

## EXPLANATORY MEMORANDUM TO

### THE WEYMOUTH HARBOUR REVISION ORDER 2021

2021 No. 43

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Marine Management Organisation (“the MMO”) and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 The purpose of this instrument is to consolidate and modernise existing harbour legislation and confer further modernised powers on Dorset Council, as the statutory harbour authority for Weymouth harbour (“the harbour”). This includes clarifying the harbour limits, financial powers, powers of direction and powers in relation to the development of land.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England only.

#### 5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### 6. Legislative Context

- 6.1 Weymouth harbour is governed by its own local legislation collectively known as the Weymouth Harbour Acts and Orders 1820 to 2021. The Weymouth Harbour Revision Order 2021 consolidates and modernises existing legislation.  
6.2 At the time of application, the applicant was Weymouth and Portland Borough Council. On 1 April 2019, the Bournemouth, Dorset and Poole (Structural Changes) Order 2018 established a new Council known as Dorset Council, replacing Weymouth and Portland Borough Council in respect of the borough of Weymouth and Portland (and the Councils from the districts of East Dorset, North Dorset, Purbeck and West

Dorset). The statutory harbour authority for Weymouth Harbour is therefore now Dorset Council (“the applicant”).

- 6.3 The MMO received an application on 11 May 2018 for the Weymouth Harbour Revision Order (“the Order”)
- 6.4 The responsibility for the consideration of the application, and the making of any Order, passed to the MMO by virtue of the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674) which delegated the Secretary of State functions under Section 14 of the Harbours Act 1964 (“the Act”) to the MMO except in relation to specified applications.

## 7. Policy background

### *What is being done and why?*

- 7.1 The Port Marine Safety Code (“PMSC”) published by the Department for Transport sets out a national standard for all current aspects of port marine safety, it aims to enhance safety for everyone who uses or works in the UK port marine environment. The PMSC can be viewed on the link below.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/918935/port-marine-safety-code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918935/port-marine-safety-code.pdf)
- 7.2 The PMSC identifies a number of tasks which harbour authorities should undertake in order to comply with the PMSC including reviewing and being aware of existing powers based on local and national legislation and it advises that harbour authorities should seek additional powers if the existing powers are insufficient to meet their obligations to provide safe navigation. In particular, paragraph 2.5 of the PMSC states:  
*“...harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already”.*
- 7.3 The applicant conducted a review of their local Acts and Orders and identified a need to clarify their harbour limits and confer additional powers on the harbour authority to assist in the management of the harbour in compliance with the PMSC.
- 7.4 The Order introduces a procedure for the giving, amending or revoking of general directions. This includes consultation with designated stakeholders, the harbour user group established by this Order and the public. The extended and modernised power to issue general directions, and the updated harbour master’s powers to issue special directions are recommended by the PMSC, to support the effective management of the harbour and to ensure the convenience and safety of all harbour users.
- 7.5 The Order clarifies the limits of the harbour to incorporate the harbour premises (as defined in article 6 of the Order). The harbour limits are defined in the plans annexed to the Order. Land and premises owned or used by the harbour will be included within the harbour’s limits and the applicant can exercise its powers, including general directions, within those limits. This is necessary to assist in the management of the harbour in compliance with the PMSC.
- 7.6 The Order confers powers of management and control of the harbour. This includes the making of byelaws, regulation of moorings, and bunkering. It also allows the

applicant to develop or dispose of harbour land, to grant tenancies and to incorporate companies limited by shares or guarantee.

- 7.7 The Order confers financial powers. This includes levying of charges on harbour users and that the harbour revenue must be used for purposes of the harbour undertaking. The Order also confers the power to borrow and to establish a reserve fund.
- 7.8 The Order establishes a new external advisory body who are to be consulted for all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the harbour and its navigation.
- 7.9 There has been some public interest in this application, this has been detailed further in Section 10. There was no media interest in this application.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 This instrument does not consolidate any legislation.

## **10. Consultation outcome**

- 10.1 In accordance with paragraph 10 of Schedule 3 to the Act, a notice was placed in the London Gazette on 21 May 2018 and the Dorset Echo on 21 and 28 May 2018 detailing the application for the Order and how any objections or representations may be registered.
- 10.2 The MMO also consulted with other such bodies it considered to have interest in the Order.
- 10.3 Three objections to the Order were received within the statutory period of forty-two days provided for in Schedule 3 to the Act. One of these objections received twenty letters of support. The consultation ran from 21 May 2018 to 2 July 2018.
- 10.4 The objections mainly focused on the necessity of the Order and the potential impact of the Order on fishing and harbour charges.
- 10.5 The applicant engaged with those who objected. Two of the objections received within the 42-day period were withdrawn in full. One objection was withdrawn in part. The MMO is satisfied that the remaining objection does not relate to the Order, consideration of this can be found in the decision letter, linked in paragraph 10.7.
- 10.6 The MMO consulted 9 other bodies during the 42-day consultation period. A full list of these consultees and a summary of their responses can be found in the decision letter on the MMO's public register, details of this are in paragraph 10.7. The majority of the comments were made in relation to the wording of the Order and terminology used. The applicant engaged with those bodies which made a comment to reach an agreement. Further details can be seen in the decision letter, linked in paragraph 10.7.
- 10.7 The MMO considered the representations raised, the applicant's responses and the information supplied in the formal application in its determination of this Order. The MMO was satisfied that the making of the Order is desirable in the interests of securing the improvement, maintenance or management of the harbour. Details of the

consultation can be found in the decision letter at:

<https://www.gov.uk/government/publications/weymouth-harbour-revision-Order>

- 10.8 A hard copy of the consultation is available on application to the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle Upon Tyne, NE4 7YH.

## **11. Guidance**

- 11.1 The MMO does not propose to issue guidance in respect of the effects of the Order. However, the applicant will publish particulars, and serve copies, of the Order in accordance with paragraph 24 of Schedule 3 to the Act.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is no, or no significant impact predicted on businesses, charities, voluntary bodies or the public sector.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 Whilst the MMO will not actively monitor the operation of the provisions introduced by the Order, it will consider any representations received in this respect and will take these into account in the future exercise of its powers.

## **15. Contact**

- 15.1 Melissa Gaskell-Burnup at the Marine Management Organisation. Telephone: 0208 2258268 or email: [harbourorders@marinemanagement.org.uk](mailto:harbourorders@marinemanagement.org.uk) can answer any queries regarding the instrument.
- 15.2 Trudi Wakelin, Director for Marine Licensing, at the MMO can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Tom McCormack, Chief Executive Officer at the MMO can confirm that this Explanatory Memorandum meets the required standard.