EXPLANATORY MEMORANDUM TO

THE ILFRACOMBE HARBOUR REVISION (NO. 2) ORDER 2019

2019 No. 815

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of this instrument is to authorise North Devon District Council ("the Applicant") to construct and maintain a new harbour wall and a new slipway at Larkstone Cove in Ilfracombe Harbour ("the Harbour"). It revokes and replaces the Ilfracombe Harbour Revision Order 2019 (S.I. 2019/798) which was made by the MMO on 22nd January 2019 ("the first Order").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The first Order did not have a coming into force date and appropriate steps were not taken to lay it before Parliament in a timely manner. The first Order is therefore defective due to the lack of a coming into force date, and this instrument revokes and replaces the first Order.

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 The Applicant is the statutory harbour authority ("SHA") for the Harbour. SHAs are harbour authorities which have been given a range of statutory powers or duties for the purpose of improving, maintaining or managing a harbour. The statutory powers or duties are set out by Acts of Parliament that are specific to each authority in the

form of local Acts, or in some cases harbour revision or empowerment orders made under the Harbours Act 1964 (c. 40) ("the Act").

6.2 The Applicant applied to the MMO on 24th May 2018 for the Ilfracombe Harbour Revision Order ("the Order") to be made under Section 14 of the Act.

6.3 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's functions under Section 14 of the Act to the MMO, except in relation to specified applications.

6.4 In accordance with paragraph 4 of Schedule 3 to the Act, the MMO concluded that the project did not fall within the scope of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ No. L 26, 28.1.2012, p. 1-21) and was therefore not a relevant project for the purposes of the Act (that is a project which would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location). The MMO notified the Applicant of its decision under paragraph 6 of Schedule 3 to the Act.

7. Policy background

What is being done and why?

7.1 The Order authorises the construction and maintenance of a new harbour wall in Larkstone Cove and a slipway from the new watersports centre in The Strand which will extend into the bed and foreshore of Ilfracombe Harbour.

7.2 There is a need in Ilfracombe to provide improved conditions for local watersports groups and one of the aims of the new watersports centre is to satisfy that need. The slipway will be key to the operation of the watersports centre since it will provide access to the water. The new sea wall is needed to defend the first floor of the boathouse from the impact of extreme waves.

7.3 In May 2014, the Applicant applied for planning permission (planning application number 57487) for the erection of a multipurpose watersports centre with boat and equipment storage facilities at Larkstone Cove, Ilfracombe.

7.4 Planning permission was granted on 9th February 2015. This planning permission expired and a new application was made in February 2018 (planning application number 64472). Planning Permission was granted for this application on 11th April 2018.

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 / trigger the statement requirements under the European Union (Withdrawal) Act (c. 16).

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 and the North Devon Journal detailing the application for the Order and how any objections or representations could be registered.

10.2 The MMO also consulted such other bodies it considered to have an interest in the Order.

10.3 One objection to the Order was received within the statutory period of 42 days provided for in Schedule 3 to the Act.

10.4 The objection was raised on a number of grounds, including, but not limited to, historical and ecological concerns. The Applicant met with the person who objected, they explained the scheme in full detail and provided further documentation. The MMO subsequently received written confirmation that the objection was withdrawn.

10.5 Further comments were received from eight bodies which were consulted by the MMO. The comments were made in regard to the design of the slipway and potential impacts on ecology from the proposal. Discussions took place with the Applicant to agree design and methodology changes to ensure these comments were addressed.

10.6 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. Full details of the consultation can be found in the decision letter at: https://www.gov.uk/government/publications/ilfracombe-harbour-revision-order

10.7 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.

14.2 If the works on the new harbour wall and new slipway are not substantially commenced within five years of the making of this Order (or such extension of time as the Secretary of State may allow) then the power to construct or maintain those works will cease to have effect.

15. Contact

15.1 The Instrument is made by the MMO exercising powers delegated by the Department for Transport: Melissa Gaskell-Burnup at the Marine Management Organisation. Telephone: 0208 2258268 or email: harbourorders@marinemanagement.org.uk can answer any queries regarding the instrument.

15.2 Trudi Wakelin, Director of Marine Licensing and Planning at the Marine Management Organisation can confirm that this Explanatory Memorandum meets the required standard.

15.3 John Tuckett, Chief Executive Officer of the Marine Management Organisation can confirm that this Explanatory Memorandum meets the required standard.