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## STATUTORY INSTRUMENTS

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# 2020 No. 474

## The Lake Lothing (Lowestoft) Third Crossing Order 2020

### PART 1

#### PRELIMINARY

##### Citation and commencement

1. This Order may be cited as the Lake Lothing (Lowestoft) Third Crossing Order 2020 and comes into force on 21st May 2020.

##### Commencement Information

II Art. 1 in force at 21.5.2020, see [art. 1](#)

##### Interpretation

2.—(1) In this Order, unless otherwise stated—

“the 1961 Act” means the Land Compensation Act 1961 <sup>F1</sup>;

“the 1965 Act” means the Compulsory Purchase Act 1965 <sup>F2</sup>;

“the 1980 Act” means the Highways Act 1980 <sup>F3</sup>;

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981 <sup>F4</sup>;

“the 1984 Act” means the Road Traffic Regulation Act 1984 <sup>F5</sup>;

“the 1990 Act” means the Town and Country Planning Act 1990 <sup>F6</sup>;

“the 1991 Act” means the New Roads and Street Works Act 1991 <sup>F7</sup>;

“the 2004 Act” means the Traffic Management Act 2004 <sup>F8</sup>;

“the 2008 Act” means the Planning Act 2008 <sup>F9</sup>;

“the 2009 Act” means the Marine and Coastal Access Act 2009 <sup>F10</sup>;

“AB Ports” means Associated British Ports, (company number ZC000195), whose registered office address is 25 Bedford Street, London WC2E 9ES;

“address” includes any number or address for the purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“appointed person” means—

(a) a person acting in the course of that person's duties who—

(i) is an employee, agent, contractor or sub-contractor of the undertaker; or

(ii) is authorised by the undertaker to exercise one or more of its functions under this Order; or

- (b) a constable, Police Community Support Officer, an officer of the Driver and Vehicle Standards Agency, an officer of the Health and Safety Executive, person authorised for the purposes of section 44 (powers of fire-fighters etc in an emergency etc) of the Fire and Rescue Services Act 2004 <sup>F11</sup> or a person accredited by or under section 41 (accreditation under community safety accreditation schemes) of the Police Reform Act 2002 <sup>F12</sup>, acting in the execution of that person's duties within the new bridge area;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development within the meaning of section 32 of the 2008 Act that is authorised by this Order;

“book of reference” means the document of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“business day” means a day other than a Saturday or Sunday, Good Friday, Christmas Day or a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act <sup>F13</sup>;

“Cadent” means Cadent Gas Limited (company number 10080864), whose registered office is at Ashbrook Court, Prologis Park, Central Boulevard, Coventry, CV7 8PE, or any successor in title or assign including a successor to their licence as a gas transporter within the meaning of Part 1 of the Gas Act 1986 <sup>F14</sup>;

“capital dredge” means a dredge which comprises the excavation of the seabed, in an area or down to a level (relative to ordnance datum) not previously dredged during the preceding 10 years;

“carriageway” has the same meaning as in the 1980 Act;

“classification of roads plan” means the plans of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the classification of roads plan for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4) <sup>F15</sup> (time when development begun) of the 1990 Act) forming part of the authorised development other than operations consisting of environmental surveys and monitoring, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions; receipt and erection of construction plant and equipment, erection of any temporary means of enclosure, the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“construct” includes carrying out, placing, altering, replacing, relaying and removal and “construction” is to be construed accordingly;

“cycleway” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way: a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988 <sup>F16</sup>) with a right of way on foot and a right of way on horseback or leading a horse;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but in an electronic form;

“engineering section drawings and plans” means the documents of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the engineering section drawings and plans for the purposes of this Order;

“environmental statement” means the documents of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the environmental statement for the purposes of this Order;

“flood risk activity” has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2016 <sup>F17</sup>;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“general arrangement plans” means the plans of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

“harbour authority” means AB Ports in its role as the owner and operator of, and the statutory harbour authority for, Lowestoft Harbour as established by section 8 of, and paragraph 2 of Schedule 3 (powers of Associated British Ports) to the Transport Act 1981 <sup>F18</sup>;

“harbour limits plan” means the plan of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the harbour limits plan for the purposes of this Order;

“harbour master” means the harbour master appointed by the harbour authority and includes that person's authorised deputies and assistants;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“interim design guidance manual” means the document of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the interim design guidance manual for the purposes of this Order and which sets out the principles for the detailed design of the authorised development;

“Lake Lothing” means the navigable saltwater lake within the town of Lowestoft in the area of East Suffolk Council between the North Sea and Oulton Broad, as identified by reference points 652111E, 292801N, 655207E, 292615;

“land plans” means the plans of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the land plans for the purposes of this Order;

“level of high water” means the level of mean high water springs;

“limits of deviation” means the limits of deviation referred to in article 5 (limits of deviation);

“limits of dredging” means the lines marked “limits of dredging” on the limits of dredging plan;

“limits of dredging plan” means the plan of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the limits of dredging plan for the purposes of this Order;

“local highway authority” means Suffolk County Council in its role as highway authority for the county of Suffolk pursuant to the 1980 Act;

“local planning authority” means East Suffolk Council, or any successor to it as planning authority;

“Lowestoft Harbour” means the harbour over which the harbour authority has jurisdiction as is delineated on the harbour limits plan together with any quays, docks or other land held in connection with that harbour;

“maintain” includes inspect, repair, adjust, alter, remove, replace, or reconstruct in relation to the authorised development and any derivative of “maintain” is to be construed accordingly;

“maintenance dredge” means any activity which comprises the removal of recently-accumulated sediments such as mud, sand and gravel in order to keep channels, berths and other areas at their designed depths and which takes place in circumstances where—

- (a) the level of the seabed to be restored by the dredging is not lower than it has been at any time during the past 10 years; and
- (b) there is evidence that dredging has previously been undertaken to that level (or lower) during that period;

“MMO” means the Marine Management Organisation;

“mooring” means any buoy, pile, post, chain, pillar, pontoon, fixed rail or like apparatus or convenience provided or used for the mooring of vessels;

“new bridge” means Work Nos. 1B, 1C, 1D and 1E (including without limitation the piers, bridge deck, carriageway and parapets);

“new bridge area” means the new bridge, the new bridge approaches, the new bridge control building area and the new bridge infrastructure, as shown on the new bridge area plans;

“new bridge approaches” means the northern and southern approaches to the new bridge (respectively “the new bridge northern approach” and “the new bridge southern approach”), the centrelines of which are shown on the new bridge area plans;

“new bridge area plans” means the plans of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the new bridge area plans for the purposes of this Order;

“new bridge control building area” means the area outlined in green on Sheet 2 of the new bridge area plans;

“new bridge infrastructure” means the infrastructure elements supporting the new bridge including (without limitation) the cables, drainage, electricity and water supplies, and fenders relating to the new bridge, as well as any plant and machinery and any emergency, safety or communications equipment required for the construction, maintenance or operation of the new bridge;

“Order land” means the land shown coloured pink and the land shown coloured blue on the land plans and which is described in the book of reference;

“Order limits” means the limits of land to be acquired permanently or used temporarily as shown on the land plans, and the limits of land within which the authorised development, as shown on the works plans, may be carried out;

“owner” in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981<sup>F19</sup>;

“preliminary navigation risk assessment” means the document of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the preliminary navigation risk assessment for the purposes of this Order and which sets out the measures to be undertaken to ensure that risks to navigation from the construction and operation of the new bridge are as low as reasonably practicable;

“PMSC Stakeholder Group” means the group comprising the group maintained and consulted by the harbour authority in accordance with its duties under the Port Marine Safety Code, and the undertaker;

“rights of way and access plans” means the plans of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the rights of way and access plans for the purposes of this Order;

“Scheme of Operation” means the document of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the scheme of operation for the purposes of this Order, or any variation to or replacement of that scheme approved by the harbour authority or the undertaker under article 41(2), or by the Secretary of State under article 41(5), as the case may be;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers' land) of the 2008 Act;

“statutory utility” means—

- (a) a statutory undertaker; or
- (b) a public communications provider as defined in section 151(1) (interpretation) of the Communications Act 2003 <sup>F20</sup>;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“tidal work” means so much of any work authorised by this Order as is in, under or over tidal waters or tidal lands below the level of high water;

“traffic authority” has the same meaning as in section 121A <sup>F21</sup> (traffic authorities) of the 1984 Act;

“traffic regulation measures plans” means the plans of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the traffic regulation measures plans for the purposes of this Order;

“tree preservation order trees location plan” means the plan of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the tree preservation order trees location plan for the purposes of this Order;

“tribunal” means the Lands Chamber of the Upper Tribunal;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means Suffolk County Council of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX;

“vessel” means every description of vessel with or without means of propulsion of any kind and includes anything constructed or used to carry persons, goods, plant or machinery, or to be propelled or moved, on or by water, a seaplane on or in the water and a hovercraft within the meaning of the Hovercraft Act 1968 <sup>F22</sup>;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“works plans” means the plans of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the works plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the enjoyment of interests or rights and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the plan to which the reference applies.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

- F1** 1961 c. 33.
- F2** 1965 c. 56.
- F3** 1980 c. 66.
- F4** 1981 c. 66.
- F5** 1984 c. 27.
- F6** 1990 c. 8.
- F7** 1991 c. 22.
- F8** 2004 c. 18.
- F9** 2008 c. 29.
- F10** 2009 c. 23.
- F11** 2004 c. 21. Section 44 was amended by section 6 of the [Emergency Workers \(Obstruction\) Act 2006](#) (c. 39).
- F12** 2002 c. 30. Section 41 was amended by section 52, and paragraph 42 of Schedule 14 to, the Police and Justice Act 2006 (c. 48).
- F13** 1971 c. 80.
- F14** 1986 c. 44.
- F15** [Section 56\(4\)](#) was amended by paragraph 10(2) of Schedule 7 to the [Planning and Compensation Act 1991](#) (c. 34). There are other amendments to section 56 which are not relevant to this Order.
- F16** 1988 c. 52.
- F17** [S.I. 2016/1154](#), as amended by [S.I. 2017/1012](#), [S.I. 2017/1075](#), [S.I. 2018/110](#), [S.I. 2018/428](#), [S.I. 2018/575](#), [S.I. 2018/1227](#) and [S.I. 2019/39](#).
- F18** 1981 c. 56.
- F19** 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the [Planning and Compensation Act 1991](#) (c. 34). There are other amendments to section 7 which are not relevant to this Order.
- F20** 2003 c. 21.
- F21** [Section 121A](#) was inserted by section 168(1) of, and paragraph 70 of Part 2 to Schedule 8 to, the 1991 Act (c. 22).
- F22** 1968 c. 59.

#### Commencement Information

- I2** Art. 2 in force at 21.5.2020, see [art. 1](#)

#### Disapplication of legislation, etc.

**3.—**(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purposes of, or in connection with, the construction of the authorised development and, within any maintenance period defined in article 34(12), any maintenance of any part of the authorised development—

- (a) byelaw 25 of the Lowestoft Harbour Byelaws 1993 <sup>F23</sup>;
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the appropriate agency) to the Water Resources Act 1991 <sup>F24</sup>;
- (c) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991 <sup>F25</sup>;
- (d) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk activity only; and
- (e) the provisions of the Neighbourhood Planning Act 2017 <sup>F26</sup> insofar as they relate to temporary possession of land under articles 33 (temporary use of land for carrying out

the authorised development) and 34 (temporary use of land for maintaining the authorised development) of this Order.

(2) Despite the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010 <sup>F27</sup> any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

(3) As from the date on which the authorised development is commenced any conditions of a planning permission granted under section 57 <sup>F28</sup> (requirement of planning permission) of the 1990 Act which relate to land within the Order limits or land adjacent to the Order limits cease to have effect to the extent they are inconsistent with the authorised development or with anything done or approved under the requirements in Schedule 2 (requirements).

- F23** Byelaws for the Port of Lowestoft made by the harbour authority under section 83 of the [Harbours, Docks and Piers Clauses Act 1847 \(1847 c. 27\)](#) (incorporated by section 51 of the [British Transport Docks Act 1964 \(1964 c.38\)](#)) and by section 52 of the [British Transport Docks Act 1964](#).
- F24** [1991 c. 57](#). Paragraph 5 was amended by section 100(1) and (2) of the [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [section 84](#) of, and paragraph 3 of Schedule 11 to, the 2009 Act (c. 23), paragraphs 40 and 49 of Schedule 25 to the [Flood and Water Management Act 2010 \(c. 29\)](#) and [S.I. 2013/755](#). Paragraph 6 was amended by paragraph 26 of Schedule 15 to the [Environment Act 1995 \(c. 25\)](#), [section 224](#) of, and paragraphs 20 and 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the 2009 Act and [S.I. 2013/755](#). Paragraph 6A was inserted by section 103(3) of the [Environment Act 1995](#).
- F25** [1991 c. 59](#). Section 23 was amended by paragraph 192(2) of Schedule 22 to the [Environment Act 1995](#), paragraphs 25 and 32 to the [Flood and Water Management Act 2010](#) and [S.I. 2013/755](#).
- F26** [2017 c. 20](#).
- F27** [S.I. 2010/948](#).
- F28** [Section 57](#) was amended by paragraphs 34 and 35 of Schedule 2 to the 2008 Act, paragraphs 1 and 3 of Schedule 2 to the [Localism Act 2011 \(c. 20\)](#) and paragraphs 2 and 4 of Part 2 of Schedule 4 to the [Infrastructure Act 2015 \(c. 7\)](#).

#### Commencement Information

- I3** Art. 3 in force at 21.5.2020, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Lake Lothing (Lowestoft) Third Crossing Order 2020, PART 1.