EXPLANATORY MEMORANDUM TO

THE LYMINGTON HARBOUR (WORKS) REVISION ORDER 2014

2014 No. 17

1. This explanatory memorandum has been prepared by the Marine Management Organisation and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to authorise Lymington Harbour Commissioners ("the Applicant") to construct two overlapping rock breakwaters, one to the east of the main navigation channel of Lymington Harbour and the other on its western side. The west breakwater will consist of a mound of rocks 410m long with a 4m wide crest at 4.5m above Chart Datum (CD). The east breakwater will consist of a mound of rocks 495m long with a 4m wide crest at 4.5m above CD.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Applicant applied to the Marine Management Organisation ("MMO") on 23 September 2013 for the Lymington Harbour (Works) Revision Order 2014 ("the Order") to be made under Section 14 of the Harbours Act 1964 ("the Act").

4.2 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 to the Organisation except in relation to specified applications.

4.3 The Applicant is the statutory harbour authority for Lymington Harbour and operates under orders dated 1951 to 2002.

4.4 In accordance with paragraph 4 of Schedule 3 to the Act the MMO concluded that the project related to a project falling within Annex II to Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment and was a relevant project (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 and gave an opinion to the Applicant in respect of the extent of the information required to be supplied in an environmental statement accompanying the application.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Order empowers the Applicant as harbour authority to construct two overlapping rock break waters in Lymington Harbour.

7.2 The harbour is sheltered and protected from wave attack by the saltmarsh at the mouth of the river. However, since the 1920's a long term trend of natural erosion has caused the saltmarsh to retreat and it is progressively becoming less effective in protecting the harbour. In the next few decades the saltmarsh is predicted to disappear exposing the harbour.

7.3 The harbour is of high importance to the local economy. In a 2006 assessment, Lymington Chamber of Commerce estimated that the harbour generated £93 million of local economic activity supporting some 966 jobs. A significant proportion of that activity is in the marine trades directly concerned with leisure boating and the local businesses, shops and services that support the community.

7.4 If the protection of the harbour is lost then it will cease to be viable in its present form as the 1,530 permanent moorings will become untenable. The consequences of losing protection would also be detrimental for Lymington and the local marine and tourism business that are dependent on a sheltered harbour.

8. Consultation outcome

8.1 In accordance with the paragraph 10 of Schedule 3 to the Act a notice was placed in the London Gazette and The Lymington Times and the New Milton Advertiser detailing the application for the Order and how any objections or representations may be registered. The MMO received no objections to the Order within the statutory period of forty-two days provided for in Schedule 3 of the Act.

9. Guidance

9.1 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.

10. Impact

10.1 The MMO considers the impact on business, charities or voluntary bodies to be nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument. The MMO considers the impacts to be nil.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 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.

13. Contact

13.1 Mark Kirby at the Marine Management Organisation email: Mark.Kirby@marinemanagement.org.uk