

MARINE MANAGEMENT ORGANISATION

HARBOURS ACT 1964 (AS AMENDED)

PROPOSED DOVER HARBOUR REVISION ORDER 2014

**STATEMENT IN SUPPORT OF APPLICATION
FOR ORDER BY DOVER HARBOUR BOARD**

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1. **INTRODUCTION**

- 1.1 This statement relates to the application by Dover Harbour Board for the proposed Dover Harbour Revision Order ("the HRO"). The Board is the statutory harbour authority for Dover Harbour.
- 1.2 The application, made in a letter to the Marine Management Organisation ("the MMO") dated 5 June 2014, is accompanied by:
- (a) A draft of the HRO;
 - (b) This statement; and
 - (c) The fee for the application, paid to the MMO by BACS in advance of the application, in the sum of £4,000.00.
- 1.3 The application is for a harbour revision order to be made under the powers conferred on the Secretary State for Transport by section 14 of the Harbours Act 1964 which are delegated to the MMO by the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674)).
- 1.4 The HRO would confer further modernising powers on the applicant considered conducive to the efficient and economical operation, maintenance, management and improvement of Dover Harbour. It would enable the applicant to make further contribution to the town and community of Dover as proposed in the Ministerial statement referred to in 5.12.3 below and included as the Appendix to this statement.

2. **DOVER HARBOUR BOARD**

- 2.1 The Port of Dover ("the Port") is a trust port owned and managed by the Dover Harbour Board ("the Board") being a body established and governed by its own local legislation collectively known as the Dover Harbour Acts and Orders 1954 to 2012. The Board is responsible for the administration, maintenance and improvement of the Port which is more fully described in section 3 below. As a Trust Port, most Board Members are appointed by the Department of Transport and there are no shareholders or owners.
- 2.2 Every year the Board take responsibility for approximately 13 million passengers travelling through the Port, as well as other major shipping activities such as general cargo, cruise and a marina. In doing so, the Board observe the standards set out in Government guidelines for trust port governance which deal with accountability, and seek to act in an open and accountable way but without compromising commercial confidentiality or legal responsibility.

2.3 The Board are committed to complying with the principles of the various codes and reports covering corporate governance except where not relevant to the Board's constitution.

3. **DOVER HARBOUR**

3.1 The Port, situated in the county of Kent on the south-east tip of England and in close proximity to the Continent, has always been of importance to cross-Channel traffic and the history and origins of the Port can be traced right back to Roman times. Since then, the Port has grown and evolved through the centuries to what it is today - one of the world's premier ports, a key gateway to and from the European mainland and when the Channel Tunnel is closed, which does happen, the Port provides the alternative means by which most UK cross Channel freight and passengers can enter or leave the UK.

3.2 The history of the Port since the Second World War has been one of expansion and development to keep pace with the demands from passengers, tourist cars, and roll-on roll-off freight.

3.3 Most recently the introduction of double-deck berths and further redevelopment of the ferry terminal led to the opening of the Port's most recent ferry berths in 2005 by Her Majesty Queen Elizabeth II. Since then the Port has experienced huge transformation and growth, and with a very substantial increase in freight traffic, the Port is now a very significant major international transport hub for the movement of people and goods.

3.4 The Port receives over 19,000 vessels per year, double that of any other port in the UK. The Port handles approximately 5 million RoRo vehicles per year and over 13 million passengers and its annual revenues are circa £60 million. The value of freight traffic through the Port is approximately £89 billion per year. The Port is crucial to the UK's economy and national resilience in terms of trade flows. In addition the Port is a major employer in East Kent, supporting approximately 4,000 jobs at the Port and 3,752 within its supply chain.

3.5 Dover Cruise Port is now the UK's second busiest cruise port and the marina achieves the highest ratings in the industry for service and quality.

3.6 Continuous traffic growth prompted the Board to be the first UK port to undertake a comprehensive 30 year Master planning exercise. As a result of the Master Plan and in consultation with the public and stakeholders the Board developed a major proposal for a new second ferry terminal in the Western Docks ("Terminal 2"). Powers to carry out the Terminal 2 project were granted to the Board by the Dover Harbour Revision Order 2012.

3.7 In the past year there has been a 13% increase of RoRo traffic at the Port and the Port is mid-way through an £85 million investment programme in key infrastructure projects. This includes the renewal and enhancement of 3 berths and traffic management improvement works, which include the creation of a new holding area with capacity for 220 freight vehicles to further improve the resilience of core port infrastructure.

4. **THE HARBOURS ACT 1964**

4.1 Section 14 of the Harbours Act 1964 ("the 1964 Act") confers powers which have been devolved to the MMO (see paragraph 1.3 above) to make an order under that section (known as a harbour revision order) in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties for achieving all or any of the objects specified in Schedule 2 to the Act.

4.2 Section 14(2)(a) of the 1964 Act requires that written application be made to the MMO by the authority engaged in improving, maintaining or managing the harbour in question and section 14(2)(b) provides that the MMO must be:

"satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or facilitating the efficient and economic transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships".

4.3 Because this is not an application for a harbour revision order which, directly or indirectly, authorises a project (within the meaning of paragraph 1 of Schedule 3 to the 1964 Act), prior notification to the MMO under paragraph 3(a) of Schedule 3 to the 1964 Act is not required.

4.4 The application for the HRO under section 14 of the Act of 1964 meets the conditions set out in that section. In particular, the application meets the requirements of:

(a) section 14(1) of the 1964 Act because it is made in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of its statutory powers and duties for the purpose of achieving objects falling within Schedule 2 to the Act.

(b) section 14(2) of the 1964 Act because:

- (i) The application is made upon the written application of a harbour authority engaged in improving, maintaining or managing the harbour: and
- (ii) The making of the HRO is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner.

5. **NEED AND JUSTIFICATION FOR HRO**

5.1 **General**

- 5.1.1 The proposed HRO would confer further modernising powers on the Board considered conducive to the efficient and economical operation, improvement, maintenance or management of the Port of Dover.
- 5.1.2 The additional powers would enable the Board, building on the Port's strong commercial performance, to unlock the potential to further improve the Port undertaking and to engage in business opportunities led and managed by the Port. Revenue generated from those businesses would be used to improve and develop the Port undertaking which would also deliver tangible local benefits by maintaining and growing employment and other opportunities for the people of Dover.
- 5.1.3 The Port is a hugely important part of the national economy and ranks first as the largest ferry port in the EU. The powers sought are considered by the Board and the Department for Transport necessary to ensure that Dover will maintain and enhance its position as one of the UK's premier and nationally vital ports. Its resilience is essential to UK trade flows.
- 5.1.4 In addition to providing an alternative short sea route when the Channel Tunnel is closed, on a number of occasions recently, the Port has demonstrated its strategic importance when other modes of transport have failed to deliver continuity of service. In particular, the Port's key role as national infrastructure was evident in 2010 during the volcanic ash crisis, affecting airline passengers, and snow crisis, affecting airline and rail passengers. The Port was able to handle the surges of foot passengers, as airline and rail passengers tried to travel between the UK and continental Europe and beyond.
- 5.1.5 An explanation of, and the need for, each substantive article in the HRO is set out below together with the relevant power in the Harbours Act 1964 by virtue of which the article may be included in the HRO. By

way of illustration only, examples of how the powers may be exercised are described below. These examples are not intended to be exhaustive of the ways in which the powers may lawfully be exercised.

5.1.6 Articles 1 and 2 are not dealt with below since they are ancillary to the substantive provisions of the HRO. The Port is described in the HRO as "the harbour" so the expressions are used interchangeably below.

5.2 **Article 3 of the Order - General functions in respect of the harbour.**

5.2.1 This article provides that the Board may take such steps as they may consider necessary or desirable from time to time for the operation, maintenance, management and improvement of the harbour, its approaches and facilities.

5.2.2 For those purposes, article 3 authorises the Board to improve, maintain, regulate, manage, mark and light the harbour and provide harbour facilities; acquire any undertaking or part of an undertaking and do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the harbour.

Relevant provision of Schedule 2 to the 1964 Act

5.2.3 Article 3 is authorised by paragraph 3 of Schedule 2:

"Varying or abolishing duties or powers imposed or conferred on the authority by a statutory provision of local application affecting the harbour, being duties or powers imposed or conferred for the purpose of-

(a) improving, maintaining or managing the harbour;

(b) marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof; or

(c) regulating the carrying on by others of activities relating to the harbour or of activities on harbour land."

Need for Provision

5.2.4 Unlike that of most other major trust ports, the legislation relating to the Port does not include a general statement of the Board's statutory functions. While the Board already has implied powers to carry out the matters set out in article 3, in the interests of clarity it is desirable that these should be set out expressly.

5.2.5 The power in article 3 to improve the harbour is a general statement of the Board's functions and is not intended to, and would not, give statutory authority to the Board to carry out specific works in the harbour. It reflects the Board's statutory objective "to administer maintain and improve the Dover Harbour" as mentioned in the preamble to the Dover Harbour Consolidation Act 1954. As paragraph 7B of Schedule 2 indicates, authority to carry out specific works can only be conferred by a HRO if the works are described in the HRO.

5.3 **Article 4 of the Order - Development of land etc.**

5.3.1 This article provides that the Board may use or develop for any purpose, and deal with, any land within or in the vicinity of the harbour; or form, invest in and promote, or join with another person in forming, investing in and promoting, a company for using or developing for any purpose, and dealing with, any land within or in the vicinity of the harbour.

5.3.2 Article 4(2) provides that a company established under paragraph (1)(b) may have powers to do anything necessary for the purposes of the objects for which it has been established notwithstanding that the Board would not themselves have the power to do that thing

Relevant provision of Schedule 2 to the 1964 Act

5.3.3 Article 4, so far as applying to land not required for the harbour, is authorised by paragraph 9A:

"Empowering the authority (alone or with others) to develop land not required for the purposes of the harbour with a view to disposing of the land or of interests in it, and to acquire land by agreement for the purpose of developing it together with such land."

So far as relating to harbour land, it is considered that Article 5 is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in an HRO if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out below as an integral part of the justification for article 4.

Need for Provision

5.3.4 The purpose of article 4 is to give the Board the flexibility to exploit opportunities to develop land (including harbour land) to maximise the

efficient utilisation and expansion of the harbour (as regards harbour land) and regeneration (as regards non-harbour land). As an example of how this power might be used in respect of operational land, the Port has announced its vision for Dover Western Docks Revival which provides an opportunity to protect port capacity and provide an additional opportunity to develop a cargo operation at the Western Docks, where joint venture vehicles may be required to secure its efficient delivery. As an example of where the power might be used for land not directly required for the purposes of the Port, the Board also has a significant property portfolio including historic and listed heritage assets and takes its maintenance liabilities very seriously. It wishes to have the flexibility to ensure that these assets are preserved for future generations and provide additional uses for the benefit of both customers and community. By improving these historic assets it will enable the Board to increase revenue which will conduce to the efficient functioning of the harbour and contribute to the regeneration aspirations set out in the Ministerial statement.

- 5.3.5 The need for the Board to have powers to carry on part of its port undertaking by means of a joint venture with another person or persons is set out in paragraphs 5.4.4 to 5.4.7 below. For the same reasons, the Board need the ability to develop harbour land through such a joint venture as part of a package of the powers which would, for example, be needed to construct and manage a cargo terminal at Dover Western Docks, Terminal 2 or other port assets and businesses through a joint venture company.
- 5.3.6 The profits and revenues derived from the development of non-harbour land under article 4 would be used to improve and develop the Port and provide increased financial security.
- 5.3.7 It should be noted that the powers in article 4 can only be exercised if *"it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner"*. This limitation brings article 4 within the powers of section 14(2)(b) of the 1964 Act (set out in paragraph 4.2 above).
- 5.3.8 Similar powers to those in article 4 were recently conferred on the Poole Harbour Commissioners by article 53 of the Poole Harbour Revision Order 2012.

5.4 **Article 5 of the Order - Other commercial activities**

- 5.4.1 Article 5(1)(a) provides that the Board may carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person. Article 5(1)(b) enables the Board to form, invest in and promote, or join with another person in forming, investing in and promoting, a company for carrying on any part of the undertaking or carrying on at any place a trade or business of any kind. Article 5(2) provides that a company established under paragraph (1)(b) may have powers to do anything necessary or expedient for the purposes of the objects for which it has been established notwithstanding that the Board would not themselves have the power to do that thing.

Relevant provision of Schedule 2 to the 1964 Act

- 5.4.2 It is considered that Article 5 is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a Harbour Revision Order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning

of the harbour. The case for this is set out below as an integral part of the need for article 5.

Need for Provision

- 5.4.3 Article 5(1)(a) would assist the Board to maximise the potential of the Port undertaking by enabling them to carry on any business which could conveniently be carried on with the Port undertaking. For example, the Board could utilise and develop the skill and experience of its staff by providing services to other harbour undertakings or to carry out business activities which are incidental to running a port.
- 5.4.4 Article 5(1)(b) would enable the Board to carry on such a business as part of a joint venture with another person or persons, for example enabling the Board to contribute land and/or port related expertise to the venture while the other party contributes complementary specialist business expertise.
- 5.4.5 The profits and revenues derived from the business ventures under article 5 would be used to improve and develop the Port and provide increased financial security.
- 5.4.6 Article 5(1)(b) would also enable the Board to carry out part of their undertaking through a joint venture company. This would, for example, enable the Board to facilitate the establishment of the Western Docks Revival and Terminal 2 in time by setting up a joint venture company to construct and, if appropriate, manage it once constructed. Powers to grant a lease and develop harbour land through such a joint venture and to delegate powers to such a joint venture company are conferred by articles 5(1)(b), 6(2)(b) and 8 and are explained further in the notes to those provisions.
- 5.4.7 The purpose of these provisions is to give the Board the flexibility that is needed to make most efficient use of the Port assets and to improve and expand the Port. A key part of that flexibility is to enable the Board to enter into joint ventures.
- 5.4.8 It should be noted that the powers in article 5 can only be exercised if *“it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner”*. This limitation brings article 5 within the powers of section 14(2)(b) of the 1964 Act (set out in paragraph 4.2 above).

5.5 **Article 6 of the Order - Powers to grant tenancies and to dispose of land**

- 5.5.1 Article 6(1) gives power to the Board, for the purposes of or in connection with the carrying on of the undertaking, to grant leases and other rights or interests over their land or other property forming part of the harbour.
- 5.5.2 Article 6(2) provides that the Board may also dispose of, or grant the use or occupation for any purpose of, land or property if they consider that the property is surplus to harbour requirements; or it would conduce to the improvement, maintenance or management of the harbour in an efficient and economical manner for the property to be held by a person other than the Board.
- 5.5.3 Article 6(3) confirms that the rights of the Secretary of State under section 33 of the Dover Harbour Consolidation Act 1954 are unaffected by these additional powers

Relevant provision of Schedule 2 to the 1964 Act

- 5.5.4 Article 6(1), which is needed to manage the harbour, is authorised by paragraph 3(a) of Schedule 2 which relates to powers conferred for the purposes of *"improving maintaining or managing the harbour"*.
- 5.5.5 Article 6(2)(a) is authorised by paragraph 9 of Schedule 2:

"Empowering the authority to dispose of property vested in them and held for the purposes of the harbour which is no longer required for those purposes."
- 5.5.6 It is considered that Article 6(2)(b) is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a Harbour Revision Order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out below as an integral part of the need for article 6.

Need for Provision

- 5.5.7 Article 6(1) and 6(2)(a) are needed to enable the Board to manage the Port undertaking effectively. These powers are well precedented. For example, they are similar to the powers conferred on Poole Harbour Commissioners by article 54 of the Poole Harbour Revision Order 2012.
- 5.5.8 Article 6(2)(b) would enable the Board to grant leases or transfer land or property to a subsidiary or other body. This power is needed to enable the Board to structure the Port undertaking so that it is managed in two divisions – one to manage the day to day running of the Port and the other to engage in wider activities, including development of property assets, as a catalyst for regeneration – as envisaged by the Shipping and Ports Minister (see the Ministerial Statement in the Appendix to this statement). The power could also enable the Board, for example, to transfer heritage assets to a charity company limited by guarantee to provide opportunities to access funding mechanisms which are currently unavailable to the Port. This could greatly support the upkeep of listed heritage structures for the benefit of the local community and the nation. See also paragraph 5.6.3 below.
- 5.5.9 The power in article 6(2)(b) is only exercisable if *"it would conduce to the improvement, maintenance or management of the harbour in an efficient and economical manner"*. This limitation brings article 6(2)(b) within the powers of section 14(2)(b) of the 1964 Act (set out in paragraph 4.2 above).

5.6 Article 7 of the Order - Power to become a member of a company or subscribe for securities

- 5.6.1 This article provides that the Board may, in connection with or for the purposes of the undertaking, subscribe for or acquire shares or securities in, or become a member of, any body corporate. This power is in addition to the powers in article 4(1)(b), article 5(1)(b), section 22(1)(c) of the Dover Harbour Act 1963 and article 7 of the Dover Harbour Order 2006.

Relevant provision of Schedule 2 to the 1964 Act

5.6.2 It is considered that Article 7 is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a Harbour Revision Order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out below as an integral part of the justification for article 7.

Need for Provision

5.6.3 The power in article 7 is needed to enable the Board to invest in companies including companies limited by guarantee. This power covers some of the same ground as article 5(1)(b) but is wider in that, for example, it enables the Board to become a member of a company limited by guarantee which is not formed to carry on a trade or business. The power would, for example, enable the Board to hold its heritage property through a charitable company which would allow the Port to benefit from heritage funding opportunities.

5.7 Article 8 of the Order -Power to delegate functions

5.7.1 This article provides that the Board may delegate the performance of any of their functions to be carried out by any such company as is referred to in article 5(1)(b) or article 5 of the 2006 Order.

Relevant provision of Schedule 2 to the 1964 Act

5.7.2 Article 8 is authorised by paragraph 9B of Schedule 2:

"Empowering the authority to delegate the performance of any functions of the authority except-

(a) a duty imposed on the authority by or under any enactment;

(b) the making of byelaws;

(c) the levying of ship, passenger and goods dues;

(d) the appointment of harbour, dock and pier masters;

(e) the nomination of persons to act as constables;

(f) functions relating to the laying down of buoys, the erection of lighthouses and the exhibition of lights, beacons and sea-marks, so far as those functions are exercisable for the purposes of the safety of navigation."

Need for Provision

- 5.7.3 As explained in the Minister's Statement set out in the Appendix to this statement, it is desirable that the Board should be able to manage the Port undertaking through subsidiaries, so as to enable the Board to manage the undertaking in two divisions – one responsible for day to day port operations and one for wider activities to act as a catalyst for regeneration.
- 5.7.4 For the reasons set out in paragraphs 5.4.4 to 5.4.7 above there is also a need for the Board to have powers to carry out part of the port undertaking by means of a joint venture with another person or persons.
- 5.7.5 The power to delegate functions is needed to enable the Board to carry out day to day activities through a subsidiary or joint venture company. The power does not apply to the key functions which cannot be delegated under paragraph 9B of Schedule 2 to the 1964 Act.

5.8 Article 9 of the Order - Power to borrow

- 5.8.1 This article provides that the Board (including any subsidiary) may borrow, by any methods they see fit, such sums of money as they think necessary for the purposes of meeting their obligations in carrying out their functions. Where moneys are borrowed by the Board or a subsidiary, the Board or subsidiary may borrow those moneys upon the security of some or all of their assets for the time being or of some or all of their revenues or of some or all of both their assets and their revenues. This power is in addition to article 19 of the 2006 Order.

Relevant provision of Schedule 2 to the 1964 Act

- 5.8.2 Article 9 so far as relating to the Board's power to borrow is authorised by paragraph 10 of Schedule 2:

"Empowering the authority to borrow money, with or without limitation with respect to the amount that may be borrowed or the time or manner in which the power may be exercised."

- 5.8.3 It is considered that paragraph 10 of Schedule 2 is wide enough also to authorise article 9 so far as relating to the power of a subsidiary to borrow and charge assets on the basis that making provision for a

subsidiary of the Board can be viewed as making provision for the Board themselves . However, in any event, the provisions relating to a subsidiary are covered by paragraph 17 of Schedule 2 which enables a provision to be included in a Harbour Revision Order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out below as an integral part of the need for article 9.

Need for Provision

- 5.8.4 The Board already have borrowing powers under article 19 of the Dover Harbour Revision Order 2006. Article 19 enables the Board to borrow on the security of all or any part of their revenues (past or future) and to charge all or any part of the Board's assets by way of security for any overdraft or temporary loan. However it does not enable the Board to charge their assets as security for a long term loan. Article 9 fills this gap by enabling the Board or their subsidiaries to borrow on the security of all or part of their assets. For ease of reference article 9 sets out a self-contained power to borrow rather than by amending article 19 of the 2006 Order. Although article 9 covers some of the same ground as article 19 of the 2006 Order, article 19 is not repealed since it confers additional specific powers including the power to give guarantees.
- 5.8.5 The Board and its subsidiaries require the power to borrow against the security of assets to enable substantial funds to be raised from commercial sources to improve the Port and to invest in the future.

5.9 Article 10 of the Order - Power to lend

- 5.9.1 This article provides that the Board may lend money for the purposes of the carrying out of their functions to any such company as is referred to in article 4(1)(b), 5(1)(b) or 7(1) or article 5 of the 2006 Order or to any person carrying on or proposing to carry on harbour operations or any business within or in the vicinity of the harbour.

Relevant provision of Schedule 2 to the 1964 Act

- 5.9.2 It is considered that Article 10 is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a Harbour Revision Order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out below as an integral part of the need for article 10.

Need for Provision

- 5.9.3 The need for the Board to have powers to carry on part of their port undertaking by means of a joint venture with another person or persons is explained in paragraphs 5.4.4 to 5.4.7 above. The ability to lend money to a company in which the Board is a member is an essential part of the package of powers needed to enable the Board to set up joint venture arrangements, and is therefore justified for the reasons in paragraphs 5.4.4 to 5.4.7.

5.10 Article 11 of the Order - Reserve fund

- 5.10.1 This article provides that the Board may establish and maintain reserve funds and carry to such a fund any part of their receipts on revenue account as is available for the purpose.

Relevant provision of Schedule 2 to the 1964 Act

- 5.10.2 Article 11 is authorised by paragraph 13 of Schedule 2:

"Regulating the application of moneys in the nature of revenue received by the authority and securing that the financial affairs of the authority are properly managed."

Need for Provision

- 5.10.3 It is an essential part of prudent financial management that the Board should have the power to maintain reserve funds to enable the Board to plan for future expenditure. While the Board already has implied powers to maintain reserves, in the interests of clarity it is desirable that these should be set out expressly.

5.11 Article 12 of the Order - Payment of subscriptions, etc.

- 5.11.1 This article provides that the Board may pay or make reasonable subscriptions, payments or donations to the funds of such associations, public institutions or charities as the Board think fit.

Relevant provision of Schedule 2 to the 1964 Act

- 5.11.2 It is considered that Article 12 is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a Harbour Revision Order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out below as an integral part of the justification for article 12.

Need for Provision

- 5.11.3 Article 12 would enable the Board to play a full role in the local community by making reasonable contributions to charitable or public causes. Making such contributions promotes a close and general relationship of the Port with the local community, increases goodwill and gains the support for Port projects by the community which is key to facilitating the efficient function of the Port. It is also in line with the expectations outlined in the Minister's statement
- 5.11.4 Similar powers to those in article 12 were recently conferred on the Poole Harbour Commissioners by article 49 of the Poole Harbour Revision Order 2012.

5.12 Conclusion

- 5.12.1 In addition to the specific provisions of Schedule 2 to the 1964 Act, paragraph 17 of Schedule 2 provides that a Harbour Revision Order may include provision for:

"Any object which, though not falling within any of the foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour."

- 5.12.2 For the reasons mentioned above, it is considered that to the extent that any provision contained in the HRO does not fall specifically within any other paragraph of Schedule 2, the provisions of the HRO would be conducive to the efficient functioning of Dover Harbour and it is therefore within the scope of the 1964 Act for them to be included in the HRO.
- 5.12.3 The Shipping and Ports Minister, Stephen Hammond visited Dover Harbour on 9 April 2014 and announced that he had agreed with the Board that it should seek up-to-date financial powers giving it the flexibility it needs to improve and expand further.
- 5.12.4 The Minister stated that *"this means enabling [the Board] to enter into joint ventures, and also to borrow against their assets"*. The Minister also stated that he had agreed that the Board should create divisions with one responsible for regeneration and asked the Board to explore the regeneration division becoming a subsidiary of the Board.
- 5.12.5 It is considered that the provisions of the HRO reflect the powers which the Minister envisages the Board should have.

5.12.6 The Minister's full speech is included as the Appendix to this statement.

Dated: 5 June 2014

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APPENDIX

SPEECH BY STEPHEN HAMMOND, SHIPPING AND PORTS MINISTER 9 APRIL 2014

Speech The future of the Port of Dover

Organisation: [Department for Transport](#)
Delivered on: 9 April 2014 (Original script, may differ from delivered version)
Page history: Published 9 April 2014
Policy: [Sustaining a thriving maritime sector](#)
Topics: [Transport](#) and [UK economy](#)
Minister: [Stephen Hammond MP](#)
Location: Dover Marina Harbour Hotel, Dover

Plan for Dover unlocks a bright future for historic port and town.



The Port of Dover is the gateway to Britain; a critical piece of national infrastructure, but also an integral part of the town.

We all want to see a thriving port and thriving town.

I last visited Dover in November, and heard your views at first-hand about what has worked well at the port over the past year, and what can be improved.

I have thought about what you said, and today (9 April 2014) I'm going to set out the steps I believe we need to take to secure an enduring and shared future for the port and for the community.

Before I go on, I'd like to pay tribute to everyone in Dover involved with the port.

Both the local MP Charlie Elphicke and the Dover Harbour Board Chair, George Jenkins, have in their respective roles made progress in bridging the divide between port and town.

I would also like to commend the harbour board for the excellent performance of the port operations and commend the community for setting out their views on the future of the port with such vigour and purpose.

We have also seen plans for growth and regeneration in Dover, both from Dover Harbour Board (DHB) and the district council. We need to make sure that these move forwards together, and that there is appropriate level of consultation.

Whilst a start has been made, I think we can still do more.

Today (9 April 2014), I'm going to set out the steps that need to be taken to ensure an enduring solution in 3 areas: community involvement, commercial development and regeneration.

The port and its staff has taken significant steps towards improving its engagement with the community.

I have listened to the concerns that were raised when I last visited in November, that although the port and community forum had been set up, and a useful start has been made, we need to move forward further.

I believe Dover needs an enduring and meaningful consultative relationship with its port. This can be achieved by a legal commitment to consult interested parties, as has been done successfully at other major trust ports.

The port and community forum and port user group are in their early days but these groups, among others which have been seen to work well at major trust ports, could be vehicles for delivering this legal commitment.

But we need to do more to deliver a significant and enduring relationship between town and port.

So as well as the legal commitment I have agreed with the board that an important form of permanent community involvement is seats in the boardroom.

Therefore additional, community non-executive directors should be appointed to the board, as has been done at other successful trust ports.

The future board will consist of the chairman, existing non-executive specialist directors, executive directors, and now these community non-executive directors.

This board will oversee 2 operating divisions; a port operating division and a division dedicated to regeneration.

I am clear that all board members must be able to fulfil the duties of this important role.

And it is also important that these community board members are drawn from the community itself, for example either because they live in Dover or have a business in the town.

I want the local community to be involved in selecting these board members, and a form of election could be part of the process. There is much work to be done on clarifying how this can be enacted to best benefit the community and the ongoing success of the port.

I want the board and the wider community to consider together how this can be achieved. I am committed to working with the local member of Parliament to ensure that we have community non-executive directors who have the trust and confidence of the community.

The important point here is that together these measures will place the community at the heart of decision-making at the port.

Engagement with the community and port users is a priority, however without the bedrock of strong commercial performance from the port, nothing can be achieved.

The port has put in an excellent performance over the past year with a 13% increase in ro-ro traffic, and an £85 million investment programme in key infrastructure projects.

This includes the completed berth 6 and traffic management improvement works, which include the creation of a new holding area with capacity for 220 freight vehicles.

This is equivalent to taking almost 4 kilometres of traffic off Dover's roads.

I would also like to thank everyone at the port for their remarkable resilience in ensuring that the port continued to operate effectively during the appalling weather we experienced this winter.

In February the port also set out its vision for the revival of the western docks, a development which has the potential to create 600 new jobs whilst safeguarding another 140.

These jobs will not be tied to the initial construction projects, and offer a long term boost to Dover.

We now need to allow the port to build on this start, and to make the most of Dover's commercial potential.

I have therefore agreed with the harbour board that, they should get up-to-date financial powers, giving them the flexibility they need to improve and expand further.

This means enabling them to enter joint ventures, and also to borrow against their assets.

The investment this will help deliver should bring real benefits to the port, its customers and the local community.

These reforms will enable the harbour board to raise substantial funds to invest in the future.

These changes are necessary because we need to do more to regenerate Dover.

The financial powers which are required for the commercial development of the port will allow DHB to enhance its contribution to regeneration.

Alongside the revival of the western docks, we want to see the regeneration of the waterfront, the marina, and Cambridge terrace.

I want everyone to feel that their voice is being heard as these developments progress. The new community directors will enable this to happen.

The harbour board will continue to play a significant role in regeneration.

I have asked them to improve their focus on this and, as a result, I have agreed that the harbour board will create divisions responsible for day-to-day operations and regeneration.

As with commercial operations, the new regeneration division will benefit greatly from the new borrowing powers in moving forward its plans.

This structure will also enable the regeneration division to enact or enter into the whole range of commercial arrangements which will allow regeneration opportunities to be maximised.

Furthermore as a future step, I would like to explore the possibility of the regeneration division becoming a subsidiary company or trust.

That would allow it to benefit from an even greater range of external funding that would not otherwise be possible, for example heritage funding opportunities .

To sum up, Dover is a trust port, with all the benefits that brings. And so my plan is for Dover to remain a trust port. But one with a guarantee of a significant and lasting role for the community as part of the strategic leadership of the port.

This gives the community full participation and consultation in strategic decision making going forward.

As well as looking to the community, the port also has an essential role as a major commercial business with a vital role in the UK's transport infrastructure.

To continue to succeed, the port must have the right financial powers to allow it to invest and prosper.

My plan will provide this.

Dover is a port town and the port and town must thrive together.

The improved focus on wider regeneration through the new division will allow for engagement of appropriate expertise in this area. This, along with the new financial powers will mean the port can realise better the opportunities it can deliver as well as acting as a catalyst for the wider regeneration of the town.

My plan ensures this.

To make these changes happen, I have agreed with Dover Harbour Board that they will embed the new financial powers and community engagement changes in law through the Harbour Revision Order process.

I am confident that this legislation can swiftly be put in place.

Legislative changes provide a full opportunity for all interested parties to make their voices heard, and you will be kept informed of how you can participate.

My plan ensures that this will happen.

In the meantime I am sure we can all be positive that these changes mean we can move on in the debate about how port and community can work together and channel energies into delivery.

Dover is the gateway to Britain, and it is imperative that this vital part of our transport infrastructure can continue to operate efficiently as a world class port in the 21st century.

But this should be hand in hand with the local community, rather than at its expense.

I am today (9 April 2014) asking the harbour board to explore how the port might further contribute funding and support for the benefit of the local community. I propose a community fund which should maximise the opportunities now afforded. I hope that the harbour board will consider providing it with appropriate initial and ongoing funding from the pre-tax profit of the port, in line with the practise seen in other trust ports.

As I said at the beginning progress has been made and I believe the changes announced today (9 April 2014) will allow the port and town to work permanently, hand-in-hand together towards a thriving Dover.

I would now like to take the opportunity to come and talk to you about what I have just said and answer any questions you may have.

Thank you.

MARINE MANAGEMENT ORGANISATION

HARBOURS ACT 1964 (AS AMENDED)

PROPOSED DOVER HARBOUR REVISION ORDER 2014

**STATEMENT IN SUPPORT OF APPLICATION
FOR ORDER BY DOVER HARBOUR BOARD**

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