

BROADS AUTHORITY – GENERAL DIRECTION TO SHIPPING – CONSULTATION

Introduction

The purpose of this document is to consult you on the Authority's proposal to make a General Direction pursuant to s4(1) of the Broads Authority Act 2009.

As a statutory consultee, you are entitled to be consulted upon the proposed General Direction under Schedule 1, paragraph 2 of the Broads Authority Act 2009.

The text of the proposed General Direction is in Appendix 1 to this letter.

Consultation Process

The Authority is directed by the Act to engage the statutory consultees on any intention to make, amend, or repeal a General Direction, except in a case of emergency, where the consultation period is not less than 42 days.

Statutory Consultees are:

- Broads Authority Navigation Committee;
- Associated British Ports;
- Great Yarmouth Port Authority;
- British Marine Federation;
- Inland Waterways Association;
- Royal Yachting Association;
- Such other bodies appearing to the Authority to represent boating interests; and,
- The intention to do so will be published in the Eastern Daily Press and on the Authority website.

As a statutory consultee you may object to the proposed General Direction.

To make an objection, written representation, setting out the case must be sent to the Authority by the end of the consultation period. Following receipt of any representations, an Independent Person, appointed in consultation with the statutory consultees will provide any objecting consultee and the Authority with a report containing its conclusions on the direction and on the objection. The Authority will be able to respond to the objection as part of this process.

Except in an emergency, the Authority is required to consider the report before giving the General Direction.

Summary Background

Enclosed with this document at Appendix 2 is the Pilotage Review 2024 report which provides the full context to the proposed General Direction.

The General Direction would restrict specific vessels from entering the Broads that – by reason of their size – could present a potential hazard to the harbour without being steered by a trained and competent pilot. Such vessels would be allowed to enter, subject to approval of a satisfactory risk assessment.

The Broads Authority has traditionally provided a service of employing pilots in order that they can be available when necessary to steer larger vessels within the Broads. The Authority provided this service as a Competent Harbour Authority (CHA) under the Pilotage Act 1987. That Act amongst other things requires the Broads Authority to keep under consideration whether: any and, if so, what pilotage services need to be provided to secure the safety of ships navigating in or in the approaches to its harbour; and in the interests of safety, pilotage should be compulsory for ships navigating in any part of that harbour or its approaches. A pilotage service requires a pilot, of sufficient training, to be available to provide necessary pilotage services.

In the light of current circumstances, it is no longer considered to be useful or viable to maintain a pilotage service within the Broads. Commercial traffic levels have fallen to such an extent that the requirement for vessels to take pilots has become extremely infrequent. It is not considered economically feasible to employ even one full time pilot, so the Authority is reliant on part time personnel who may require considerable notice periods to ensure availability (and who may not in fact be authorised Pilots under the Pilotage Act). Further, the numbers of vessels requiring pilots has fallen to such an extent, that it is very difficult for existing personnel providing advice to maintain the required levels of competency through undertaking a minimum required number of voyages each year. The Authority no longer employs any officers suitably qualified to train or assess new pilots or PEC applicants. And potentially, the level of pilotage actually undertaken cannot generate sufficient revenue to cover the ongoing costs incurred.

Thus, the absence of a pilotage service in the Broads is the context to the proposed General Direction. Its impact will not be to block any ships from entering the Broads, however. To address the 'Open Port Duty', allow commercial flexibility and capture any future opportunity, the Authority will retain a dormant CHA status yet limit routine access to the port of vessels of length over all (LOA) to 24m or greater. As part of the necessary mitigation, the boat may for example demonstrate that the captain is competent to navigate the ship. Notice must be given together with a Formal Safety Assessment in the form of a navigation risk assessment (NRA) specific to that vessel, date, time and commercial operation. There is no impact on vessels 24m and below, because they are not caught by the proposed direction.

Statutory Consultees

If you wish to make representations (in support or against) the proposed draft General Direction, you should write to the Broads Authority by email at Committees@broads-authority.gov.uk no later than 20th February 2025, which is 42 days from the date of this notification.

The Broads Authority

GENERAL DIRECTION

LARGE VESSELS

The Broads Authority, in the exercise of their powers under Section 4 and Schedule 1 of the Broads Authority Act 2009 (the Act), and having carried out the consultations required by that schedule, has given the following General Direction:

1. This General Direction applies throughout the entirety of the navigation area as defined in s8(1) of the Norfolk and Suffolk Broads Act 1988 ("**the Navigation Area**").
2. No vessel of length of 24m or greater ("**Large Vessel**") may enter or navigate within the Navigation Area unless permitted to do so in accordance with paragraphs 3-7.
3. Any person wishing to navigate a Large Vessel within the Navigation Area ("**the Applicant**") may apply to the Broads Authority for permission to do so, subject to the following procedure:
 - a. The application must be made using the form published on the Broads Authority website.
 - b. Upon receipt of an application, a risk assessment shall be conducted on behalf of the Broads Authority into the proposed journey, using the details supplied by the Applicant.
 - c. The application must be completed in full and received by the Broads Authority not later than 42 working days prior to the date when it is proposed that the vessel will enter the Broads.
 - d. Applications shall be sent by email to Broadscontrol@broads-authority.gov.uk
 - e. The Applicant must supply any further information requested by the Broads Authority as soon as practicable after this is requested.

4. Following receipt of an application duly submitted in accordance with paragraph 3, the Broads Authority in its absolute discretion may grant permission for a Large Vessel to enter and navigate within the Navigation Area ("**Permission**").
5. Upon the grant of a Permission, the Large Vessel named within the Permission may enter and navigate within the Navigation Area on the date(s) specified within the Permission, and subject to a record of the Permission being available for inspection during the journey.
6. A Permission may not be transferred, and it may be revoked at any time, for any reason, upon the Broads Authority giving notice to the Applicant.
7. Any person navigating a Large Vessel within the Navigation Area must comply with any conditions stated within the Permission.

Appendix 2

Pilotage Review Overview

December 2024

Contents

Background.....	5
Requirements for a Pilot.....	6
Pilotage Review 2023.....	6
Consideration of Pilotage Review Recommendations.....	7
Decision.....	8
Open Port Duty.....	8
General Direction.....	8
Implementing the General Direction.....	9

Background

The Broads Authority is designated a “Special Statutory Authority”, affording the same level of protection as National Park status, but with tailor-made legislation relating to navigation. The Authority therefore balances the navigational duties and powers of a harbour authority with the conservation and recreational duties and powers of a National Park authority. These duties and powers are principally set out in the Norfolk and Suffolk Broads Act 1988.

The Broads Authority Act 2009 granted the Authority additional powers, the primary purpose being to introduce greater safety controls on broads and rivers. These powers include the ability to give of general directions to vessels.

Additionally, the Authority is a “Competent Harbour Authority” as defined the Pilotage Act 1987. This arises from The Broads Authority (Pilotage Powers) Order 1991 which remains extant. As such, it has a duty to determine whether any and, if so, what pilotage services need to be provided to secure the safety of ships navigating in or in the approaches to its harbour; and whether such pilotage should be compulsory.

This duty is reinforced in the Port Marine Safety Code, which goes on to state that authorities should exercise control over the provision of pilots by means of controlling recruitment, examination and authorisation of pilots.

The Authority has not issued any pilotage directions, which set out the types of vessel movements for which pilotage would be compulsory.

Requirements for a Pilot

The Authority is looking to review its pilotage service as with almost no commercial vessel movements, maintaining a service fit for purpose is very challenging.

Historically there has been one circumstance where the Authority provided a regular pilotage service, which was for the Coaster vessels travelling from Great Yarmouth up to the sugar beet factory at Cantley. The pilotage was strongly recommended for these vessels but was not made compulsory by means of a pilotage direction. It has been over 15 years since these vessels came into the Broads and the sugar beet factory no longer have the infrastructure required to bring in such vessels.

In 2014 there were two occasions where pilotage was provided to third parties. The first was a large barge carrying plant to Cantley that was piloted by the Broads Authority. The second was a historic trading barge; the Cumbria also had onboard a pilot for its passage. Since 2014, all vessel movements have been escorted by Ranger patrol launches but have not required a pilot on board.

There is no expectation that large freight vessels, which may require pilotage, will return to the waterways in the foreseeable future. Without a regular requirement for a pilotage service, it is very difficult for the Authority to maintain training of pilots to be able to undertake this role as well as being very costly to the Authority for a service not being used.

Pilotage Review 2023

In 2023, the Broads Authority contracted Marine and Risk Consultants Limited (Marico Marine) to review the pilotage provisions currently in place on the Norfolk and Suffolk Broads with a view to ensuring they were fit for purpose going forward.

Considering the current and expected future traffic profile of the Broads Navigation Area, and the result of a navigation risk assessment undertaken as part of the work, the following recommendations were made to the Authority by the consultants as set out in their report:

- Engage with Great Yarmouth Port Authority to confirm whether providing pilotage under a joint arrangement is feasible.

- Assuming the above is not an option, undertake a full review of the Safety Management System to document formal arrangements for the discontinuation of any form of pilotage, while still maintaining the status of a Competent Harbour Authority.
- Seek specialist marine legal advice to support the above review, including amending Vessel Dimension byelaws, or issuing a General Direction; and
- Clarify the procedures which will be followed (based on full risk assessment) should any vessels of greater size than defined in the revised byelaws / Directions wish to enter the navigation area.

Alternatively, if there is no appetite for maintaining CHA status, consider the formal removal of CHA powers by application to the Secretary of State

Consideration of Pilotage Review Recommendations

Discussions with Peel Ports about sharing pilotage have been had previously, 5 years ago and more recently last year. Training of pilots and maintaining their competence in the Broads navigation area (as required under the PMSC and at a cost to the Broads Authority), when there is likely to be no, or extremely low, need for this service would not be cost-effective.

The issuing of a General Direction or the updating of the Vessel Dimension Byelaws, to restrict all vessels requiring a pilot from entering the Broads would allow the Authority to remove this requirement while still retaining the 'Competent Harbour Authority' status. The length of 20m was proposed in the report.

At the Navigation Committee, Members raised concerns that many vessels over 20m enter the Broads and by setting the limit at 20m this would be too restrictive. It was instead suggested to use 24m as the limit which falls in line with MGN280 which requires commercial vessels up to 24 metres load line length to comply with the Maritime and Coastguard Agency (MCA) Small Commercial Vessel and Pilot Boat Code of Practice.

The Authority does not currently request vessels up to 24m to have either a pilot or an escort when moving around the Broads (subject to restrictions set out in the Vessel Dimension Byelaws) and so the risk of increasing the length of vessels to be restricted to 24m and above is low.

The original recommendation in the report includes the ability for the Authority to permit on a case-by-case basis any vessels over the prescribed length requested permission to enter the Broads, subject to individual risk assessment. The risk assessment would determine what safety measures would be needed to allow safe passage. This may include ensuring any passage would be undertaken with a suitably qualified crew, or the vessel being escorted by a patrol launch.

Decision

At the Broads Authority Committee on 26th January 2024, it was resolved unanimously, pending checks on the outstanding questions raised in the report, that a General Direction be put in place, to restrict all commercial vessels over 24m from entering the Broads, subject to a risk assessment to see if such vessels could be safely accommodated without a pilot. This was updated at the Broads Authority meeting on the 29th November 2024 to include all vessels over 24m.

Open Port Duty

A question was raised in the Pilotage Report (2023) whether the Open Port Duty, which applies to Harbour Authorities by virtue of the Harbours, Docks and Piers Clauses Act 1847, would restrict the Authority's ability to put in place a length restriction.

The Authority asked for legal advice on this matter. The conclusion was that it does not prohibit the proposed restrictions/general direction.

General Direction

The Authority has the power to make General Directions to all vessels, or classes of vessels, in respect of vessels in, or proposing to enter, or leaving, the navigation area for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in the navigation area. A detailed procedure for the consultation, issue and publication of such direction is set out in the Broads Authority Act 2009 Schedule 1.

The Authority may give directions under this section ("general directions") in respect of vessels in, or proposing to enter, or leaving, the navigation area for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in the navigation area. This includes (section 4 of the 2009 Act):

(e) for prohibiting or regulating—

(i) entry into the navigation area by a vessel which for any reason would be or would be likely to become a danger to other vessels or to persons or property, in or near the navigation area;
or

(ii) entry into, or navigation within, any designated fairway or channel during any temporary obstruction thereof;

(g) for requiring the master of a vessel to give to the navigation officer information relating to the vessel or the qualifications of the master reasonably required by the navigation officer for effecting any of the purposes of this subsection;

The General Direction made for this purpose will, as set out above, restrict vessels over 24m from entering the Broads area, on any occasion when this could be requested, subject to a risk assessment being carried out to see whether a vessel could be safely accommodated without the need for a pilot.

Implementing the General Direction

As per the process set out in s4(1) of the Broads Authority Act 2009, the Authority is carrying out a consultation which runs for 42 days, commencing on the 9th January. Representations can be made by email to Committees@broads-authority.gov.uk no later than 20th February 2025.

Following receipt of any representations, an Independent Person, appointed in consultation with the statutory consultees will provide any objecting consultee and the Authority with a report containing its conclusions on the direction and on the objection. The Authority will be able to respond to the objection as part of this process. Except in an emergency, the Authority is required to consider the report before giving the General Direction.