

**Transport And Works Act 1992 (TWA):
Application for the Proposed Rixton & Warburton Bridge Order
Statement of Case**

Your ref: OBJ/226



Proof of how progress can affect the beauty and tranquility of the countryside is provided by this picture which belongs to Mr N Collins of Partington, and was taken more than 75 years ago of the toll bridge on the county border at Warburton. The construction of the Manchester Ship Canal resulted in this stretch of the Mersey being drained off and filled with earth excavated from the canal. The bridge however, is still in existence, but is now almost hidden.

Rixton and Warburton Bridge, estimated approx. 1890

(This is the Bridge authorised under the 1863 Rixton and Warburton Bridge Act)



Rixton & Warburton Bridge, November 2021



High Level Cantilever Bridge, November 2021
(This is the Bridge authorised under the 1885 & 1890 Ship Canal Acts)

High level objections:

1. There is no justification for the scale of the increase proposed, and possibly no increase is required
2. The Manchester Ship Canal Company (MSCc) should not be permitted to exclude their statutory obligations by transferring these into a new, separate limited company – this would be against the public interest.
3. The proposed bylaws are unreasonable, excessive and (to the point of ridicule) unenforceable, and so should not be granted to MSCc.

The Proposed Order obfuscates detail which should be simple to clearly articulate. It is assumed that this is intentional, given it is a simple task to describe two bridges, a road and a canal. The proposed order overlooks that there are two bridges; these are:

- i. The bridge built under the authority of the [Rixton and Warburton Bridge Act 1863](#) (“the 1863 Act”) which along with the approach road between the A57 Manchester Road, and the junction of Townfield Lane and Warburton Bridge Road, to which the current Toll applies. This bridge crosses the dried up and filled in bed of the river Mersey, and whilst technically is no longer a bridge (definition of bridge: “a structure carrying a road, path, railway, etc. across a river, road, or other obstacle”) since it was filled in (probably around 120 years ago, shortly after the Manchester Ship Canal was completed). The structure of this Rixton and Warburton Bridge appears to still be intact and supporting to some extent the road that crosses between the two pairs of abutments. The span of this bridge is approximately 40m (130 feet) and whilst ‘now’ filled in (with soil), had a height of at least 8.5m (28 feet) above the old river level, which has also been filled in. This bridge was completed and in use by 1867.
- ii. The Cantilever bridge over the Manchester Ship Canal, authorised under the [Manchester Ship Canal Act 1885](#) (the “1885 Act”) and the [Manchester Ship Canal \(Various Powers\) Act 1890](#) (“the 1890 Act”), and built in approximately 1893 with the snappy title of “works number 35” – otherwise known as “the Warburton Cantilever bridge”. Maintenance for this bridge falls upon the operator of the Manchester Ship Canal (the 1890 Act A 15 - page 19). This 'new' Cantilever bridge was erected to replace a section of the Rixton and Warburton Bridge approach road when the Manchester Ship Canal was constructed. This road is (as legislated in the 1863 Act), a public road maintained at private expense. It was the MSCc's choice to dig their canal and create a need for this second bridge - in exactly the same way as MSCc created a need for the other public bridges over the Manchester Ship Canal which the MSCc are meant to maintain. The Warburton Cantilever bridge exists for MSCc's benefit. If MSCc were able to abandon the actual Rixton and Warburton Bridge over the dried up bed of the river Mersey then MSCc would still be responsible for the Warburton Cantilever bridge that MSCc had to build over their canal to replace the public road that was already in situ.

This YouTube video (3 ½ mins, no sound) seeks to explain the relationship between Warburton Bridge Road, the Warburton Cantilever Bridge and the Rixton and Warburton Bridge: [Warburton Bridge Road - 13/01/2022](#) – a copy of this video can be provided on request (600MB), by upload to file share, CD or DVD, or USB memory stick.

The 1863 Act is unequivocal that the Toll is only to be used for the purposes of this Act (“s.50 The Tolls by the Act granted are by this Act vested in the Company for the Purposes of this Act.”), the Proposed Order goes beyond this and proposes that MSCc will use the Toll as the sole source of revenue to maintain both the current undertaking of the Rixton and Warburton Bridge and approach roads, AND the Warburton Cantilever bridge.

1. Under this proposal, MSCc seek a transfer of BOTH the Cantilever bridge and the original Rixton and Warburton Bridge into a new vehicle (a new limited company) that absolves MSCc of any liability for future maintenance, and would begin to fund the Cantilever bridge via a revised Toll. This is not in the public interest. The MSCc is a profitable company with revenue that should support the statutory maintenance of the Warburton Cantilever bridge as is the intention of the 1885 & 1890 Acts; the proposed new company would have no other revenue source other than the revised Toll, it would also be saddled with substantial debt (with interest payments met by the users) for 20 years or more. Past profit from the existing Toll would not be carried over into the new company. This section of the Proposed Order appears a cynical attempt to give MSCc and their parent companies the benefit of any profit from the revised Toll, but allow them to absolve themselves of any future financial liability regarding the amended undertaking.
2. The 1863 Act allowed for funding of the Rixton and Warburton Bridge and Road, to the value of £8,500 (£7,000 from dividends + a £1,500 loan or mortgage) as recorded in the 1863 Act and confirmed by the 1890 Act. The intention of the 1863 Act is to fund the £8,500 capital outlay and maintenance via revenue from the Toll, allowing for a return on investment via dividends. MSCc in the Proposed Order incorrectly argue that the Toll should be funding the Cantilever bridge, but neglect that at the point the Toll was defined (in 1863) the Cantilever bridge was not conceptualised - an 'opening' Bridge was proposed in 1885, revised to the current incarnation in the 1890 Act and built after this date. Parliament could have extended or increased the Toll to cover maintenance of the Cantilever bridge in either the 1885 Act or 1890 Act (or both) but chose not to. If Parliament (and the MSCc at the time) had intended the Toll to cover maintenance of the High Level Cantilever Bridge, it would be expected that this would have been expressly stated, and likely additional provision would have been made (as the Toll was as at 1890 covering a significant debt, and maintenance of the Rixton and Warburton Bridge and approach Roads. Parliament DID expressly state that the diverted Road (Warburton Bridge Road) falls within the scope of the Toll (in the 1885 and 1890 Acts)
3. MSCc state that the High Level Cantilever Bridge over the ship canal has 'diverted' the original stone Rixton & Warburton Bridge – this is misleading. The Cantilever Bridge is in addition to the Rixton & Warburton Bridge (which is still in place) – the two are both used by traffic passing on Warburton Bridge Road. A section of Warburton Bridge Road north of the Rixton & Warburton Bridge and south of the A57 was diverted to the new Cantilever Bridge, this is evident from maps and from e.g. Google maps satellite images of the area.:
- 4.



5. MSCc state in their Business Case that they are using revenue from the Toll to pay off debt related to maintenance from the last major refurbishment of the Cantilever bridge. Given the increase in the Toll is requested it is necessary to question why when excess profit from the Toll is being used to fund costs outside the scope of the Toll, there is a need to increase the Toll.
6. If MSCc have been using the revenue from the Toll to fund the Warburton Cantilever bridge repairs from ~23 years ago (where the Cantilever bridge maintenance should be met from the MSC revenue as per the 1890 Act – A15, page 19), there is a strong argument that MSCc have been over-charging for the Toll in recent years, and that (subject to the points below on maintenance), the Toll should have been reduced accordingly.
7. Maintenance - the current Warburton Bridge Road is in a poor state of repair (at one point in late January 2022 there were suggestions that at least 8 cars a day were having to be recovered from Warburton Bridge Road due to damage from the road surface), such that MSCc acknowledge in the Business Case that vehicles have been damaged by pot holes due to the lack of maintenance. This Proposed Order has the appearance of presenting a Toll increase as the only option - why was this not raised years ago, before the Road and Cantilever bridge deteriorated to such an extent (suggesting a cynical attempt to 'force' change for MSCc's benefit, based on their dereliction of responsibility).
8. The junction of Warburton Bridge Road and the A57 is prone to flooding during and after heavy rain, whilst all causes cannot be easily determined, as at November 2021

and February 2022 the gullies on both sides of the Cantilever bridge are mostly blocked (>90% by numbers), with rainwater flowing down the only available route (the road surface) into the area that floods. The gullies do not appear to have been cleared in over a year, possibly much longer. Vehicles have been stranded by the floodwater (likely written off if water damage to the engine occurred) - MSCc are not maintaining the Warburton Bridge Road to an acceptable or minimum standard of a public highway; the Business Case does not cover any additional funding to bring the current 'do nothing' approach to maintenance up to a reasonable standard (either a sufficient maintenance budget exists, but is being used elsewhere, or the Business Case has a 'highway maintenance' sized gap in it)

9. As a public highway funded by a statutory Toll, MSCc have a fiduciary duty of care to users to both maintain the highway, and to keep costs as low as reasonably possible. The Business Case and Proposed Order do not acknowledge this obligation.

Proposed Bylaws:

10. The proposed (or indeed any) byelaws for the Undertaking (Rixton & Warburton Bridge, filled in, the Cantilever Bridge and Warburton Bridge Road) are not appropriate.
11. The proposed bylaws and extension of powers in the Proposed Order are unnecessary, unjustified and a massive over-reach of power; they are a nonsense considering that a near identical bridge at Latchford has no apparent need of such bylaws. The bylaws are badly thought out - for example it would be an offence under the proposed bylaws to stop if you knock a cyclist or pedestrian over (yes... really – it's that badly drafted). A vehicle driver would have to request permission to carry a 'dangerous' object over the Undertaking (there is no definition or guidance of 'dangerous', so presumably this would include a hammer, a kitchen knife etc, in the boot of a car), the proposed bylaws would make it an offence to stop and deal with a child choking in the back seat of a car. A vehicle that breaks down on Warburton Bridge Road would be liable to a fine if they used their own recovery service (e.g. the AA or RAC), if those services were not 'authorised' by MSCc, and / or would have to use a recovery service proscribed by MSCc at an undetermined, additional cost. There is no justification for any of this, and the proposed bylaws on recovery are particularly hard to swallow for users for whom the main and very real risk of needing a recovery service over the last few years is extensive tyre and / or wheel damage due to the appalling pot holes on Warburton Bridge Road.
12. The proposed bylaws are not practical - on a free flow road system, vehicle drivers cannot be expected remember the details, and it is not possible to display the necessary detail at a suitable entry point to the Undertaking (to display the bylaws and require drivers read & understand these would likely create a hazard at the A57 / Warburton Bridge Road junction, and at the Warburton Bridge Road / Paddock Lane junction). The Proposals do not state any mechanism for communication of these bylaws.
13. The Proposed Order includes several instances where a user must perform an action 'immediately' e.g. if a car is stolen, the owner must inform MSCc 'immediately' - these are not practical, any reasonable person will have to deal with family, work, insurance and Police matters, and cannot be expected to inform MSCc 'immediately' - there are multiple associated instances of an 'immediate' action, that are just not reasonable, equitable nor practical.

14. The exclusion of horse drawn vehicles is unnecessary, disproportionate and blatantly unfair. It appears that the proposed bylaws make it an offence to take a horse over the Undertaking in a horsebox without prior approval.

Proposed Toll system

15. Proportionate - the proposed method of Toll collection is not defined - such a Free Flow Toll collection system has not (as far as it is possible to determine) ever been implemented on a comparable road (with traffic flow limited by entry and exit junctions); the costs that are suggested in the Business Case and the Proposed Order are not evidenced with any detail that can be used to evaluate value for money, or even allow implementation to be measured and accountable. MSCc have a fiduciary duty to the users that they intend to fund the proposed system (including the cost of finance) to keep costs reasonably low. The proposals are for a Rolls Royce revenue collection system on a minor road between townships (Warburton Bridge Road is an unclassified road that terminates at a B road - the B5159 Townfield Road and another unclassified road - Paddock Lane).
16. Risk - there's a scatter gun approach of toll collection processes that are poorly defined, and include prepayment (but no description of how this would operate), tag (also likely to be pre-payment, though not defined how this would work as a collection process) and 'ANPR' - presumably e.g. as per the Mersey Gateway - users have to remember to pay, or get fined. The cost and risk of all of these novel approaches is placed on the users, charged via the increased Toll. The resulting Capital costs will incur significant interest charges, that the users will also fund. The Proposals would permit each of the above Toll payment approaches to be implemented in turn, fail in practice (e.g. due to poor implementation / lack of understanding of requirements), and for a return to the existing manual collection process, with all the costs of the failed systems loaded onto the users, with the owners / operators no worse off financially. Whilst this scenario may appear far fetched, there is no evidence in the proposals of any level of plan, design or process to avoid this scenario (which in the absence of any plan, design & process will almost certainly occur).
17. The GMC clean air proposals are mostly ignored - these will impose new charges / penalties on users of Warburton Bridge Road e.g. travelling from Warrington to Lymm, without otherwise passing into Greater Manchester. The impact of both the GMC Clean Air Zone and an increased Toll, will put significant additional traffic onto other local routes, which are not suitable for such increases (the roads through Lymm, the obvious choice for the closest Ship Canal crossings at Latchford are residential and heavily constrained by mostly 1800's era bridges over & under the Bridgewater canal); also putting more strain onto the other MSC crossings that are in similar need of maintenance.
18. The Business Case is worthy of its own sections - it:
 - a. Uses inconsistent terminology, causing (assumed intentional) unnecessary confusion (MSCco vs. MSCc)
 - b. Uses incorrect statistical mechanisms, e.g. cherry picked examples to illustrate time & distance savings (in s.3.3), and then in the paragraph below Table 3-4 on p. 24, extrapolates these into savings for all users of the Undertaking – the associated conclusions should be regarded as invalid.

- c. Is simply not a valid business case! - e.g. a definition of a 'Business Case' is "a justification for a proposed project or undertaking on the basis of its expected commercial benefit." The MSCc Business Case does not mention profit, and does not consider Operational Costs (OpEx) of the Undertaking (these costs, such as road sweeping, clearing gullies, staff costs etc), or of the proposed Toll System(s) such as software licences, DVLA access fees, GDPR registration fees, as well as presumably amended staff costs that are mentioned in the present environment in table 5-3, but would change substantially under whatever setup MSCc intend (but don't define).
 - d. Contains numerous material errors:
 - i. figure 4.6 appears to show the wrong year on the x-axis
 - ii. s.2.4.1 "As can be seen from the above, the major cause of complaint from users relates to the problems that arise as a consequence of queues" - simply not true - the single major cause of complaint, according to the figures provided, is the poor condition of the road surface, due to lack of maintenance / the MSCco not maintaining its obligations under the 1863 Act (e.g. maintain the Rixton & Warburton Bridge and Road) and the 1885 & 1890 Acts (maintain works No. 35 - the Cantilever bridge over the MSC)
 - iii. s.3.4 "Catford" (should be "Cartford")
 - e. Assumes the historic 'loss' of the overall Undertaking, based on maintenance costs of the Cantilever bridge (conceived & built after the Toll was set by Parliament) being offset against the Toll (against Parliaments intention)
 - f. Compares against other Toll Bridges that actually include bridges (the Rixton and Warburton Bridge that the Toll applies to is filled in...), none of which have converted to free flow tolling
 - g. Acknowledges that free flow tolling will generate significant income when the M6 is closed, increasing revenue and profit traffic accidents / issues elsewhere and negating the 'agreement' with Warrington Borough Council.
 - h. Refers to costs (claims for vehicle damage etc) directly attributable to poor maintenance of the existing undertaking
 - i. Fails to identify Bridge inspection costs for the Rixton and Warburton Bridge, which although 'filled in' must still be supporting the road deck, and so the road.
19. The language used in the Proposed Order consistently avoids commitment to possible liabilities or responsibility - e.g. Part 4, 8.5
20. The Proposed Order refers to "return on investment" that is not mentioned in the Business Case; a Business Case with no profit is by definition not a valid Business Case.
21. The A5 Business Case refers to a "Toll Plaza" (s.1.3.3) – really?! This strongly suggests that whoever has written the Business Case not crossed Warburton Bridge Road
22. A6 Consultation Report - appendices, the 'Legal Powers" section on p.39 (but labelled p.11!) the following is a poor attempt to misdirect:
- MSCc Comment: "Acts of Parliament imply that the toll can only fund the original Stone Bridge and not the current High-Level Bridge, so this later bridge should be funded from other sources than tolls."

MSCc Response: "The Manchester Ship Canal (Various Powers) Act 1890 (the 1890 Act) authorised the diversion of the existing Rixton and Warburton Road and construction of the replacement bridge road and the replacement Rixton & Warburton Bridge. The same Act provided for the diversion to be substituted for the existing road (which included the Bridge) within the Rixton and Warburton Bridge Company undertaking, including in respect of the levying of tolls, and for that undertaking to be part of MSCco's undertaking. This included the power to levy tolls in respect of those parts of the undertaking"

- a. This 'response' does not actually answer the question - it's a non-answer, breaking down these sections:
 - i. *"Acts of Parliament imply that the toll can only fund the original Stone Bridge and not the current High-Level Bridge, so this later bridge should be funded from other sources than tolls."*

This question has been written, or authorised by MSCc. Acts of Parliament do not "imply" - they state the Law. The "*Original Stone Bridge*" is defined in the 1863 Act as the "Rixton and Warburton Bridge" e.g. it's a statutory definition, that MSCc are attempting to redefine. It appears that both this 'original Stone Bridge' is still in situ, albeit now largely buried, and the 'High Level Bridge' or Cantilever bridge is an addition, not a replacement.
 - ii) *"The Manchester Ship Canal (Various Powers) Act 1890 (the 1890 Act) authorised the diversion of the existing Rixton and Warburton Road and construction of the replacement bridge road and the replacement Rixton & Warburton Bridge"*

Incorrect - the Cantilever bridge is in ADDITION to the Rixton and Warburton Bridge. The Acts make no provision for removing the Rixton and Warburton Bridge.
 - iii) *"The same Act provided for the diversion to be substituted for the existing road (which included the Bridge) within the Rixton and Warburton"*

Correct - within the 1890 Act the new stretch of ROAD is substituted for the old stretch of Road, and the new stretch of road is explicitly authorised to have tolls charged for any part of a journey on them, as per the 'old' stretch of Road. The term 'Bridge' is not used in this section.
 - iv) *".. and for that undertaking to be part of MSCco's undertaking."*

This section is misleading. The 1890 Act arranged for the transfer of the Rixton & Warburton Bridge undertaking (the original bridge, the original approach roads, albeit about to be amended / diverted as at 1890, and the right to charge the toll on these). There is no provision to levy a toll for the new Warburton Cantilever Bridge (it is neither included nor excluded, so it's relationship to the Toll is the same as for the Latchford Cantilever Bridge, and indeed London Tower Bridge – it's out of scope).
- b. The 1885 Act clearly lists all the required Bridges over the MSC, with no special provision for any of the new Bridges in terms of who maintains these.
- c. The 1890 Act expressly states "Provided that unless otherwise agreed the structure of every bridge and the immediate approaches thereto and all other necessary works connected therewith shall be repaired and maintained by the Company."

- d. The 1863 Act states "The Tolls by the Act granted are by this Act vested in the Company for the Purposes of this Act." - e.g. the Toll is not to be used to raise funds for other pet projects (Cantilever bridges....)
23. The Proposed Order includes powers to amend Tolls in Part 1.5 (2): "Whenever MSCc proposes to exercise its power pursuant to sub-paragraph (1) MSCc must publish in at least one local newspaper circulating in the area in which the Rixton and Warburton Bridge is situated, a notice substantially in the form set out in Part 2 of this Schedule.". This is insufficient: any notice must be sent to all customers that have registered for electronic communications (on the assumption that the cost of this is very close to zero). Furthermore any toll change must state the reasons for the toll change, and the calculations used. Any pre-paid 'crossings' of the Undertaking must be considered (and should be redeemable at their original purchase priced). Notwithstanding, this whole section should be unnecessary due to the existing legislation being sufficient to fund the current undertaking (with the Cantilever bridge being maintained by MSCc under the 1885 & 1890 Acts).
24. Regulation of tolls comes under the Transport Charges &c. (Miscellaneous Provisions) Act 1954. The applicant has instead used the Transport and Works Act 1992 s.3 & s.5. This act allows "The Secretary of State may make an order relating to, or to matters ancillary to— (a) the construction or operation of an inland waterway in England and Wales." It is first worth noting that the order applied for goes far beyond matters directly relating to the operation of the Manchester Ship Canal (MSC). In addition, the measures it attempts to apply (so for example prohibiting smoking while transiting the bridge) are not in place on any other crossing of the MSC, as such it is questionable that this legislation should be used to seek such changes.
25. One specific matter of the Transport and Works Act 1992 being used is s.6. "An order under section 1 or 3 above shall not extinguish any public right of way over land.....". The order specifically removes the existing right of way for horse riders, horse drawn vehicles and livestock transporters not approved by the company. This step would result in these users having to divert over 12 miles to cross the ship canal. There are further restrictions that would also remove the right of way from others, including slow vehicles and steam driven vehicles.
26. The Proposed Order and 'Business Case' include matters relating to the costs of maintaining and remedial works to the Cantilever bridge and associated ramps. These features were built long after the incorporation of the tolled crossing and the responsibility for the maintenance of these structures does not form part of the undertaking maintained by the tolls. These structures have fallen into disrepair due to the lack of maintenance, and it should be noted that over the last 5 years alone, the MSC delivered a gross profit of £128.4 million. The burden of Cantilever bridge part of the Undertaking sits with the profits of the Ship Canal Company and should not be sought from the Toll. No satisfactory explanation is given as to why MSCc believe the Cantilever bridge falls within the scope of the Toll – the sections in various documents that profess to address are on further examination carefully worded non-answers, that join several statements to imply that the Cantilever bridge 'should' be funded by the Toll – at odds with the 1863, 1885 and 1890 Acts which are clear and concise in this matter.

27. The Undertaking is by statute a public road, and as such already falls under existing statutory and common law. The bylaws being sought apply severe penalties (Fines of £1,000) for 'offences' that either are not enforceable under reasonable legislation, or which would be dealt with informally, or at most with a much smaller penalty. In addition, the bylaws seek to apply very different standards to those already in place - where 'offences' such as smoking in your own car, playing your car radio at a level high enough to annoy someone on the canal, could result in a fine of £1,000, without the existing, balanced protections given by statute. In the example given, a sound system being played excessively loudly is already controllable under section 59 of the Police Reform Act 2002, and yet the bylaws seek a penalty of Level 3, £1,000 for an ill-defined 'nuisance'
28. The Proposed Order discusses a 'clean slate' approach to the undertaking. This attempts to move all existing liabilities to a new company, while retaining all the profits of the last 130 years within the MSCc. This is simply not acceptable.
29. The current toll charge is £0.12, with a cap of £0.24 a day. The order seeks to raise this to £1, capped at £2 a day (subject to confirmation the proposed £1 etc. is inclusive of VAT). This is a 733% increase. This is simple unacceptable to anyone and will see a commuter facing an annual increase in costs from £87.60 to £730.
30. Whilst the Business Case suggests that the proposed Toll of £1 per crossing of the Undertaking includes VAT, the Proposed Order does not mention this. All stated costs should be clear as to whether VAT is included.
31. It is stated the last bridge inspection was in 2016, and this was of the Cantilever bridge. This is not the bridge maintained by the Toll. The proposed £6,500,000 costs of repairing (not upgrading, simply bringing the bridge up to its required capacity) pale alongside the £128,400,000 (£128.4M) gross profit made by the company responsible for its maintenance since 2016. It is noted no bridge inspection report is discussed for the actual bridge covered by the Tolls, which is the old low-level bridge that crossed the river Mersey (aka the Rixton and Warburton Bridge). It is also noted that there is a 2 yearly cycle of bridge inspections – which calls into question why the 2016 report is the one referred to rather than the more recent 2018 & 2020 reports.
32. It is stated there is no reserve fund currently in existence to pay for the works identified in 2016 (Although there is also no separate operating account for the operation). It is expedient to again refer to the level of profits delivered by the MSC, to the MSCc over this period, and note that the MSCc 2021 accounts had cash balances declared of £8,900,000 (£8.9M).
33. The Proposed Order does not retain the maximum daily charge of a two-way ticket (£0.25 at present) that has been in place since 1867; this will disproportionately affect those most dependent on Warburton Bridge Road, adding significant extra costs to their travel. If the Toll is amended then a daily cap must be retained.
34. The Proposed order allows for the Proposed (amended) Toll to be increased and then transferred to a second company that appears to have been created but with no management or oversight structure. This third company is subsequently permitted to subcontract the Toll Collection to a third company, with no indication of oversight or management. Both the second and third companies presumably will incur running costs, staff costs and presumably are expected to earn profit, all paid for by the public - users of Warburton Bridge Road. There is no justification as to why a complex and convoluted management structure is required (the proposed

structure would likely be worse than this – queries about the Rixton and Warburton Bridge / Toll are answered not by MSCc staff, but by ‘Peel’ employees, who appear to be several holding companies above MSCc (it’s genuinely too hard to determine what the actual corporate structure is) – an email query about the Proposed Order was apparently answered by the Planning Director of Peel Ports; apparently the current Toll is collected by a subcontracted company, though there does not appear to be any contact information (or name of the collectors displayed as per the 1863 Act!); there is no indication as to which corporate entity owns the commercial relationship with the current Toll collection company.

35. The Proposed Order, Business Case & associated documents fail to mention the original Stone Rixton & Warburton Bridge, built between 1863 & 1867, which is still in place, having apparently been backfilled with soil excavated from the Manchester Ship Canal, around the year 1895. This Bridge is presumably still intact and 'supporting' the bridge deck, and current road. No evidence is provided that this structure has been assessed as sound, or indeed has been assessed in over 120 years.
36. The definitions and terminology used in the Proposed Order and associated documents is inconsistent and counterproductive, being at best confusing and likely misleading to readers:
 - a. The Business Case defines: "*R&W Toll Bridge - The bridge known as the Rixton and Warburton Bridge, authorised by the 1863 Act and the 1890 Act, together with the Bridge Road and all toll booths or other toll collection facilities constructed on the bridge or the Bridge Road*"
 - b. The Proposed Order defines: "*Rixton and Warburton Bridge*" means the bridge known as the Rixton and Warburton Bridge authorised by the 1863 Act and the 1890 Act together with the bridge road and all toll booths or other toll collection facilities constructed on the said bridge or the bridge road as shown in the plan in Schedule 7"
 - c. **There is no single Bridge authorised by 'the 1863 Act and the 1890 Act'**: the 1863 Act specifies a Bridge crossing the then river Mersey, defined in the 1863 legislation as "The Rixton and Warburton Bridge" (this bridge is immediately adjacent to the Toll booth, with likely the original railings, and the parapets clearly visible; the gap the bridge used to span has since been filled in – see attached image "**1969 Image of bridge, Cadishead and Irlam Guardian 1969.jpg**"), the 1890 Act amends the 1885 Act requiring MSCc build a second bridge, permitting this to be a fixed Cantilever bridge rather than the opening bridge specified in the 1885 Act.
37. It appears that the impact of removing the bottleneck of the toll booth has not been discussed with either of the two local authorities as to how traffic may need to be managed differently at either end of Warburton Bridge Road, particularly when e.g. there are local motorway closures and extreme congestion at these junctions with associated pollution both on Warburton Bridge Road, and the surrounding highways (particularly around Warburton, Carrington and around the Bridgewater Canal crossings in Lymm).
38. Whilst this response argues (several times) that the Cantilever bridge is out of scope of the Toll and should not be taken into account for any revised Toll, the condition of the Cantilever bridge raises questions that should still be answered by MSCc. The

1890 Act states that the Warburton Cantilever bridge (as well as the other Ship canal bridges) should be “maintained” by the (Manchester Ship Canal) Company, however this Cantilever bridge was downgraded from having a weight limit of 7.5T to the current 3.5T some years ago (previous to May 2009); there appears to have been no plan, or explanation what MSCc are doing to bring this back to the original weight bearing limit. There is no explanation as to how this could possibly be described as ‘maintaining’ the structure, the downgrading of which has had the effect of downgrading the entire Warburton Bridge Road.

39. MSCc / Peel / Peel Holdings are persistently putting across the view that the ‘Toll Bridge’ equates to the Cantilever bridge, this is evident in the placement of images of the Cantilever bridge, in the logo used by the ‘Warburton Toll Bridge’ website, and the clumsy definitions used in the Proposed Order and the Business Case’s Glossary of the “R&W Toll Bridge”. This appears to be intentional, to associate the “Warburton Toll” with the Cantilever Bridge – the Toll pre-dates the Cantilever Bridge, the legislation treats the Warburton Cantilever Bridge as being the responsibility of the MSCc to maintain, and no evidence has been provided to refute this position.
40. The Proposed Order takes a Toll that was specified in 1863 to fund a Bridge and Road that cost £8,500 at the time, which should have been used for maintenance since, and seeks to increase the Toll to fund a replacement for a completely separate Bridge (the Warburton Cantilever Bridge), largely taking the Toll back to square one for the users that pay it. Other high profile Tolloed Bridges (the Severn crossing) have been able to remove their Toll AFTER taking substantial profit – asking the people who pay the Toll to fund a future replacement Bridge over the Manchester Ship Canal is quite an insult after having to put up with a badly maintained, easily flooded and heavily congested road.
41. The MSCc accounts for the last 7 years do not appear to make any allowance for maintenance of any of the nine Manchester Ship Canal bridges (two Cantilever Bridges – Warburton & Latchford, and seven ‘swing bridges, albeit one of these has been ‘converted’ to a fixed bridge via legislation) that must be maintained by MSCc under the 1885 and 1890 Acts; given the proposed costs for the Warburton Cantilever Bridge and the costs announced in Q1 2022 for the A49 Swing Bridge at Stockton Heath, it was expected that some rolling form of maintenance or provision would be allocated for one or more of these Bridges, particularly given that amounts such as £200k allowances for Covid issues in 2020 – 2021 are recorded. The accounts do show a healthy return from the Ship Canal, with profit increasing in the last half decade, correlating to a steadily increasing Tonnage throughput since 2017. It was expected there would be some allowance given the Business Case states in s.5.3: “The bridge inspection carried out in July 2016 (the most recent available) highlighted that the R&W Toll Bridge was classified as in poor condition and that it was in urgent need of remedial works. The rating of poor condition is most likely due to the fact that no major maintenance works have been undertaken since 1998.”. The use of the term ‘immediate’ appears to have resulted in a 5-year delay to arrive at this ‘novel’ proposal, rather than using revenue from a very profitable business based on the 1885 and 1890 Acts to meet 130 year old obligations under these Acts.
42. The Proposed Order is such a disproportionate use of process to avoid liabilities and responsibilities to maintain the Cantilever bridge and maintain a public highway as

per the 1863 Act and the 1890 Acts respectively, that consideration should be given to bringing the entirety of Warburton Bridge Road and the Cantilever Bridge up to County Bridge and public highways and footpath standards, with ownership of Warburton Bridge Road subsequently transferred to the relevant local Authorities and Cantilever bridge maintenance remaining with the MSCc. Such an arrangement would match the current position at all other MSC crossings.

Appendix 1 - Definitions and references

(These definitions differ from those used by the Manchester Ship Canal Company [MSCc] as these follow the statutory terms used in the various Acts of Parliament that apply)

- The 1863 Act - [Rixton and Warburton Bridge Act 1863](#)
- The 1867 Act - [Rixton and Warburton Bridge Amendment Act 1867](#)
- The 1885 Act - [Manchester Ship Canal Act 1885](#)
- The 1890 Act - [Manchester Ship Canal \(Various Powers\) Act 1890](#)
- [The Transport and Works \(Applications and Objections Procedure\) \(England and Wales\) Rules 2006 \(legislation.gov.uk\)](#)
- [MSCc Annual Accounts](#)
- [Warburton Bridge Road - 13/01/2022](#) – a summary of the road layout & Bridges (link is to a YouTube video)
- Rixton and Warburton Bridge - the Bridge over the river Mersey, specified in the 1863 and 1867 Acts, including the approach Roads between the A57 Manchester road, and Warburton Cross at the junction of Townfield Lane and Paddock Lane (this definition pre-dates and so excludes the Cantilever bridge).
- The Cantilever bridge - the High level Cantilever bridge over the Manchester Ship Canal, specified as works number 35 in the 1885 Act and 1890 Act
- The Undertaking - the combined Road and bridges, e.g. the combination of the Rixton and Warburton Bridge and the Cantilever bridge.
- MSC - Manchester Ship Canal
- MSCc - Manchester Ship Canal Company
- The Toll - the current Toll authorised under the 1863 Act
- The Proposed Order - The RIXTON AND WARBURTON BRIDGE DRAFT TRANSPORT AND WORKS ORDER dated November 2021 (file name "a2-draft-order.pdf")
- The Business Case - RIXTON AND WARBURTON BRIDGE BUSINESS CASE dated November 2021 (file name "a5-business-case.pdf")
- ANPR - "Automatic Number Plate Recognition", a technology that 'reads' vehicle registration plates using a digital camera, recording the registration string as a data file.