EXPLANATORY MEMORANDUM TO

THE MERSEY DOCKS AND HARBOUR COMPANY (LIVERPOOL CRUISE TERMINAL EXTENSION) HARBOUR REVISION ORDER 2021

2021 No. 45

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 authorise Mersey Docks and Harbour Company Limited ("the applicant") to construct and maintain works in the Port of Liverpool ("the Port").

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 The applicant is the statutory harbour authority for the Port and operates under legislation dated 1857 to 2021.

6.2 The applicant applied to the MMO on 1 August 2018 for the Mersey Docks and Harbour Company (Liverpool Cruise Terminal Extension) Harbour Revision Order 2021 ("the Order").

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

functions under Section 14 of the Harbours Act 1964 ("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 fell within Annex II of EIA Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment and therefore constitutes development requiring an Environmental Impact Assessment (that is a project which would likely 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, on 16 March 2018 and gave an opinion in respect of the extent of the information required to be supplied in an environmental statement accompanying the application.

6.5 The Order authorises the demolition of existing structures, construction and maintenance of works within the Port, to construct new cruise terminal facilities at Princes Parade, Liverpool.

7. Policy background

What is being done and why?

7.1 The number of cruise ships using the facilities at Liverpool has been increasing over the past decade, vessels are also increasing in size. The existing passenger facilities were intended only for use as a temporary facility and are not capable of accommodating the increased passenger and crew throughput associated with the movement to larger cruise ships.

7.2 This instrument authorises the development of a larger, more permanent facility to include a new terminal building approximately 10,000m² in net floor area, and will be constructed into the River Mersey via a suspended deck structure, with a new vehicular linkspan bridge and floating pontoon, as well as modifications to the existing terminal required in order to support the construction of the new terminal building. The instrument also authorises the demolition of the existing timber and concrete decked jetties (known as Princes Jetty), as the new terminal building will be built in their current location.

7.3 The development will enable the Port to improve on the current capacity of 2,700 passengers, providing potential for attracting more cruise ships and passengers each year. The development authorised by this instrument forms part of a suite of development proposals taking place in the vicinity of Princes Dock. The cruise terminal forms part of the wider development in the area called the 'Liverpool Waters Masterplan'. This aims to regenerate a 60-hectare stretch of Liverpool's northern docks with both residential and commercial buildings. The Liverpool Waters Masterplan received outline planning permission in 2013.

7.4 The development will contribute to economic growth within Liverpool and the surrounding regions. Sea ports play an important role in the tourism and leisure industries, supporting different forms of economic and social activity, providing the means for local businesses to grow and generate employment opportunities in accordance with the National Policy Statement for Ports (February 2012). This can be viewed on the below link.

https://webarchive.nationalarchives.gov.uk/20120412092059/http://assets.dft.gov.uk/publications/national-policy-statement-for-ports/national-policy-statement-ports.pdf

7.5 During the process of this application, the draft North West Marine Plan was formally consulted on. The MMO was therefore required to have regard to the policies contained in the plan when making a determination on this application. The draft North West Marine Plan can be viewed on the below link. https://www.gov.uk/government/publications/draft-north-west-marine-plan-documents

7.6 The MMO's assessment of the application in relation to the policies of the draft North West Marine Plan can be seen on the harbour orders public register. https://www.gov.uk/government/publications/liverpool-harbour-revision-order

7.7 Full planning permission was granted on 15 October 2019 by Liverpool City Council for these works (planning reference 19L/1979). https://liverpool.gov.uk/planning-and-building-control/search-and-track-planning-applications/

7.8 In accordance with part 4 of The Marine and Coastal Access Act, an application for a marine licence for these works has been submitted to the MMO.

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 10 August 2018 and the Liverpool Echo on 10 and 17 August 2018 detailing the application for the Order and how any objections or representations may be registered. The consultation ran from 10 August 2018 to 21 September 2018. Four objections and one representation to the Order were received within this statutory period of forty-two days provided for in Schedule 3 to the Act.

10.2 Due to project changes, the MMO considered that it was necessary to hold a second consultation. Again in accordance with paragraph 10 of Schedule 3 to the Act, a notice was placed in the London Gazette on 24 April 2019 and the Liverpool Echo on 24 April and 1 May 2019 detailing the application for the Order and how any objections or representations may be registered. Three objections were submitted during this period from individuals who responded during the first forty-two day period.

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

10.4 The objections were received from members of the fishing community in relation to potential impacts on their businesses from noise generated during construction and a reduction of fishing area during both construction and operation. The applicant updated their construction methodology and carried out additional assessments to clarify that the impacts from the scheme would be of minor, localised impact and of a temporary period. The applicant engaged with those who submitted an objection to discuss their concerns and to provide them with further information about the scheme. Following engagement, the four objections were not withdrawn. The person who made a representation clarified that they were content with the information provided by the applicant and wrote to the MMO to confirm this.

10.5 Further comments were received from fourteen of the twenty bodies which MMO consulted with. The comments were made in relation to potential impacts on environmental receptors and protected areas from the proposal. Discussions took place with the MMO, the consultees and the applicant, who agreed to construction methodology changes to ensure these comments were addressed.

10.6 The MMO considered the objections and representations raised, the responses submitted by the bodies consulted, the applicant's responses and the information supplied in the formal application in its determination of this Order. The MMO also consulted extensively with its scientific advisors The Centre for Environment, Fisheries and Aquaculture Science (Cefas) on this application. The MMO is satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the Port. Details of the consultation and the MMO's EIA decision report can be found in the decision document below.

https://www.gov.uk/government/publications/liverpool-harbour-revision-order

10.7 A hard copy of the consultation outcome 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 authorised by this Order are not substantially completed within ten 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 Melissa Gaskell-Burnup at the MMO can answer any queries regarding the instrument. Address: Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH. Telephone: 0208 2258268 or email: harbourorders@marinemanagement.org.uk.

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 Tom McCormack, Chief Executive Officer at the Marine Management Organisation can confirm that this Explanatory Memorandum meets the required standard.