
NORTH AYRSHIRE COUNCIL

23 February 2022

Planning Committee

Title:	Proposed Section 11 Exemption Order under the Land Reform (Scotland) Act 2003 for the Making Waves Festival
Purpose:	To seek approval to undertake public consultation on the proposed Order and report the outcome of this to Scottish Ministers.
Recommendation:	That the Committee agree to: a) Issue a public notice of and consult on the proposed order as detailed in Appendix Three; b) Report the outcome of the consultation to Scottish Ministers; and c) Issue a public notice of the Order if it is confirmed by Scottish Ministers.

1. Executive Summary

- 1.1 The Land Reform (Scotland) Act 2003 provides a right of responsible access to most land and inland water in Scotland. The Act sets out the statutory duties, obligations and powers of Local Authorities in relation to its delivery. Section 11 of the Act provides Access Authorities with the power to exempt areas of land or inland water from the access rights for a fixed period. The Council's Policy on Section 11 Orders was approved by the Corporate Services Committee in May 2005. The main purpose of these powers is to enable the exemption of land for short periods of time in connection with admission to events.
- 1.2 The Making Waves Festival will be held at Irvine Beach Park between 22 and 24 July 2022. The Council's Growth and Investment Service as the organiser of the event, is seeking to promote a Section 11 Order to facilitate the event. This would exempt the area of Irvine Beach Park identified in the application from the access rights between 21 and 25 July 2022. The purpose of this is to enable a charge to be made for admission and provide for public safety and security prior to, during and after the event.

2. Background

- 2.1 The Land Reform (Scotland) Act 2003 provides a right of responsible access to most land and inland water in Scotland. It places a reciprocal obligation on landowners and managers to manage their land responsibly for outdoor access. This includes access

to woods and forests, paths and tracks, rivers and lochs, parks and open spaces. The access rights can be exercised for recreation, education and some commercial purposes.

- 2.2 The Act sets out the statutory duties, obligations and powers of Local Authorities in relation to its delivery. Section 11 of the Act provides Access Authorities with the power to exempt areas of land or inland water from the access rights for a fixed period. This can be on application by third party or on their own initiative. The main purpose of these powers is to enable the exemption of land for short periods of time in connection with admission to events. Exemption Orders can be for between 1 day and 2 years:
- Short term exemptions for up to 6 days are confirmed by the Local Authority. These are informed by advice from the landowner and Local Outdoor Access Forum.
 - Longer term exemptions for between 6 days and two years are confirmed by Scottish Ministers. These require to be the subject of public notice and consultation by the Local Authority.
- 2.3 The Council's Growth and Investment Service is seeking to promote an Order for the exemption of access rights to an identified area of Irvine Beach Park. This is to facilitate the Making Waves Festival. The application is provided in Appendix One. This proposes the exclusion of access rights within the area outlined in Appendix Two between 21 and 25 July 2022. The purpose of this is to enable a charge to be made for admission and provide for public safety and security prior to, during and after the event. It highlights that there would be difficulties administering a charge without an Order which would affect the viability of the event. This is typically the case for events of this nature.
- 2.4 In processing a Section 11 Order, the Council is required to issue a public notice outlining the intended purpose and effect of the proposed Order, inviting objections and representations on the proposal. It is also required to consult with the landowner, the Local Outdoor Access Forum and any other persons deemed appropriate.
- 2.5 The draft public notice and proposals for consultation are detailed in Appendix Three. Any objections and representations received will then be considered and resolved wherever possible. Scottish Ministers then require to be furnished with the details of the consultation undertaken and copies of all objections and representations. They will then consider any objections or representations prior to confirming the Order and may cause an inquiry to be held for the purposes of enabling them to decide whether or not to do so. The Council will subsequently be advised by letter if the Order is confirmed. A public notice would require to be issued confirming the Order at that stage.

3. Proposals

- 3.1 It is recommended that the Committee agree to:
- a) Issue a public notice of and publicly consult on the proposed Order as detailed in Appendix Three;
 - b) Report the Outcome of the consultation to Scottish Ministers to enable Ministerial consideration and if appropriate subsequent confirmation of the proposed Order; and

c) Issue a public notice of the Order if it is confirmed by Scottish Ministers.

4. Implications/Socio-economic Duty

Financial

4.1 The cost of the two public notices required for the Order will be met by the applicant.

Human Resources

4.2 None.

Legal

4.3 The Order is consistent with the provisions of the Land Reform (Scotland) Act 2003, the Council's Policy on Section 11 Orders and the Land Reform (Scotland) Act 2003 (Modification) Order 2013 Guidance.

Equality/Socio-economic

4.4 The event will be inclusive, with opportunities for participation across the whole community.

Environmental and Sustainability

4.5 The event will promote the sustainability agenda to participants including recycling, waste reduction and active and sustainable travel. Event arrangements will also align with these principles. Any paths or access rights affected by the Order will be reinstated after the event.

Key Priorities

4.6 The event will contribute to the local economy and attract a large number of visitors to the area. This will contribute to the delivery of the Council Plan's priority outcomes and the ambitions for an inclusive, growing and enterprising economy.

Community Wealth Building

4.7 Community organisations will be involved in the development and delivery of the event. It will offer a range of volunteering opportunities for local communities building capacity and skills. It will also be utilised to showcase and promote the local food and drink offer.

5. Consultation

5.1 The proposals for consultation are outlined in Appendix Three and are in line with the Land Reform (Scotland) Act 2003 (Modification) Order 2013 Guidance.

RUSSELL McCUTCHEON
Executive Director (Place)

For further information please contact **Louise Kirk, Senior Manager, Regeneration**, on **01294 324766**.

Background Papers

Cabinet Report: Year of Coasts and Waters 2020 Event Programme - 16 April 2019



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

For Office Use Only
Reference: LRSAS11MWF22
Public Notice (1):
Public Notice (2):
Outcome:

Application for Short Term Access Rights Exemption Orders under Section 11 of the Land Reform (Scotland) Act 2003

Part 1: Applicant Details

Name of Organisation	North Ayrshire Council
Contact Name	Fiona Anderson
Contact Address <i>Please include a postcode</i>	Cunninghame House Irvine KA12 8EE
Daytime Telephone Number	07808 597028

Part 2: Closure Details

Name of Event	Making Waves Festival
Date of Event	22-24 July 2022
Period of Closure	From: 21 July 2022 To: 25 July 2022
Reason for Closure	The reason for the closure is to enable a charge to be made for admission and provide for public safety and security prior to, during and after the event. Without this order the public right of access would undermine chargeable entry and could affect the viability and safety of the event.

Please provide justification that the exemption is for the minimum period required below

There is a need to restrict unauthorised access to the event location prior to the event to prevent activities that affect the safety and security arrangements for the efficient staging of the event. In the interest of public safety, the event organiser requires control of who enters the concert area/ticketed enclosure on this basis.

The initial event concept was a non-ticketed event; however, to ensure the viability of the event, and to be able to host in a Covid sensitive manner, ticketing is required to control volume of attendees and this will necessitate an area of the overall beach park in Irvine being fenced-off to members of the public

Location of event	Irvine Beach Park, North Ayrshire, Scotland
Grid Reference	55°36'20.2"N 4°41'23.2"W
Location of Grid Reference	Beach Park pond (immediately adjacent to fenced area)

Please provide a map of the site alongside your application. This should include the location of the site and preferably be Ordnance Survey. SEE ATTACHED

Are you as the applicant the *(please tick the appropriate box)*

landowner	<input checked="" type="checkbox"/>	tenant	<input type="checkbox"/>	land manager	<input type="checkbox"/>	Other	<input type="checkbox"/>
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If other please detail:				
If you are not the landowner have you consulted them?	Yes		No	
If yes, what was the outcome? Please detail below:				
NA				
Part 3: Justification for Closure				
Please provide justification that no alternative arrangements could be made below				
<p>The Making Waves event is a landmark event within the Making Waves strategy set out by the Council and supported by Scottish Government.</p> <p>The event was initially planned to be held during 2020, as a free to attend, open access event. However, in order to ensure the event is hosted in a manner that is safe to attend from a Covid perspective, the overall capacity of key aspects of the event (music artists) has been limited from a capacity in the region of 10,000 attendees to approximately 5,000 attendees (max) it is necessary to develop an access system that requires ticketing, which creates additional expense to the event, which subsequently means that a charge for tickets for the event will be introduced.</p> <p>The event areas utilise a defined area of the Beach Park and the wider festival area. It is intended that the event will include activities taking place along Irvine Harbourside, within the Maritime Museum and in the marine areas – none of which will restrict right of access otherwise available at present. Within the Beach Park itself, only a defined portion of the overall area is to be utilised for the ticketed element of the event and access across other areas will not be restricted. Accessibility to the ticketed area will be limited as much as possible, by only installing fencing at the latest opportunity, and subsequently removing as early as possible.</p>				
Is there local or public support for the event?	Yes	X	No	
If yes, please provide details below				
<p>The Local Authority (North Ayrshire Council) with support from Scottish Government (including funding). The MW festival objectives are:-</p> <ul style="list-style-type: none"> • The event is an opportunity to create a national profile event, showcasing the place based assets and communities and the capacity to support significant scale events. It is anticipated that the showcase event could attract 20,000 attendees. • The event creates opportunity to prove the financial concept of major events at the Beach Park, adding to AGD investment to support place transformation. While the MW event is partially grant funded, it will contain a series of opportunities to demonstrate viability to a commercial market. • The event is seen as enabling a wide range of community wealth building opportunities, including supply chain opportunities for our businesses, showcasing regional food and drink products, skills and learning and community capacity building opportunities into supporting a major event. 				
Please detail the proposals for the diversion of access users below				
Adjacent path network within the Beach Park and along Irvine Harbourside (Core Path IK8)				
Please detail the proposals for the signage of the closure below				

Signage at nominated entry points to the event to state "Access to event closed under Section 11 of Land Reform (Scotland) Act 2003. All non-motorised users should utilise informal access routes through Beach Park, not affected by this provision or Core Path IK8. Closure is in effect from 21 July 2022 through 25 July 2022 inclusive." This will include a plan outlining the location of the Core Paths.

Please detail the proposals for the reinstatement of any paths or access rights affected by the closure below

There is unlikely to be any remediation required, as the event will be hosted on a grassed area. The Council will ensure reinstatement of paths to standard as before event.

Part 4: Declaration

I confirm that the details provided above are correct

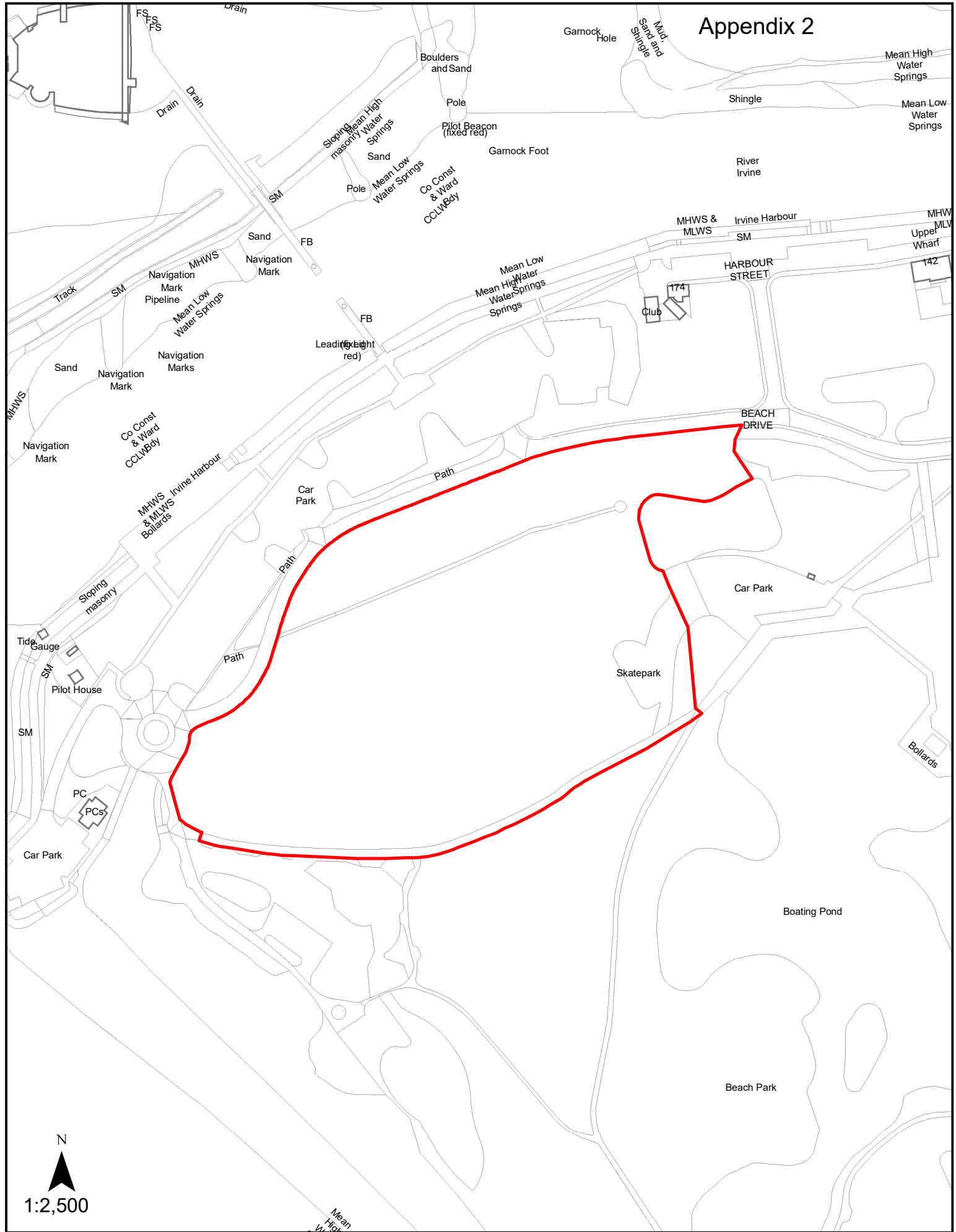
Name: Fiona Anderson

Signature




Date 28.2.22

Appendix 2



Making Waves Festival
Section 11 Boundary

Legend

 Site Boundary

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North Ayrshire Council
 Comhairle Siorrachd Àir a Tuath

Section: Regeneration
 Date: 1 - 03 - 2022
 Scale: 1:2500
 Dr No: FFest_002

Appendix Three – Consultation Plan

Making Waves Festival 2022 Section 11 Order Consultation Plan

Background

In processing a Section 11 Order, the Council is required to issue a public notice outlining the intended purpose and effect of the proposed Order. This requires inviting objections and representations on the proposal. The Council is also required to consult with the landowner, the Local Outdoor Access Forum and any other persons deemed appropriate. Any objections and representations received then require to be considered and resolved wherever possible.

The Council is then required to furnish Scottish Ministers with the details of the consultation undertaken and copies of all objections and representations. Scottish Ministers will then consider any objections or representations prior to confirming the Order. They may also cause an inquiry to be held for the purposes of enabling them to decide whether or not to do so. The Council will subsequently be advised by letter if the Order is confirmed. At this stage the Council is required to issue a further public notice confirming the Order.

Consultation Proposals

The table below outlines the proposed timing for the actions required to process the application. No landowner consultation is required for this event as the Council as applicant is the landowner. Further information on the actions is provided thereafter.

Action	Date(s)
Issue public notice of intended purpose and effect of the proposed Order	Week ending 18 March 2022
Representation and objection period	18 March until 15 April 2022
Direct consultation on the proposed Order	18 March until 15 April 2022
Consider representations and objections	18 April until 2 May 2022
Resolve objections where practical	18 April until 9 May 2022
Refer to Scottish Ministers (if required)	Week commencing 16 May 2022
Issue public notice confirming the Order where appropriate	Week commencing 27 June 2022 or as instructed by Scottish Ministers

Public Notice

The wording in italics is proposed for the public notice. This is based on the Land Reform (Scotland) Act 2003 (Modification) Order 2013 Guidance. The notice will be placed within the Irvine Times and Irvine Herald newspapers and outlines the intended purpose and effect of the proposed Order.

North Ayrshire Council

NOTICE OF PROPOSED ORDER TO EXEMPT LAND FROM ACCESS RIGHTS

Notice is hereby given under section 11(2)(b) of the Land Reform (Scotland) Act 2003 ("the Act") that North Ayrshire Council proposes to make The Land Reform (Scotland) Act 2003 (North Ayrshire Council) Order 2017 ("the Order") under section 11(1) of the Act.

The effect of the Order will be to exempt Irvine Beachpark from the access rights which would otherwise be exercisable in respect of that land by virtue of Part 1 of the Act.

The purpose for which the Order is being proposed is the Making Waves Festival and all purposes related thereto. This includes enabling a charge to be made for admission and providing for public safety and security prior to, during and after the event. It is proposed that the Order will take effect from 0001hrs on 21 July 2022 and will expire on 2400hrs on 25 July 2022.

Objections or representations in respect of the Order may be made to the Local Authority at the address given below, for its consideration, no later than 21 days after publication of this notice. These should be made in writing for the attention of the Active Travel and Transport Team quoting the reference: TBC. In the case of objections, the grounds on which they are made should be stated. As the proposed exemption is for six or more days, the Order will require confirmation by Scottish Ministers before taking effect.

Aileen Craig
Head of Democratic Services
North Ayrshire Council,
Cunninghame House,
Irvine,
KA12 8EE

Representation and Objection Period

A four week consultation period is proposed for any representations and objections between 18 March and 15 April 2022. These will require to be made in writing and in the case of objections detail the grounds on which they are being made.

Direct Consultation on the proposed Order

The consultation will be comprised of a letter highlighting the consultation process and will invite them to submit any representations or objections in the same manner. This will include a copy of the Public Notice and plan outlining the extent of the land proposed for exemption. This will be issued to the recipients detailed in the table below. This aims to consult with relevant local organisations and the neighbouring landowners, householders and businesses.

Organisation	Reason for consultation
Coastwatch	Neighbouring organisation
Irvine Community Council	Local Community Council
Irvine West and Irvine East Ward Councillors	Local Elected Members
North Ayrshire Outdoor Access Forum	Local Outdoor Access Forum
Ramblers Association	National walking organisation with local groups
Rotary Club of Ayr	Promoters of the Ayrshire Coastal Path which passes the site
Scottish Rights of Way and Access Society	National organisation/local representation

Sustrans Scotland	Promoters of the National Cycle Network (NCN) which passes the site
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Referral to Scottish Ministers

Should there be any unresolved objections following consultation, Scottish Ministers will be furnished with the details of the consultation undertaken and copies of all objections and representations. This will include a summary of any actions undertaken to resolve any of the objections received. They will then consider any objections or representations prior to confirming the Order and may cause an inquiry to be held for the purposes of enabling them to decide whether or not to do so.

Confirmation Public Notice

If the Order is confirmed by Scottish Ministers, it is proposed that the following public notice will be issued. The text shadowed grey will require to be amended on receipt of confirmation from Ministers.

North Ayrshire Council

NOTICE OF ORDER TO EXEMPT LAND FROM ACCESS RIGHTS

Notice is hereby given under section 11(9) of the Land Reform (Scotland) Act 2003 ("the Act") that on [insert date of Ministerial confirmation], the Scottish Ministers acting under section 11(7) of the Act confirmed the The Land Reform (Scotland) Act 2003 (North Ayrshire Council) Order 2017 ("the Order") [with/without modifications], proposed by North Ayrshire Council under section 11(1) of the Act.

The effect of the Order is to exempt part of Irvine Beachpark from the access rights which would otherwise be exercisable in respect of that land by virtue of Part 1 of the Act. The purpose for which the Order is made is the Making Waves Festival and all purposes related thereto. This includes enabling a charge to be made for admission and providing for public safety and security prior to, during and after the event.

The Order will take effect from 0001hrs on 21 July 2022 and will expire on 2400hrs on 25 July 2022, unless revoked earlier.

*Aileen Craig
Head of Democratic Services
North Ayrshire Council,
Cunninghame House,
Irvine,
KA12 8EE*