

# Annex C-10: Application of Mostyn Docks Ltd

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6<sup>th</sup> June 2014

Dear Sir or Madam,

**Re: Application for Powers of Harbour Direction by Mostyn Docks Ltd**

An expression of interest to be designated with the powers to make Harbour Directions under sections 40A - 40D of the Harbours Act 1964 was submitted by Mostyn Docks Ltd to DfT on the 29<sup>th</sup> April; herewith is our formal application.

**1) Background**

Mostyn Docks Ltd is located on the Dee estuary in north Wales. For the purposes of identifying the various jurisdictions it should be noted that the Dee estuary is generally regarded as being from the Weir at Chester, downstream to an imaginary line drawn across the mouth of the estuary from the Point of Ayr in Flintshire to Hilbre Point on the Wirral peninsula. For ease of reference please note that there are three distinct areas of jurisdiction in the Dee estuary:

- a) The Statutory Harbour Authority area around the Port – Mostyn Docks Ltd
- b) Dee estuary Pilotage Authority area – Mostyn Docks Ltd
- c) Dee estuary Statutory Harbour Authority area (excluding the Port area) - Dee Conservancy.

**2) Rationale**

Mostyn Docks Ltd is a Statutory Harbour Authority with limits of jurisdiction of a relatively small area immediately around the port as specified in the Mostyn Docks Harbour Empowerment Order 1988. The remainder and much larger area of the Dee Estuary is the Statutory Harbour Area of the Dee Conservancy.

The Mostyn Docks (Pilotage) Harbour Revision Order 1989 area of jurisdiction for pilotage within the Dee estuary extends from Chester seawards to the Dee buoy as specified in the Order.

The Dee Conservancy Statutory Harbour area is believed to be that as defined in the Dee Conservancy Act 1889.

From seaward, navigation to the port is through two buoyed channels established and maintained by Mostyn Docks, namely the "Outer Channel" and "Inner Channel" respectively. The Outer Channel is outside the boundary of the Dee estuary and therefore also outside the jurisdiction of both the Dee Conservancy and Mostyn Docks.

### The Outer Channel

In 2001 Mostyn Docks was granted a Section 34 Consent under the Coast Protection Act 1949 which gave it permission to establish a dredged and buoyed channel in the approaches to the Dee estuary. When completed, this channel became known as the "Outer Channel".

Whereas the S34 Consent provided for the dredging and aids to navigation to be established, it did not confer any powers by which to exercise any form of control over vessels using the channel. It was the view of the DfT at the time that the S 34 Consent would be a temporary measure until such time as Mostyn Docks Ltd could seek formal powers through a Harbour Revision Order.

Subsequently a HRO application was submitted to DfT in 2004 and has yet to be determined. If this application for powers of Harbour Directions is successful it will allow Mostyn Docks to exercise some, but not full control over vessels using this channel.

As the Outer Channel is outside the jurisdiction of both Mostyn Docks Ltd and the Dee Conservancy, control of navigation in this area is exercised by Mostyn Docks Ltd by the issuing of guidance, information and recommendations. However, without the necessary formal powers this is being done in an advisory capacity only and without powers of enforcement against vessels involved in navigational incidents.

### The Inner Channel

The Inner Channel is within the Statutory Harbour Authority jurisdiction of the Dee Conservancy and also within the jurisdiction of Mostyn Docks for pilotage only. Consequently the boundaries of jurisdiction of both the Dee Conservancy SHA and the Mostyn Docks Pilotage jurisdictions are largely the same within this channel.

For the purposes of safety of navigation Mostyn Docks and the Dee Conservancy operate in close co-operation through a Joint Procedures Agreement which has been implemented between them. This Agreement provides for Mostyn Docks to manage the day-to-day control of navigation within the Inner Channel. For the purposes of the Joint Procedures Agreement this area is referred to as the Mostyn Operational Area (MOA).

As a means of exercising a form of control of navigation, Mostyn Docks as the Authority for Pilotage has issued Pilotage Directions and Regulations which detail how the safe navigation of vessels subject to Pilotage is to be conducted. In accordance with statute, under such Directions vessels of less than 20 metres in length overall are exempted from compulsory pilotage, therefore formal navigational control of these smaller vessels cannot be exercised.

### **3) Risk Assessment**

Continuous Risk Assessments by Mostyn Docks and the Dee Conservancy under the MOA agreement have identified risks to safety of navigation particularly in the Outer Channel and approaches to the estuary. Where a risk to safety has been identified, the Port Marine Safety Code (PMSC) guide to good practice sets out a requirement for a Harbour Authority to seek adequate formal powers in order to minimise such risks. To comply with this guidance, Mostyn applied for a Harbour Revision Order in 2004. This application remains under consideration by the DfT.

### **4) Changes in Shipping Traffic**

In the ten years since the HRO application was made there has been a significant change in the size and types of vessels using both the Port and the estuary approaches. At the time of the application in 2004 the main trade of the port was a twice daily ferry service and about 200 coasting vessel calls per annum.

At the about the same time Mostyn entered the offshore windfarm construction and operations and maintenance base business. This added in the order of 3 – 4 small but fast service vessels to the port's traffic. In the intervening ten years the number of service vessels has increased significantly to the present time when there now up to 20 fast service vessels operating from Mostyn on a daily basis. The majority of these vessels are less than 20 metres in length and are not subject to pilotage and consequently to any formal navigational control by either Mostyn Docks or the Dee Conservancy .

### **5) Incidents**

In recent times there have been a number of incidents relating to these service vessels which have given cause for concern. While the majority of these incidents are as a result of the wake wash caused by excessive speed, there have also been two incidents of groundings of these vessels and also a collision with a buoy in the South Hoyle channel, all at high speed. In the view of Mostyn Docks such incidents may have been avoided if powers of direction had been available to it.

### **6) Requirement for Additional Powers**

Under its current Harbour Empowerment Order Mostyn does not have general powers of direction in respect vessels within its statutory harbour area, only special powers of direction. By its HRO application Mostyn Docks is actively seeking powers in order to have formal navigational control of vessels not subject to pilotage control. Such powers will enable Mostyn to be in full compliance with PMSC guidance.

As stated previously, this HRO has not yet been determined. In the absence of powers through a HRO Mostyn is now seeking Powers of Direction under sections 40a and 40d of the Harbours Act 1964 which will give it some but not full powers to control



vessels using the Outer Channel and also the wider approach areas used by fast shallow-drafted service craft.

**7) Amendments/repeal of statutory provisions.**

No amendments or repeal of statutory provisions are required, no Bye Laws have been enacted.

Consultation


Consultations on our application have been held with the Dee Conservancy who are also intending to seek similar powers of Harbour Direction. They have confirmed that they will fully support Mostyn in its application and Mostyn can confirm its support for the Dee Conservancy's own application. We have also consulted with local fishermen, several of whom have been affected by the wake wash of service vessels and they have indicated that they are supportive of our proposals. We are continuing our consultations on matters such as vessel mooring and anchoring, vessel speed and vessel priority during transits. Further consultations will be held with interested parties at the next meeting of the Mostyn Port Users Group to obtain their views.

**8) Code of Conduct and Statement of Assurance**

A Statement of Assurance is attached to this letter.

We would ask that receipt of this letter of application is acknowledged and we await DfT's response in due course. In the meantime please let me know if you require any further information.

Yours faithfully,



Jim O'Toole  
Managing Director  
Mostyn Docks Ltd

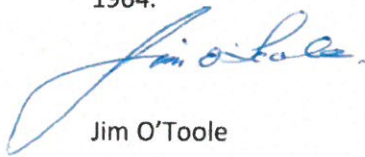
Mostyn Docks Ltd – Application for Powers of Direction- Statement of Assurance to DfT

I can confirm that the following Resolution of Mostyn Docks Ltd was duly passed on the 5<sup>th</sup> June 2014:

“The Harbour Authority has had regard to the content of and agrees to comply with the Code of Conduct on Harbour Directions, in particular:

- a) To maintain a Port User Group and to apply a dispute resolution procedure such as is set out in the Code of Conduct when required; and
- b) To have regard to supplementary guidance issued from time to time by the National Directions Panel on the subject of harbour Directions.

The Managing Director is authorized to apply to Secretary of State for Transport for Mostyn Docks Ltd to be designated as a Harbour Authority for the purposes of Section 40A of the Harbour Act 1964.



Jim O'Toole

Managing Director

6<sup>th</sup> June 2014