



Marine
Management
Organisation

Statement in Support of Harbour Revision Order (HRO) Application

Table 1: Application details

1. Date application made to MMO	23 August 2023
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	Fowey Harbour Commissioners ('the Commissioners')
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>This application is for a harbour revision order ('HRO') to be made under the powers conferred on the Secretary of State for Transport by section 14 of the Harbours Act 1964 ('the 1964 Act') which are delegated to the MMO by the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674).</p> <p>The HRO would consolidate and modernise existing local statutory harbour legislation in respect of the harbour of Fowey ('the harbour'), alter the limits of the harbour, update the constitution of the Commissioners, and confer further modernised powers on the Commissioners considered conducive to the efficient and economical operation, maintenance, management and improvement of the harbour. The HRO would confer modern powers on the Commissioners to give general directions to vessels using the harbour, and persons and vehicles using the harbour, together with powers exercisable by the harbour masters appointed by the Commissioners to give special directions. In respect of special directions and general directions related to the area of jurisdiction below the level of mean high water spring tides, these powers are required to support the effective management of the undertaking as recommended in the Port Marine Safety Code ('the PMSC'). In relation to vehicles and harbour operations ashore, they are consistent with the powers in section 14(3) 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 to that Act, which enables a harbour revision order to confer powers for environmental conservation within a harbour.</p>
<p>8. Location (coordinates must be provided in WGS84 format if this is a works order)</p>	<p>Fowey Harbour</p>
<p>9. State the title of all relevant</p>	<ul style="list-style-type: none"> The plan deposited with the Fowey Harbour Order 1937, entitled <i>'Fowey Harbour Provisional Order 1937'</i> considered by the Ministry of Transport in session 1936-37.

charts/maps/plans included with application (if appropriate)	<ul style="list-style-type: none"> • Fowey Harbour Limits Plan • Fowey Harbour Premises Plan
10. State the legislation relevant to the harbour authority and included with this application (if appropriate)	<ol style="list-style-type: none"> 1. Fowey Harbour Order 1937 ('the 1937 Order') and Plan 2. Fowey Harbour Revision Order 1980 ('the 1980 Order') 3. Fowey Harbour, Par and Charlestown (Application of Pilotage Act 1987) Order 1988 ('the 1988 Order') 4. Fowey Harbour (General) Byelaws 1996 ('the 1996 Byelaws') 5. Fowey Harbour Revision Order 2001 ('the 2001 Order') 6. Harbour Directions (Designation of Harbour Authorities) Order 2015 ('the 2015 Order') 7. Fowey Harbour Revision Order 2021 ('the 2021 Order')
11. If you have received any pre-application guidance from the MMO in relation to this application please briefly describe this here.	N/A
12. Have you included the required fee for your application?	£9,790 by BACS.

Table 3: statutory harbour authority background

<p>The statutory harbour authority:</p> <p>The Fowey Harbour Commissioners were incorporated as the statutory harbour authority for the harbour, as a body corporate with a common seal, by article 6 of the 1937 Order. For ease of reference, the Fowey Harbour Commissioners, in the exercise of their statutory harbour authority functions at the harbour, are referred to as 'the Commissioners' throughout this Statement in Support.</p> <p>The Commissioners, as the statutory harbour authority for the harbour, are governed by their own local legislation. The Commissioners are responsible for the administration, maintenance and improvement of the harbour, which is further described below.</p> <p>The Commissioners are also the local lighthouse authority for the harbour and surrounding areas, and a competent harbour authority under the Pilotage Act 1987.</p>
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In managing the harbour, the Commissioners strive to observe industry standards set out in Government guidelines. The Commissioners are committed to complying with the principles of the various codes and reports applying to the port and harbour industry, except where not relevant to the Commissioners' constitution.

The harbour:

The harbour is classed by the Department for Transport ("DfT") as a Trust Port. The harbour sits within an Area of Outstanding Natural Beauty, and is a deep water haven for all manners of vessel from kayaks to cruise ships alike.

The Commissioners manage both leisure and commercial vessels and operations within the harbour. The lower harbour is often busy with boat traffic, especially during the summer time.

There are numerous facilities and harbour infrastructure which support both leisure and commercial operations at the harbour, some of which are highlighted below.

Leisure Operations

The harbour supports leisure operations by way of its facilities, including:

- 1500 resident moorings, meeting the high demand at the harbour, and additional visitor swinging moorings along the eastern side of the lower harbour. There are also 3 visitor moorings available at Wisemans Reach.
- 2 visitor pontoon berths at the mouth of Pont Pill, 3 visitor pontoons at Underhills and further pontoon facilities upstream of the car ferry at Grid Irons.
- Vessel storage facilities at sites including Penmarlam Boat Park, Brazen Island, North Street Yard and the Old Station Yard car park in the winter. There is additional storage at Caffa Mill car park, although this is administered by Cornwall Council. There is also private yacht storage available at C. Toms and Son boatyard in Polruan and at St Winnow Yachts.
- Fueling facilities are available at the fuel pontoon upstream of the Bodinnick car ferry (a pay-at-pump facility, available 24/7 and at all states of the tide).
- An independent operator of a Water Taxi provides a service available during the summer period.

Commercial Operations

The harbour is a deep water harbour accessible in all weather and all states of the tide. The harbour is a busy commercial harbour handling in the

region of 450,000 tonnes of cargo each year, the primary cargo being china clay but other cargoes such as rock salt and aggregate are handled.

Ships over 95 metres are required to swing in the lower harbour and are then towed astern by the harbour tug/s to the loading berths which are situated on the western bank of the channel approximately 2km from the harbour entrance. Ship movements are generally carried out at slack water. The terminals at Fowey are operated by Imerys Minerals Ltd, there are 4 loading berths available.

The harbour is also a popular destination for cruise ships.

Table 3a: Need and justification for order

Port Marine Safety Code:

As the harbour authority for the harbour, the PMSC (November 2016) published by the Department for Transport applies to the Commissioners as well as to all statutory harbour authorities and other marine facilities, berths and terminals in the UK. The Executive Summary to the PMSC 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 harbour 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 PMSC identifies a number of tasks which harbour authorities should undertake in order to comply with the PMSC 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.

For the reasons set out throughout this Statement of Support, particularly those reasons which specifically refer to the PMSC, the Commissioners consider the HRO is in line with the guidance and recommendations of the PMSC.

Harbours Act 1964:

Section 14 of 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 to 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.

This 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 a port; and
 - (ii) The making of the HRO is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner.

General:

The proposed HRO would consolidate, modernise and extend the powers of the Commissioners considered conducive to the efficient and economical operation, improvement, maintenance or management of the harbour, and provide for alteration to its limits. The definition of “harbour premises” is flexible, meaning that if further harbour land within the definition of “harbour premises” under the HRO 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 harbour in an efficient and economical manner that the Commissioners are provided with a set of modern flexible statutory powers contained within the proposed HRO and that the majority of the current local statutory harbour legislation for the harbour is repealed.

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 Poole Harbour Revision Order 2012, the Cowes Harbour Revision Order 2012, the Dover Harbour Revision Order 2014, and the Cornwall Harbours Harbour Revision Order 2023. 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.

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.

Article 1 is not dealt with below since it is 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;">2</p> <p>Interpretation</p>	<p>This article contains definitions which apply throughout the HRO and a number of other provisions assisting with the interpretation of and clarification of scope of the HRO.</p>	<p>The definitions are found within paragraph (1) of the article.</p> <p>Paragraph (2) provides that all points, distances etc. in the Order should be construed as if the word “<i>or thereabouts</i>” had been inserted after them.</p> <p>Paragraph (3) sets out that all references to points in the Order are references to World Geodetic System 1984.</p> <p>Article 2 is required to enable the HRO and its effect to be properly interpreted.</p>
<p style="text-align: center;">3</p> <p>Incorporation of the Commissioners</p>	<p>This article incorporates provisions of the Commissioners Clauses Act 1847 which predominantly relate to:</p> <p>a) Section 53 (Commissioners may provide public</p>	<p>This is an incorporation clause of the Commissioners Clauses Act 1847.</p>

<p>Clauses Act 1847</p>	<p>offices);</p> <p>b) Section 60 (Legal proceedings); and</p> <p>c) Section 99 to 101 (Notices).</p>	
<p>4</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> <ul style="list-style-type: none"> • Power to construct warehouses and other works (section 21). • Rates (sections 27 and 33). • Collection of rates (sections 34, 36, 39, 40, 43 to 46 and 48). • Harbour, dock and pier master (sections 51 to 53, 56 to 58 and 63 to 65). • 68, 74 and 76 (relating to the discharge or cargoes, removal of goods and the protection of the harbour, dock and pier). • Harbour and dock police (sections 79 – 80). • Meters and weighers (sections 81 – 82). • Byelaws (section 83). • Recovery of damages and penalties (section 94). 	<p>This is an incorporation clauses of the Harbours, Docks and Piers Clauses Act 1847.</p>
<p>5 – 12</p> <p>Constitution of the Commissioners</p>	<p>Article 5(1) states that the Commissioners are and continue to be incorporated. Articles 5 to 12 broadly reflect the current practices of the Commissioners (which are currently set out in the Fowey Harbour Revision Order 2001 but being repealed under the HRO).</p>	<p>These articles of the proposed HRO accord with the Ports Good Governance Guidance ('PGGG') with respect to appointment of members of the Commissioners.</p> <p>Articles 6 and 7 of the Order deal with terms of office and articles 9 and 10 deal with casual vacancies and disqualification or removal of Commissioners. Schedule 2 to the HRO deals with incidental</p>

<p>inc. Schedule 1 (Form of Declaration) and Schedule 2 (Incidental Provisions Relating to the Commissioners)</p>		<p>provisions relating to the Commissioners, such as meetings of the Commissioners, the chair and vice-chair's appointment and re-appointment, meetings, procedure, members' remuneration, role and validity of acts of the Commissioners.</p> <p>Similar provisions can be found in the Fowey Harbour Revision Order 2001. They accord with the requirements of the PGGG and therefore their inclusion in the HRO is considered justified and required, particularly as the existing constitutional provisions found under the 2001 Order are being repealed in full under the HRO.</p>
<p>13 Harbour Jurisdiction</p>	<p>This article provides that the Commissioners shall exercise jurisdiction as a harbour authority, and the powers of the harbour master shall be exercisable within the harbour (which includes the harbour premises), the limits of which are described fully in article 13(1).</p>	<p>Due to the proposed repeal of the majority of current statutory harbour legislation, it is important that the Commissioners' jurisdiction as statutory harbour authority is clearly set out in this article. Therefore, it is conducive to the efficient and economic management of the harbour to express them clearly in the HRO and to deposit plans clearly delineating the harbour limits and harbour premises. All of the land (including land covered by water) that is currently understood to fall within the harbour limits has been included.</p> <p>The existing harbour limits are set in accordance with the 1937 Order. These existing limits are retained under the HRO and extended to include an additional area seaward of the existing harbour limits, shown for illustrative purposes shaded purple on the harbour limits plan. In respect of these additional harbour limits, the Commissioners consider that it is necessary for them to be able to exercise their powers within this area, particularly their powers to give special directions and general directions to vessels, for compliance with the PMSC and ensuring the safety of all users of the harbour. The inclusion of these additional limits is therefore considered justified, and conducive to the efficient and economic management of the harbour.</p> <p>In respect of the harbour premises, in the event of any future alteration to the extent of the harbour premises (because the Commissioners buy, sell etc. land), the HRO requires the Commissioners to publish an updated plan on the harbour website and to display one in the</p>

		<p>harbour office within 30 days of the alteration. The Commissioners' byelaw and general direction enforcement powers can be exercised over the entire area of jurisdiction.</p> <p>The definition of harbour premises (defined in article 2(1) of the HRO) is flexible, meaning that if further land was purchased in the future for the harbour undertaking, it would automatically become part of the undertaking (or if land no longer required for the purposes of the harbour undertaking was sold, it would cease to be a part of the harbour undertaking).</p> <p>Additionally, paragraph (3) expressly sets out that 'harbour premises' (as defined in the HRO) are deemed to be 'operational land' for the purposes of the Town and Country Planning Act 1990 ('the 1990 Act').</p> <p>'Operational land' is defined in section 263 of the 1990 Act as:</p> <p style="text-align: center;">263 Meaning of "operational land".</p> <p><i>(1) Subject to the following provisions of this section and to section 264, in this Act "operational land" means, in relation to statutory undertakers –</i></p> <p><i>(a) land which is used for the purpose of carrying on their undertaking; and</i></p> <p><i>(b) land in which an interest is held for that purpose.</i></p> <p><i>(2) Paragraphs (a) and (b) of subsection (1) do not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.</i></p> <p>In addition in respect of the permitted development rights contained in Schedule 2, Part 8, Class B, the reference to operational land</p>
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		<p>includes land designated by an order made under section 14 or 16 of the Harbours Act 1964.</p> <p>All land within the definition of harbour premises is therefore within the scope of ‘operational land’ under the 1990 Act. The inclusion of the wording is to make this clear as local planning authorities sometimes ask statutory harbour authorities to explain with reference to their local legislation that harbour land is operational land. All harbour premises is land designated under a harbour revision order by its very nature. The additional wording is intended to make the effect of local harbour legislation easier to understand and to give a concrete provision that local planning authorities can refer to. Note: it is not changing the current position. It is the view of the applicant that all of its harbour premises are already ‘operational land’ under the 1990 Act.</p> <p>In addition, paragraph (4) makes clear that existing tidal works built under the current local harbour legislation (much of which is being repealed) is within the area of the local planning authority. It is considered it is sensible to expressly state this, given the repeals.</p> <p>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>A similar provision can be found under article 3 of the Newport (Isle of Wight) Harbour Revision Order 2021. In relation to paragraph (3), a similar provision can be found in force (in Scotland) under article 12(3) of the Eyemouth Harbour Revision Order 2021.</p>
<p>14</p>	<p>This article provides that Commissioners may take such steps as they consider necessary or desirable from time to time for the operation, maintenance,</p>	<p>For those purposes, this article authorises the Commissioners to improve maintain, regulate, manage, mark and light the harbour and provide harbour facilities; carry out various activities related to works,</p>

<p>General Functions</p>	<p>management and improvement of the harbour, its approaches and facilities.</p>	<p>structures and equipment at the harbour (including the harbour premises) and do all other things which in its opinion is expedient to facilitate the proper operation, improvement or development of the harbour including acquiring land. Although the Commissioners have implied powers to acquire land for the harbour, it is sensible to include an express reference to the power within the HRO.</p> <p>The definition of harbour facilities highlights the importance of the fishing, leisure, energy, recreational and tourism industries to the future viability of the harbour.</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-</i></p> <p><i>(a) improving, maintaining or managing the harbour;</i> <i>(b) marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof; or</i> <i>(c) regulating the carrying on by others of activities relating to the harbour or of activities on harbour land".</i></p> <p>As a result of the majority of local legislation being repealed under the provisions of the HRO, it is considered that, in the interests of clarity, it is desirable that the Commissioners' powers to carry out the matters set out in this article should be set out expressly, rather than relying on implied and / or existing powers.</p> <p>A similar provision can be found under article 5 of the Weymouth Harbour Revision Order 2021.</p> <p>Specifically relating to the power to invest contained in article 14(2), this provision provides that where there are monies which are not immediately required by the Commissioners for the purposes of the</p>
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		<p>harbour undertaking, the Commissioners can invest such monies as they think fit.</p> <p>This power allows the Commissioners to make such investments as they consider fit using any monies which aren't immediately required for the purposes of the harbour undertaking. Such monies may include, for example, monies held in the reserve fund established under article 16 of the proposed HRO and applied in accordance with paragraph 3(e). Paragraph 3(e) provides that reserve fund monies may be applied by the Commissioners for <i>“any other lawful purpose sanctioned by the Commissioners and connected with the harbour undertaking”</i>.</p> <p>It is considered that this article is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, as required by section 14(2)(b) of the 1964 Act because it will allow the Commissioners to invest to maximise the funds available to them for the benefit and future of the harbour.</p> <p>Similar provisions already exist under local harbour legislation, such as section 12 of the Blyth Harbour Act 1986 and article 18 of the Falmouth Harbour Revision (Constitution) Order 2004, in England. Similar provisions can also be found in force in Scotland, for example article 5 of the Montrose Harbour Revision Order 1999 and article 13 of the Eyemouth Harbour Revision Order 2021. These provisions provide that the relevant statutory harbour authority may invest sums not immediately required for the purposes of the harbour undertaking and / or turn their resources to account so far as not required for the purposes of the harbour undertaking.</p> <p>This provision is authorised by paragraph 17 of Schedule 2 to the 1964 Act:</p> <p><i>“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</i></p>
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		<i>the harbour”.</i>
15 Application of Finances	<p>This article provides that the Commissioners shall apply the harbour revenue in the manner following and not otherwise:</p> <ul style="list-style-type: none"> • first in payment of the working and establishment expenses and costs of maintenance of the harbour; • secondly in payment of the interest on any moneys borrowed by the Commissioners for the harbour under any statutory borrowing power; • thirdly in payment of all other expenses properly chargeable to harbour revenue; and • fourthly to an account established as a reserve fund for the harbour. 	<p>This article 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>This article is useful to the efficient management of the harbour, as it expressly sets out how harbour revenue should be used.</p> <p>A similar provision can be found under article 7 of the Weymouth Harbour Revision Order 2021.</p>
16 Reserve Fund	<p>This article provides that the Commissioners may establish and maintain a reserve fund covering the harbour and carry to such a fund any part of the harbour revenue as is available for the purpose.</p>	<p>This article 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 Commissioners should have the power to maintain a reserve fund to enable the Commissioners to plan for future expenditure across the harbour in an economic and efficient manner.</p> <p>A similar provision can be found under article 8 of the Weymouth Harbour Revision Order 2021.</p>
17 Borrowing 18	<p>Article 17 provides that the Commissioners, or a subsidiary of the Commissioners (defined in article 2(1) of the proposed HRO), may borrow such sums of money as thought fit for the purposes of the harbour undertaking.</p>	<p>These articles are required as the Commissioners’ existing borrowing powers under the local harbour legislation are being repealed under the provisions of the HRO.</p> <p>The articles reflect modern statutory harbour borrowing powers as</p>

<p>Temporary borrowing</p>	<p>Article 18 provides that the Commissioners may borrow temporarily by way of overdraft or otherwise such sums of money as the Commissioners may require for the purposes of the harbour undertaking.</p>	<p>can be seen in the similar powers conferred by article 3 of the Blyth Harbour Revision Order 2015, and 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 Commissioners 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.</p> <p>In respect of article 17(3), the Commissioners, or any subsidiary of the Commissioners, may effect such arrangements as considered fit to mitigate any financial risk incurred for the purposes of borrowing under paragraph (1). The power to enter into risk mitigation arrangements is needed to enable the Commissioners, or any subsidiaries, to exercise the power to borrow in a prudent and cost effective manner.</p> <p>These articles are authorised under paragraph 10 of Schedule 2 to 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 in which the power may be exercised.”</i></p>
<p>Charges (generally)</p>	<p>The articles contained within this Part of the HRO (Charges) set out the Commissioners’ powers with respect to charges they may levy. They are reflective of modern statutory harbour powers relating to charges and are conducive to the improvement, maintenance and management of the harbour in an efficient and economical manner. A similar suite of powers can be found in the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012, and the Cornwall Harbours Harbour Revision Order 2023.</p>	<p>See below for further justification of particular provisions.</p>

<p style="text-align: center;">19</p> <p>Charges other than ship, passenger and goods dues</p>	<p>This article provides that in addition to ship, passenger and goods dues under section 26 of the 1964 Act, the Commissioners 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 HRO.</p>	<p>It is considered important to the harbour's future viability that all users of the harbour contribute to the cost of the management and maintenance of the harbour.</p> <p>It would be detrimental to the improvement, maintenance or management of the harbour in an efficient and economical manner if charging powers did not exist in respect of one type of vessel or floating structure using the harbour (unless exempt under the HRO). This provision is particularly important because the HRO provides for 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 style="text-align: center;"><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>A similar provision can be found under article 10 of the Weymouth Harbour Revision Order 2021.</p>
<p style="text-align: center;">20</p> <p>Charges for services or facilities</p>	<p>This article provides that in addition to ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Commissioners may demand, take and recover reasonable charges for services and facilities provided by them.</p>	<p>This provision is common as it is required for the harbour to be managed economically and efficiently.</p> <p>This article is authorised by paragraph 11 of Schedule 2 to the 1964 Act:</p> <p style="text-align: center;"><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 harbour in an efficient and economical manner.</p> <p>A similar provision can be found under article 11 of the Weymouth Harbour Revision Order 2021.</p>

<p style="text-align: center;">21</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 harbour 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 harbour 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 Commissioners' ability to efficiently and economically manage the harbour.</p> <p>Furthermore, this article is authorised by paragraph 12 of Schedule 2 to the 1964 Act in that it secures the efficient collections of charges levied by the Commissioners, specifying the times at which and the persons by whom charges are to be paid:</p> <p style="text-align: center;"><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>A similar provision can be found under article 12 of the Weymouth Harbour Revision Order 2021.</p>
<p style="text-align: center;">22</p> <p>Compounding arrangements and rebates</p>	<p>This article provides the Commissioners 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 Commissioners do not have to include on their 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 Commissioners to act in a commercial manner when entering into arrangements with customers, thereby managing the harbour in an efficient and economical manner. This would be extremely difficult if the Commissioners were required to publish commercially sensitive information.</p> <p>The great majority of ports and 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 harbour stakeholders in particular is also 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 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>23</p> <p>Deposits for charges</p>	<p>This article provides that the Commissioners 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 Commissioners 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 harbour to be able to secure the reasonable charges due to the Commissioners by virtue of their charging powers under the local legislation applying to the harbour, 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 Commissioners need to be able to secure the interests of the harbour by removing the relevant vessel or goods from the harbour or refuse entry.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the order to be <i>“desirable for the improvement, maintenance and management of the harbour in an efficient and economical manner”</i>.</p> <p>Furthermore, this article is authorised by paragraph 12 of Schedule 2 to the 1964 Act in that it secures the efficient collections of charges levied by the Commissioners:</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>A similar provision can be found under article 14 of the Weymouth Harbour Revision Order 2021.</p>
<p>24</p>	<p>This article provides for a right of lien over goods in the possession or custody respectively of a person</p>	<p>This is a standard provision included to secure the financial interests of those who by agreement with the Commissioners collects charges</p>

<p>Liens for charges</p>	<p>collecting charges on behalf of the Commissioners or, a wharfinger or carrier, who has paid or given security for charges on those goods.</p>	<p>on their 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>A similar provision can be found under article 15 of the Weymouth Harbour Revision Order 2021.</p>
<p>25</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 Commissioners, if the master of the vessel refuses to pay the related charges.</p>	<p>It is essential for the economic management of the harbour for the Commissioners to be able to secure the reasonable charges due to them by virtue their charging powers under the local legislation applying to the harbour, the 1964 Act or otherwise. Therefore, the Commissioners 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 the reasonable charge required, 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 harbour in an efficient and economical manner. Furthermore, this article is authorised by paragraph 12 of Schedule 2 to the 1964 Act in that it promotes securing the efficient collections of charges levied by the Commissioners:</p> <p style="text-align: center;"><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>A similar provision can be found under article 16 of the Weymouth Harbour Revision Order 2021.</p>
<p>26</p> <p>Exemption from ship, passenger and goods dues</p>	<p>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.</p>	<p>This article is authorised by paragraph 14 of Schedule 2 to the 1964 Act, as follows:</p> <p style="text-align: center;"><i>“Varying or extinguishing any exemption from charges levied by the authority at the harbour or any other right or privilege enjoyed thereat.”</i></p>

		<p>It is necessary for the efficient and safe management of the harbour that those persons named in the article are exempt from harbour dues when in the exercise of their core functions, as such persons ought not to be restricted or deterred from exercising those functions as a result of them otherwise being liable to pay harbour dues.</p> <p>A similar provision can be found under article 17 of the Weymouth Harbour Revision Order 2021.</p>
<p>27</p> <p>Recovery of charges</p>	<p>This article provides that in addition to any other powers of recovery available to them, the Commissioners may recover any charges payable to them as a debt in Court.</p>	<p>It is essential for the economic management of the harbour to be able to secure the reasonable charges due to the Commissioners by virtue of their charging powers under the local legislation applying to the harbour, the 1847 Act incorporated with the HRO or otherwise. Therefore, the Commissioners must be able to rely on the resources of the Court to assist in securing any debts owed to them should the existing powers of recovery be insufficient to secure the debt.</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 harbour in an efficient and economical manner.</p> <p>A similar provision can be found under article 18 of the Weymouth Harbour Revision Order 2021.</p>
<p>28</p> <p>Harbour master may prevent sailing of vessels</p>	<p>This article provides that the harbour master may prevent the removal or sailing from the harbour of any vessel until evidence is produced that any charges payable in respect of the vessel, its passengers or goods have been paid.</p>	<p>It is essential for the economic management of the harbour for the Commissioners to be able to secure the reasonable charges due to them in relation to:</p> <ul style="list-style-type: none"> • the vessel; • passengers on the vessel; and • goods imported, exported or carried on the vessel, <p>by virtue its powers under the local legislation applying to the harbour 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 harbour until such a time as the charges payable have been paid.</p>

		<p>Should such a vessel be able to leave the harbour without having paid the charges due, it would become difficult for the Commissioners to recover said charges and therefore be detrimental to their ability to manage the harbour in an economically efficient manner.</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 harbour in an efficient and economical manner.</p> <p>A similar provision can be found under article 19 of the Weymouth Harbour Revision Order 2021.</p>
<p>29 Power to make General Directions</p> <p>30 Procedure for giving, amending or revoking General Directions</p> <p>31 Publication of General Directions</p> <p>32 Special</p>	<p>Although the Commissioners already have a power to make general directions at the harbour, the existing power is being repealed under the HRO. These articles provide the Commissioners with powers of General Direction which also cover vehicles for the ease, convenience or safety of harbour operations ashore as defined under the HRO and powers of Special Direction. The provisions also set out the consequences of failing to comply with a general direction or special direction.</p>	<p>The PMSC, 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>As set out above, the Commissioners’ existing power of General Direction is being repealed under the HRO. 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 Harbour Advisory Group to be set up under the HRO as ‘designated consultees’ it contains a strong local consultation requirement.</p> <p>The Commissioners are applying for a modernised power of General Direction that will enable the Commissioners to have in place a single set of general directions. In line with best practice, these articles provide a statutory right for ‘designated consultees’ to be consulted about proposed general directions (see article 30(1)(a) and (b)).</p> <p>As stated above, the Fowey Harbour Port User Group will be a ‘designated consultee’ within article 30(1)(a) alongside the Chamber of Shipping and the Royal Yachting Association.</p> <p>General directions can be made over the entirety of the harbour (which include the harbour premises). Any future exercise of this power will</p>

<p>Directions</p> <p>33</p> <p>Failure to comply with directions</p> <p>34</p> <p>Enforcement of directions</p> <p>35</p> <p>Master's responsibility in relation to directions</p> <p>36</p> <p>Boarding of vessels and vehicles</p>		<p>be exercised in accordance with article 30. This means that representations received from the designated consultees will be considered by the Commissioners 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 30. The process contained in article 30 is likely to be acceptable to the Royal Yachting Association as a similar adjudication process is contained within the Shoreham Port Authority Harbour Revision Order 2021, Fowey Harbour Revision Order 2021, the Dart Harbour and Navigation Harbour Revision Order 2021 and the Cornwall Harbours Harbour Revision Order 2023.</p> <p>In terms of the precise scope of general directions, it will be seen that article 29(1) would allow the Commissioners to give or amend directions:</p> <ul style="list-style-type: none"> (a) <i>the ease, convenience or safety of navigation;</i> (b) <i>the safety of persons;</i> (c) <i>the protection of property, flora or fauna;</i> (d) <i>the ease, convenience or safety of harbour operations ashore,</i> <p>In relation to vehicles and harbour operations ashore, such a scope is consistent with the powers in section 14(3) 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 to that Act, which enables a harbour revision order to confer powers for environmental conservation within the harbour.</p> <p>Article 33 sets out the maximum fine level (level four on the standard scale) for failure to comply with a general direction once made. A fine up to level 4 on the standard scale is already authorised under article 8 of the 2021 Order in relation to the breach of general directions (being repealed under the HRO). As such, a level 4 fine for the breach of a general direction under the HRO is considered justified.</p> <p>Article 35 is consistent with section 14(2)(b) of the 1964 Act for the HRO to be desirable for the improvement, maintenance and</p>
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		<p>management of the harbour in an efficient and economical manner as it expressly imposes the Master's own responsibility in relation to directions.</p> <p>A similar provision can be found under article 10 of the Shoreham Port Authority Harbour Revision Order 2021 and under article 10 of the Lymington Harbour Revision Order 2014.</p> <p>Article 36 provides that a duly authorised officer of the Commissioners 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 Commissioners relating to the harbour, including the enforcement of any such enactment, byelaw or general direction.</p> <p>Such a power will be useful to the Commissioners where a person has failed to comply with byelaws, special directions or general directions. The Commissioners must be afforded the power to board relevant vessels and vehicles for the purposes of enforcing those byelaws, special directions and general directions.</p> <p>The rationale for including the power of entry into vehicles as well as vessels is that, just like vessels, there may be circumstances in which a vehicle needs to be entered to ensure that general directions or byelaws made in respect of it have been complied with. For example, entry to the back of a lorry to ensure that a general direction related to the ensuring loads are properly secured and supported has been complied with.</p> <p>The exercise of the provision is safeguarded by the inclusion of the words <i>"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 Commissioners relating to the harbour"</i> as it can only be exercised for those purposes.</p>
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<p>37</p> <p>Byelaws</p>	<p>This article provides the Commissioners 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 4 of the HRO) and is in line with the modern practice of setting out a wide range of matters upon which the Commissioners will have the power to make byelaws.</p> <p>Byelaws made under this provision in the future may, in accordance with paragraph (4)(a) of this article, provide for a fine not exceeding level 4 on the standard scale for breach thereof.</p>	<p>The power in this article incorporates the purposes in section 83 of the Harbours, 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 3) upon which the Commissioners 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. 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 Commissioners have 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 harbour for breach of byelaws as harbour users have complied with the instructions of the harbour masters. Nevertheless, to comply with the PMSC and to meet their other duties (including navigational safety), it is important that the Commissioners have modern and comprehensive byelaw making powers. It is important that the Commissioners retain wide byelaw making powers in case they need to introduce new byelaws in the future in respect of a risk not covered by the modernised power of General Direction included in the HRO.</p> <p>The Commissioners already have byelaw making powers and they are already entitled to impose fines of up to level 4 on the standard scale (section 57 of the Criminal Justice Act 1988), so the level 4 fine is considered justified. The power to make byelaws is authorised by paragraph 4 of Schedule 2 to the 1964 Act:</p> <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</i></p>
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		<i>powers imposed or conferred as mentioned in paragraph 3 above.”</i>
38 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.	<p>A similar provision can be found in article 25 of the Folkestone Harbour Revision Order 2017.</p> <p>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</p>
39 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 harbour, it is necessary to include a saving provision for existing regulations, licences, leases etc.	<p>It is important that any existing regulations, licences, leases etc. remain in force following the coming into force of this HRO.</p> <p>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 harbour in an efficient and economical manner.</p> <p>A similar provision can be found under article 11 of the Shoreham Port Authority Harbour Revision Order 2021.</p>
40 Advisory bodies	This article covers the establishment of an external advisory body with an independent chair.	<p>This article puts on a statutory basis the establishment and continuance of an advisory group or groups for the harbour and their administration. It also requires the Commissioners to consult the advisory group or groups. This article is required because the existing provisions relating to a consultative group under the local harbour legislation are being repealed.</p> <p>The statutory requirement for the Commissioners to form an Advisory Group is fundamental to its compliance with the Ports Good Governance Guidance (March 2018) which recognises at para 1.5 <i>“the importance of engaging effectively and fully with stakeholders and carrying out their business in an accountable way”</i> and specifically sets out at para 2.6:</p>

		<p><i>“Effective engagement with stakeholders is essential for all SHAs to maintain or improve understanding of the harbour by its stakeholders. Engagement is equally important to understand stakeholder’s views about the harbour and key issues from their perspective. All SHAs should therefore seek to engage effectively with a wide range of stakeholders”.</i></p> <p>Additionally, the consultation requirement in respect of general directions (also being provided for under the HRO) sets out that the Commissioners must (except in an emergency) consult the Advisory Group (Fowey Harbour Port User Group) on all matters substantially affecting the harbour, and therefore this article is necessary and incidental to the inclusion of the power of General Direction under the HRO. The power of General Direction (discussed above) will be an essential tool for the Commissioners to comply with the PMSC.</p> <p>As a result of the above, this article is conducive to the efficient and economical development of the harbour which are being improved, maintained and managed by a harbour authority.</p> <p>A similar provision can be found under article 28 of the Weymouth Harbour Revision Order 2021.</p>
<p>41 Development of land</p>	<p>This article provides that the Commissioners may use or develop for any purpose, and deal with, any land within or in the vicinity of the harbour; 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 harbour.</p>	<p>Paragraph (2) 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 Commissioners would not themselves have the power to do that thing.</p> <p>This article, as far as applying to land not required for the harbour, is authorised by paragraph 9A of Schedule 2 to the 1964 Act:</p> <p><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 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 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 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 Commissioners 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 harbour. 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 harbour 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 or management of the harbour 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>42</p> <p>Power to grant tenancies and to dispose of land</p>	<p>Paragraph (1) gives power to the Commissioners, 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 (2) provides that the Commissioners may also dispose of, or grant the use or occupation for any purpose of, land or property if they consider that the property is surplus to harbour requirements; or it would conduce to the improvement, maintenance or</p>	<p>Paragraph (1), which is needed to manage the harbour, 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)(a) 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 held for the purposes of the harbour which is no longer required for those purposes."</i></p>

	<p>management of the harbour in an efficient and economical manner for the property to be held by a person other than the Commissioners.</p>	<p>It is considered that paragraph (3)(b) 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 harbour. The case for this is set out as an integral part of the need for this article. Paragraphs (1) and (3)(a) are needed to enable the Commissioners 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)(b) would enable the Commissioners to grant leases or transfer land or property to a subsidiary or other body. This power is needed to enable the Commissioners to have sufficient flexibility in how to structure the harbour undertaking in the future. The power in paragraph (3)(b) is only exercisable if <i>“it would conduce to the improvement, maintenance, operation or management of the harbour 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>43</p> <p>Power to appropriate lands and works for particular uses etc.</p>	<p>This article provides that the Commissioners may from time to time for the purpose of or in connection with the management of the harbour set apart and appropriate any part of the harbour 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 Commissioners may think fit.</p>	<p>Section 33 of the Harbours, Docks and Piers Clauses Act 1847 is incorporated into the HRO (‘the Open Port Duty’) and as such the Commissioners remain under a duty to keep the harbour 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 Commissioners in the management of the harbour in an efficient manner and facilitate the</p>

		<p>efficient and economic transport of goods and passengers by sea, again for harbour purposes only.</p> <p>A similar provision can be found under article 31 of the Weymouth Harbour Revision Order 2021.</p>
<p>44</p> <p>Other commercial activities</p>	<p>Paragraph (1)(a) provides that the Commissioners 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 Commissioners 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 Commissioners would not themselves (as harbour authority) have the power to do that thing.</p>	<p>Paragraph (1)(a) would assist the Commissioners to maximise the potential of the harbour undertaking by enabling them to carry on any business which could conveniently be carried on with the harbour undertaking. For example, the Commissioners could utilise and develop the skill and experience of their 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 Commissioners to carry on such a business as part of a joint venture with another person or persons, for example enabling the Commissioners 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:</p> <p style="text-align: center;"><i>“it is conducive to the improvement, maintenance, operation or management of the harbour in an efficient and economical manner”.</i></p> <p>This limitation brings this article 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 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> <p>The case for this is set out as an integral part of the justification for article.</p>
<p>45</p> <p>Power to delegate functions</p>	<p>This article provides that the Commissioners may delegate the performance of any of their functions to be carried out by any such company as referred to in paragraph (1)(b), except those functions which cannot be delegated in accordance with paragraph 9B of Schedule 2 to the 1964 Act.</p>	<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> <ul style="list-style-type: none"> <i>(a) a duty imposed on the authority by or under any enactment;</i> <i>(b) the making of byelaws;</i> <i>(c) the levying of ships, passenger and goods dues;</i> <i>(d) the appointment of harbour, dock and pier masters;</i> <i>(e) the nomination of persons to act as constables;</i> <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>The power to delegate functions is needed to enable the Commissioners 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>46</p>	<p>These articles provides the Commissioners with</p>	<p>Similar provisions are found within articles 14-17 of The Yarmouth</p>

<p>Power to lay Moorings</p> <p>47</p> <p>Licensing of moorings</p> <p>48</p> <p>Offences as to moorings</p>	<p>powers related to the provision, maintenance and licensing of moorings within the harbour. It is considered that modernised express provisions are conducive to the efficient and economical management and maintenance of the harbour.</p>	<p>(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> <p>These articles provides for a level 4 fine for failure to comply with their requirements. This level of fine is required firstly to ensure that there is a sufficient level of deterrent (moorings in the harbour are sought after and can be used to generate income, and the level of fine needs to be in excess of likely income generation) and secondly, a mooring obstructing safe navigation in the harbour will constitute a navigational hazard and can interfere with the operation of the Open Port Duty. As such, it is considered that a level 4 fine is justified.</p>
<p>49</p> <p>Bunkering</p>	<p>This article provides the Commissioners with powers in relation to licensing those persons carrying out commercial refuelling activities related to vessels in the harbour.</p>	<p>To comply with the environmental duties contained in s48A of the 1964 Act, the Commissioners consider that it is important that they have 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>Similar powers were conferred by article 35 of the Weymouth Harbour Revision Order 2021.</p>
<p>50</p> <p>Aids to navigation</p>	<p>This article provides that the Commissioners may, with the approval of Trinity House, erect, place, alter, discontinue or remove any aids to navigation in any place adjacent to the harbour (subject to obtaining the necessary interest in or over land).</p>	<p>This power is important for enabling the Commissioners to meet their navigational safety duties and is therefore consistent with section 14(2)(b) of the 1964 Act to secure the management of the harbour in an efficient manner or of facilitating the efficient and economic transport of goods or passengers by sea.</p> <p>A similar provision can be found under article 36 of the Weymouth Harbour Revision Order 2021.</p>

<p>51</p> <p>Power to dredge</p>	<p>This article provides the Commissioners with a power to dredge.</p>	<p>The power to dredge is a standard statutory harbour power and, under its existing local legislation, the Commissioners already have the power to dredge with respect of the harbour.</p> <p>It is important that the Commissioners are provided with a power, reflective of modern provisions, so that they able to dredge if and when required, and 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>Although the power to dredge is not a “new” power for the Commissioners, under the HRO the Commissioners are seeking additional limits of jurisdiction (discussed above in relation to the harbour jurisdiction at article 13). As such, paragraph (4) of this article provides that the exemption relating to dredging under section 75 of the Marine and Coastal Access Act 2009 shall not apply in relation to the added limits (shown for information purposes shaded purple on the harbour limits plan). It will however apply to the existing area of the harbour (which is the same as the current position) because the Commissioners are already authorised to dredge that area. However, if disposal to sea is required in the future, then a marine licence will continue to be required for this disposal.</p> <p>It is conducive to the management of the undertaking in an efficient manner (as required by section 14(2)(b) of the 1964 Act), for the power to be included in the proposed HRO.</p> <p>A similar dredging power can be found under article 37 of the Weymouth Harbour Revision Order 2021.</p>
<p>52</p> <p>Repair of landing places etc.</p>	<p>This article provides that the Commissioners may by notice require the owner or occupier of any landing place, jetty, embankment or structure or other work in the harbour or on land immediately joining the waters of the harbour to repair it, within a reasonable time, to their</p>	<p>This power is important in assisting the Commissioners in meeting their duties with regard to navigational safety and the safety of harbour users. Due to the potential safety implications of failure to comply, a level 4 fine is justified. Similar provisions can be found in article 11 of the Portland Harbour Revision Order 1997.</p>

	<p>reasonable satisfaction, if it is a danger to persons or vessels using the harbour or a hindrance to navigation of the harbour. The provision provides for a level 4 fine for non-compliance (on summary conviction) and a power for the Commissioners to carry out the works and recover the reasonable cost of doing so from the person on whom the notice was served. There is right of appeal to the Secretary of State.</p>	<p>This article relates to navigational safety in that it applies to features which are “<i>dangerous to persons or vessels using the harbour</i>” or “<i>a hindrance to the navigation of the harbour</i>” and is therefore 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>53</p> <p>Restriction of works and dredging</p> <p>54</p> <p>Control of certain operations and works</p> <p>55</p> <p>Licensing of works</p> <p>56</p> <p>Licence to dredge</p> <p>57</p> <p>Appeals</p> <p>58</p>	<p>These articles include the following:</p> <ul style="list-style-type: none"> ● Restriction of works and dredging; ● Control of certain operations of works of statutory undertakers; ● Licensing of works; ● Licence to dredge; ● Appeals in respect of works or dredging licences; and ● Obstruction of works; <p>These articles provide the Commissioners with modern powers regarding works and dredging carried out by third parties within the harbour limits. The provisions include requirements to obtain a licence from the Commissioners prior to the undertaking of any works or dredging within the harbour. The provisions are important to enable the Commissioners to comply with their duties related to navigational safety, the Open Port Duty and in respect of the environment (in particular section 48A of the 1964 Act).</p>	<p>There is not a comparable modern suite of provisions relating to the restriction, licensing and control of works and dredging in the existing local legislation which applies to the harbour undertaking.</p> <p>The provisions ensure that the Commissioners will be aware of all works and dredging taking place in the harbour and that they can require suitable safeguards to be put in place when they are being conducted. As such, the level 4 fine in article 53(4) and the level 3 fines in articles 54(5) and 58 for breach are considered appropriate and proportionate.</p> <p>In addition, where works are carried out without or in breach of the terms of a licence, the Commissioners may require the works to be removed and the site restored to its former condition. If they are / it is not, the Commissioners have the power to do so themselves and recover the cost from the person liable.</p> <p>The provisions are important to enable the Commissioners to comply with their duties related to navigational safety and in respect of the environment (in particular section 48A of the 1964 Act) by requiring third parties to seek authorisation from the Commissioners by way of a licence (unless specifically authorised in accordance with article 53(3)).</p> <p>Article 57 provides an appeal procedure in respect of any refusal to grant a licence, the terms of any licence granted or any modifications requested by the Commissioners. Aggrieved applicants are able to</p>

<p>Obstruction of works</p>		<p>appeal to the Secretary of State. As such, it is considered that this article is justified.</p> <p>Applications are made in writing and the Commissioners may charge a reasonable in respect of their administrative expenses for dealing with the application.</p> <p>Similar provisions can be found in articles 8 to 10 of the Watchet Harbour Revision Order 2000 and article 7 of Lancaster Port Harbour Revision Order 2001.</p> <p>With regard to these provisions generally, paragraph 17 of Schedule 2 to the 1964 Act provides that a Harbour Revision Order may include provision for:</p> <p style="text-align: center;"><i>“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.”</i></p>
<p>59</p> <p>Parking places and related facilities</p>	<p>This article provides that the Commissioners may provide parking spaces and connected works within the harbour.</p>	<p>This power has been expressly included because the harbour includes car parks which form part of the undertaking. Similar provisions can be found in article 20 Penzance Harbour Revision Order 2009.</p> <p>The charging for such facilities is authorised by paragraph 11 of the 1964 Act:</p> <p style="text-align: center;"><i>“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.”</i></p> <p>With regard to the provision of parking and related facilities generally, paragraph 17 of Schedule 2 to the 1964 Act provides that a Harbour Revision Order may include provision for:</p> <p style="text-align: center;"><i>“Any object which, though not falling within any of the</i></p>

		<p><i>foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”</i></p> <p>And, as such, it is considered that this article is justified.</p>
<p>60</p> <p>Removal of vehicles and vessels</p>	<p>This article authorises the Commissioners to remove vehicles and vessels from the harbour that have been left in a place where they will or are likely to interfere with the use of the harbour or in any part of the harbour where parking is prohibited.</p>	<p>This power is important in assisting the Commissioners in managing efficiently traffic within the harbour and ensuring compliance with the Open Port Duty (in relation to vessels). Similar provisions can be found in article 22 Folkestone Harbour Revision Order 2017 and article 21 Penzance Harbour Revision Order 2009.</p> <p>This article is also 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 as the Commissioners 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 harbour. It would not be consistent with section 14(2)(b) of the 1964 Act if the Commissioners were not afforded this express power.</p> <p>The article also provides the Commissioners 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 Commissioners ought not commit an offence if it removes vehicles in such circumstances, for the reasons set out above.</p> <p>Finally, it is considered that the interests of people who aren’t the Commissioners and otherwise entitled to remove said vehicles are sufficiently safeguarded by the provisions of article 60(2) – (7).</p>
<p>61</p> <p>Power with respect of</p>	<p>This article extends the powers of the Commissioners under section 252 of the Merchant Shipping Act 1995. In particular, it extends the circumstances in which the Commissioners may recover expenses reasonably incurred by them exercising said power from the owner</p>	<p>This extension of the power in section 252 of the Merchant Shipping Act is common and important if the harbour is 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>disposal of wrecks</p>	<p>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.</p>	<p>A similar power can be found under article 39 of the Weymouth Harbour Revision Order 2021.</p>
<p>62 Power to deal with unseviceable vessels</p>	<p>This article provides that the Commissioners may sell, break up or otherwise dispose of any vessel which is unseviceable and had been laid by or neglected in the harbour or on land immediately adjoining the harbour.</p>	<p>This article applies in addition to the power under section 57 of the Harbours, Docks and Piers Clauses Act 1847 (unseviceable vessels to be altogether removed from harbour) and allows the Commissioners to recover their costs for the exercise of removing unseviceable vehicles laid by or neglected with the harbour.</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>A similar power can be found under article 40 of the Weymouth Harbour Revision Order 2021.</p>
<p>63 Removal of obstructions other than vessels</p>	<p>This article provides that the Commissioners 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 harbour or its approaches. The provision deals with the recovery of costs by the Commissioners of reasonable expenses incurred by them in relation to the exercise of the power and sale of the item(s) recovered.</p>	<p>This power is important in assisting the Commissioners in meeting their duties with regard to navigational safety and the safety of harbour users, and important if the harbour is to be run in an efficient and economic manner.</p> <p>Similar provisions can be found in article 8 of the Portland Harbour Revision Order 1997.</p>
<p>64 Licensing of boatmen and vessels</p>	<p>This article provides the Commissioners with powers to licence vessels for hire and vessels carrying no more than 12 passengers that are present in the harbour.</p>	<p>A key purpose of the HRO is to, insofar as possible, consolidate and modernise the harbour legislation applying to the Commissioners by repealing historic provisions so that the Commissioners can be governed under fewer pieces of local harbour legislation. This is conducive to the efficient management of the harbour as required under section 14(2)(b) of the 1964 Act.</p> <p>In relation to this licensing provision specifically, the Commissioners already have these powers included in the 2021 Order (repealed</p>

		under the HRO) so it have been reinstated in this HRO. It's inclusion is therefore considered justified and necessary.
65 Provision against danger to navigation	This article provides that in the case of injury to, or the destruction or decay of, a tidal work (defined in article 2), the Commissioners must notify Trinity House (the general lighthouse authority) as soon as practicable.	<p>This article is important in ensuring the Commissioners meet their duties with regards to navigational safety. This article puts on a statutory basis a requirement for the Commissioners to notify Trinity House of an incident relating to tidal works. Under the Merchant Shipping Act 1995, Trinity House then has powers to direct the Commissioners as appropriate in response to the injury, destruction or decay of a tidal work.</p> <p>This article is conducive to the efficient management of the harbour as required under section 14(2)(b) of the 1964 Act.</p>
66 Notices	This article sets out the process for serving any notices required under the Harbour Revision Order.	This article is conducive to the efficient management of the harbour as required under section 14(2)(b) of the 1964 Act, clearly setting out the procedural requirements for Notices required under the Order.
67 Saving for Trinity House	This article provides the standard saving provision for the rights of Trinity House.	No further justification required.
68 Crown Rights	This article provides the standard saving provision for Crown Rights.	No further justification required.
69 Amendment of the Harbour Directions (Designation of Harbour Authorities) Order 2015	The Commissioners have powers of Harbour Direction at the harbour, provided for under the 2015 Order. This article amends the 2015 Order so that it refers to the "harbour" as defined under the HRO.	This amendment is required because the 2015 Order currently refers to Fowey Harbour as defined under the 1937 Order. Because the limits of the harbour as defined in the 1937 Order are being repealed under the HRO, it is necessary to amend the 2015 Order to refer to the limits as defined under the HRO to ensure that the Commissioners retain the power to make Harbour Directions at the harbour within their area of jurisdiction. This is conducive to the efficient management of the harbour as required under section 14(2)(b) of the 1964 Act.

<p>70</p> <p>Revocation / Repeal</p>	<p>This article provides for the repeal and revocation (as appropriate) of the local legislation listed in Schedule 4 referred to from the date of the HRO.</p>	<p>This HRO is being promoted in accordance with the PMSC'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 and revocations 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 Commissioners, 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 Commissioners in meeting the recommendations of the PMSC.</p>
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Table 4: Relevant policies, guidance and plans

<p>Plan, policy or guidance</p>	<p><i>Demonstration that application is compliant with relevant plan, policy or guidance.</i></p>
<p>Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)</p>	<p>The harbour is situated within the South West 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. The relevant marine plan applying therefore is the 'South West Inshore and South West Offshore Marine Plan', June 2021 ('the South West Marine Plan').</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 Commissioners' existing statutory powers to support the efficient and economical operation, maintenance, management and improvement of the harbour, and altering the harbour limits. The HRO modernises the Commissioners' 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> <p>The proposed HRO also clarifies and alters the existing harbour limits, which includes the harbour premises, removing uncertainty over the exercise of the Commissioners' 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 West Marine Plan will be very limited and that any effects will be positive</p>

as the proposed HRO supports the economic and efficient management of the harbour (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 Commissioners' 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 Commissioners in ensuring they meet both their environmental duties under s48A of the Harbours Act 1964 and compliance with the PMSC. Both of which will support the vision of ensuring that the marine environment 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.

Compliance with South West Marine Plan

The South West Marine Plan Marine Plan was published in June 2021. Through the modernisation of the Commissioners' statutory powers enabling the efficient and economic management of the harbour and the activities that take place there, the proposed HRO will support the following objectives contained in the South West Marine Plan:

Objective 2: The marine environment and its resources are used to maximise sustainable activity, prosperity and opportunities for all, now and in the future.

	<p>Objective 3: Marine businesses are taking long-term strategic decisions and managing risks effectively. They are competitive and operating efficiently.</p> <p>Objective 4: Marine businesses are acting in a way which respects environmental limits and is socially responsible. This is rewarded in the market place.</p> <p>Objective 6: The use of the marine environment is benefiting society as a whole, contributing to resilient and cohesive communities that can adapt to coastal erosion and flood risk, as well as contributing to physical and mental wellbeing.</p> <p>Objective 7: The coasts, seas, oceans and their resources are safe to use.</p> <p>Objective 11: Biodiversity is protected, conserved and, where appropriate, recovered, and loss has been halted.</p> <p>In addition, the proposed HRO is supported by policy SW-PS-1, which expressly supports competitive and efficient port and shipping operations, recognising that <i>‘ports and harbours are essential to realising economic and social benefits for the south west marine plan areas and the UK. SW-PS-1 makes sure that 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 PMSC (Table 3a).</p> <p>Ports Good Governance Guidance</p> <p>Please see our comments earlier in this Statement of Support relating to the Ports Good Governance Guidance (Table 2b, in relation to articles 5 to 12 and Schedules 1 and 2).</p>

Table 5: Any other relevant information

No formal pre-application consultation.

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.