

BY E-MAIL ONLY

Secretary of State for Transport  
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5 November 2020

Dear Madam

**THE GREAT YARMOUTH THIRD RIVER CROSSING DEVELOPMENT CONSENT ORDER 2020 - PRINTING ERRORS AND CORRECTIONS REQUEST**

We write further to this development consent order ("**the GYTRC Order**") which was made by the Secretary of State for Transport on 24 September 2020, further to Norfolk County Council's application for development consent made under section 31 of the Planning Act 2008 ("**the 2008 Act**").

We have carefully reviewed the version of the GYTRC Order published on the Planning Inspectorate's website and have noted that it appears to contain a number of typographical anomalies, all but one of which appear, from [www.legislation.gov.uk](http://www.legislation.gov.uk), to have been resolved in the published version of the GYTRC Order. **Annex A (Printing Errors)** to this letter sets out in brief those anomalies, which we should be grateful if you would review and resolve, insofar as they continue to appear on the Planning Inspectorate's website.

We have also had regard to the final form of the Lake Lothing (Lowestoft) Third River Crossing Order 2020 (as amended by the drafting corrections made to certain of its marine provisions by the Lake Lothing (Lowestoft) Third Crossing (Correction) Order 2020) ("**the LLTC Order**"). Given the similarities of those marine provisions between the LLTC Order and the GYTRC Order, we have considered the implications of the LLTC Order for the GYTRC Order.

In summary, the points relating to the marine provisions concern:

- 1) the arrangements for publishing the Scheme of Operation; and
- 2) the timing and notification of the coming into force of amendments made by the GYTRC Order to the existing Port Byelaws.

The detail of these points is set out in the table comprising **Annex B (Corrections Request)** to this letter. Annex B also explains why each proposed correction is requested.

The corrections set out in Annex B have been discussed with the Great Yarmouth Port Authority / Great Yarmouth Port Company ("**GYPA/C**") in its capacity as the statutory harbour authority

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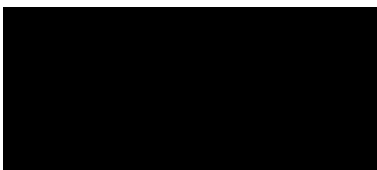
and we will update you regarding GYPA/C's position on the proposed corrections as soon as we can.

**Annex C** to this letter contains a mark-up of articles 43 and 51 of the GYTRC Order so as to include the corrections set out in **Annex B** and associated cross-referencing amendments.

Norfolk County Council therefore applies to, and invites the Secretary of State, pursuant to section 119 of, and Schedule 4 to the 2008 Act, to make the corrections referred to in this letter, as more particularly set out in Annexes A, B and C.

If it would be helpful to discuss any of the issues raised in this letter, please do not hesitate to contact Heidi Slater ([REDACTED]@pinsentmasons.com / 0121 626 5770) or Robbie Owen ([REDACTED]@pinsentmasons.com / 0207 490 6420).

Yours faithfully



**Pinsent Masons LLP**



## Annex A

### Printing Errors

<b>Reference</b>	<b>Issue</b>	<b>Comment</b>
Cover page	SI number is listed as "2020 No. 0000"	We understand from <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a> that the Order is SI 2020/1075.
Contents	The contents list appears to stop at article 34, although the heading of article 35 is listed in an inconsistently formatted line without reference to its page or article number. Reference to articles 35 to 67, and to Schedules 1 to 15, has been omitted from the Contents list.	It is noted that the electronic version of the Order published on <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a> has functioning hyperlinks and that the "whole order" .pdf downloadable from that website does not normally include the contents page.
Schedule 1	The lettered list in Work No. 4 continues from the lettered list in Work No. 2 (i.e. the list in Work No. 4 starts at "(h)" rather than "(a)"), and thereafter, each lettered list continues from the lettered list preceding it (see Work Nos. 5, 6, 7, 8, 9, 10, 13 and the list of ancillary or related development in the final paragraph).	It appears from <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a> that the error has been resolved in the published Order.



## **Annex B**

### **Corrections Request**

<b>Reference</b>	<b>Proposed correction</b>	<b>Comment</b>
Proposed new paragraph (9) of article 43 (Operation of new bridge)	The correction would require GYPA, as Harbour Authority, to " <u><i>give a general direction imposing on the masters of vessels those requirements of the Scheme of Operation which relate to the masters of vessels, not less than 21 days prior to the new bridge opening for public use or, in relation to any variation to or replacement of the Scheme of Operation under paragraph (5), with such prior notice as GYPA considers appropriate in consultation with the undertaker, or in the event that prior notice cannot be given, as soon as practicable following any variation or replacement.</i></u> "	<p>The GYTRC Order requires the Scheme of Operation to be published on Norfolk County Council's website.</p> <p>A correction is proposed to clarify arrangements for ensuring that the Scheme of Operation (including any varied or replacement Scheme of Operation) is brought, with appropriate notice (of not less than 21 days), to the attention of the masters of vessels who may be affected by the Scheme of Operation. The proposed method, which involves the issuing of a general direction by the Harbour Authority, is considered necessary to ensure that the relevant persons are properly made aware of the Scheme of Operation.</p> <p>Similar drafting was included in the LLTC Order.</p>
Proposed new paragraph (10) of article 43 (Operation of new bridge)	Definition of " <u><i>general direction</i></u> " added, to link with the proposed new paragraph (9) (as referenced above).	The proposed drafting (including relevant and appropriate legislative references) has been discussed with GYPA/C.



<p>Paragraph (5) of article 51 (Byelaws)</p>	<p>The amendments made by the GYTRC Order to the existing Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997 (to accommodate the new bridge) came into force as soon as the GYTRC Order came into force.</p> <p>The following correction would rectify this anomaly, making provision for the changes to come into force in due course: "<u><i>On a date appointed by the undertaker, which must follow—</i></u></p> <p><u><i>(a) the undertaker having first sought GYPA's written consent to the proposed date not less than 25 days before the date intended to be appointed; and</i></u></p> <p><u><i>(b) GYPA having consented in writing to the date intended to be appointed (such consent not to be unreasonably withheld) not less than 28 days before that date.</i></u>"</p>	<p>This correction is proposed to ensure that amendments to the existing Byelaws would have effect from a date which accurately reflects the risks to navigation arising from the new bridge, once constructed, rather than earlier. The proposed correction would allow such date to be agreed between Norfolk County Council and GYPA/C.</p> <p>Similar drafting was included in the LLTC Order.</p>
<p>Proposed new paragraph (6) of article 51 (Byelaws)</p>	<p>A provision is proposed to be added, requiring GYPA to "<u><i>issue a notice to mariners setting out the changes to the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997 contained in paragraph (5), and the date on which those changes will have effect, not less than 21 days before the date appointed by the undertaker under paragraph (5).</i></u>"</p>	<p>This drafting is consequential on the proposed correction referred to above and is required to ensure that the changes made by the GYTRC Order to the existing Byelaws are brought to the attention of the masters of vessels (who may be affected by those changes) at an appropriate time and in an appropriate manner.</p>
<p>Cross-referencing within articles 43 and 51</p>	<p>Cross-referencing would need to be amended as necessary to accommodate the corrections referred to above.</p>	<p>The mark-up of articles 43 and 51 included at Annex C to this letter includes associated cross-referencing amendments.</p>
<p>Paragraph 37(1) of Schedule 14</p>	<p>The second line refers to "<i>losses not otherwise provided <b>doe</b> in this Part of this Schedule...</i>"</p>	<p>We believe "for" should be substituted for "<b>doe</b>".</p>



## Annex C

### Proposed corrections to article 43 (Operation of the new bridge) of the GYTRC Order

**the proposed corrections are shown in tracked changes**  
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#### **Operation of new bridge**

**43.**—(1) The undertaker is authorised to operate the new bridge, subject to the following provisions of this article.

(2) The undertaker must operate the new bridge in accordance with a scheme of operation prepared by the undertaker.

(3) The GYPA, and the master, owner, agent, pilot or operator of any vessel must comply with the provisions of the scheme of operation.

(4) The provisions of the scheme of operation must initially consist of the provisions set out in Schedule 10 (scheme of operation).

(5) At any time after the new bridge opens to public use, the undertaker may, with the agreement of GYPA which must not be unreasonably withheld or delayed, amend the terms of the scheme of operation.

(6) Any amendment of the scheme of operation under paragraph (5) must conform to the following principles—

- (a) the new bridge will be opened as and when required to allow the passage of any vessel except a recreational vessel;
- (b) reasonable measures are to be taken by the GYPA, the undertaker and users of the river Yare to ensure that passages of vessels past the new bridge are co-ordinated and conducted efficiently;
- (c) except when sub-paragraph (f) applies, a recreational opening will be made upon such notice and at such times as the undertaker reasonably determines;
- (d) in determining times under sub-paragraph (c) the undertaker may exclude peak hours;
- (e) recreational vessels are either to use the vessel waiting facilities or depart the port when waiting for the next recreational opening;
- (f) the new bridge will be opened on request when the vessel waiting facilities are full and another recreational vessel requests passage;
- (g) the new bridge will be opened prior to a large vessel entering Great Yarmouth Port if—
  - (i) the harbour master considers that in the event the new bridge does not open to allow the large vessel to transit it, no safe alternative manoeuvre would be practicable; and
  - (ii) GYPA is unable to arrange a suitable emergency berth before the large vessel enters Great Yarmouth Port;
- (h) when a large vessel transits the new bridge, any recreational vessel using the vessel waiting facilities will transit the new bridge before the large vessel, subject to any direction from the harbour master to the contrary given for safety or navigation purposes;
- (i) where a specified event occurs and as a result—
  - (i) the new bridge cannot be opened; or



- (ii) opening the new bridge would be likely to cause danger to—
  - (aa) any person or property, including the new bridge, any vessel and any person using, working on or intending to use or work on the new bridge or aboard any vessel; or
  - (bb) the environment,

the undertaker is not to be obliged to open the new bridge at the scheduled time but instead at such later time as is reasonable in the circumstances; and

- (j) no amendment of the scheme of operation is to result in any effects on the environment which are materially new or materially different from those assessed in the environmental statement.

(7) Paragraphs (2) and (3) apply to the scheme of operation as amended under paragraph (5) as they do to the scheme as initially prepared in compliance with paragraph (4).

(8) The undertaker must publish the initial scheme of operation and any amendments to it on a website maintained by the undertaker.

(9) GYPA must give a general direction imposing on the masters of vessels those requirements of the Scheme of Operation which relate to the masters of vessels, not less than 21 days prior to the new bridge opening for public use or, in relation to any variation to or replacement of the Scheme of Operation under paragraph (5), with such prior notice as GYPA considers appropriate in consultation with the undertaker, or in the event that prior notice cannot be given, as soon as practicable following any variation or replacement.

~~(9)~~(10) In this article—

(a) “general direction” means a general direction given by GYPA under section 15 of the Great Yarmouth Port Authority Act 1990 (1990 c. xxvii);

~~(a)~~(b) “large vessel” means any vessel to which a pilotage direction for Great Yarmouth Port made under section 7 (pilotage directions) of the Pilotage Act 1987 applies;

~~(b)~~(c) “peak hours” means the periods on any day between—

- (i) 08:00 to 09:00; and
- (i) 16:30 and 17:30;

~~(c)~~(d) “recreational opening” means the opening of the new bridge to allow the passage of a recreational vessel;

~~(d)~~(e) “recreational vessel” means any vessel being used solely for leisure purposes at the time the vessel transits through Great Yarmouth Port and includes any commercially operated hire vessel used or rented for leisure use;

~~(e)~~(f) “the scheduled time” means any time at which the new bridge would be due to open in accordance with the principles in paragraph 6(a) to (d); and

~~(f)~~(g) “specified event” means—

- (i) an emergency;
- (ii) adverse weather conditions;
- (iii) a vessel colliding with the new bridge;
- (iv) a power failure, hydraulic failure or mechanical failure; or
- (v) any other circumstance beyond the reasonable control of the undertaker.

(10) In this article and in article 45 (closing the highway comprised in the new bridge and new bridge approaches) “emergency” means any circumstance existing or imminent which the undertaker considers is likely to cause danger to—

- (a) any person or property, including the new bridge, any vessel and any person using, working on, or intending to use or work on, the new bridge or aboard any vessel passing the new bridge; or
- (b) the environment.



**Proposed corrections to article 51 (Byelaws)**  
**of the GYTRC Order**

**the proposed corrections are shown in tracked changes**

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**Byelaws**

**51.**—(1) The undertaker may make, amend, revoke and enforce byelaws regulating the use and operation of the new bridge, the maintenance of order and the conduct of persons in the new bridge area, the mooring of vessels to the new bridge and vessel waiting facilities, and the passage of vessels past the new bridge.

(2) Without limiting the scope of paragraph (1), byelaws under this article may make provision—

- (a) preventing interference with, or obstruction of, the operation of the new bridge, the new bridge control tower, the new bridge plant room, the vessel waiting facilities or other facilities, machinery, apparatus, tools or other things provided in connection with the operation of the new bridge;
- (b) preventing interference with, or obstruction of, the new bridge infrastructure;
- (c) preventing trespass in the new bridge area;
- (d) preventing nuisances in the new bridge area;
- (e) requiring any person in charge of a motor vehicle which is at rest by reason of breakdown or accident in a prescribed place on the new bridge or the new bridge approaches to take prescribed steps for reporting that fact and the position and circumstances in which the vehicle is at rest;
- (f) prohibiting any person, other than an authorised person—
  - (i) from carrying out, or attempting to carry out a repair, adjustment or refuelling of such a vehicle to which sub-paragraph (e) applies except with permission expressly given by an authorised person; and
  - (ii) from moving, or attempting to move, such a vehicle from the position in which it is at rest unless so directed by an authorised person;
- (g) prohibiting a person from obstructing any action taken by an authorised person under the powers conferred by articles 46 (removal of vehicles) and 47 (removal of falling loads and objects);
- (h) ensuring the safety of vehicles passing over the new bridge; and
- (i) placing controls on the mooring and passage of vessels.

(3) The undertaker must obtain the agreement of the GYPA, such agreement not to be unreasonably withheld, before making byelaws under paragraph (1) the purpose of which is to control the navigation or mooring of vessels.

(4) The byelaws contained in Schedule 11 (the Great Yarmouth Third River Crossing Byelaws 2020—

- (a) are to be treated for all purposes as byelaws made by the undertaker under paragraph (1) save that, for the purposes of paragraph (7) and the provisions of the Local Government Act 1972(a<sup>1</sup>), mentioned in that paragraph, they are to be treated as having been confirmed by the Secretary of State on the date this Order comes into force;
- (b) take effect upon commencement of construction of the new bridge; and
- (c) continue to have effect until such time as they are amended or revoked by further byelaws made under paragraph (1).

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(<sup>1</sup>) 1972 c. 70





(5) ~~From the date that this Order comes into force~~ On a date appointed by the undertaker, which must follow—

(a) the undertaker having first sought GYPA's written consent to the proposed date not less than 35 days before the date intended to be appointed; and

(b) GYPA having consented in writing to the date intended to be appointed (such consent not to be unreasonably withheld) not less than 28 days before that date.

the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997<sup>(b<sup>2</sup>)</sup> are amended as follows—

(a) in Byelaw 3 (interpretation) insert the following definitions in the appropriate places alphabetically—

““the new bridge” means the bridge comprised in Work No. 8B together with the vessel impact protection systems and supporting works comprised in Work Nos. 6A and 6B, as set out in Schedule 1 (authorised development) to the Order”;

““the new bridge control tower” means Work No. 7A as set out in Schedule 1 to the Order”;

““the new bridge infrastructure” means the vessel waiting facilities together with all infrastructure which is required for or facilitates the construction, maintenance inspection or operation of the new bridge including (without limitation) cables, pipes and other apparatus relating to the provision of drainage, electricity, water, and other services, fenders and other protective or ancillary works relating to the new bridge, tools and any emergency, safety or communications apparatus”;

““new bridge undertaker” means Norfolk County Council or a person to whom the benefit of the relevant provisions of the Order has been transferred under article 8 (consent to transfer benefit of the Order) of the Order”;

““the Order” means the Great Yarmouth Third River Crossing Development Consent Order 2020”;

““the vessel waiting facilities” means the vessel waiting facilities comprised in Work No. 6A as set out in Schedule 1 to the Order”;

(b) after Part V (Haven Bridge) insert—

## “PART VA

### NEW BRIDGE CONTROLS ON VESSELS

#### **Mooring of vessels**

**44A.** A master of a vessel must not moor the vessel to any part of the new bridge or the new bridge infrastructure without the prior consent of the harbour master and the new bridge undertaker.

#### **Observation of signals and communications**

**44B.** A master of a vessel must observe and comply with all river traffic control signal lights exhibited from the new bridge and follow any instructions issued by the harbour master.

**44C.** A master of a vessel approaching or departing the new bridge must make every reasonable effort to maintain continuous contact with the harbour master.

**44D.** A master of a vessel awaiting passage under the new bridge must—

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<sup>(2)</sup> Made by the Great Yarmouth Port Authority in exercise of powers conferred by section 83 of the Harbours, Docks and Pier Clauses Act 1847 and other enabling powers.



- (a) give transiting vessels sufficient room to manoeuvre; and
- (b) ensure that that the vessel does not advance beyond the outer edge of the vessel impact protection systems comprised in the new bridge until allowed to proceed by the harbour master.

### **Passage of vessels under the new bridge**

**44E.** A master of a vessel must not direct the vessel to pass under the new bridge without prior consent from the harbour master.

**44F.**—(1) A master of a vessel must ensure that the vessel does not exceed a speed over the ground of seven knots when approaching and passing under the new bridge.

(2) This byelaw does not apply to any vessel when it is being used for a rescue operation, fire-fighting or for police or port operations.

### **Collision with the new bridge**

**44G.** A master of a vessel which has been involved in a collision with the new bridge or any element of the new bridge infrastructure must, as soon as reasonably practicable, report the occurrence to the new bridge undertaker and the harbour master and as soon as reasonably practicable thereafter provide the new bridge undertaker and the harbour master with details of the collision in writing.”.

[\(6\) GYPA must issue a notice to mariners setting out the changes to the Great Yarmouth Port Authority Navigation \(Haven\) Byelaws 1997 contained in paragraph \(5\), and the date on which those changes will have effect, not less than 21 days before the date appointed by the undertaker under paragraph \(5\).](#)

~~(6)~~(7) The GYPA must not—

- (a) amend or revoke the byelaws inserted into the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997 by paragraph (5); or
- (b) make byelaws which affect the new bridge, the new bridge infrastructure, or the passage of vessels within the limits of dredging,

without first obtaining the consent of the undertaker, such consent not to be unreasonably withheld.

~~(7)~~(8) Subject to paragraph ~~(8)~~(9), the provisions of subsections 236(3) to (8) and (11) (procedure etc., for byelaws) and section 238 (evidence of byelaws) of the Local Government Act 1972(<sup>a</sup>) apply in relation to byelaws made by the undertaker under paragraph (1) and for that purpose references in those provisions of the Local Government Act 1972 to “the authority” are to be read as references to the undertaker.

~~(8)~~(9) Subject to paragraph (3), the undertaker may make, amend and revoke byelaws under paragraph (1) in accordance with the procedure in the Byelaws (Alternative Procedure) (England) Regulations 2016(<sup>b</sup>) as if those regulations applied to the making and revoking of byelaws under this article (and accordingly section 236 of the Local Government Act 1972 did not apply).

(10) Byelaws made under this article are enforceable as follows—

- (a) in the case of byelaws made under paragraph (1), by an authorised person; or
- (b) in the case of vessel byelaws, by an authorised person or the GYPA.

~~(9)~~(11) A person who contravenes a byelaw made under paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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<sup>(3)</sup> 1972 c. 70. There are amendments to subsections 236(3) to (8) and (11) and section 238 but none are relevant to this Order.

<sup>(4)</sup> S.I. 2016/165



~~(10)~~(12) Where damage to the new bridge or new bridge infrastructure is attributable to a person in charge of a vessel being in breach of a byelaw made under paragraph (1) or a vessel byelaw, the undertaker may recover from that person all expenses reasonably incurred in repairing the damage as a debt.

~~(11)~~(13) The undertaker must provide to the harbour master all information reasonably requested by the harbour master where the harbour master reasonably suspects that a breach of the byelaws made under paragraph (1) or the vessel byelaws has been committed by a person in charge of a vessel.

~~(12)~~(14) The undertaker must comply with a request made by the harbour master under paragraph (12) within 10 days of the date the request was made.

~~(13)~~(15) In this article “breakdown” in relation to a motor vehicle, includes mechanical defect, lack of fuel, oil, water or power required for the vehicle, and any other circumstances in which a person in charge of the vehicle could not immediately, safely and without damage to the vehicle or its accessories, drive it under its own power away from the new bridge.

~~(14)~~(16) In this article and in article 52 (fixed penalty notices) “vessel byelaws” means—

- (a) the byelaws inserted into the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997 by paragraph (5), as from time to time amended or revoked by the GYPA in accordance with paragraph ~~(6)~~ (7); and
- (b) the byelaws made by the GYPA in accordance with paragraph ~~(6)~~ (7) which affect the new bridge, the new bridge infrastructure, or the passage of vessels within the areas shown hatched yellow and blue on the limits of dredging plan.