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<b>Report To:</b>	<b>Environment and Regeneration Committee</b>	<b>Date:</b>	<b>25 October 2018</b>
<b>Report By:</b>	<b>Corporate Director, Environment, Regeneration and Resources</b>	<b>Report No:</b>	<b>ENV039/18/SA</b>
<b>Contact Officer:</b>	<b>Scott Allan</b>	<b>Contact No:</b>	<b>01475 712 762</b>
<b>Subject:</b>	<b>Save Inchgreen Dry Dock Campaign</b>		

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## 1.0 PURPOSE

- 1.1 The purpose of this report is to advise the Committee: (a) of the extent of Peel Ports' ownership of the Inchgreen area and other areas at Inverclyde Waterfront; and (b) of any opportunities in current and future Scottish legislation relative to options for public or community ownership of the Inchgreen site, all in terms of a remit from the Petitions Committee at its meeting of 17 May 2018 to the Corporate Director, Environment, Regeneration and Resources.

## 2.0 SUMMARY

- 2.1 As was reported to the Committee on 30 August 2018, the Petitions Committee decided on 17 May 2018 that it be remitted to the Corporate Director Environment, Regeneration & Resources to submit a report to this Committee advising:
- (a).of the extent of Peel Ports' ownership of the Inchgreen area and other areas at Inverclyde Waterfront; and
  - (b).of any opportunities in current and future Scottish legislation relative to options for public or community ownership of the Inchgreen site.

This decision was made following the consideration by the Petitions Committee of a petition submitted by Mr Robert Buirds as a representative of the Campaign to Save Inchgreen Dry Dock.

- 2.2 (a) Peel Land and Property and (b) Peel Ports – Clydeport have confirmed their understanding of the extent of their ownerships, as is (in the case of Peel Land and Property) shown in the plans at Appendices 1 and 2 and (in the case of Peel Ports - Clydeport) shown in the plans at Appendices 3 and 4.
- 2.3 In relation to possible compulsory acquisition of the site:
- there are no statutory mechanisms open to the Council or the group themselves which are likely to be successful in compulsorily bringing the site into either public or community ownership;
  - with respect to Scottish Ministers, a response from Scottish Government in respect of this issue is attached in appendix 5 and summarised in para 6.7,
  - having regard to the fact that the exercise of Compulsory Purchase powers is a significant intervention in private property rights, neither a compelling case nor the necessity for such a Compulsory Purchase has been demonstrated.
- 2.4 Officers consider that voluntary acquisition of the site by the Council, the Scottish Ministers or the campaign group themselves would require a willingness by both the acquiring party and the sellers to proceed. In other words, we consider that any acquisition of the dry dock would require negotiation with Peel Port on the basis of conventional property negotiations and a willingness to sell. Clearly the Council is not in a position to engage in this type of negotiation in view of the very substantial costs involved in acquisition combined with the uncertainty of open market commercial viability of the dry dock.

- 2.5 Members will be aware of the ongoing discussions between council officers and Peel Ports in respect of the Strategic Business Case for City Deal.

### **3.0 RECOMMENDATIONS**

It is recommended that the Committee:-

- 3.1 note the extent of ownerships at Inchgreen specifically, and Inverclyde waterfront generally, confirmed to officers by Peel Ports – Clydeport and by Peel Land and Property;
- 3.2 note the position relative to bringing the site into public or community ownership; and
- 3.3 note the ongoing officer engagement both with (i) Peel Ports – Clydeport and (ii) Peel Land and Property.

**Scott Allan**  
**Corporate Director**  
**Environment, Regeneration and Resources**

## 4.0 BACKGROUND

4.1 As was reported to the Committee on 30 August 2018, the Petitions Committee considered a petition from Mr Robert Buirds on behalf of the Campaign to Save Inchgreen Dry Dock, seeking Council support for the principle of bringing Inchgreen Dry Dock into public or community ownership and decided to remit it to the Corporate Director Environment, Regeneration & Resources to submit a report to this Committee:

(a).on Peel Ports' ownership of the Inchgreen area and any other areas at Inverclyde Waterfront and

(b).exploring any opportunities in current and future Scottish legislation relative to options for public or community ownership of the Inchgreen site,

taking into account the information and observations provided by the campaign to save Inchgreen Dry Dock and by Peel Ports.

4.2 The group submitted their petition both to the Council and to the Scottish Ministers. The details of the campaign can be seen both on their active facebook page:

<https://www.facebook.com/Campaigntosaveinchgreendrydock/>

and on their separate petitions page at:

<https://you.38degrees.org.uk/petitions/campaign-to-save-inchgreen-dry-dock-1>

These both include various copies of correspondence issued by them, received by them and new articles related to the campaign.

4.3 The view of the campaign group appears to be that the dry dock is not being sufficiently utilised, that decisions over its use are taken by the current owners, Peel Ports – Clydeport, and there are concerns over the level of maintenance of the facility. The group are arguing that bringing this facility into either public or community ownership would increase the scope for economic activity at the site, with the resultant employment opportunity. The group have also expressed concerns as to the levels of maintenance at the site.

4.4 It is the understanding of officers that while there have been extensive periods during which it is not in active operation, there have also been periods of active use of the site by the current owner. Most recently, the dry dock has been emptied which demonstrates that this facility remains operational. Officers understand there have been commercial discussions with a view to increased utilisation of the dry dock facility, however they do not have any factual detail in this regard as this is a commercial matter.

4.5 Significantly, the dry dock is a private asset which operates in a commercial market place where usage is driven by market forces.

4.6 In terms of the aspirations of the petition, Officers do recognise the benefits of increased commercial usage of the dry dock and surrounding site, should there be commercial demand to support this.

## 5.0 OWNERSHIP EXTENT – PEEL LAND AND PROPERTY LTD AND PEEL PORTS - CLYDEPORT

5.1 Officers have contacted Peel Land and Property and Peel Ports - Clydeport seeking confirmation of the extent of their ownerships at Inchgreen, and elsewhere at Inverclyde waterfront. When seeking this information, it was made clear to both that detailed legal searches or verification were not required at this time, only a statement of what each understood that they own.

5.3 Peel Land and Property have replied and confirmed the extent of their ownerships (as Peel

Holdings (Land and Property) Limited) which is shown on the plan at Appendix 1. Appendix 2 details the nature of those different ownerships, be that outright ownership, lease or in conjunction with others. For instance, the Committee will be aware that the James Watt Dock area is held by James Watt Dock LLP, in which the current LLP members are Riverside Inverclyde (Property Holdings) Limited and Peel Land and Property (Greenock Harbours) Limited.

- 5.4 Peel Ports – Clydeport have confirmed the extent of their ownerships as being the areas shown outlined on the plans at Appendix 3 (Inchgreen) and Appendix 4 (Ocean Terminal – the hatched area is leased and not owned by them).
- 5.5 Appendices 1 to 4 should be treated as indicative of the extent of their ownerships rather than a definitive statement of exact boundaries.

## **6.0 PUBLIC OWNERSHIP**

- 6.1 Any consideration of public ownership of the Inchgreen dry dock raises the question of how could that be achieved. The Council, or another public body such as the Scottish Ministers, could enter into negotiation with the current proprietor to seek to voluntarily acquire the site. Such acquisition would, of course, have financial implications, and would only be possible were Peel prepared to sell the site, and a formal valuation of the site would require to form part of such discussions. Fundamentally however, the Council would need to decide on the appropriateness of seeking such an acquisition and the detail of the proposals it intends to pursue and for which acquisition is required. Clearly there would be very significant costs associated with this with no certainty of income. The combination of very high capital cost and commercial risk places this option outwith the capability of the Council to consider.
- 6.2 If voluntary acquisition were not a possibility, then the question of compulsory acquisition (CPO) would arise. On the basis of the information which officers currently have, it is their view that even were an appropriate compulsory purchase power identified, it is unlikely that the public necessity test would be met in the circumstances, meaning any attempt to compulsorily acquire is unlikely to succeed. To quote authoritative sources:

“Compulsory acquisition is justified by public necessity; if there is no such public necessity, the case for compulsory acquisition collapses.”

It should be borne in mind that, however desirable any acquisition may be, desirability does not mean necessity. Whilst officers do recognise the benefits that increased economic activity at the site would bring, they are not of the view such a necessity test would be met in the circumstances.

- 6.3 If the necessity test were to be met, to proceed with a CPO would involve the seeking of CPO power from the Scottish Ministers, and to do this a satisfactory case for the exercise of planning CPO powers would need to be demonstrated to them. It is the view of Officers that there is likely to be a significant challenge in establishing a case satisfactory to the Scottish Ministers for the use of CPO powers for the acquisition of this site, particularly where it is currently in commercial use as a dry dock, and the aim of the acquisition would be that it continue to be used as a dry dock either in public or community ownership.
- 6.4 Without a detailed proposal for the site, it is not possible to definitively state the appropriate CPO power, and, without such a power, no attempt to CPO could be progressed. However, in the context of the discussions and proposals to date, if the Council were to decide to progress seeking CPO authority, the most likely power that would be employed would be that under Section 189 of the Town and Country Planning (Scotland) Act 1997, where authority can be sought from the Scottish Ministers by a Local Authority to compulsorily acquire land that:-

“(a) is suitable for and is required in order to secure the carrying out of development, redevelopment or improvement; and  
(b) is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.”

As stated above, Officers are however of the view that it is very unlikely that a case satisfactory to the Scottish Ministers could be made for the granting of such power.

- 6.5 Consideration must also be given to the value of the site, which it is anticipated would be significant, as any acquisition will involve a payment being made (whether of price or compensation) to the owners. The sums likely to be involved would be an important consideration and need to be quantified before any such action were considered. As stated in 6.1, it is considered that the combination of very high capital cost and commercial risk places this aspiration beyond the capability of the Council.
- 6.6 As stated above, public ownership is not limited to Council acquisition, and the petition is, of course, directed both at the Council and the Scottish Ministers. Officers have also contacted the Scottish Government seeking clarification of the position of their officers on the possible exercise of compulsory purchase powers by Scottish Ministers in relation to this site. The response received is detailed as follows in paragraphs 6.7 to 6.9.
- 6.7 The Scottish Government has indicated that it does have a range of powers to purchase land compulsorily under a number of enactments for a wide range of purposes, in particular under section 190 of the Town and Country Planning (Scotland) Act 1997 to purchase land:
- (a). “necessary for the public service”;
  - (b). “to meet the interests of proper planning of the area”; or
  - (c). “to secure the best, or most economic development or use of the land”.

The Scottish Government has also indicated that it is not possible to definitively identify a CPO power without further detail on the proposed use or development of the site, and, hence, the underlying purpose of such an acquisition.

- 6.8 The Scottish Government has also highlighted that the exercise Compulsory Purchase powers is a significant intervention in private property rights that would require detailed justification and a clear explanation of why the power utilised is considered to be the most appropriate. This is a view with which Council officers agree.
- 6.9 The Scottish Government has highlighted that the decision to exercise such a power rests with Scottish Ministers and would require a clear and compelling justification. The Scottish Government has indicated it is extremely unlikely that Ministers would exercise their powers unless another authority was unable or unwilling to utilise their own powers to achieve the same purpose and there was a clear case for doing so to deliver a project, development or purpose considered to be of national importance.

## **7.0 COMMUNITY OWNERSHIP**

- 7.1 As with the proposal of public ownership, it would be open to a community group to seek to negotiate a voluntary acquisition of the site from the current owners. This once again would need the agreement of Peel Ports to proceed, and would again raise the question of the price to be paid.
- 7.2 The Community Empowerment (Scotland) Act 2015 in introduced at Part 5 “Asset Transfer Requests”, whereby certain community bodies have a formal mechanism by which they may seek transfer of assets from public bodies. As Peel is not a public body (or in the terms of that act, a “relevant authority”) these provisions would not apply.
- 7.3 The Community Empowerment (Scotland) Act 2015 also modified the terms of the Land Reform (Scotland) Act 2003 in relation to the registration of Community Interests in Land, which expanded this provision to include the urban as well as rural setting. The process of registration of such an interest is not one with which the Council has a formal involvement, and it would be a matter for the group to pursue with the Scottish Ministers to confirm if registration is competent or likely to be agreed to in the circumstances. It should be noted that registration of such an interest does not compel the sale of a site to the community group in

question, but merely means in the event of a sale on the open market, that they have to be offered the site first on the same terms as any prospective purchaser, before a sale can proceed.

7.4 The Community Empowerment (Scotland) Act 2015 contains provision to further modify the terms of the Land Reform (Scotland) Act 2003 to allow certain bodies to exercise a Community Right to Buy of “abandoned or neglected” land, whereby certain community bodies may apply to the Scottish Ministers for this right. This differs from that dealt with at paragraph 7.3 in that it (if granted) it is a right to compel a purchase. These provisions came into force on 27 June this year and, accordingly, no established practice or guidance on their use has yet emerged. However it is the view of officers that this site would in any event not at present meet the test of “abandoned or neglected” for the purposes of this provision.

## 8.0 PROPOSALS

8.1 Whilst officers fully recognise the benefits that increased economic activity at this site would bring in light of the above, provided there was commercial interest, and on the basis of the information currently held by officers on the site, the present use of the site and the proposals of the campaign group, it is the view of officers that:

- there are no statutory mechanisms open to the Council or the group themselves which are likely to be successful in compulsorily bringing the site into either public or community ownership; and
- having regard to the fact that the exercise of Compulsory Purchase powers is a significant intervention in private property rights, neither has a compelling case or the necessity for such a Compulsory Purchase been demonstrated.

8.2 Voluntary acquisition of the site would require a willingness by both the acquiring party and the sellers to proceed. Reaching agreement on such an acquisition would, of course, have financial implications, as the seller will require payment for their interest in this site. Whilst a formal valuation has not been obtained, it is anticipated any prices sought for this site would be significant.

Members will be aware of the ongoing discussions between Council officers and Peel Ports in respect of Strategic Business Case for the wider Inchgreen site for City Deal funding.

## 9.0 IMPLICATIONS

### Finance

9.1 None

#### Financial Implications:

#### One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

#### Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

## **Legal**

- 9.2 For the Council to exercise any CPO power it would necessary to demonstrate a compelling justification for and the necessity of the CPO. It is the view of officers that there will be significant difficulty in making such a justification for a proposal to acquire a site currently used as a dry dock, for the purpose of continuing use as a dry dock.

## **Human Resources**

- 9.3 None from this report.

## **Equalities**

- 9.4 None from this report.

## **Repopulation**

- 9.5 None from this report.

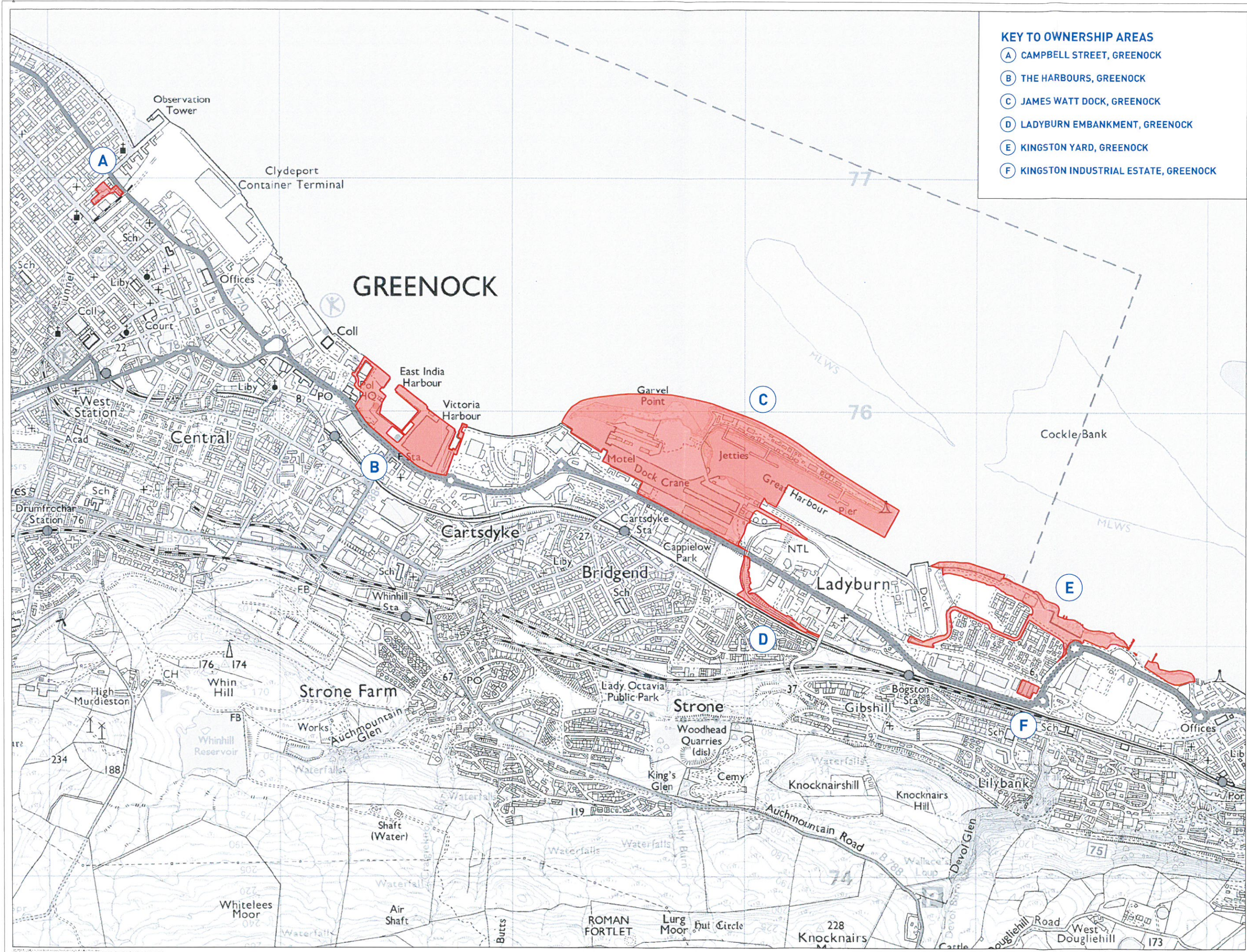
## **10.0 CONSULTATIONS**

- 10.1 The Head of Legal and Property Services has been consulted on the terms of this report.

## **11.0 LIST OF BACKGROUND PAPERS**

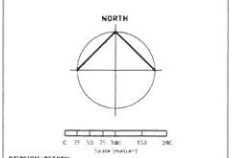
- 11.1 None.





- KEY TO OWNERSHIP AREAS**
- (A) CAMPBELL STREET, GREENOCK
  - (B) THE HARBOURS, GREENOCK
  - (C) JAMES WATT DOCK, GREENOCK
  - (D) LADYBURN EMBANKMENT, GREENOCK
  - (E) KINGSTON YARD, GREENOCK
  - (F) KINGSTON INDUSTRIAL ESTATE, GREENOCK

NOTES



REVISION HISTORY  
REV. DESCRIPTION DATE BY

**DF ARCHITECTS**  
DESIGNERS CONSULTANTS ENGINEERS  
1000 GLENVIEW DRIVE, SUITE 100, GLENVIEW, IL 60025

**COMMENT**

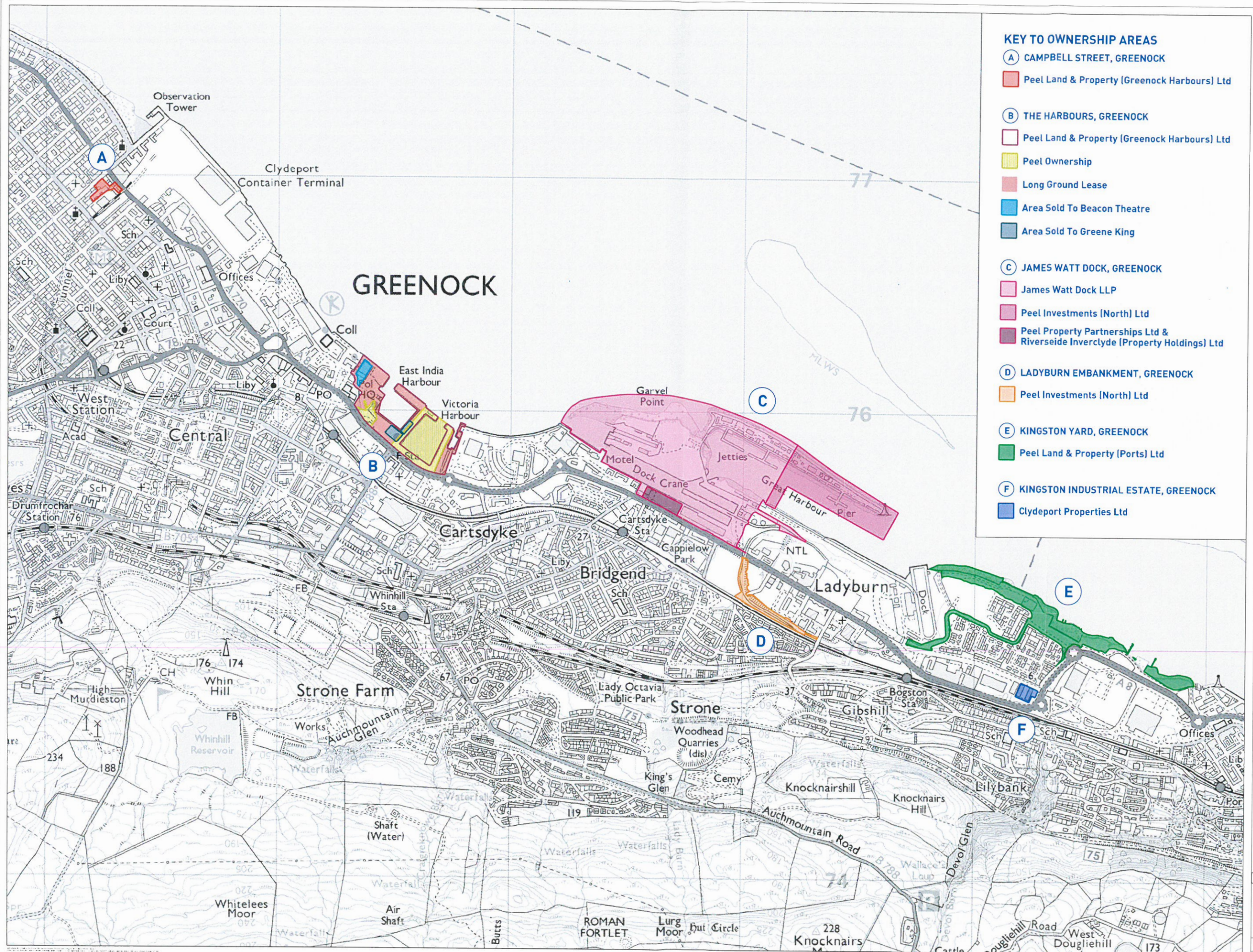
OWNERSHIP OWNERSHIPS LOCATION PLAN  
 PROJECT VARIOUS AREAS, GREENOCK

CLIENT PEEL  
 15 NORTH BURN STREET, GLASGOW

DATE	BY	SCALE	REVISION
15/08/2017	SK	1:1000	A0
01/09/2017	SK	1:1000	01

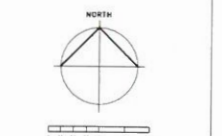
PROJECT NO. 618037 DRAWING NO. SK/21102





- KEY TO OWNERSHIP AREAS**
- (A) CAMPBELL STREET, GREENOCK**
    - Peel Land & Property (Greenock Harbours) Ltd
  - (B) THE HARBOURS, GREENOCK**
    - Peel Land & Property (Greenock Harbours) Ltd
    - Peel Ownership
    - Long Ground Lease
    - Area Sold To Beacon Theatre
    - Area Sold To Greene King
  - (C) JAMES WATT DOCK, GREENOCK**
    - James Watt Dock LLP
    - Peel Investments (North) Ltd
    - Peel Property Partnerships Ltd & Riverside Inverclyde (Property Holdings) Ltd
  - (D) LADYBURN EMBANKMENT, GREENOCK**
    - Peel Investments (North) Ltd
  - (E) KINGSTON YARD, GREENOCK**
    - Peel Land & Property (Ports) Ltd
  - (F) KINGSTON INDUSTRIAL ESTATE, GREENOCK**
    - Clydeport Properties Ltd

NOTES



REVISION HISTORY  
REV. DESCRIPTION DATE

**DF ARCHITECTS**

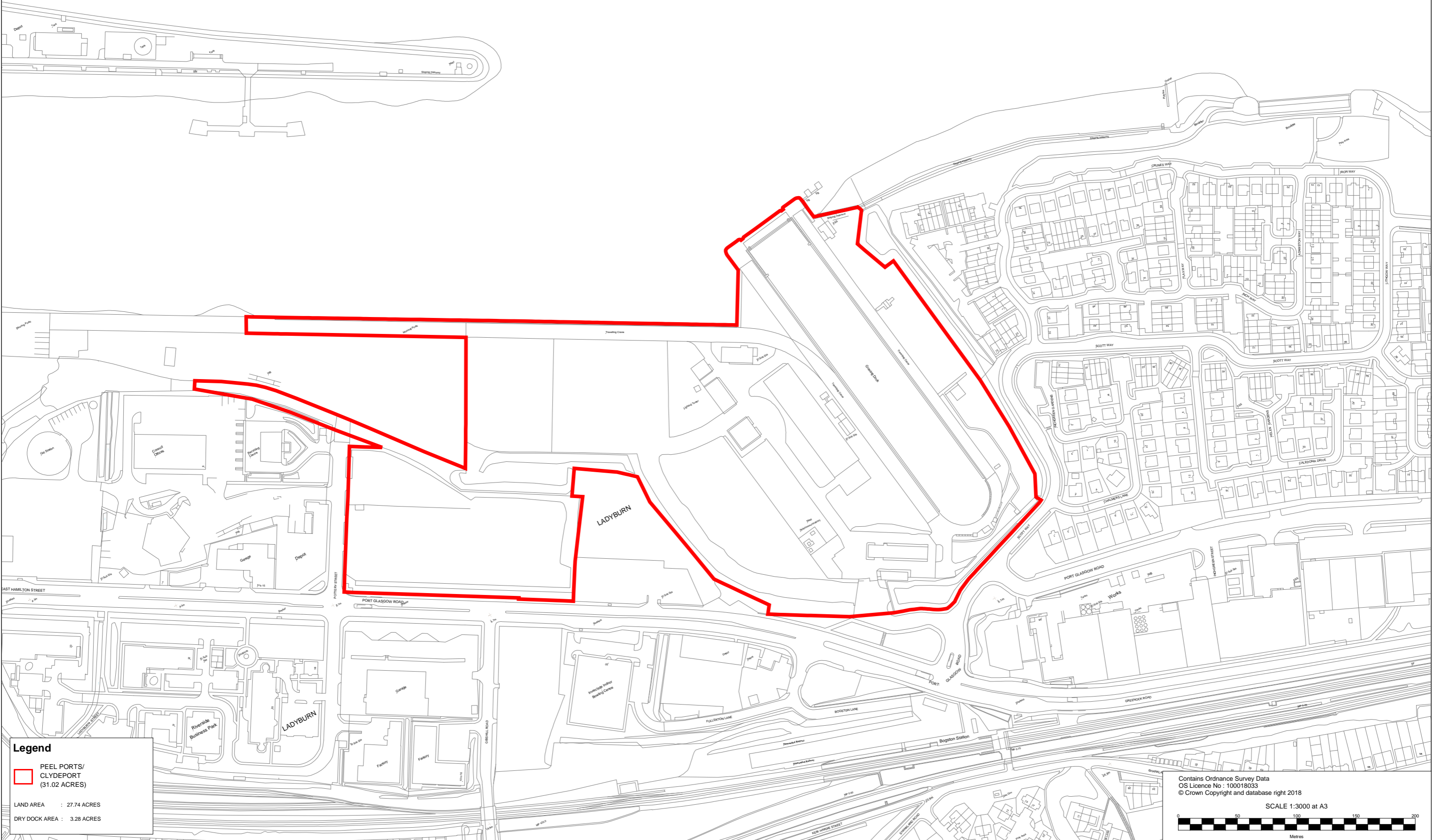
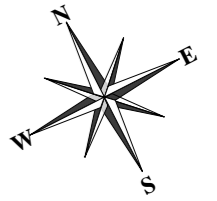
**COMMENT**

DRAWING: OWNERSHIPS LOCATION PLAN  
 CLIENT: PEEL  
 DATE: 15.04.2010  
 PROJECT NO: G18037  
 DRAWING NO: SKI(2)101  
 SCALE: 1:5000  
 REVISION: A0




# Inch Green Title Plan

## APPENDIX 3



**Legend**

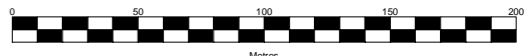
 PEEL PORTS/  
CLYDEPORT  
(31.02 ACRES)

LAND AREA : 27.74 ACRES

DRY DOCK AREA : 3.28 ACRES

Contains Ordnance Survey Data  
OS Licence No : 100018033  
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SCALE 1:3000 at A3

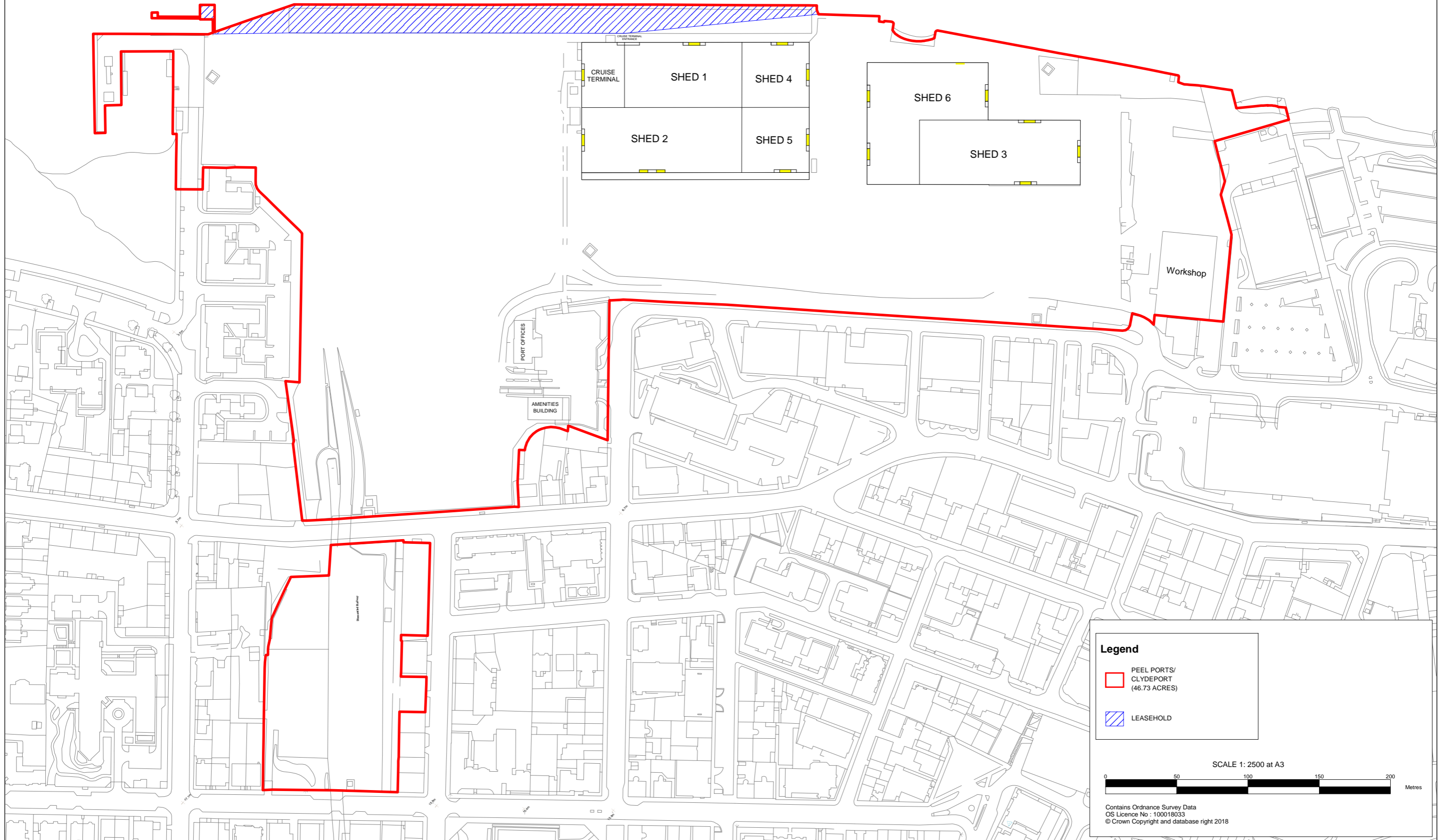


Metres

# Greenock Ocean Terminal Title Plan



## APPENDIX 4



**Legend**

- PEEL PORTS/ CLYDEPORT (46.73 ACRES)
- LEASEHOLD

SCALE 1: 2500 at A3

0 50 100 150 200 Metres

Contains Ordnance Survey Data  
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## APPENDIX 5

Scott Allan  
Corporate Director Environment, Regeneration &  
Resources  
Inverclyde Council  
Municipal Buildings  
Clyde Square  
Greenock  
PA15 1LY  
-- By e-mail --

Your ref: SA/LM

3<sup>rd</sup> August 2018

Dear Mr Allan

### Campaign to Save Inchgreen Drydock, Greenock

I refer to your letter of 17<sup>th</sup> July to Mary McAllan, Director for Economic Development, about the petition from the above campaign asking what compulsory purchase powers may be available to Scottish Ministers in this case. I have been asked to reply given my responsibility for Scottish Government policy on compulsory purchase.

It is difficult to answer your question definitively without further detail on the proposed use or development of the site, and, hence, the underlying purpose of such an acquisition. As you will be aware, a decision to exercise Compulsory Purchase powers is a significant intervention in private property rights that would require detailed justification and a clear explanation of why the power utilised is considered to be the most appropriate. Scottish Ministers do have powers to purchase land compulsorily under a number of enactments for a wide range of purposes. This includes powers under section 190 of the Town and Country Planning (Scotland) Act 1997 to purchase land “*necessary for the public service*”, “*to meet the interests of proper planning of the area*” or “*to secure the best, or most economic development or use of the land*”.

However, as you note in your letter, the decision to exercise such a power rests with Scottish Ministers and would require a clear and compelling justification. It is extremely unlikely that Ministers would exercise their powers unless another authority was unable or unwilling to utilise their own powers to achieve the same purpose **and** there was a clear case for doing so to deliver a project, development or purpose considered to be of national importance.

I hope that this answers your query. If I can be of any further assistance or you wish to discuss or clarify anything regarding this matter then please contact me.

Yours sincerely

Neil Langhorn  
Head of Compulsory Purchase Order Policy