



Marine  
Management  
Organisation

## Decision Approval Document

### Case Management Team

Case Manager	Andrew Watson
Case Officer	Mark Kirby
Approving Officer	Andrew Kerrigan

### Application details

Applicant name	Lymington Harbour Commissioners
Reference	DC9684
Associated marine licence reference	N/a
Date received	18/06/2013
Title	The Lymington Harbour Revision Order 2013
Type	Non works order
Description	The HRO would modernise and extend existing powers vested in the Commissioners by existing harbour legislation. In particular, the HRO would confer powers on the Commissioners to give general directions to vessels using Lymington Harbour, together with powers exercisable by the harbour master appointed by the Commissioners to give special directions. These powers are required to support the effective management of the vessels using Lymington Harbour, as recommended in the Port Marine Safety Code.

### Public notices and consultation

Did notices appear in accordance with the Act?	Yes
Original notices received?	Yes
Did the MMO consult? (*Applicant served documentation following direction from MMO)	The Crown Estate
	Lymington Harbour Advisory Group (*)
	Wightlink Ltd (*)

	Lymington and Pennington Town Council (*)
	UK Association of National Park Authorities (*)
	New Forest District Council (*)
	Maritime and Coastguard Agency (*)
	Department for Transport (*)
	Trinity House (*)
	Royal Yachting Association (*)
	The Chamber of Shipping (*)
	The Yarmouth (Isle of Wight) Harbour (*)
	UK Major Ports Group (*)
	British Ports Association (*)
	Defence Infrastructure Organisation (*)

### Representations

Total number of objections or representations received?		3		
Name	Category	Nature of representation	Within Statutory 42 day period?	Withdrawn?
Wightlink Ltd	Objection	Restrictions would not allow ferries to pass through	yes	New drafting agreed
Trinity House	Response	Happy with drafting of order	yes	No changes needed
RYA	Response	Asking for amendments to drafting	Yes	New drafting agreed
Has the applicant been given opportunity to respond/resolve objections/representations?		Yes		
Objections received and not withdrawn?		None		

### Public Inquiry

Public inquiry called?	No
Inquiry dates?	N/A
Notice of inquiry published?	N/A
Name of Inspector	N/A

Inspectors report received?	N/A
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### Summary of inspector's findings

Inspector's recommendation	N/A
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### Environmental impact assessment (EIA)

Has the project been screened under relevant EIA regulations? Section and annex?	N/A
Scoping opinion issued?	N/A
Has EIA been conducted and environmental statement (ES) provided?	N/A
Does the ES cover everything detailed in scoping opinion?	N/A
Is there a related marine licence application?	N/A
Has the applicant request an opinion under the Marine Works (EIA) Regulations?	N/A
Has the MMO deferred to another set of regulations?	N/A
Has the project been advertised adequately with 42 days for representations?	N/A
Have copies of the notices been received?	N/A
Has the EIA consent decision been issued to interested parties?	N/A

### Location

Is there a cross-border element to the project?	N/A
Will the project have a likely significant effect (LSE) on another European Economic Area (EEA) state?	N/A

### Habitat Regulations

Is it feasible that the plan or project could have an effect of a protected site?	N/A
Is the proposal connected with the management of the protected site?	N/A
Will the plan or project either alone or in combination with other plans or projects have a likely significant effect on the interest features of the site in light of the conservation objectives?	N/A
Has an appropriate assessment been carried out? Did the assessment ascertain that the plan or project will not adversely affect the integrity of the site?	N/A
Are there any alternative solutions?	N/A

Are there reasons of overriding public interest?	N/A
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### Marine conservation zone (MCZ)

Does the harbour revision order authorise an activity within or near to an area being put forward for or already designated as an MCZ?	N/A
Is the activity capable of affecting (other than insignificantly) either (i) the protected features of an MCZ or (ii) any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependant?	N/A
Is the MMO satisfied there is no significant risk of the activity hindering the conservation objectives stated for the MCZ?	N/A
Can the MMO exercise its functions to further the conservation objectives of the site?	N/A
Are there other means of proceeding with the act which would create a substantially lower risk of hindering the achievement of those objectives? This should include proceeding with it (a) in another manner, or (b) at another location?	N/A
Does the benefit to the public of proceeding with the act clearly outweigh the risk of damage to the environment that will be created by proceeding with it?	N/A
Can the applicant satisfy the MMO that they will undertake or make arrangements for the undertaking of measures of equivalent environmental benefit to the damage which the act will or is likely to have in or on the MCZ?	N/A

### Water Framework Directive (WFD)

Has the Environment Agency advised the MMO to undertake a WFD assessment?	N/A
Has the Applicant provided information to undertake a WFD assessment?	N/A
Is the project compliant with the WFD?	N/A
If the project is not compliant with WFD, does article 4.7 apply?	N/A

### Policy

Relevant planning or policy considerations	The Port Marine Safety Code paragraph 3.4 <i>“Harbour Authorities would be well advised to secure powers of general direction to support the effective management of vessels in their harbour waters, if they do not have them already”.</i>
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### MMO consideration (the tests)

Section 14(1) – Objects for whose achievement an HRO may be made.	<p>Section 14(1) of the Act provides for an order to be made under this section (“a harbour revision order”) in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties for achieving all or any of the objects set out in Schedule 2 to the Act. The relevant objects in respect of this application are:</p> <p><i>“Varying or abolishing duties or powers imposed or conferred on the authority by a statutory provisions of local application affecting the harbour, being duties or powers imposed or conferred for the purpose of –</i></p> <ul style="list-style-type: none"><li><i>(a) Improving, maintaining or managing the harbour</i></li><li><i>(b) Marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof; or</i></li><li><i>(c) Regulating the carrying on by others of activities relating to the harbour or of activities on harbour land.”</i></li></ul> <p><i>“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above”</i></p>
Section 14(2)(a) – Substantial interest.	<p>By virtue of section 14(2)(a), a harbour revision order may not be made in relation to a harbour unless the MMO is satisfied that an appropriate written application has been made by the authority engaged in improving, maintaining or managing it or by a person appearing to it to have a substantial interest or body representative of persons appearing to it to have such an interest.</p>
Section 14(2)(b) – Desirability.	<p>By virtue of section 14(2)(b), a harbour revision order shall not be made in relation to a harbour unless the MMO is satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, or of facilitating the efficient and economical transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships.</p>

### Fees

Application fee	£4000
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Inquiry costs	N/A
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### MMO decision summary



The MMO is satisfied for the reasons set out by the Applicant in their statement of support and summarised in the decision letter that the making of the Order is desirable for the purposes of section 14(2)(b) of the Act.

The MMO concludes the Order should be made with amendments and modifications which it considers necessary and appropriate but not substantially affecting the character of the Order.

### DfT (legal services)

Notice of intention to lay given?	Yes
Coming into force date agreed?	23/05/2014
Appropriate documents finalised and sent? <ul style="list-style-type: none"> <li>• Statutory Instrument proforma</li> <li>• The Order</li> <li>• Explanatory memorandum</li> <li>• Relevant legislation</li> </ul>	All docs sent

### Decision approval

Case Officer		Date	24/04/2014
Approving Officer		Date	24/04/2014