



Statement in Support of Harbour Revision Order (HRO) Application

Table 1: Application details

1. Date application made to MMO	
2. Name of primary contact	Samantha Woods
3. Contact details of primary contact	
4. Address of primary contact	Winckworth Sherwood LLP, Arbor, 255 Blackfriars Road, London, SE1 9AX
5. Name of Statutory Harbour Authority	Associated British Ports (“ABP”)
6. Is this a Works Order?	No.
1. Brief description of proposed works	N/A
2. Date when notification of intention was submitted to MMO	N/A

<p>3. Date when EIA screening opinion was issued by MMO</p>	<p>N/A</p>
<p>4. If screened in, date when scoping opinion was issued by MMO</p>	<p>N/A</p>
<p>5. If screened in and if an optional ES review was undertaken, date when review was completed by MMO</p>	<p>N/A</p>
<p>7. Non-technical summary – please explain what you are seeking to achieve in this application in no more than 200 words.</p>	<p>The proposed Port of Barrow (Closure of Harbour Facilities in part of Ramsden Dock) Harbour Revision Order (“the HRO”) provides for the closure of Harbour Facilities at the Port of Barrow, within and adjoining part of the Ramsden Dock. The HRO specifically relates to the former gas condensate works accommodating those facilities, consisting of a revetment and a jetty (formerly used as a gas transfer site), as defined in the draft HRO.</p> <p>It provides for all ABP’s statutory rights and responsibilities to cease in relation to the former gas transfer site.</p> <p>This will enable the former gas transfer site which is no longer required for harbour use to be disposed of and turned to a more productive use. It will support the management of the Port of Barrow in an efficient and economical manner for the purpose of section 14(2)(b) of the Harbours Act 1964, and is desirable in the general public interest for the purpose of section 14(2B) of the Harbours Act 1964.</p>
<p>8. Location (coordinates must be provided in WGS84 format if this is a works order)</p>	<p>Former gas condensate works at Ramsden Dock at the Port of Barrow, as shown on the former gas condensate works plan set out in Schedule 1 of the draft HRO.</p>

9. State the title of all relevant charts/maps/plans included with application (if appropriate)	Former gas condensate works plan Port of Barrow port limits plan
10. State the legislation relevant to the Harbour Authority and included with this application (if appropriate)	Harbours Docks and Piers Clauses Act 1847 Furness Railway and Barrow Harbour Act 1863 Furness Railway Act 1872 Furness Railway Act 1899 Associated British Ports (Barrow) Act 1988
11. If you have received any pre-application guidance from the MMO in relation to this application please briefly describe this here.	[TBC]
12. Have you included the required fee for your application?	Yes

Table 3: Statutory Harbour Authority background

<p><i>Legislative history</i></p> <ol style="list-style-type: none"> 1. ABP is the statutory harbour authority for the Port of Barrow, of which the former gas condensate works form part, as well as for a number of other ports around the United Kingdom. It was reconstituted under the Transport Act 1981 as the statutory successor to the British Transport Docks Board which was created in 1962 (under the Transport Act 1962 on the dissolution of the British Transport Commission (in turn established in 1947 following the nationalisation of ports covered by the railway and canal companies)). The harbour undertaking inherited
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from the British Transport Docks Board includes the powers and duties conferred by local legislation in relation to the Port of Barrow which is listed as one of the British Transport Dock Board's harbours in Part 2 of Schedule 3 to the Transport Act) 1962.

Location of the harbour and area of water within the jurisdiction of the harbour authority

2. The Barrow Harbour Act 1848 (now repealed) appointed Commissioners to improve and maintain the Barrow and Piel Channels. The Furness Railway and Barrow Harbour Act 1863 dissolved the corporation of the Harbour Commissioners and vested Barrow harbour in the Furness Railway Company. This Act also authorised significant works to be done at Barrow harbour including the construction of the Devonshire Dock, Devonshire Dock Basin, Buccleuch dock and the Graving Dock. The Furness Railway Act 1872 then authorised further works, including the construction of the Ramsden Dock, Lock and Basin, the Anchor Line Basin, the Timber Pond and the Cavendish Dock.
3. The Furness Railway Act 1899 then authorised the new lock from the Ramsden Dock Basin into the Ramsden Dock and the alteration of the north eastern sill of the existing lock of the Ramsden Dock. The docks remained the property of the Furness Railway Company until the Railways Act 1921, when they became part of London, Midland and Scottish Railway. They passed into the ownership of the British Transport Commission in 1948. The Associated British Ports (Barrow) Act 1988 conferred the power on ABP to construct the current entrance to the Ramsden Dock and the power to deepen and widen the Walney Channel.
4. The geographical limits of ABP's powers are set out in the Furness Railway and Barrow Harbour Act 1863, the Furness Railway Act 1879, and the Furness Railway Act 1899. A plan of those limits is provided with draft HRO. The Associated British Ports (Barrow) Act 1988 provided ABP with further dredging and special direction powers, however the works authorised by the 1988 Act were already within the jurisdiction limits of the 1863 Act.

Nature and type of business of the harbour

5. The first dock at Barrow, the Devonshire Dock, was constructed in 1867 under powers obtained by the Furness Railway and Barrow Harbour Act 1863, and was closely followed by the Buccleuch Dock in 1873. The Port of Barrow now consists of four large docks: Buccleuch Dock, Cavendish Dock, Devonshire Dock, and Ramsden Dock.
6. In the 1960s, the Port was used for general cargo, however this use started to decline during the 1970s as cargo ship sizes increased to a point that they were too large to use the Port of Barrow, and the Port reached a point where it was almost closed to commercial traffic. The construction of the Devonshire Dock Hall in the 1980's for use as a submarine building complex saw an increase in business at the Port along with developments by BNFL and British Gas.
7. Nowadays the Port of Barrow is the site of BAE Systems' submarine design and manufacturing facility, and also plays a key role in serving the offshore energy industry. The Port handles around 150,000 tonnes of cargo a year, including wood pulp, aggregates and project cargo.
8. In terms of the area now subject to the HRO, from the 1920s the land adjoining the revetment was used as an oil storage depot (referred to in this Statement in Support as the "former gas storage site"), and is shown in red on the plan **attached** to this Statement in Support. The area subject to this HRO is shown as blue on that same plan, being the revetment and the jetty, and is referred to as the "former gas transfer site" in this Statement in Support. Both the former gas storage site and former gas transfer site were occupied by British Gas, which later became Spirit Energy in the mid-1980s, and they refurbished the tanks for use as a storage tank farm, to store the liquid by-product of gas, (liquid condensate), from the Morecambe Bay gas fields. In the mid 1980's the jetty was constructed for exporting the liquid condensate.
9. The Morecambe Bay gas fields used to be significant for the United Kingdom's gas supply, providing about 20% of the United Kingdom's gas supply, however this use has significantly depleted, and the fields now only supply up to about 5% of the United Kingdom's gas. Therefore, the need for the use of the former gas storage site has also declined, and both the former gas storage site, and the former gas transfer site have not been used for this, or any other, purpose since 2021. This has resulted in the former gas storage site being fully decommissioned. The jetty is only suitable for use to export liquid products (this is all it was designed and constructed to do), and with the former gas storage site ceasing to be used for this purpose, the former gas transfer site has also been sitting dormant for three years.

Table 3a: Need and justification for order

General justification

1. The volume of condensate extracted from the depleted gas fields has reduced to the extent that large scale storage is no longer required. In turn, this has led to the decommissioning of the former gas storage site, and the former gas storage site and transfer site have been sitting dormant for the past three years, and have not been used for shipping in recent times. Both the former gas storage site and transfer site carry a significant cost for remediation and ABP has determined that neither are required any longer by ABP for its operational purposes, nor will they be required by ABP for its operational purposes in the future. The former gas storage site has therefore now been transferred to BAE Systems, and ceases to be part of the Harbour. The former gas transfer site is currently leased to BAE Systems, the intention is that it will also be transferred to BAE Systems , but for the reasons explained in paragraph 3 cannot be transferred without the statutory authority conferred by the HRO.
2. With there being no foreseeable apparent commercial harbour use, it would be commercially unviable to adapt the former gas transfer site for modern shipping operations. The former gas transfer site, together with the former gas storage site, are however required by BAE Systems for development to meet continuing demand in connection with its nuclear submarine manufacturing business at Barrow. BAE Systems requires any land for development to be within a working connection to the Devonshire Dock, part of BAE Systems' nuclear licenced site, for the continued construction of submarines. As noted above, the former gas storage site has already been transferred to BAE Systems. The former gas transfer site is leased to BAE Systems, and is anticipated to also be sold to BAE Systems, should this HRO be granted. The proposed HRO will not provide permission for any development but simply remove the former gas transfer site from the jurisdiction of ABP. The relevant planning permissions will be sought separately for any future use of the former gas transfer site, should the development be brought forward.
3. Closing the former gas transfer site, in conjunction with transfer of the former gas storage site, is therefore both desirable in the interest of the efficient and economic management of the Port since it removes the obligation to maintain a facility within the Port for which there is no

need, and in the wider public interest in that it will allow more productive use of the former gas transfer site. The HRO would authorise the former gas transfer site to be closed and for it to cease to be part of the Port of Barrow, which would also enable its transfer to BAE Systems for its private use. This is because as noted above, the former gas transfer site was authorised under the Furness Railway Act 1872. That Act incorporates section 33 of the Harbours Docks and Piers Clauses Act 1847, which requires the Harbour to be available for the loading and unloading of goods or embarkation and landing of passengers. Therefore while ABP has general powers under paragraph 13 of Schedule 3 of the Transport Act 1981 to dispose of land not required for the purpose of its business (that would apply to the landward part of the site), that does not override the statutory obligations under section 33 to retain and maintain the land for public use. Unlike the former gas storage site the former gas transfer site directly adjoins, or is within, the water area of the dock and is potentially available for the loading and unloading of goods and the embarkation and landing of passengers and is therefore land to which section 33 applies. Without this HRO, ABP would remain subject to its statutory duties in relation to the former gas transfer site, being the revetment and the jetty. Put another way, so long as the former gas transfer site remains part of the Harbour, it will be subject to section 33, and would have to remain available for public use – and could not therefore be transferred to BAE Systems for its own private use.

4. The HRO also seeks to extinguish the rights of navigation to the jetty or the area of water occupied by the jetty. These rights have not been exercised for over a century and, therefore, this will not cause detriment to any person who has recently enjoyed such rights. Once the jetty ceases to be a statutory harbour work there is no longer any statutory authority for the retention of this work within former tidal waters. To allow its retention it is necessary to provide that public rights of navigation do not apply over the area occupied by the structure of the jetty. At this stage, if the jetty is used in the future by BAE Systems, it would be in order to create its own private quayside access and BAE Systems would seek any relevant permissions for this purpose.
5. In deciding to seek this HRO, ABP has considered both its immediate needs and its needs for the foreseeable future, and determined that the former gas transfer site is no longer needed, nor is it likely to be needed for harbour use by ABP. The former gas transfer site is therefore not required (either in the immediate or foreseeable future) as part of the general facilities available to the public in the Port. Any future use

of the former gas transfer site, will be for BAE's limited private use. The former gas transfer site is currently subject to a lease agreement with BAE Systems, with the intention being that the former gas transfer site will be transferred to it, should this HRO be granted.

6. In conjunction with the sale of the former gas storage site, transferring the former gas transfer site to BAE Systems will further tie-in BAE Systems to the Port for the long-term, and pave the way for new revenue opportunities and increased tonnage (project cargo) through the Port. ABP does not consider that the disposal of the former gas transfer site will raise any safety risks to the use of the rest of the dock, and the former gas transfer site will not continue to be used as a general public facility. The sale of the former gas transfer site will allow its use in conjunction with the former gas storage site, which will enable the efficient use of both sites.

Section 14 of the Harbours Act 1964 (“the 1964 Act”)

7. Section 14 of the 1964 Act confers powers to make an order under that section, known as a harbour revision order. These powers were delegated to the MMO by the Harbours Act 1964 (Delegation of Functions) Order 2010. An order under section 14 may be made 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. The matters in Schedule 2 include, in particular, at paragraph 6:

“Settling (either for all purposes or for limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled.”

8. Section 14(2)(a) of the 1964 Act sets out that a written application must be made by the authority engaging in the improving, maintaining or managing of the relevant harbour, in this case ABP, and section 14(2)(b) states that the MMO must be:

“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 facilitating the efficient and economic transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships”.

9. Section 14(2B) of the 1964 Act provides:

“Nothing in subsection (2)(b) of this section shall prevent the making of an order for facilitating-

- (a) the closing of part of the harbour,*
- (b) a reduction in the facilities available in the harbour, or*
- (c) the disposal of property not required for the purposes of the harbour,*

if the appropriate Minister is satisfied that the making of the order is desirable on grounds other than those specified in that subsection.”

10. This is not an application for a harbour revision order which, directly or indirectly, authorises a “project” (within the meaning of paragraph 1 of Schedule 3 to the 1964 Act). Therefore, prior notification to the MMO under paragraph 3(1)(a) of Schedule 3 to the 1964 Act is not required.

11. This application for a HRO under section 14 of the 1964 Act meets the conditions set out in that section. The closure of the harbour falls within the objects set out in paragraph 6 of Schedule 2 to the 1964 Act in altering the limits of the harbour. Additionally, the application meets the requirements of:

- a. Section 14(1) of the 1964 Act – The application has been made in relation to a harbour (the Port of Barrow) which is being improved, maintained and managed by a harbour authority (ABP) in the exercise of its statutory powers and duties for the purpose of achieving objects falling within Schedule 2 to that Act.

b. Section 14(2) of the 1964 Act –

- i. The application is a written application of a harbour authority engaged in improving, maintaining or managing the harbour (ABP).
- ii. The making of the HRO is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, and to the extent that section 14(2)(b) is not satisfied in any event, section 14(2B) applies in this case since the making of the order is also desirable on grounds other than the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner. These tests are complied with on the basis that the former gas condensate works are no longer used for port operations and there is no real prospect that they will be so used in the future because of the limits of the infrastructure and market realities. The former gas condensate works can be more productively used for BAE Systems' non-port related development which also has the potential to benefit the Port of Barrow through the further tie in of BAE to the Port.

Table 2b: Justification for inclusion of provisions

Article in HRO	Summary of Provision	Requirement for provision
Article 2 (interpretation)	This article contains definitions to be applied through the HRO.	The article is required to assist in the interpretation and understanding of the remainder of the HRO.
Article 3 (Closure of harbour facilities at Ramsden Dock)	Article 3(1) provides ABP with a power to close the former gas condensate works within 6 months of the coming into force of the HRO.	As explained above, the HRO is consistent with section 14(1) of the 1964 Act, as the application has been made in relation to a harbour (the Port of Barrow) which is being improved, maintained and managed by a harbour authority (ABP) in the exercise of its

	<p>Article 3(1) (a) – (b) provide that at the time of closure, the former gas condensate works will cease to form part of the Port of Barrow, and all of ABP’s responsibilities in connection with them under the legislation which authorised them, or under any other enactment, will cease.</p> <p>Article 3(1)(c) extinguishes any public right of navigation in relation to the jetty or the area of water occupied by the jetty.</p> <p>Article 3(2) provides for advanced notice to be given that the former gas condensate works are to be closed.</p>	<p>statutory powers and duties for the purpose of achieving objects falling within Schedule 2 to that Act.</p> <p>Further, under section 14(2)(b) of the 1964 Act, the MMO must be 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. Section 14(2B) also enables the MMO to consider the general public interest in considering a draft HRO.</p> <p>The former gas condensate works are no longer used for port operations, and could be more productively used for non-port-related development. It is therefore considered that the relevant sections of the 1964 Act are satisfied.</p> <p>The HRO will not authorise any development. Separate planning permission will be sought by the relevant party should any development be brought forward.</p>
<p>Article 4 (Application of the 1872 Act)</p>	<p>This article sets out that upon the closure of the former gas condensate works, the Furness Railway Act 1872 (under which powers it is understood the former gas condensate works were constructed) ceases to apply to those works. This is consequential on article 3 which</p>	<p>This article falls within the scope of section 14(3) of the 1964 Act because it relates to the repeal of local legislation which is consequential on the other provisions of the HRO. Alternatively, it also fits within the scope of section 14(2A) as it is repealing local legislation which is unnecessary.</p>

	removes the responsibilities in relation to the former gas condensate works.	
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Table 4: Relevant policies, guidance and plans

Plan, policy or guidance	<i>Demonstration that application is compliant with relevant plan, policy or guidance.</i>
Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)	<p>North West Inshore and North West Offshore Marine Plan</p> <ol style="list-style-type: none"> 1. The relevant marine plan for the Port of Barrow for the purposes of section 51 of the Marine and Coastal Access Act 2009, is the North West Inshore Marine Plan. This was adopted (in a single document alongside the North West Offshore Marine Plan) in June 2021. 2. The HRO is not authorising any development and it is not considered that it directly engages the Marine Policy Statement or any of the policies in the North West Inshore Marine Plan. However, by releasing the former gas transfer site which are no longer required for operational port use, the effect of the HRO would be to facilitate Objectives 1 and 2 of the North West Inshore Marine Plan – by supporting and promoting safe, profitable and efficient marine businesses, and using the port to maximise sustainable activities, prosperity, and opportunities for all, now and into the future.
Insert other relevant plans/policy/guidance in this section	The Port Marine Safety Code

1. As the harbour authority for the Port of Barrow, the Port Marine Safety Code (“the Code”) published in November 2016 by the Department for Transport applies to ABP as well as to all statutory harbour authorities and other marine facilities, berths and terminals in the UK.

2. The Executive Summary to the Code explains that:

“The Code has been developed to improve safety in the port marine environment and to enable organisations to manage their marine operations to nationally agreed standards. It provides a measure by which organisations can be accountable for discharging their statutory powers and duties to run harbours or facilities safely and effectively. It also provides a standard against which the policies, procedures and performance of organisations can be measured. The Code describes the role of board members, officers and key personnel in relation to safety of navigation and summarises the main statutory duties and powers of harbour authorities. The Code is designed to reduce the risk of incidents occurring within the port marine environment and to clarify the responsibilities of organisations within its scope.”

3. The Code requires harbour authorities to keep their powers and jurisdiction under review and take account of the various mechanisms such as harbour orders which are available to amend statutory powers in an authority’s jurisdiction. In accordance with this requirement, ABP has reviewed its powers at the Port of Barrow and concluded that it is unnecessary to continue to maintain the former gas condensate works for port use.

	<p>4. ABP has considered and determined that disposal of the land will not affect its abilities to manage the dock in a safe manner in accordance with the Code.</p>
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Table 5: Any other relevant information

[Details of pre-application engagement to be included]

Conclusion

For the reasons set out in this Statement in Support, it is considered that the closure of the former gas transfer site, and the consequential and supplementary provisions of the HRO are desirable in the interests of securing the management of the harbour in an efficient and economical manner and both satisfy the requirements of Section 14(2)(b) and/or the requirements of section 14(2B) of the 1964 Act and are desirable in the general public interest.

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