



Department for
**Regional
Development**

www.drdni.gov.uk

To All Consultees

Transport Policy, Strategy & Legislation Division
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Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

Telephone: (028) 9054 0673
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Email: Garry.McKenna@drdni.gov.uk

Your reference:
Our reference: PPT1/23/08 Vol. 2
Date 2 September 2014

Dear Consultee

PROPOSAL FOR THE DONAGHADEE (TRANSFER OF HARBOUR UNDERTAKING) ORDER (NORTHERN IRELAND) - A CONSULTATION PAPER

The Department for Regional Development proposes to introduce legislation to transfer the ownership and responsibility for Donaghadee Harbour to North Down and Ards District Council.

Enclosed for your information, in respect of the proposal are the following:

- A note setting out the background to the proposal;
- A copy of the proposed Donaghadee Harbour (Transfer of Harbour Undertaking) Order;
- The list of consultees.

The Department would welcome any comments you may care to make on the proposed legislation, with particular regard to the potential impact it may have on equality of opportunity, human rights issues, rural impact and implementation costs. If you consider that this consultation should be copied to other interested parties, with whom we have not consulted, please contact me as soon as possible and I will ensure their inclusion.

The Department tries to make its consultation procedure as thorough and open as possible. Following the end of the consultation we may publish details of the responses received. Information you provide in your response, including **personal information**, may be published or disclosed in accordance with access to information legislation: these are chiefly the Freedom of Information Act 2000 (FOIA); the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it

would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

For further information about the confidentiality of responses please contact the Information Commissioner's Office or email ni@ico.gsi.gov.uk or see web site at: www.ico.gov.uk.

An electronic copy of the Consultation Paper is available on the Department's Web Site at www.drdni.gov.uk and copies can be made available in Braille, on audiotape or in large print, if so required.

Comments, on the proposed Order should be made in writing and may be forwarded electronically via e-mail to anne.mckeating@drdni.gov.uk or deirdre.gallagher@drdni.gov.uk or, alternatively, via post to Ms Anne McKeating / Mrs Deirdre Gallagher, Department for Regional Development, Transport Policy, Strategy & Legislation Division, 3rd Floor, Clarence Court, 10-18 Adelaide Street, Belfast BT2 8GB.

The closing date for receipt of all responses is 4.00pm on 24th November 2014.

Yours faithfully

Garry McKenna

Garry McKenna
Transport Policy, Strategy & Legislation Division

PROPOSAL FOR THE DONAGHADEE HARBOUR (TRANSFER OF HARBOUR UNDERTAKING) ORDER (NORTHERN IRELAND) 201*

A CONSULTATION PAPER

**Transport Policy, Strategy & Legislation Division
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Contents

- A Note setting out the Background to the proposal
- Copy of the proposed Donaghadee Harbour (Transfer of Harbour Undertaking) Order (Northern Ireland) 201*
- List of Consultees

Background

1. The harbour was established under the Donaghadee Harbour Act 1820, which authorised the formation of a Board of Commissioners to undertake the development and maintenance of the Harbour. The rationale for the 1820 Act was to ensure a fit harbour for “His Majesty’s packets” travelling to and from Port Patrick; to facilitate travel between Great Britain and Ireland, to accommodate anti-smuggling cruisers; and to benefit shipping navigating in the North Channel. These objectives are now in practice defunct.
2. Donaghadee Harbour includes the north and south piers, and the Light Keeper’s house (all of which are listed buildings) and also an office, outbuildings and yard. The lighthouse remains the responsibility of the Commissioners of Irish Lights.

Harbour Commissioners

3. In 1920 the power to appoint Commissioners transferred from the Lord Lieutenant of Ireland to the Ministry of Transport and is now exercised by the Department for Regional Development. The present Commissioners are drawn from officials of the Department for Regional Development. The harbour is under the control of the Donaghadee Harbour Commissioners who are funded by the Department for Regional Development, which meets the maintenance and revenue costs of the harbour. The harbour employs two full time staff.
4. The powers of the Commissioners are limited to those contained in the Donaghadee Harbour Act 1820 and the Harbours Act (Northern Ireland) 1970.
5. The Donaghadee Harbour Act 1820, is the primary Act setting the foundation of the legislative framework and establishing the Donaghadee Harbour Commissioners as the harbour authority.

Future of Donaghadee Harbour

6. The Department is not well placed to manage a harbour or to oversee it remotely. In recent years the Department has focussed on keeping the harbour open and as safe as is practicable, with due regard to its special heritage qualities.

7. As part of the overall Review of Public Administration proposals and the reorganisation of local councils and their functions, it is intended to transfer Donaghadee Harbour from its current status as a trust port to that of a municipal harbour owned by the relevant local authority.

8. There are firm practical grounds supporting municipalisation of the harbour. Local councils are already harbour authorities and therefore competent to undertake the associated management responsibilities. The transfer would also address the practical difficulties and inefficiencies associated with operating a singleton harbour – for example, in arranging emergency cover. It would also enable the anachronistic legislation associated with the harbour to be repealed.

Status of Local Harbour Authority following Transfer

9. The status of the Council in relation to the operation and management of the harbour following transfer would be that of a “local Harbour Authority”. This would be in line with the other local council run harbours in Northern Ireland such as Bangor, Ballycastle etc.

Role of the Department following Transfer

10. The Department’s role following transfer of the harbour to the Council would be the same as that applying to all other harbours whether they be, trust ports; the privately-owned Port of Larne, or local authority harbours. The Department retains the strategic responsibility for the development and implementation of ports policy, and sets the overall legislative framework for ports and harbours.

11. In addition, the Department would also continue to take the policy lead on the implementation in ports and harbours of relevant UK-wide or EU marine legislation.

12. A copy of the draft Harbour Order is attached for your consideration.

Order laid before the Assembly under section 1(7) of the Harbours Act (Northern Ireland) 1970 and subject to affirmative resolution procedure of the Assembly

STATUTORY RULES OF NORTHERN IRELAND

2015 No.

HARBOURS

**The Donaghadee Harbour (Transfer of Harbour Undertaking) Order
(Northern Ireland) 201***

Made — — — — — ****

Affirmed by resolution of the Assembly *****

Coming into operation in accordance with Article 1.

The Department for Regional Development(1), in exercise of the powers conferred by section 1(1) and (2) of, and Schedule 1 and Part 1 of Schedule 2 to, the Harbours Act (Northern Ireland) 1970(2) and now vested in it(3), after consultation with the Donaghadee Harbour Commissioners, and such harbour authority or local authority, which the Department considered likely to be affected by the Order in accordance with section 1(6) of that Act hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Donaghadee Harbour (Transfer of Harbour Undertaking) Order (Northern Ireland) 2015 and shall come into operation on 1st April 2015.

Interpretation

2. In this Order —

“the 1820 Act” means the Donaghadee Harbour Act 1820(4)

“the Commissioners” means the Donaghadee Harbour Commissioners appointed for the execution of the 1820 Act;

“the Department” means the Department for Regional Development;

“district council” means the North Down and Ards District Council;

“the Donaghadee Harbour” means that area described in Article 5(1);

“the transfer date” means *[insert date here]*.

(1) S.I. 1999/283 (N.I.1) Article 3(1)
(2) 1970 c.1 (N.I.)
(3) S.R. 1999 No. 481 Article 6(d) and Schedule 4 Part IV
(4) GEORGII REGIS CAP CXIII

Transfer of functions, property, rights, liabilities and obligations

3.—(1) On the transfer date there shall be transferred to, and vested in, the district council all the functions of the Commissioners under the 1820 Act and all property, rights, liabilities and obligations to which, immediately before the transfer date, the Commissioners were entitled or subject.

(2) The vesting of functions, property, rights, liabilities and obligations under this Article shall have effect, notwithstanding:—

- (a) anything to the contrary in, or
- (b) any condition relating to the transfer of such property, rights, liabilities or obligations contained in any enactment, rule of law or obligation.

(3) References to the Commissioners:—

- (a) in any agreement, deed, bond, instrument or notice;
- (b) in any action or proceeding pending or existing at the transfer date by or against the Commissioners before any court or other tribunal; and
- (c) in any other document whatsoever relating to or affecting any property, right, liability or obligation of the district council which vests by virtue of this Article in the district council

shall be taken on or after the transfer date as referring to the district council.

Winding up and dissolution of the Commissioners

4.—(1) The Commissioners shall be dissolved on the transfer date.

(2) The Department shall publish notice of the dissolution in the Belfast Gazette.

Harbour Limits

5.—(1) With effect from the transfer date the limits within which the district council and its officers may exercise their powers and the area within which any dues for the time being leviable may be charged, shall be that area shown on the map bounded by —

- (a) a straight line drawn from reference point A (Latitude 54° 38.68 North, Longitude 05° 32.28 West) (Shore Street Baths) to reference point B (Latitude 54° 39.00 North, Longitude 05° 31.75 West);
- (b) a straight line drawn from reference point B (Latitude 54° 39.00 North, Longitude 05° 31.75 West) to reference point C (Latitude 54° 38.78 North, Longitude 05° 31.30 West);
- (c) a straight line drawn from reference point C (Latitude 54° 38.78 North, Longitude 05° 31.30 West) to reference point D (Latitude 54° 38.52 North, Longitude 05° 31.70 West) (Dormans Point);
- (d) and on its landward sides by the level of high water from reference point D (Latitude 54 38.52 North, Longitude 05° 31.70 West) (Dormans Point), extending in a westerly direction to reference point A (Latitude 54° 38.68 North, Longitude 05° 32.28 West) (Shore Street Baths);

together with all docks, landing places and other works and land of the Commissioners for the time being held by them for the purposes of or in connection with the Donaghadee Harbour.

(2) In this Article “the map” means the map marked “Donaghadee Harbour” which has been signed and sealed by the Department with reference to this Order and deposited at the office of the Department for Regional Development at Clarence Court, 10-18 Adelaide Street, Belfast BT2 8GB, at which office the map may be inspected at all reasonable hours.

(3) This Article shall cease to have effect on [*insert date here*].

Saving of existing byelaws, etc.

6. Every byelaw, rule, regulation, direction, license or consent made, issued or granted by the Donaghadee Harbour Commissioners in regulation to Donaghadee Harbour before the transfer date shall, until amended or revoked, and notwithstanding the repeal by this Order of any statutory provision, continue to have effect as if it had been made, issued or granted by the district council as the new local harbour authority, and in the case of

any byelaws, confirmed as provided for in accordance with section 14 of the Harbours Act (Northern Ireland) 1970.

Repeals and Revocations

7. The statutory provisions specified in columns 1 and 2 of the Schedule are hereby revoked to the extent specified in column 3 of the Schedule.

Sealed with the Official Seal of the Department for Regional Development on ***

Tom Reid

A senior officer of the Department for Regional Development

SCHEDULE
STATUTORY PROVISIONS REPEALED AND REVOKED

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal or Revocation</i>
GEORGII REGIS CAP CXIII	The Donaghadee Harbour Act 1820	The Whole Act.
S.R. 2008 No 143	Donaghadee (Harbour Area) Order (Northern Ireland) 2008	The Whole Order.
S.R. 2010 No. 141	The Donaghadee Harbour Order (Northern Ireland) 2010	The Whole Order.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 3 of this Order transfers the functions, property, rights and obligations of the Donaghadee Harbour Commissioners to the district council on the transfer date.

Article 4 dissolves the Donaghadee Harbour Commissioners.

Article 5 defines the limits of jurisdiction of the district council as the harbour authority for Donaghadee Harbour; the area within which dues may be charged and that a map defining these limits has been deposited at the office of the Department.

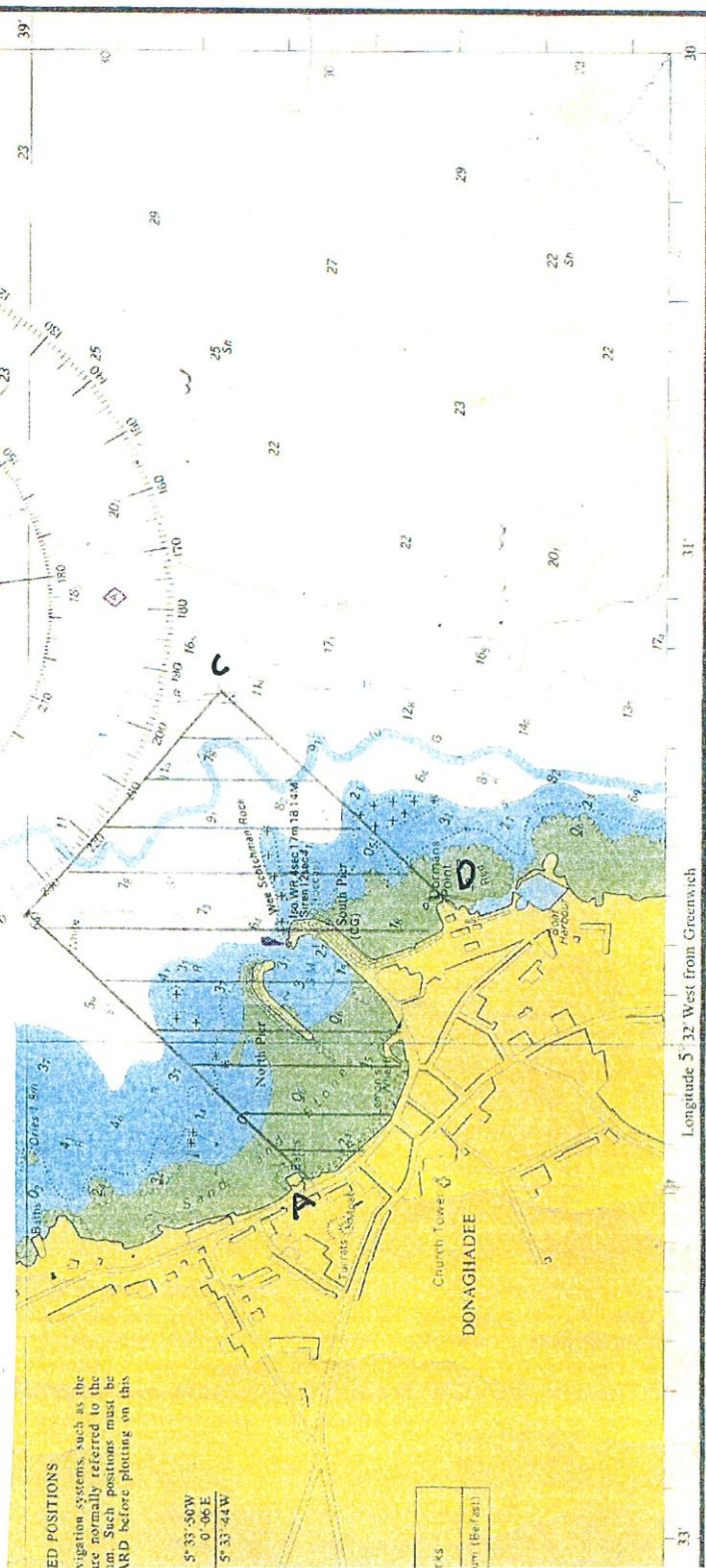
Article 6 provides for saving of existing byelaws, etc.

DONAGHADEE HARBOUR

Signed and sealed with the official seal of the Department for Regional Development with reference to the Donaghadee Harbour (Transfer of Harbour Undertaking) Order (Northern Ireland) 2015 on

L.S.

Tom Reid
A senior officer of the Department for Regional Development



under 1873, under the Superintendence of Rear Admiral G. P. D. Hall, C.B., D.S.C., Hydrographer of the Navy.

1:45' x 1:45' (Be/Fast)

0700

LIST OF CONSULTEES

- Donaghadee Harbour Commissioners
- North Down and Ards District Council (shadow form)
- Department for Transport
- Department of the Environment
- Department of Culture, Arts and Leisure
- Waterways Ireland
- Department of Agriculture and Rural Development
- Crown Estate Commissioners
- Marine and Coastguard Agency
- Members of the Legislative Assembly
- Northern Ireland Political Parties & Westminster Representatives
- Those bodies listed in the Department's Equality Scheme and identified as being suitable consultees.