</i></p> <p>This is pursuant to securing the improvement, maintenance and management of the harbours in an efficient and economical manner.</p>
<p>12</p> <p>Setting of Charges</p>	<p>This article requires that the Council’s rationale behind the setting of charges must be underpinned by regard for overall viability of the two harbours as a whole, but also imposes a corresponding duty on the Council to try and raise sufficient revenue at each harbour to meet its outgoings, therefore ensuring that in respect of each individual harbour there is also a duty to ensure (so far as reasonably practicable) viability.</p>	<p>With the additional areas of income generating land being incorporated within the harbour limits of both harbours and the achievement of the economies of scale gained from managing the harbours centrally under one harbour order, it is expected that each individual harbour will be able to operate viably.</p>
<p>13</p> <p>Payment of Charges</p>	<p>This article provides that charges are payable before the vessel or goods against which they are payable are removed from the harbours or harbour premises. It also sets out who charges are payable by and who they can be recovered from and when.</p>	<p>This article is included to ensure that the payment of charges authorised to be levied are consistent with section 14(2)(b) of the 1964 Act for the Order to be desirable for the improvement, maintenance and management of the harbours in an efficient and economical manner. For these purposes, it is essential that the HRO is clear as to when charges must be paid and from whom charges must be taken. It would be counter-productive to exclude such a provision from the HRO as this would negatively impact the Council’s ability to efficient and economically manage the harbours.</p> <p>Furthermore, this article is authorised by paragraph 12 of Schedule 2 of the 1964 Act in that it secures:</p> <p><i>“... the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i></p> <p>Subsection (5) in particular is required as it is important for the Council to be able to secure the charges due to the Council. The ability to refuse entry, detain or remove vessels or goods is necessary as a deterrent against avoiding charges that are due, until such time as those charges are paid. It would otherwise become very difficult for the Council to</p>

		<p>recover the charges. Additionally, this article is required for effective enforcement as it provide for enforcement to take place after goods or Vessels have left the harbours. On this basis, subsection (5) is consisted with section 14(2)(b) and Schedule 2, paragraph 12 of the 1964 Act set out above.</p>
<p>14 Compounding arrangements and rebates</p>	<p>This article provides the Council 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 Council 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.</p>	<p>This article is important to enable the Council to act in a commercial manner when entering into arrangements with customers, thereby managing the harbours in an efficient and economical manner. This would be extremely difficult if the Council was required to publish commercially sensitive information.</p> <p>The great majority of harbours operate on a commercial basis, in competition with each other (domestically and abroad) and in some cases with other modes of transport. This is recognised by the Ports Good Governance guidance at paragraph 1.15. The commercial relationship formed with stakeholders in particular is recognised at paragraph 2.10 and 2.11, and paragraph 2.28 specifically states:</p> <p><i>“All SHAs are encouraged to consider meeting the reasonable requests for information from stakeholders, where practical. This does not mean that SHAs should be expected to make available information that is commercially or otherwise sensitive...”</i></p> <p>On this basis, it is considered that this article is consistent and with the Ports Good Governance Guidance and is therefore justified.</p> <p>A similar article can be found in, for example, the recent Weymouth Harbour Revision Order 2021.</p>
<p>15 Deposits for charges</p>	<p>This article provides that the Council may require from a person who incurs or is about to incur a charge with it, a reasonable deposit or guarantee. It also provides the Council with the power to detain a relevant vessel or goods until the deposit has been paid or the required guarantee made.</p>	<p>It is essential for the economic management of the harbours to be able to secure the reasonable charges due to the Council by virtue of its charging powers under the local legislation applying to the harbours, the 1964 Act or otherwise. Should it become apparent that such a guarantee is not going to be provided by the person from whom it is due, then until such guarantee is received the Council need to be able</p>

		<p>to secure the interests of the harbours by removing the relevant vessel or goods from the harbours or refuse entry.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the Order to be desirable for the improvement, maintenance and management of the harbours in an efficient and economical manner.</p> <p>Furthermore, this article is authorised by paragraph 12 of Schedule 2 of the 1964 Act in that it secures the efficient collections of charges levied by the Council:</p> <p><i>“Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i></p>
<p>16</p> <p>Liens for charges</p>	<p>This article provides for a right of lien over goods in the possession or custody respectively of a person collecting charges on behalf of the Council or, a wharfinger or carrier, who has paid or given security for charges on those goods.</p>	<p>This is a standard provision included to secure the financial interests of those who by agreement with the Council collect charges on its behalf, by securing said interest against goods in their possession. As that person will not themselves be liable for the payment of charges, this provision is required to secure debts owed.</p>
<p>17</p> <p>Refusal to pay charges for landing places</p>	<p>This article provides that a vessel may be prevented from using a landing place supplied by the Council, if the master of the vessel refuses to pay the related charges.</p>	<p>It is essential for the economic management of the harbours for the Council to be able to secure the reasonable charges due to it by virtue of its charging powers under the local legislation applying to the harbour, the 1964 Act or otherwise. Therefore, the Council must be able to prevent vessels from sailing or using facilities at the harbour (such as a landing place or mooring) in the event that the master of a vessel refuses to pay reasonable charges, as authorised under the HRO.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the Order to be desirable for the improvement, maintenance and management of the harbours in an efficient and economical manner. Furthermore, this article is authorised by paragraph 12 of Schedule 2 of the 1964 Act in that it promotes securing the efficient collections of charges levied by the Council:</p>

		<i>“Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i>
18 Exemption from Harbour Dues	This article is similar to other modern provisions providing for an exemption for harbour dues for certain vessels, persons and government departments (or their current equivalent) whilst in the exercise of their core duties.	This article is authorised by paragraph 14 of Schedule 2 to the 1964 Act, as follows: <i>“Varying or extinguishing any exemption from charges levied by the authority at the harbour or any other right or privilege enjoyed thereat.”</i>
19 Recovery of charges	This article provides that in addition to any other powers of recovery available to it, the Council may recover any charges payable to it as a debt in Court.	It is essential for the economic management of the harbours for the Council to be able to secure the reasonable charges due to it by virtue of its charging powers under the local legislation applying to the harbours, the 1847 Act incorporated with the Order or otherwise. Therefore, the Council must be able to rely on the resources of the Court to assist in securing any debts owed to them should their existing powers of recover be insufficient to secure the debt. This article is consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the harbours in an efficient and economical manner.
20 Harbour master may prevent sailing of vessels	This article provides that the harbour master may prevent the removal or sailing from the harbours of any vessel until evidence is produced that any charges payable in respect of the vessel, its passengers or goods have been paid.	It is essential for the economic management of the harbours for the Council to be able to secure the reasonable charges due to it in relation to: - the vessel; - passengers on the vessel; and - goods imported, exported or carried on the vessel. by virtue its powers under the local legislation applying to the harbours or otherwise. Therefore, the harbour master is required to have an express power to prevent the sailing and / or removal of a vessel from the harbours until such a time as the charges payable have been paid.

		<p>Should such a vessel be able to leave the harbours without having paid the charges due, it would become difficult for the Council to recover said charges and therefore be detrimental to its ability to manage the harbours in an economically efficient manner.</p> <p>This article is therefore consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the harbours in an efficient and economical manner.</p>
<p>21</p> <p>Power to make General Directions</p> <p>22</p> <p>Procedure for giving, amending or revoking General Directions</p> <p>23</p> <p>Publication of General Directions</p> <p>24</p> <p>Special Directions</p>	<p>These articles provide the Council with a power of General Direction and slightly extend them to cover vehicles and directions given for the ease, convenience or safety of harbour operations ashore as defined under the Order (including speed limits for and parking of vehicles) and extended powers of Special Direction. They also set out the consequences of failing to comply with a General Direction or Special Direction.</p>	<p>The Port Marine Safety Code, advises at paragraph 2.5 of Chapter 2 that:</p> <p><i>“In particular, harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already”.</i></p> <p>The Council does not have existing powers of General Direction or Harbour Direction. The process for keeping General Directions up to date is far more time and cost efficient than the byelaw making process, and due to the inclusion of the Harbours Advisory Group to be set up under article 31 as ‘designated consultees’ it contains a strong local consultation requirement.</p> <p>Therefore, in line with the Port Marine Safety Code, the Council is applying for a modernised power of General Direction that will enable the Council to repeal its existing byelaws and instead have in place a single set of General Directions. In line with best practice, article 22 of the proposed order provides a statutory right for ‘designated consultees’ to be consulted about proposed General Directions (see article 22(1)(a) and (b)).</p> <p>As stated above, Harbour Advisory Group will be a ‘designated consultee’ within article 22(1)(a) alongside the Chamber of Shipping and the Royal Yachting Association.</p> <p>In relation to vehicles and harbour operations ashore, these powers</p>

<p style="text-align: center;">25</p> <p style="text-align: center;">Failure to comply with directions</p>		<p>are consistent with the powers in section 14(3) of the 1964 Act relating to penal provisions and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2, which enables a harbour revision order to confer powers for environmental conservation within the harbours.</p>
<p style="text-align: center;">26</p> <p style="text-align: center;">Enforcement of directions</p>		<p>The proposed HRO itself only grants the power to make General Directions. General Directions can be made over the entirety of the harbours (which, as explained under article 6, above include the harbour premises). Any future exercise of this power will be exercised in accordance with article 22. This means that representations received from the designated consultees will be considered by the Council and if they object to proposed General Directions and those concerns are unable to be resolved, there is a statutory adjudication process contained in article 22. The process contained in article 22 is likely to be acceptable to the Royal Yachting Association as a similar adjudication process is contained within the Shoreham Port Authority Revision Order 2021, Fowey Harbour Revision Order 2021 and the Dart Harbour and Navigation Order 2021.</p>
<p style="text-align: center;">27</p> <p style="text-align: center;">Master's responsibility in relation to directions</p>		<p>In terms of the precise scope of General Directions, it will be seen that article 21(1) would allow the Council to give or amend directions for the purpose of promoting or securing directions conducive to: <i>“the ease, convenience or safety of navigation; the safety of persons; the protection of property, flora and fauna; or the ease, convenience or safety of harbour operations ashore, within the harbours”</i>. Such a scope is consistent with 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 the harbour.</p> <p>Article 25 sets out the maximum fine level (level four on the standard scale) for failure to comply with a General Direction once made. Although the Council does not currently have powers of General Direction it does have byelaw making powers (under section 83 of the Harbours Docks and Piers Clauses Act 1847 local statutory harbour</p>

		legislation) and it is already entitled to impose fines of up to level 4 on the standard scale (section 57 of the Criminal Justice Act 1988).
<p>28</p> <p>Byelaws</p>	<p>This article provides the Council with the power to make byelaws in a range of circumstances in addition to the purposes in s83 of the Harbour, Docks and Piers Clauses Act 1847 and is in line with the modern practice of setting out a wide range of matters upon which the Council will have the power to make byelaws.</p>	<p>The power in article 28 incorporates the purposes in s83 of the Harbour, Docks and Piers Clauses Act 1847 and is in line with the modern practice of setting out a wide range of matters (contained in Schedule 1) upon which the Council will have the power to make byelaws.</p> <p>The alternative practice is to set out a more general range of byelaw making powers and rely on the width of the wording of the provision to cover the full range of matters set out in Schedule 1. However, setting out the detail in this way reduces the scope for challenging any prosecution on the basis that the byelaw in question is outside the range of matters for which the Council has the power to make byelaws. This leads to increased costs and delays in prosecutions and therefore the more modern approach is to set out expressly a wider range of byelaw making powers.</p> <p>A similar approach can be found in the Weymouth Harbour Revision Order 2021 and the Portland Harbour Revision Order 1997.</p> <p>Historically, there has been little need to initiate any prosecutions at the harbours for breach of byelaws as harbour users have complied with the instructions of the harbour masters. Nevertheless, to comply with the Port Marine Safety Code (PMSC) and to meet its other duties (including navigational safety), it is important that the Council have modern and comprehensive byelaw making powers. It is anticipated that the current byelaws in place at Bridport (West Bay) harbour will be reviewed and it is likely that they will be repealed and replaced with General Directions following grant of the HRO. However, it is important that the Council retains wide byelaw making powers in case it needs to introduce new byelaws in the future in respect of a risk not covered by the modernised power of General Direction sought above.</p> <p>The power to make byelaws is authorised by paragraph 4 of Schedule 2 of the 1964 Act:</p>

		<i>“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.”</i>
29 Confirmation of Byelaws	This article sets out the procedure by which byelaws made under the HRO shall be confirmed under the Local Government Act 1972.	A similar provision can be found in article 25 of the Folkestone Harbour Revision Order 2017. This provision is incidental to the power to make byelaws as described above and is consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the harbour in an efficient and economical manner.
30 Saving for existing directions, byelaws etc.	Due to the proposed repeal of the majority of the local legislation currently in force in respect of the harbours, it is necessary to include a saving provision for existing byelaws etc. They will then remain in force until replaced in the future.	This provision is incidental to the power to make byelaws and general directions that are being introduced under the provisions of the HRO, and is therefore consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the harbours in an efficient and economical manner.
31 Advisory bodies	This article covers the establishment of an external advisory body with an independent chairperson.	This article puts on a statutory basis, the establishment and continuance of an advisory group or groups for both of the harbours and their administration. It also requires the Council to consult the advisory group or groups. This is in line with the requirement set out by section 14(2)(b) of the 1964 Act to secure the management of the harbours <i>“in an efficient... manner or of facilitating the efficient and economic transport of goods or passengers by sea.”</i>
32 Development of land	This article provides that the Council may use or develop for any purpose, and deal with, any land within or in the vicinity of the harbours; or form invest in and promote, or join with another person in forming, investing in and promoting a company for using or developing for any purpose, and dealing with, any land within or in the vicinity of the harbours.	This article provides that a company established under paragraph (1)(b) may have powers to do anything necessary for the purposes of the objects for which it has been established notwithstanding that the Council would not itself have the power to do that thing. This article, as far as applying to land not required for the harbour, is authorised by paragraph 9A of Schedule 2 of the 1964 Act: <i>“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</i>

		<p><i>land or of interests in it, and to acquire land by agreement for the purpose of developing it together with such land".</i></p> <p>So far as relating to harbour land, it is considered that this article 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 the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out below as an integral justification for this article.</p> <p>The purpose of this article is to give the Council the flexibility, subject to obtaining the necessary rights in or over land, to exploit opportunities to develop land (including harbour land) to maximise the efficient utilisation, expansion and regeneration of the harbours. The profits and revenues derived by the harbour undertaking from the development of any land under this article would be used to improve and develop the harbours and provide increased financial security.</p> <p>It should be noted that the powers in this article can only be exercised if "<i>...it is conducive to the improvement, maintenance, operation or management of the harbours in an efficient and economical manner</i>". This limitation brings this article within the powers of section 14(2)(b) of the 1964 Act.</p> <p>Similar powers to those in this article were conferred in the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012 the Dover Harbour Revision Order 2014.</p>
<p>33</p> <p>Power to grant tenancies and to dispose of land</p>	<p>Paragraph (1) gives power to the Council, 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 harbour.</p> <p>Paragraph (3) provides that the Council may also dispose of, or grant the use or occupation for any purpose of, land or property if it considers that the</p>	<p>Paragraph (1), which is needed to manage the harbours, is authorised by paragraph 3(a) of Schedule 2 to the 1964 Act which relates to powers conferred for the purposes of "<i>improving maintaining or managing the harbour</i>".</p> <p>Paragraph (3) is authorised by paragraph 9 of Schedule 2 to the 1964 Act:</p> <p><i>"Empowering the authority to dispose of property vested in them and</i></p>

	<p>property is surplus to harbour requirements; or it would conduce to the improvement, maintenance or management of the harbours in an efficient and economical manner for the property to be held by a person other than the Council.</p>	<p><i>held for the purposes of the harbour which is no longer required for those purposes.”</i></p> <p>It is considered that paragraph (3) is also authorised by paragraph 17 of Schedule 2 to the 1964 Act which enables a provision to be included in a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbours. The case for this is set out as an integral part of the need for article 33. Paragraphs (1) and (3) are needed to enable the Council to manage the harbour undertaking effectively.</p> <p>These powers are similar to the powers conferred in the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012 and the Dover Harbour Revision Order 2014.</p> <p>Paragraph (3) would enable the Council to grant leases or transfer land or property to a subsidiary or other body. This power is needed to enable the Council to have sufficient flexibility in how to structure the harbour undertaking in the future.</p> <p>The power in paragraph (3)(b) is only exercisable if <i>“it would conduce to the improvement, maintenance, operation or management of the harbours in an efficient and economical manner”</i>. This limitation brings paragraph 3(b) within the powers of section 14(2)(b) of the 1964 Act.</p>
<p>34</p> <p>Power to appropriate lands and works for particular uses etc.</p>	<p>This article provides that the Council may from time to time for the purpose of or in connection with the management of the harbours set apart and appropriate any part of the harbours for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Council may think fit.</p>	<p>Section 33 of the Harbours, Docks and Piers Clauses Act 1847 is incorporated into the Order (the Open Port Duty) and as such the Council remain under a duty to keep the harbours open for the shipping and unshipping of goods, and the embarkment and landing of passengers. Therefore, the power of this article will only ever operate insofar as it does not otherwise conflict with the duty under section 33 of the 1847 Act.</p> <p>In addition, the power under this article must only be exercised for the <i>“purpose of or in connection with the carrying on of the harbour undertaking”</i> and not for wider purposes. This article is therefore within the scope of section 14(2)(b) in that it will assist the Council in the management of the harbour in an efficient manner and facilitate the</p>

		efficient and economic transport of goods and passengers by sea, again for harbour purposes only.
<p>35</p> <p>Other commercial activities</p>	<p>Paragraph (1)(a) provides that the Council 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. Paragraph (1)(b) enables the Council 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. Paragraph (2) provides that a company established under paragraph (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 Council would not itself (as harbour authority) have the power to do that thing.</p>	<p>It is considered that this article is authorised by paragraph 17 of Schedule 2 to the 1964 Act which enables a provision to be included in a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbours. The case for this is set out below as an integral part of the need for this article.</p> <p>Paragraph (1)(a) would assist the Council to maximise the potential of the harbour undertaking by enabling it to carry on any business which could conveniently be carried on with the harbour undertaking. For example, the Council could utilise and develop the skill and experience of its staff by providing services to other harbour undertakings or to carry out business activities which are incidental to running a harbour.</p> <p>Paragraph (1)(b) would enable the Council to carry on such a business as part of a joint venture with another person or persons, for example enabling the Council to contribute land and/or harbour related expertise to the venture while the other party contributes complementary specialist business expertise.</p> <p>The profits and revenues derived from the business ventures under this article would be used to improve and develop the harbour and ensure increased financial security.</p> <p>It should be noted that the powers in this article can only be exercised if <i>“it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner”</i>. This limitation brings article 35 within the powers of section 14(2)(b) of the 1964 Act.</p> <p>Similar powers were conferred in the Weymouth Harbour Revision Order 2021 and the Dover Harbour Revision Order 2014.</p> <p>It is considered that this article is authorised by paragraph 17 of Schedule 2 to the 1964 Act which enables a provision to be included in</p>

		a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour.
<p>36</p> <p>Power to delegate functions</p>	This article provides that the Council may delegate the performance of any of its functions to be carried out by any such company as referred to in article 35(1)(b).	<p>This article is authorised by paragraph 9B of Schedule 2 to the 1964 Act:</p> <p><i>"Empowering the authority to delegate the performance of any functions of the authority except-</i></p> <p><i>(a) a duty imposed on the authority by or under any enactment;</i></p> <p><i>(b) the making of byelaws;</i></p> <p><i>(c) the levying of ships, passenger and goods dues;</i></p> <p><i>(d) the appointment of harbour, dock and pier masters;</i></p> <p><i>(e) the nomination of persons to act as constables;</i></p> <p><i>(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".</i></p> <p>The power to delegate functions is needed to enable the Council 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.</p>
<p>37</p> <p>Power to lay Moorings</p> <p>38</p>	This article provides the Council with powers related to the provision, maintenance and licensing of moorings within the harbours. It is considered that modernised express provisions are conducive to the efficient and economical management and maintenance of the harbours.	Similar provisions are found within articles 14-17 of The Yarmouth (Isle of Wight Harbour Revision Order 2011, articles 9-11 of The Poole Harbour Revision Order 2012, article 18 of The Watchet Harbour Revision Order 2000 and article 21 of The Burry Harbour Revision Order 2000.

<p>Licensing of moorings</p> <p>39</p> <p>Offences as to moorings</p>		<p>These articles provides for a level 3 fine for failure to comply with its requirements. This level of fine is required firstly to ensure that there is a sufficient level of deterrent (moorings in the harbours are sought after and can be used to generate income. The level of fine needs to be in excess of likely income generation) and secondly, a mooring obstructing safe navigation in the harbours will constitute a navigational hazard and can interfere with the operation of the Open Port Duty. As such, it is considered that a level 3 fine is justified.</p>
<p>40</p> <p>Bunkering</p>	<p>This article provides the Council with powers in relation to licensing those persons carrying out commercial refuelling activities related to vessels in the harbours.</p>	<p>To comply with the environmental duties contained in s48A of the 1964 Act, the Council 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). Due to the fact that such operations are being carried out commercially and the potential environmental implications it is considered that a level 4 fine is justified.</p>
<p>41</p> <p>Aids to navigation</p>	<p>This article provides that the Council may, with the approval of Trinity House, erect, place, alter, discontinue or remove any aids to navigation in any place adjacent to the harbours (subject to obtaining the necessary interest in or over land).</p>	<p>This power is important for enabling the Council to meet its navigational safety duties and is therefore consistent with section 14(2)(b) of the 1964 Act to secure the management of the harbour <i>“in an efficient... manner or of facilitating the efficient and economic transport of goods or passengers by sea.”</i></p>
<p>42</p> <p>Power to dredge</p>	<p>This article provides the Council with a power to dredge.</p>	<p>The power to dredge is a standard statutory harbour power and under the Bridport Harbour Order 1921 the Council already has the power to dredge with respect to the bed channel and foreshore of Bridport harbour and its approaches. In respect of the current local statutory harbour legislation applying at Lyme Regis harbour, the Council does not have a clear express statutory power to dredge.</p> <p>Historically dredging has been carried out at Bridport (West Bay) annually. It is anticipated that this will continue in the future. It is therefore important that the Council is provided with the power so that it is able to dredge if and when required.</p>

		<p>If dredging is carried out at Bridport (West Bay) harbour under the provision in the future, then in line with section 75 of the Marine and Coastal Access Act 2009, the Council will not need to obtain a marine licence for the dredging activity at Bridport (West Bay) harbour. However, if disposal to sea is required in the future, then a marine licence will continue be required for this disposal.</p> <p>In relation to Lyme Regis harbour, a marine licence would be required in respect of both dredging and disposal operations in the future.</p>
<p>43</p> <p>Repair of landing places etc.</p>	<p>This article provides that the Council may by notice require the owner or occupier of any landing place, jetty, embankment or structure or other work in the harbours or on land immediately joining the waters of the harbours to repair it, within a reasonable time, to its reasonable satisfaction, if it is a danger to persons or vessels using the harbour or a hindrance to navigation of the harbours. The provision provides for a level 3 fine for non-compliance (on summary conviction) and a power for the Council 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 Secretary of State.</p>	<p>This power is important in assisting the Council in meeting its duties with regard to navigational safety and the safety of harbour users. Due to the potential safety implications of failure to comply, a level 3 fine is justified. Similar provisions can be found in article 11 of the Portland Harbour Revision Order 1997.</p> <p>This article relates to navigational safety in that it applies to features which are dangerous to persons or vessels using the harbours or a hindrance to the navigation of the harbours and is therefore desirable in the interests of securing the improvement, maintenance or management of the harbours 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.</p>
<p>44</p> <p>Power with respect of disposal of wrecks</p>	<p>This article extends the powers of the Council under section 252 Merchant Shipping Act 1995. In particular it extends the circumstances in which the Council 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.</p>	<p>This extension of the power in s252 Merchant Shipping Act is common and important if the harbours are to be run in an efficient and economic manner. Similar provisions can be found in article 24 of the Portland Harbour Revision Order 1997.</p>
<p>45</p> <p>Power to deal with</p>	<p>This article provides that the Council may sell, break up or otherwise dispose of any vessel which is unserviceable and had been laid by or neglected in the harbours or on land immediately adjoining the harbours.</p>	<p>This article applies in addition to the power under section 57 of the Harbour, Docks and Piers Clauses Act 1847 (unserviceable vessels to be altogether removed from harbour) and allows the Council to recover</p>

<p>unserviceable vessels</p>		<p>its costs for the exercise of removing unserviceable vehicles laid or neglected within the harbours.</p> <p>This article 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 economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.</p>
<p>46</p> <p>Removal of obstructions other than vessels</p>	<p>This article provides that the Council may remove anything other than a vessel which is causing or likely to become an obstruction to, or cause interference with navigation in any part of the harbours or their approaches. The provision deals with the recovery of costs by the Council of reasonable expenses incurred by it in relation to the exercise of the power and sale of the item(s) recovered.</p>	<p>This power is important in assisting the Council in meeting its duties with regard to navigational safety and the safety of harbour users, and important if the harbours are to be run in an efficient and economic manner. Similar provisions can be found in article 8 of the Portland Harbour Revision Order 1997.</p>
<p>47</p> <p>Boarding of vessels or vehicles</p>	<p>This article provides that a duly authorised officer of the Council may, on producing if so required their authority, enter and inspect a vessel or vehicle in the harbour for the purposes of any enactment relating to the harbour (including any enactment so relating contained in subordinate legislation) or of any byelaw or general direction of the Council relating to the harbour, including the enforcement of any such enactment, byelaw or general direction.</p>	<p>This article will assist in securing the improvement, maintenance or management of the harbour 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.</p>
<p>48</p> <p>Notices</p>	<p>This article sets out the process for serving any notices required under the Harbour Revision Order.</p>	<p>This article is conducive to the efficient management of the harbours as required under section 14(2)(b) of the 1964 Act, clearly setting out the procedural requirements for Notices required under the Order.</p>
<p>49</p> <p>Saving for Trinity House</p>	<p>This article provides the standard saving provision for the rights of Trinity House.</p>	<p>No further justification required.</p>

<p>50</p> <p>Crown Rights</p>	<p>This article provides the standard saving provision for Crown Rights.</p>	<p>No further justification required.</p>
<p>51</p> <p>Amendment of the Weymouth Harbour Revision Order 2021</p>	<p>This article amends articles 21 to 23 of the Weymouth Harbour Revision Order 2021, to modernise and extend the existing power of General Direction to also include vehicles and harbour operations ashore (including speed limits and parking in respect of vehicles). This has the same benefits to Weymouth Harbour as have already been laid out above in respect of Lyme Regis harbour and Bridport (West Bay) harbour.</p> <p>It also makes consequential amendments to the definitions section of the Weymouth Harbour Revision Order 2021 to include new definitions for 'ashore', 'harbour operations' and 'Harbour Advisory Group' which are incidental to the updated powers of General Direction.</p> <p>The HRO amends article 5(2) to include 'acquire land' which is consistent with the general functions provision included in the HRO in relation to Lyme Regis and Bridport (West Bay) harbours. This amendment brings the Weymouth 2021 HRO up to date with modern drafting relating to general functions provisions and ensures consistency across all three harbours. As explained above, the Council already has implied powers to acquire land, but it is sensible to set this out in express terms.</p> <p>Other amendments are also made in relation to article 34(1) in respect of the Council's ability to provide, place, lay down, maintain, renew, use, have and remove moorings within the harbour (on land owned or leased by it or in which it has an appropriate interest, or with the consent in writing of the owner of lessee thereof).</p>	<p>Dorset Council is also the statutory harbour authority for Weymouth Harbour. The amendments are necessary to complete the process of modernisation of the local legislation applying to the statutory harbour authority so that Weymouth Harbour is governed under the same powers as Lyme Regis and Bridport (West Bay), and also to enable similar enforcement provisions to be in place at all three harbours (where appropriate following risk assessment).</p> <p>In relation to the enforcement provisions, the proposed HRO extends the power of General Direction in the Weymouth Harbour Revision Order 2021 to cover vehicles and harbour operations ashore. These powers are required to support the effective management of the vessels, vehicles and persons using Weymouth Harbour, as recommended in the Port Marine Safety Code and associated Guide to Good Practice. In relation to vehicles and harbour operations ashore, these powers are consistent with the powers in section 14(3) of the 1964 Act relating to penal provisions and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2, which enables a harbour revision order to confer powers for environmental conservation within the harbours.</p>

	A minor amendment is also made to article 40(2) in relation to the power to deal with unseaworthy vessels, and article 41(7) in relation to the removal of obstructions other than vessels.	
52 Revocation/ Repeal	This article provides for the repeal and revocation (as appropriate) of the local legislation listed in Schedule 3 from the date of the HRO.	This HRO is being promoted in accordance with the Port Marine Safety Code's recommendation for harbour authorities to review and be aware of existing powers based in local and national legislation, seeking additional powers where necessary. The repeals set out in this article and the accompanying Schedule are required in conjunction with this HRO to complete the process of modernising the local legislation applying to the Council, granting the suite of modern powers and duties set out above which are consistent with section 14(2)(b) of the 1964 Act and which will assist the Council in meeting its recommendations of the Port Marine Safety Code.

Table 4: Relevant policies, guidance and plans

Plan, policy or guidance	<i>Demonstration that application is compliant with relevant plan, policy or guidance.</i>
Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)	<p>Lyme Regis Harbour and Bridport (West Bay) Harbour are situated within the South Marine Plan Inshore Area. Once published, Marine Plans become a material consideration and as such, it is considered in this Statement of Support in addition to the UK Marine Policy Statement.</p> <p>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 Council's existing statutory powers to support the efficient and economical operation, maintenance, management and improvement of Lyme Regis and Bridport (West Bay) Harbours and updating those in relation to Weymouth Harbour. The HRO modernises the Council's enforcement powers. The modernisation amends the process by which such enforcement provisions can be made, amended and repealed (General Directions instead of / in addition to byelaws).</p>

The proposed HRO also clarifies the existing harbour limits to expressly include the harbour premises removing uncertainty over the exercise of the Council's enforcement powers above high water. The other provisions of the proposed HRO are predominantly administrative (such as financial, borrowing and charging powers; powers of development and disposal of land; and powers in relation to establishing advisory bodies, moorings, bunkering, dredging, and powers to deal with wrecks and vessels etc.). As such it is expected that the effects of the proposed HRO on the South Inshore 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 Lyme Regis and West Bay Harbours (including with respect to environmental considerations). A brief summary of compliance is nevertheless set out below.

Compliance with UK Marine Policy Statement

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.' The core purpose of the proposed HRO is to modernise the Council's enforcement powers enabling them 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 Council in ensuring it meets both its environmental duties under s48A of the Harbours Act 1964 and compliance with the Port Marine Safety Code. Both of which will support the vision of ensuring that the marine environment in and around Lyme Regis and Bridport (West Bay) harbours are 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.

Compliance with South Inshore Marine Plan

	<p>The South Inshore Marine Plan was published in July 2018. Through its modernisation of the Council's statutory powers, enabling the efficient and economic management of the harbours and the activities that take place there, the proposed HRO will support the following objectives contained in the South Marine Plan:</p> <ul style="list-style-type: none"> (a) Objective 1: To encourage effective use of space to support existing, and future sustainable economic activity through co-existence, mitigation of conflicts and minimisation of development footprints. (b) Objective 2: To manage existing, and aid the provision of new, infrastructure supporting marine and terrestrial activity. (c) Objective 11: To complement and contribute to the achievement of Good Ecological Status or Potential under the Water Framework Directive and Good Environmental Status under the Marine Strategy Framework Directive, with respect to descriptors for marine litter, non-indigenous species and underwater noise. (d) Objective 12: To safeguard space for, and improve the quality of, the natural marine environment, including to enable continued provision of ecosystem goods and services, particularly in relation to coastal and seabed habitats, fisheries and cumulative impacts on high mobility species. <p>In addition, the proposed HRO is supported by policy S-PS-1, which expressly supports competitive and efficient port and shipping operations, recognising that <i>'ports and harbours are essential to realise economic and social benefits for the south marine plan areas and the UK. S-PS-1 makes sure proposals do not restrict current port and harbour activity or future growth, enabling long-term strategic decisions, and supporting competitive and efficient port and shipping operations.'</i></p>
<p>Insert other relevant plans/policy/guidance in this section</p>	<p>Port Marine Safety Code</p> <p>Please see our comments earlier in this Statement of Support relating to the Port Marine Safety Code (Table 3a).</p>

Table 5: Any other relevant information

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 [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”

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 the harbours and it is therefore within the scope of the 1964 Act for them to be included in the HRO.