

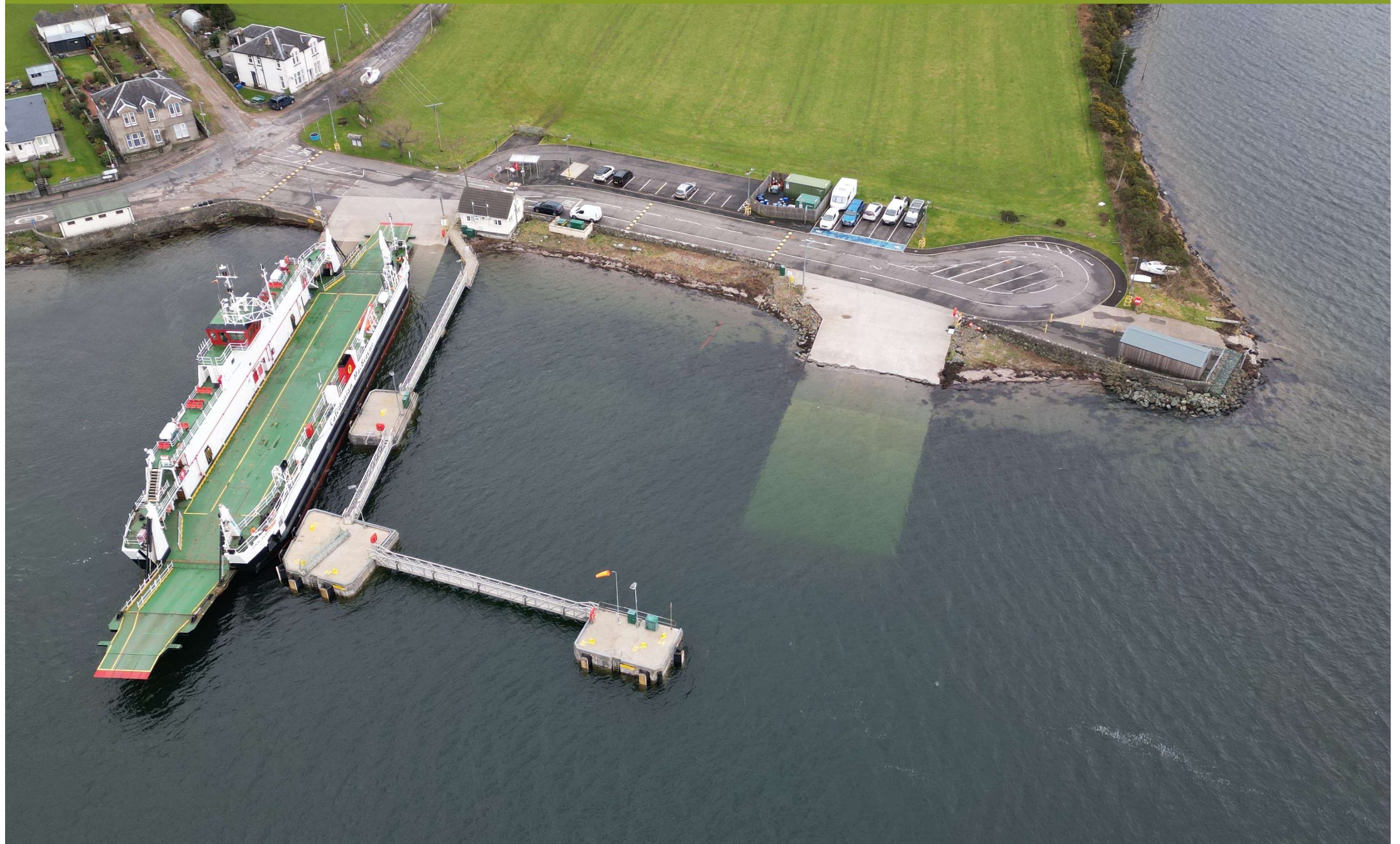


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Stòras Mara Cailleannach Eò

CMAL HR(C)O

Harbour Revision (Consolidation) Order



- ▶ A Statutory Harbour Authority is a body which has been given statutory powers or duties through local legislation for the purpose of improving, maintaining, and managing a harbour or port.
- ▶ CMAL is the Statutory Harbour Authority at 16 of its harbour/port locations, in addition CMAL operates a further 11 marine facilities across the West Coast of Scotland servicing the Clyde and Hebridean Ferry Services alongside a wide range of leisure and commercial customers.

- ▶ The Harbours Act 1964 is an important piece of national legislation affecting Statutory Harbour Authorities.
- ▶ It provides the legal framework under which applications for various types of orders can be made.
- ▶ CMAL is applying for a Harbour Revision Order under section 14 of the Act
- ▶ There is a link to The Harbours Act 1964 on the CMAL website

- ▶ Harbour Authorities derive their basic statutory powers and duties from local legislation. Until 1964, this legislation was always in the form of a private Act of Parliament (or in an order contained in, and confirmed by, an Act of Parliament).
- ▶ The Harbours Act 1964 introduced a system whereby such powers and duties can be conferred or varied by an order in the form of a statutory instrument, made by Scottish Ministers.
- ▶ In many cases a Statutory Harbour Authority's local legislation will consist of several different Acts or Orders, passed or made over a considerable period of time.
- ▶ Care should be taken in examining a Statutory Harbour Authority's legislation to ensure that a provision has not been repealed or amended by a later piece of legislation.

- ▶ Over 50 pieces of Local Legislation relating to CMAL Harbours where Statutory Powers are in place.
- ▶ As a result of such a wide range of documents, it has proved difficult to promote consistent legislative platform for CMAL to manage the harbours.
- ▶ Oldest Statutory Legislation dating back to 1832 at Largs
- ▶ Many outdated and irrelevant (Powers to extradite people overseas if found loitering!)

The CMAL Harbour Revision (Consolidation) Order will: -

- ▶ Ensure that any old and out of date railway related legislation ceases to be incorporated for CMAL harbours. (it may still be relevant for some railway facilities). This can be found in Schedule 2 of the draft order.
- ▶ Repeal any legislation that is no longer relevant or needed, this can be found in Schedule 3 of the draft order.
- ▶ Retain certain sections/articles of some of the legislation where it is believed to be beneficial to the improvement, maintenance and management of the harbour(s), this can be found in schedule 4 of the draft order.
- ▶ All the existing legislation is available on the CMAL website.

What is the Port & Marine Facilities Safety Code (the Code)?



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- ▶ The Code sets out a national standard for every aspect of port marine safety. Its aim is to enhance safety for everyone who uses or works in the UK port marine environment. It is endorsed by the UK Government, the devolved administrations and representatives from across the maritime sector and, while the Code is not mandatory, these bodies have a strong expectation that all Harbour Authorities will comply.
- ▶ The Code is applicable to Statutory Harbour Authorities, Competent Harbour Authorities and to other marine facilities which may not have statutory powers and duties.
- ▶ The Code requires that the duty holder (CMAL Board) must regularly review and be aware of their existing powers based on local and national legislation, seeking additional powers if required to promote safe navigation.
- ▶ CMAL improve, maintain and manage their harbours in line with the Code however they do not have the appropriate legislation to support this.

Outcomes of recent audit of PMSC compliance

- ▶ A recent Code audit recommended that a review of powers & duties be undertaken for all CMAL's SHA locations.
- ▶ The subsequent review of the 16 CMAL harbour orders identified inconsistencies with respect of powers and duties at CMAL harbours.
- ▶ Due to the range, age, and extent of legislation at the 16 harbours where there is statutory legislation in place there are many differing powers, scope and definitions.
- ▶ This could affect CMAL's ability to comply with the Code, namely:
 - Lack of Powers of General Direction
 - Definition of Harbour Masters
 - Inconsistencies in Local Legislation

For the efficient improvement, maintenance and management of the harbour(s) will provide (summary):

- ▶ A consistent legal framework across the harbours.
- ▶ Consistent provision for the making of General Directions.
- ▶ Legal support for a network wide charging structure
- ▶ Powers of wreck removal.
- ▶ Powers to lay moorings and Aids to Navigation

- ▶ The DRAFT HR(C)O incorporates clauses from the Harbours, Docks and Piers Clauses Act 1847. These are standard clauses used in harbour legislation. A link to this Act is available on the CMAL website.
- ▶ The draft order is available on the CMAL website.
- ▶ Also available is the draft Statement in Support. This provides information on general justification for the order and details of the articles included.

- ▶ When further major works are required, further legislation will be promoted to grant statutory consent to build

► Phase 1—Promotion of the HR(C)O at the 16 Statutory Harbour Authorities

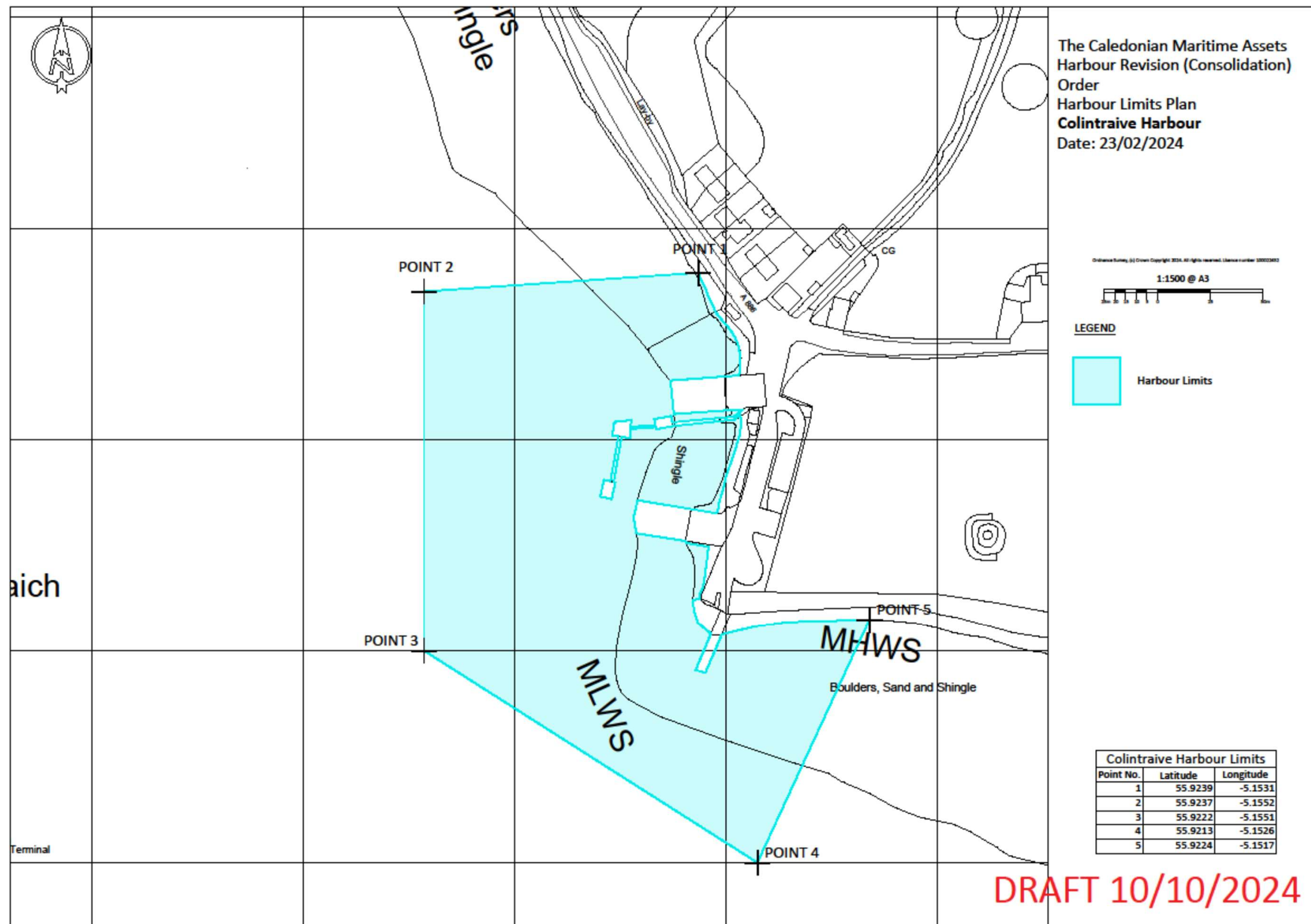
- Armadale
- Brodick
- Castlebay
- Coll
- Colonsay
- Gourock
- Kennacraig
- Largs
- Lochaline
- Lochboisdale
- Lochranza
- Oban - Railway Pier
- Port Ellen
- Tarbert (Harris)
- Tiree
- Wemyss Bay

- ▶ Phase 2—Promotion of the HR(C)O at the remaining 10 non –statutory marine facilities
 - ▶ Bullhole/Dhearg Phort
 - ▶ Claonaig
 - ▶ Colintraive
 - ▶ Cumbrae
 - ▶ Fishnish
 - ▶ Gallanach
 - ▶ Kerrera
 - ▶ Kilchoan
 - ▶ Portavadie
 - ▶ Rhubodach
 - ▶ Tobermory

Colintraive – Harbour Limits Plan



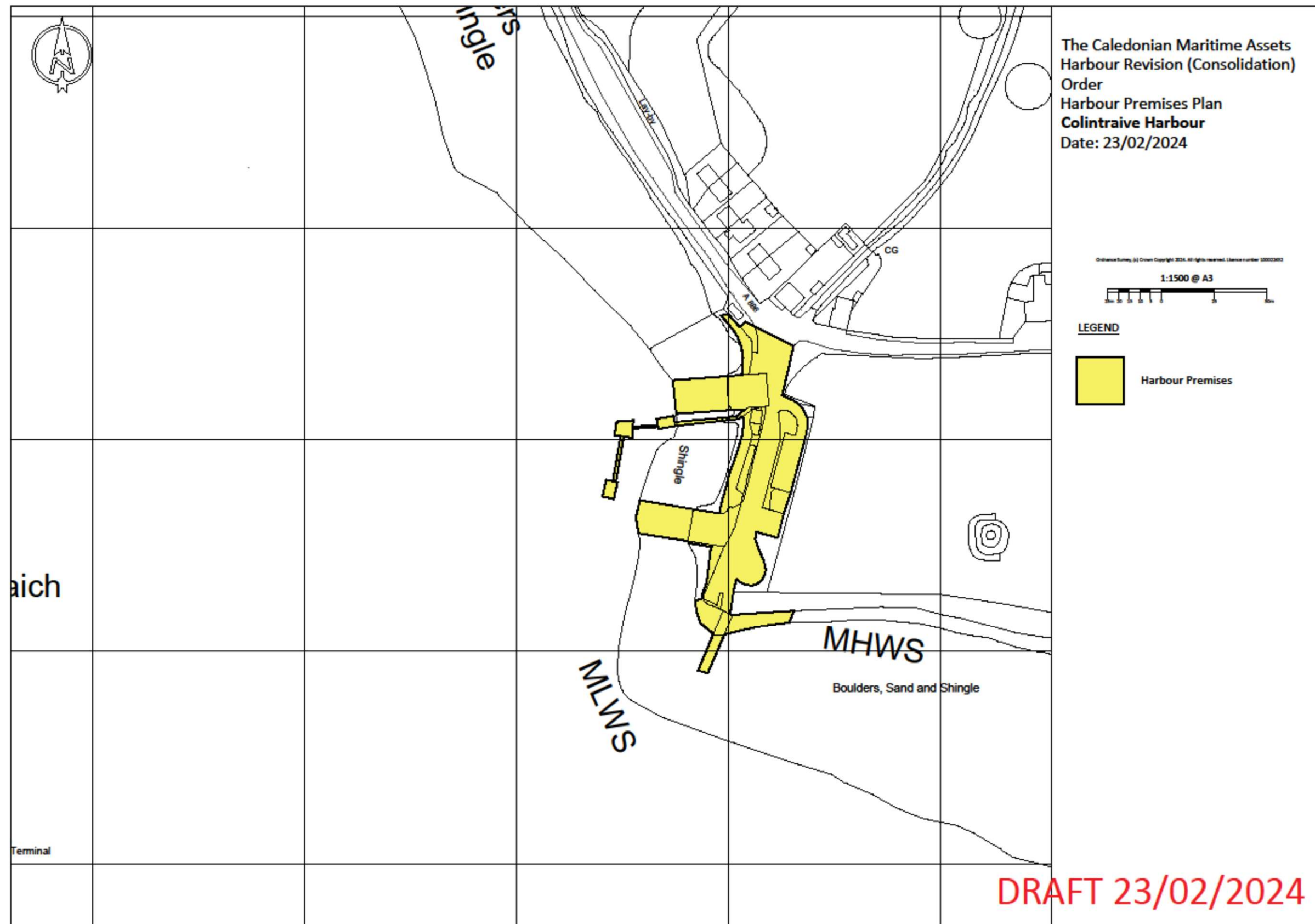
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Colintraive – Harbour Premises Plan



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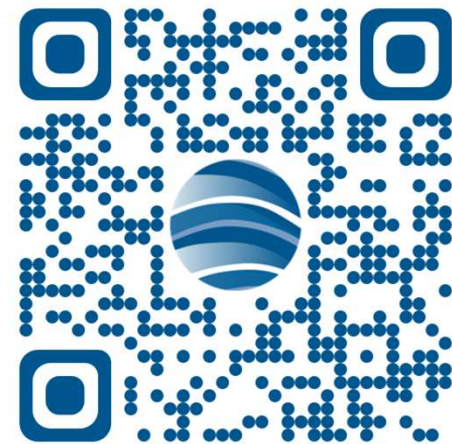
- ▶ At the previous event, we received a question in relation to the “immunity for nuisance for operators and maintenance”. We realise that the wording in our presentation materials was not clear.
- ▶ The wording “immunity for nuisance for operators and maintenance” is for seaward items and not anything to do with landside matters such as roads, marshalling and parking.
- ▶ One of the effects of the proposed Order is to provide continued statutory authorisation for CMAL’s infrastructure at each of its statutory harbours below mean high water springs tide level, which essentially prevents “nuisance” claims being brought on the grounds that the lifeline ferry infrastructure is interfering with the public right of navigation

Key Stages and Proposed Programme Dates

- This is indicative and may be subject to change, for the latest information please refer to the CMAL Website.

Key Stages	Programme Dates
Pre-Application Consultation—Round 1 Phase 1 and Phase 2 Ports	March 2024 – July 2024
Review Feedback and Comments from Pre-Application Consultation Round 1 and re-draft HR(C)O where appropriate (Potential for further Pre-Application Consultation Meeting if required)	July 2024 – January 2025
Submit Formal Application for Phase 1 Ports	March 2025
Formal Consultation Period (42 Days)	TBC
Order Determined for Phase 1 Ports	TBC
Pre-Application Consultation—Round 2 Phase 2 Ports only	TBC
Submit Formal Application for Phase 2 Ports	TBC
Formal Consultation Period (42 Days)	TBC
Order Determined Phase 2 Ports	TBC

Visit the HR(C)O Webpage



cmal.scot/hrco

View Draft HR(C)O & Statement in Support



cmal.scot/hrco-docs

Ask a Question/Provide Feedback



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