



Marine Management Organisation

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Our reference: DC10096

[By email only]

1 February 2017

Dear Ms Dillistone,

The Harbours Act 1964
DC10096 - The Port of Teignmouth (Transfer of Undertaking) Harbour Revision Order 2017

1. The Marine Management Organisation (“the MMO”) informs you that consideration has been given to the application for the Port of Teignmouth (Transfer of Undertaking) Harbour Revision Order 2017 (“the Order”) for which you applied on behalf of Teignmouth Quay Company Limited (“the Applicant”), under Section 14 of the Harbours Act 1964 (“the 1964 Act”) on 2 September 2016.

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. The Order transfers all statutory and other powers and duties in relation to the Port of Teignmouth from the Applicant to Associated British Ports (“A.B. Ports”).
4. In particular, the Order transfers the functions, property, byelaws and contracts from the Applicant to A.B. Ports and ensures the continuance of proceedings.
5. The Order does not authorise a project for the purposes of Council Directive 85/337/EEC which is codified by Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment and accordingly an environmental statement was not required.



Context

6. The Applicant is the statutory harbour authority for the Port of Teignmouth (“the Port”).
7. The Teignmouth Quay operation is a statutory dock operation run by the Applicant under statutory powers conferred by the Teignmouth Quay Orders 1887 and 1893 and the Teignmouth Quays Harbour Revision Order 2004.
8. The Applicant is a wholly-owned subsidiary of A.B. Ports. Although A.B. Ports is the ultimate owner of the Port, the day-to-day management must be carried out by the Applicant. This creates inefficiencies for A.B. Ports which the Applicant seeks to rectify through the making of the Order.
9. This application is being made with the support of A.B. Ports.
10. The Order transfers all statutory and other powers and duties in relation to the Port of Teignmouth from the Applicant to A.B. Ports. In particular, the Order transfers the functions, property, byelaws and contracts from the Applicant to A.B. Ports and ensures the continuance of legal and other proceedings.
11. The Order will prevent a number of operational and administrative inefficiencies:
 - I. The Port currently has its own board comprising of directors who are also A.B. Ports board directors. This requires separate board meetings to be held when one meeting would be more efficient and appropriate;
 - II. The Applicant is part of A.B. Ports and currently holds the Port rather than A.B. Ports. This often causes confusion for customers, suppliers and employees which can lead to administrative inefficiencies if contracts are initially written in the wrong name or if correspondence, cheques etc are written to A.B. Ports rather than the Applicant;
 - III. A.B. Ports is in the process of a major business transformation project including the implementation of a single universally applicable IT system, however, the separation of the Applicant’s business from A.B. Ports business means that additional, and unnecessary systems processes would need to be created to cater for the fact that Port is not owned directly by A.B. Ports; and
 - IV. The transfer of the Applicant’s business to A.B. Ports will provide significantly greater financial resource and covenant strength to the Port of Teignmouth.

Application procedure

12. On 2 September 2016 an application for the Order was submitted by the Applicant to the MMO.

13. Notice of the application for the Order was advertised in the London Gazette on 2 September 2016 and in the Teignmouth Post and Gazette on the 2 September 2016 and 9 September 2016.

14. In addition the MMO consulted directly with:

- Department for Transport
- MMO (South West) Office
- British Ports Association
- Chamber of Shipping
- Royal Yachting Association
- Trinity House
- Maritime and Coastguard Agency
- Teignmouth Town Council
- Teignbridge District Council
- Devon County Council
- UK Major Ports Group

15. Eleven responses were received during the statutory 42 day period provided for in Schedule 3 to the Act. No objections were received. Responses are summarised as follows:

16. Eight responses detailed that the consultee had no comments concerning the Order. One response was in support of the making of the Order.
17. Trinity House and Teignbridge District Council submitted comments concerning the Order relating to the definition of limits of the Port of Teignmouth and the purpose of the Order.
18. Following the expiry of the period for objections set out in the 1964 Act the Applicant responded to Trinity House and Teignbridge District Council and the concerns raised were resolved.

MMO consideration

19. 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 1964 Act.
20. 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.
21. 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.

MMO's decision

22. The MMO is satisfied that the Order meets the requirements of section 14(1) and 14(2)(a) of the 1964 Act.
23. 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)(b) of the Act and should be made.
24. The MMO authorises the making of the Order with amendments and modifications which it considers necessary and appropriate.

Challenges to decisions

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

Yours Sincerely,



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Annex 1 – Right to challenge decisions

Copies to: Mark Aanensen
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 Paul Irving

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 or the Court of Session, as the case may be.

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.