

ANGUS COUNCIL

COMMUNITIES COMMITTEE – 23 NOVEMBER 2021

PORT MARINE SAFETY CODE – AUDIT

REPORT BY DIRECTOR OF INFRASTRUCTURE

ABSTRACT

This report presents the Marine Safety Management System (MSMS) for Arbroath Harbour along with the result of the 2021 Port Marine Safety Code Audit carried out by the council's Designated Person who measures performance against the Code.

1. RECOMMENDATION

It is recommended that the Committee:

- (i) notes the results of the 2021 Port Marine Safety Code (PMSC) Audit including the areas of non-compliance, observations, recommendations, and areas of good practice identified; and
- (ii) approves the actions to address the areas of non-compliance identified within the report.

2. ALIGNMENT TO THE COUNCIL PLAN

This report contributes to the Council Plan 2019-2024 priorities:

PEOPLE: We want to maximise inclusion and reduce inequalities

We will work collaboratively for and with our citizens to keep them safe in resilient communities

PLACE: We want our communities to be strong, resilient and led by citizens

We will engage with citizens and communities to deliver the right services in the right place at the right time

3. BACKGROUND

- 3.1 As detailed in Report No. 245/21, Angus Council operates under the Code with the Communities Committee as the Duty Holder and the global marine consultancy company APBMer as the Designated Person.
- 3.2 Reference is made to article 6 of the minute of the Communities Committee of 17 August 2021, where it was agreed that as Duty Holder under the Port Marine Safety Code (PMSC) to approve the Marine Safety Plan 2021-2024 for Arbroath Harbour and the associated marine policies referred to in the Marine Safety Plan. It was further agreed to undertake a half day Duty Holder training on a date suitable for all members of this Committee before 17 September 2021 to ensure compliance with the Port Marine Safety Code. It was also agreed that an operational tour of Arbroath Harbour be arranged for members of the committee.
- 3.3 The half day Duty Holder training was held on 7 September 2021 with 13 of the 16 members of the Committee attending. The training was provided online by a Principal Maritime Consultant from APBMer. An operational tour of Arbroath Harbour was held on 22 October 2021 with 10 of the 16 members of the Committee attending. The tour was given by the Harbour Master. Each of these events contribute to the demonstration that Angus Council is meeting the requirements of the PMSC.
- 3.4 As a requirement of the Code the Statutory Harbour Authority must operate and maintain an effective Marine Safety Management System (MSMS), which has been developed for marine operations, is based on formal risk assessment, and refers to an appropriate approach to

incident investigation. The MSMS for Arbroath Harbour is contained in **Appendix 1** of this report.

4. CURRENT POSITION

4.1 In January 2021, Angus Council appointed ABPMer as the Designated Person for Arbroath Harbour. The function of the Designated Person is to provide independent assurance directly to the Duty Holder that the MSMS is working effectively.

To comply with the PMSC, the Designated Person for Arbroath Harbour:

- Monitors the thoroughness of the marine risk assessment process and the validity of the assessment conclusions;
- Monitors the thoroughness of the incident reporting and any subsequent investigation to confirm the validity of the investigation conclusions; and
- Determines through assessment and audit that Arbroath Harbour has an effective and appropriate MSMS. This is conducted as an annual audit, with the output provided as a written report to the Duty Holder.

4.2 On 20 September 2021, a Principal Maritime Consultant from APBMer visited Arbroath Harbour and spent the day with the Harbour Master to carry out the Port Marine Safety Code Audit. The Maritime Consultant also spoke with the Councillor Salmond on 21 September 2021, as Convener on behalf of the Communities Committee. This was a comprehensive audit, which went through every aspect of the PMSC and measured Arbroath Harbour's performance against the PMSC. The result of the PMSC Audit is contained in **Appendix 2** of this report.

4.3 The audit report uses the following outcomes:

Satisfactory: a system component that meets or exceeds the requirements of the Code. Items of best practice are identified in bold.

Observation: refers to an improvement opportunity such as an update to information, procedural change, or a non-conformity with local operating instructions. Observations are defined as improvement opportunities and by addressing them may improve the overall system standard. Recommendations for addressing observations are identified in yellow.

Non-Compliance: a non-compliance with the requirements of the Code, which are a breach of legal obligations or may compromise marine safety, environmental safety or present a significant reputational risk. Recommendations for addressing non-compliances are identified in red.

Not applicable: part of the Code that is not relevant to the Organisation being audited.

4.4 The responsibility for maintaining port marine safety is governed not only by marine legislation, such as the Pilotage Act 1987 and Merchant Shipping Act 1995 referred to in the Code, but also by general legislation, such as the Health and Safety at Work Act 1974 and the Corporate Manslaughter and Corporate Homicide Act 2007. The PMSC covers responsibilities for port marine safety but does not purport to cover all the legal duties or responsibilities of organisations or all of their safety responsibilities. However, the PMSC has been designed so that compliance with the good practice guidance in the PMSC should be fully compatible with other duties and responsibilities in law. Where non-compliances with the PMSC are identified, these must be addressed initially to ensure that they do not represent a breach of other duties and responsibilities in law, and secondly to ensure best practice for port marine safety and compliance with the PMSC.

4.5 The summary presented in the table on page 5 of the audit report identifies that, for the ten-point health-check, Angus Council as the Statutory Harbour Authority for Arbroath Harbour was found to have 2 non-compliances, 21 observations/recommendations and 72 satisfactory components, with 2 items of best practice identified. Due to the 2 non-compliances Angus Council as the Statutory Harbour Authority for Arbroath Harbour is found not to be fully compliant with the requirements of the Port Marine Safety Code.

4.6 The following non-compliances were recorded:

- Appendix 2 to the Marine Safety Management System (see Appendix 1 of this report) lists mandatory and optional training for harbour staff. This list was tested against the Authority's certification and competency records. The following mandatory training items could not be evidenced:
 - Manual Handling Training.

- The Harbour Authority does not conduct bathymetric surveys, hence there is no hydrographic information to publish; furthermore, there is no data to pass to the UK Hydrographic Office (UKHO). This is a conservancy duty, which the Council as Harbour Authority is not discharging.

4.7 Bathymetric surveys allow you to measure and record the depth of a water body as well as map the underwater features of a water body. In relation to this non-conformance, it was however noted in the audit report that at low water the seabed can be visually inspected with local vessel operators aware of any high spots or areas to avoid. In this regard, a 'vigilant watch' of the seabed is carried out. In addition, the nature of the seabed is soft mud and vessels typically rest on the harbour bottom at low water. The lack of survey data is not considered a safety issue but is an item that needs to be remedied to ensure compliance with the PMSC.

4.8 The PMSC audit identified 21 observations/recommendations relating to improvement opportunities for management consideration, the detailed findings being presented in Appendix A of the audit report, included as Appendix 2 of this report. Marine operations and quayside checks were also carried out with 5 observations/recommendations identified, the detailed findings of which are presented in Appendix B of the audit report, included as Appendix 2 of this report.

4.9 The following points of best practice are noted within the audit report:

- Provision and maintenance of Aids to Navigation is recognised as an area of best practice with a 100% availability statistic across all categories of Aid.
- The Council has a consistent and measurable commitment to providing safe and efficient marine operations at Arbroath Harbour. Since 2003, there has been an ongoing programme of infrastructure investment and improvement including a new marina, dock gate installation, an environmental enhancement project, resurfaced black shed quay, upgraded fish market, refuelling facility, boat hoist, walk-in refrigeration unit and new pontoon berthing in the outer harbour. The resulting facilities deliver the duty of 'safe and efficient port marine operations' through investment, this is recognised as an area of best practice.

5. PROPOSALS

5.1 The priority going forward is to ensure the non-conformities are addressed and closed off to ensure compliance with the Code. The Harbour Master has already identified manual handling training for harbour staff which will be completed in the coming weeks and is in discussions with the Service Leader – Roads and Transportation to identify a budget and timescales to procure a contract to carry out a bathymetric survey of Arbroath Harbour. This will allow hydrographic information to be published and passed on to the UK Hydrographic Office (UKHO) to update nautical chart publications. The cost of a bathymetric survey will be approximately £15,000.

5.2 Regarding the observations and recommendations within the audit report, the Harbour Master will ensure that these are addressed and carried out before the next audit in September 2022.

5.3 Equally important is to ensure that the 72 satisfactory components of the audit report continue to be managed and maintained and are still in place for the next audit in September 2022.

6. FINANCIAL IMPLICATIONS

6.1 The audit highlights the need for an annual bathymetric survey which is estimated at a cost of £15,000. This can be funded from the harbour revenue account and will be undertaken, however, additional harbour revenue funding will be sought for year 2022/23 when the first survey will be scheduled.

7. EQUALITY IMPACT ASSESSMENT

7.1 Reference is made to the Equality Impact Assessment completed for Report No. 245/21.

7.2 The Assessment concluded that there are either neutral or positive impacts on protected characteristic groups for the proposals for the issues contained in this report.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report No. 245/21 – Port Marine Safety Code – Arbroath Marine Safety Plans and Policies, Communities Committee 17 August 2021

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List of Appendices:

Appendix 1 – Arbroath Harbour Marine Safety Management System

Appendix 2 – Arbroath Harbour Port Marine Safety Code Audit 2021