



Mr Irving and
Mr Aanensen
Winckworth Sherwood LLP
(email only)

Our reference: DC10143

14 January 2021

Dear Mr Irving and Mr Aanensen,

The Harbours Act 1964

The Broads Authority (Transfer of Mutford Lock) Harbour Revision Order 2021

1. The Marine Management Organisation (“the MMO”) informs you that consideration has been given to the application for The Broads Authority (Transfer of Mutford Lock) Harbour Revision Order 2021 (“the Order”) for which you applied on 3 August 2018 on behalf of the Broads Authority, under Section 14 of the Harbours Act 1964 (“the Act”).

Summary of Decision

2. The MMO has authorised the making of the Order with amendments and modifications not affecting the character of the Order which it considers necessary and appropriate.
3. This Order provides for the transfer of Mutford Lock and adjoining land held with Mutford Lock from Associated British Ports (“ABP”) to the Broads Authority together with statutory powers or duties relating to Mutford Lock. It adds Mutford Lock to the area of jurisdiction of the Broads Authority as harbour authority for Oulton Broad.

Context

4. The Broads Authority is a special statutory authority established by statute in 1988 to manage the area containing the Broads and other waterways under the Norfolk and Suffolk Broads Act 1988 (“the Broads Area”). The Broads Authority is not an elected public body but members are appointed, including from both Norfolk and Suffolk County Councils and other local authorities.
5. Mutford Lock separates the fresh waters of Oulton Broad from the salt waters of Lake Lothing. Oulton Broad falls within the area of jurisdiction of the Broads Authority, who have been managing and maintaining Mutford Lock.
6. The Broads Authority, ABP and Suffolk County Council are the bodies most directly concerned with arrangements for public passage by water and on highways at the western end of Lake Lothing. The transfer of ownership is required for the most efficient and economical operation, maintenance and improvement of this connection



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between the waters under the jurisdiction of the Broads Authority and the waters under the jurisdiction of ABP.

7. The adjoining land was acquired by ABP's statutory predecessors and was held by ABP as part of its harbour undertaking in connection with Mutford Lock. The transfer of this land to the Broads Authority falls within the objects set out in paragraph 5 of Schedule 2 of the Act, as it transfers property vested in it and held for the purposes of the harbour.
8. The Order achieves the transfer of Mutford Lock and adjoining land held with it from ABP to the Broads Authority together with statutory powers or duties relating to Mutford Lock, as specified in Schedule 2 of the Act, that are detailed within Annex 2 of this decision document.

Application Procedure

9. On 3 August 2018 an application for the Order was submitted to the MMO by Winckworth Sherwood LLP on behalf of the Broads Authority.
10. Notice of the application for the Order was advertised in the *London Gazette* on 3 August 2018 and in *The Lowestoft Journal* on 3 and 10 August 2018.

Consultation Responses

11. The MMO directly consulted on the application with a number of interested parties owing to their expertise and knowledge. The bodies consulted together with a summary of their relevant representations are presented in the table below:

Organisation	Response received and action taken
UK Major Ports Group	No response was received.
British Ports Association	Had no comments on the application.
Suffolk County Council	No response was received.
MMO Lowestoft	Had no comments on the application.
Maritime and Coastguard Agency ("MCA")	The MCA advised: <i>"We would like to take this opportunity to remind the Harbour Authority of their obligations under the Port Marine Safety Code and Guide to Good Practice, and request that the changes are risk assessed in line with the Code. The Harbour Authority will be required to maintain appropriate navigation markings for the range and size of vessel expected to operate in that area."</i>
Chamber of Shipping	Had no comments on the application.
Royal Yachting Association ("RYA")	Had no comments on the application.
Trinity House	Trinity House advised: <i>"The Broads Authority (Reference DC10143): We have reviewed the content of this draft and request Section 8 is replaced with the following standard text: "Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of Trinity House". We submit that the current text is</i>

	<p><i>too narrow in its interpretation and includes reference to outdated legislation.</i></p> <p><i>In addition, we have spotted an omission of the words “part 1 of” within the interoperation section relating to “Mutford Lock”.</i></p> <p><i>“We also request the coordinates to be in WGS84 within both schedules.”</i></p> <p>MMO actioned these changes.</p>
Department for Transport (“DfT”)	Had no comments on the application.

Public Representations

- No representations were received within the statutory 42 day period provided for in Schedule 3 to the Act.

MMO Consideration

- 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.
- 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.
- 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.
- The MMO has considered the application in relation to the East Inshore Marine Plan and is content that the application is in accordance with those marine plans.
- The MMO has reviewed the application in relation to the Port Marine Safety Code (“PMSC”) and concludes that that the powers conferred by the Order aid the applicant to comply with their duties as set out by the PMSC.

MMO Decision

- The MMO is satisfied that the Order meets the requirements of section 14(1) and 14(2)(a) of the Act.
- The MMO is satisfied that there are no objections to the application of the Order.

20. The MMO is satisfied for the reasons set out by the applicant in their statement of support, and summarised above, that the making of the Order is desirable for the purposes of section 14(2)(a) and (b) of the Act and should be made.

21. The MMO authorises the making of the Order with amendments and modifications which it considers necessary and appropriate but not substantially affecting the character of the Order.

Challenges to Decisions

22. Information on the right to challenge this decision is set out in the Annex 1 to this letter.

Yours Sincerely

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Annex 1

Right to challenge decisions

Right to challenge orders made under sections 14 and 16 of the Harbours Act 1964

Any person who desires to question the making of the Order on the ground that there was no power to make the Order or that a requirement of the Harbours Act 1964 was not complied with in relation to the Order, may within 6 weeks from the date on which the Order becomes operative make an application for the purpose to the High Court.

A person who thinks they may have grounds for challenging the decision to make the Order is advised to seek legal advice before taking any action.

Annex 2

Objects for whose achievement harbour revision orders may be made

Paragraph 4: A HRO can confer on a harbour authority additional powers for managing the harbour.

Paragraph 6: A HRO can alter the area of jurisdiction of the harbour authority.

Paragraph 11: A HRO can empower the harbour authority to levy harbour charges other than ship, passenger and goods dues.

Paragraph 17: Contains a general power to achieve an object not falling within specific powers but which will be conducive to the efficient functioning of the harbour and in so far as it may be considered that any provision of the Order does not fall within those paragraphs it will fall within the scope of that provision.