



## Statement in Support of Harbour Revision Order (HRO) Application

Table 1: Application details

<b>1. Date application made to MMO</b>	8 October 2020
<b>2. Name of primary contact</b>	Ashfords LLP
<b>3. Contact details of primary contact</b>	Lara Moore, Ashfords LLP l.moore@ashfords.co.uk
<b>4. Address of primary contact</b>	Ashfords LLP, Ashford House Grenadier Road Exeter EX1 3LH
<b>5. Name of Statutory Harbour Authority</b>	Cattewater Harbour Commissioners
<b>6. Is this a Works Order?</b>	No
<b>a. Brief description of proposed works</b>	N/A
<b>b. Date when notification of intention was submitted to MMO</b>	N/A
<b>c. Date when EIA screening</b>	N/A

<p><b>opinion was issued by MMO</b></p>	
<p><b>d. If screened in, date when scoping opinion was issued by MMO</b></p>	<p>N/A</p>
<p><b>e. If screened in and if an optional ES review was undertaken, date when review was completed by MMO</b></p>	<p>N/A</p>
<p><b>7. Non-technical summary – please explain what you are seeking to achieve in this application in no more than 200 words.</b></p>	<p>The Order modernises the statutory harbour powers applying in relation to Cattewater Harbour.</p> <p>It extends the limits of the harbour to include those parts of the harbour premises currently outside the existing harbour limits. It also confers further modernised powers on the Commissioners considered conducive to the efficient and economical operation, maintenance, management and improvement of Cattewater Harbour. In particular, the Order would confer modern powers on the Commissioners to give general directions to vessels using Cattewater Harbour and to persons and vehicles using the harbour, together with powers exercisable by the harbour master appointed by the Commissioners to give special directions to vessels. These powers are required to support the effective management of Cattewater Harbour as recommended in the Port Marine Safety Code.</p> <p>It also provides the Commissioners with express powers related to borrowing and to the laying and licensing of moorings in the whole of the harbour (whether or not situated on fundus owned / leased by the Commissioners) and related offences. The majority of moorings in the harbour already pay for the licence from or are controlled by the Commissioners because they are situated on fundus owned / leased by the Commissioners.</p> <p>The Order also amends the Order of 1915 to revoke article 70 (provision respecting lighters employed at Orestone works), amends the Order of 1950 to provide further clarity to the exemption contained in the First Schedule, Part V, Exemption and amends the Schedule 2 of the Order of 2005 to alter provisions relating to the appointment, period of office and removal of the chair and deputy chair of the Commissioners and to revoke article 13 (borrowing powers).</p>

<b>8. Location (coordinates must be provided in WGS84 format if this is a works order)</b>	Cattewater Harbour (Port of Plymouth)
<b>9. State the title of all relevant charts/maps/plans included with application (if appropriate)</b>	Plan of the current Harbour Premises contained in Annex 1 of this Statement of Support. Note this plan is not being deposited with the Order, it is included with the Statement of Support for clarity and information purposes only.
<b>10. State the legislation relevant to the Harbour Authority and included with this application (if appropriate)</b>	<p>The Cattewater Harbour Order 1915  The Cattewater Harbour Order 1925  The Cattewater Harbour Order 1950  The Cattewater Harbour Revision (Constitution) Order 2005</p> <p>In addition, the Plymouth Marine Events Base Act 1985 is included. It does not apply directly to the Commissioners but is referred to in the Order because section 29 amends article 17 (harbour limits) of the Cattewater Harbour Order 1915 which is also amended by the proposed Order.</p>
<b>11. If you have received any pre-application guidance from the MMO in relation to this application please briefly describe this here.</b>	N/A
<b>12. Have you included the required fee for your application?</b>	Sent by BACS with reference HRO/2020/00006

### **Table 3: Statutory Harbour Authority background**

Cattewater Harbour ("the Harbour") is classed by the Department for Transport ("DfT") as a Trust Port. The Commissioners, as the Statutory Harbour Authority are governed by their own local legislation collectively known as the Cattewater Harbour Orders 1915 to 2005. The Commissioners are responsible for the administration, maintenance and improvement of the Harbour which is more fully described below.

Cattewater Harbour is located within the Dockyard Port of Plymouth, for which the primary harbour authority is the Ministry of Defence who operate the port under the Dockyard Ports Regulation Act 1865 and the associated Dockyard Port of Plymouth Order 1999. The Commissioners are one of three separate statutory harbours (ABP Millbay, Sutton Harbour Authority and the Commissioners) which operate within the Dockyard Port. In the event of conflict between directions given by the Commissioners and the Queen's Harbour Master, the directions of the Queen's Harbour Master prevail.

The Commissioners are also a Competent Harbour Authority under the Pilotage Act 1987.

The Harbour is located at Plymouth and stretches from the east of a line joining Mountbatten Breakwater to Fishers nose, bounded by Sutton Lock Gates to the North, and Laira Bridge to the East. The area of water currently within the jurisdiction of the Commissioners is approximately 100 hectares. The Commissioners' 'dry' real estate, is limited. Largely consisting of the harbour office and 1 worksite and equating to approximately 0.5 hectares. The worksite is located approx. 120m from the water's edge (as the crow flies).

Within Cattewater Harbour there are 5 berths for commercial vessels with circa 2,250,000 tonnes of cargo shipped and unshipped through the Harbour annually. The main cargoes shipped through the Harbour include clay, fertilisers, wood chips and project cargoes, bulk liquid products such as Petroleum Tankers and cement.

The Harbour also has mainstream mooring buoys for yachts. Larger Tall ships and vessels with an overall length up to 30m are regular visitors to the river and cruise ships up to 300m can be accommodated in the anchorage. The Harbour offers a small number of other pontoon berths, and approximately 120 further moorings managed by the harbour. In addition to moorings managed by the harbour there are over 1000 vessels registered in private moorings and marinas. There are approximately 8 visitor moorings through the summer months. Approximately 900 acts of pilotage take place per annum. Cattewater Harbour is home to a small fleet of registered fishing vessels.

In managing the Harbour, the Commissioners strive to observe industry standards set out in Government guidelines. The Commissioners are committed to complying with the principles of the various codes and reports applying to the ports and harbours industry, except where not relevant to the Commissioners' constitution.

### Table 3a: Need and justification for order

#### Port Marine Safety Code

As the harbour authority for Cattewater Harbour, the Port Marine Safety Code (November 2016) published by the Department for Transport (“the Code”) applies to the Commissioners as well as to all statutory harbour authorities and other marine facilities, berths and terminals in the UK. The Executive Summary to the Code explains that:

*“The Code has been developed to improve safety in the port marine environment and to enable organisations to manage their marine operations to nationally agreed standards. It provides a measure by which organisations can be accountable for discharging their statutory powers and duties to run harbours or facilities safely and effectively. It also provides a standard against which the policies, procedures and performance of organisations can be measured. The Code describes the role of board members, officers and key personnel in relation to safety of navigation and summarises the main statutory duties and powers of harbour authorities. The Code is designed to reduce the risk of incidents occurring within the port marine environment and to clarify the responsibilities of organisations within its scope.”*

The Code identifies a number of tasks which harbour authorities should undertake in order to comply with the Code including reviewing and being aware of existing powers based on local and national legislation and advises that harbour authorities should seek additional powers if the existing powers are insufficient to meet their obligations to provide safe navigation. In particular, paragraph 2.5 of the Code states “... *harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already*”. The Commissioners are seeking to obtain modern powers of General Direction (covering both vessels and vehicles) to enable them to have a single set of General Directions covering the whole harbour instead of having separate byelaws and directions. Although the Commissioners have been designated with powers of Harbour Direction, Harbour Directions only apply to ‘ships’ and therefore are of limited use. The Commissioners do not currently have powers of General Direction.

#### Harbours Act 1964

Section 14 of the Harbours Act 1964 (“the 1964 Act”) confers powers which have been devolved to the MMO 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 of the 1964 Act.

Section 14(2)(a) of the 1964 Act requires that a 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”.*

The matters set out in Schedule 2 to the 1964 Act include, in particular, at paragraph 4:

*“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above”.*

And, at paragraph 6:

*“Settling (either for all purposes or limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled”*

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.

The application for the Order under section 14 of the 1964 Act 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.

The proposed Order would modernise the powers of the Commissioners considered conducive to the efficient and economical operation, improvement, maintenance, or management of the Harbour.

An explanation of, and the need for, each substantive article in the Order are set out in the table below. Some examples of how the powers may be exercised are also described below. These examples are not intended to be exhaustive of the ways in which the powers may lawfully be exercised.

Articles 1 and 2 of the Order are not dealt with below since they are ancillary to the substantive provisions of the Order.

**Table 2b: Justification for inclusion of provisions**

Article in HRO	Summary of Provision	Requirement for provision
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<p>3</p>	<p>Extension of the Harbour Limits to include the Harbour Premises</p>	<p>This article provides for the amendment of articles 3 and 17 of the Cattewater Harbour Order 1915 (<b>‘the 1915 Order’</b>) to clarify the definition of the harbour limits to expressly include the harbour premises.</p> <p>The clarification is required, because the main definitions of harbour, harbour undertaking and harbour limits that apply to the Commissioners under their local Orders are contained in the 1915 Order (as amended by the Cattewater Harbour Order 1950 and the Plymouth Marine Events Base Act 1985). Although the <i>‘conveniences connected’</i> with the harbour of the Commissioners are included within the definition of the ‘harbour undertaking’ in article 3 of the 1915 Order, article 17 of the 1915 Order (as amended by article 23 of the Cattewater Harbour Order 1950 and section 29(3) of the Plymouth Marine Events Base Act 1985) which defines the ‘harbour limits’ does not expressly refer to the <i>“conveniences”</i>. This creates uncertainty in relation to the exercise of the Commissioners’ enforcement powers over those parts of the harbour situated above the high water mark of ordinary spring tides (below high water, the Commissioners already have clear express powers). Clarity is therefore required, and the proposed amendments have been included in the harbour revision order to provide this clarity, making it clear that enforcement powers can be exercised over the whole harbour, including the harbour premises. Both the Commissioners’ existing enforcement powers and any General or Special Directions given under the powers and procedures contained in the proposed Order will be exercisable over the whole of the harbour area (including the harbour premises) following a positive determination of the Order.</p> <p>Plans of the limited harbour premises (above high water) currently forming part of the harbour undertaking are included in <b>Appendix 1</b> of this Statement of Support. In the future were the Commissioners to buy for example a wharf adjacent to the harbour, the powers would also apply to it.</p> <p>These amendments are necessary as part of the process of modernisation of the Commissioners’ powers as a statutory harbour authority and to support their compliance with the Port Marine Safety Code.</p> <p>This article is authorised by paragraph 6 of Schedule 2 of the Harbours Act 1964:</p> <p><i>“Settling (either for all purposes or limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled”</i></p>
<p>4 – 6 and 8</p>	<p>Power to make General Directions and associated</p>	<p>These articles provide the Commissioners with modern powers of General Direction and slightly extend the standard power to cover vehicles and directions given for the ease, convenience or</p>

	<p>procedure, publication requirements and penalty.</p>	<p>safety of harbour operations ashore (as defined under the Order). They also set out the consequences of failing to comply with a General Direction.</p> <p>The main purpose of the proposed Order is to provide the Commissioners with modernised powers of General Direction. The Port Marine Safety Code, advises at paragraph 2.5 of Chapter 2 that:</p> <p><i>“In particular, harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already.”</i></p> <p>The Commissioners do have powers of Harbour Direction. However, these powers only apply to ‘Ships’ and as such personal watercraft such as jet skis and other similar craft may not be bound by any Harbour Directions that the Commissioners may bring into force. Harbour Directions also cannot be exercised in an emergency. In addition, it means that the Commissioners would have to keep in place byelaws and harbour directions, which can be confusing for harbour users. The process for keeping General Directions up to date is also far more time and cost efficient than the byelaw making process, and due to the inclusion of the Queen’s Harbour Master and the Cattewater Harbour User Group (see below) as ‘designated consultees’ contains a strong local consultation requirement.</p> <p>Therefore, in line with the Port Marine Safety Code, the Commissioners are applying for a modernised power of General Direction that will enable the Commissioners to repeal their existing byelaws and instead have in place a single set of General Directions. In line with best practice, article 5 of the proposed order provides a statutory right for ‘designated consultees’ to be consulted about proposed General Directions (see article 5(1)(a) and (b)).</p> <p>The Cattewater Harbour User Group will be a ‘designated consultee’ within article 5(1)(a) alongside the Chamber of Shipping and the Royal Yachting Association. In addition, and very importantly the Queen’s Harbour Master for the Dockyard Port of Plymouth is also a designated consultee (the Ministry of Defence is the lead statutory harbour authority in the area).</p> <p>The proposed harbour revision order itself, only grants the power to make General Directions. Any future exercise of this power will be exercised in accordance with article 5. This means that representations received from the Queen’s Harbour Master, Cattewater Harbour User Group and other designated consultees will be taken into account by the Commissioners and if they object to proposed General Directions and those concerns are unable to be resolved, there is a statutory</p>
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adjudication process contained in article 5. The process contained in article 5 is likely to be acceptable to the Royal Yachting Association as a similar adjudication process is contained within the Shoreham Port Authority Harbour Revision Order 2021, the Dart Harbour and Navigation Revision Order 2021 and the Fowey Harbour Revision Order 2021.

In terms of the precise scope of General Directions, it will be seen that article 4(1) would allow the Commissioners to give or amend directions "...for the purpose of promoting or securing directions conducive to the ease, convenience or safety of navigation, the safety of persons, the protection of property, flora and fauna and the ease, convenience and safety of harbour operations ashore in the harbour". Such a scope is consistent with the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within the harbour.

Article 8 sets out the maximum fine level (level 4 on the standard scale) for failure to comply with a General Direction once made. Although the Commissioners don't currently have powers of General Direction they do have byelaw making powers (under section 83 of the Harbours Docks and Piers Clauses Act 1847 and article 43 of the Cattewater Harbour Order 1915) and they are already entitled to impose fines of up to level 4 on the standard scale (section 57 of the Criminal Justice Act 1988).

These articles are authorised by Schedule 2 to the 1964 Act include, in particular:

paragraph 3:

*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.*

paragraph 4:

		<p><i>“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above”.</i></p> <p>paragraph 16A:  <i>“Imposing or conferring on the authority duties or powers (including powers to make byelaws) for the conservation of the natural beauty of all or any part of the harbour or of any of the fauna, flora or geological or physiographical features in the harbour and all other natural features.”</i></p>
<b>7 – 9</b>	Power to give Special Directions and associated procedure, penalty and enforcement.	<p>These articles provide the Commissioners with modern powers of Special Direction and set out the level of fine (article 8 – see above). The Commissioners already have powers of special direction and the power to move vessels who do not comply with certain directions under sections 52 and 58 of the Harbours Docks and Piers Clauses Act 1847 respectively as incorporated by article 4(2) of the Cattewater Harbour Order 1950. Nevertheless, it is considered conducive to the management of the harbour in an efficient and economical manner for them to be provided with a modern express power as set out under the Order.</p> <p>These articles are authorised by Schedule 2 to the 1964 Act include, in particular:</p> <p>paragraph 3:  <i>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—</i></p> <p><i>(a)improving, maintaining or managing the harbour;</i></p> <p><i>(b)marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof; or</i></p> <p><i>(c)regulating the carrying on by others of activities relating to the harbour or of activities on harbour land.</i></p> <p>paragraph 4:  <i>“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above”.</i></p>
<b>10</b>	Master’s responsibility in relation to directions	Article 10 preserves the responsibility of the Master of a vessel to the Master’s vessel, persons on board it, its cargo and any other persons or property.

11	Saving for existing directions, byelaws etc.	Article 11 provides a standard saving for existing byelaws, directions etc. This is a standard provision required to ensure that the provisions of the Order do not affect the status of existing byelaws, directions etc.
12	Saving for directions of the Queen's Harbour Master	<p>As stated in table 3 above, Cattewater Harbour is located within the Dockyard Port of Plymouth, for which the primary harbour authority is the Ministry of Defence who operate the port under the 1865 Dockyard Ports Regulation Act and the associated Dockyard Port of Plymouth Order 1999. The Commissioners are one of three separate statutory harbours (ABP Millbay, Sutton Harbour Authority and the Commissioners) which operate within the Dockyard Port. In the event of conflict between directions given, the directions of the Queen's Harbour Master or regulations of the Ministry of Defence applying to the Dockyard Port of Plymouth prevail. Article 12 is included in the proposed Order to preserve this position and make it clear.</p> <p>As is currently the position regarding any byelaws or harbour directions the Commissioners may wish to make, consultation takes place with the MoD / Queen's Harbour Master to ensure that the wording of any proposed enforcement provisions is agreed with the MoD and Queen's Harbour Master prior to commencement of the application / making procedure. Thereby ensuring there is no conflict between provisions and that they are in a form approved by the MoD / Queen's Harbour Master, including preserving the overarching authority of the MoD / Queen's Harbour Master.</p>
13, 14 and 15		<p>These articles provide the Commissioners with powers related to the provision, maintenance and licensing of moorings within the harbour (whether or not situated on fundus owned / leased by the Commissioners). A person may apply for a mooring licence under article 14, which set out that the Commissioners may grant a licence for such a period and on such terms and conditions as they think fit; and that the licence may relate to one mooring, or to several moorings. The Commissioners are also permitted to make reasonable charges for the grant of a licence under this article. The majority of moorings in the harbour already pay for the licence from, or are controlled by the Commissioners because they are situated on fundus owned / leased by the Commissioners.</p> <p>Similar provisions are found within articles 14-17 of The Yarmouth (Isle of Wight) Harbour Revision Order 2011, articles 9-11 of The Poole Harbour Revision Order 2012, article 18 of The Watchet Harbour Revision Order 2000 and article 21 of The Burry Harbour Revision Order 2000.</p> <p>Article 15 provides for a level 4 fine for failure to comply with its requirements. This level of fine is required firstly to ensure that there is a sufficient level of deterrent (moorings in the harbour are sought after and can be used to generate income. The level of fine needs to be in excess of likely income generation) and secondly, a mooring obstructing safe navigation in the harbour will</p>

		constitute a navigational hazard and can interfere with the operation of the Open Port Duty. As such it is considered that a level 4 fine is justified.
<b>16</b>		<p>This article provides that the Commissioners may borrow such sums of money as they think necessary for the purpose of meeting their obligations in carrying out their functions and that they may secure such borrowing against their assets and or revenues.</p> <p>The article reflects modern statutory harbour borrowing powers as can be seen in the powers conferred by article 9 of the Weymouth Harbour Revision Order 2021.</p> <p>There is no need to place a limit on the amount of money which can be borrowed by the Commissioners, because, in reality their borrowings will be limited by the amount a lender is prepared to loan them. In addition the unlimited borrowing power will avoid the requirement for an HRO at a future date to extend the borrowing powers.</p>
<b>17</b>	Amendment of the Order of 1915, the Order of 1950 and the Order of 2005	<p>Article 16 amends the Order of 1915 to revoke article 70. Article 70 (provision respecting lighters employed at Orestone works). This provision provided that the Commissioners could not remove or interfere with the moorings provided for Lighters employed for the repair of the breakwater at Oreston that existed at the time of the 1915 Order, or to charge such lighters due under the 1915 Order. However, no such lighters are now used, nor have been for a considerable period of time. The Commissioners are instead contracted to repair the breakwater and as such this provision is obsolete and therefore being revoked.</p> <p>Article 16 also amends the Order of 1950 to provide further clarity to the exemption contained in the First Schedule, Part V, Exemption. As currently drafted the exemption is silent with regard to passenger dues, meaning that they can be charged on all vessels. However, to provide clarity, it is considered that passenger dues should be treated in the same way as cargo under the exemption, i.e. passenger dues are only chargeable if the passengers embark or disembark in Cattewater Harbour rather than within Sutton Harbour or the Great Western Docks.</p> <p>Finally Article 16 amends the Order of 2005 to alter provisions relating to the appointment of the chair of the Commissioners by removing the requirement to serve a three year term as a Commissioners prior to appointment, to change the term of office for the chair and deputy chair to three years and to include a new provision to permit the removal of position of chair and deputy chair of the Commissioners from a person appointed to that role by resolution. These amendments have been made to make it easier for the Commissioners to comply with the Ports Good Governance Guidance and to enable them to ensure that they are able to appoint a suitable</p>

		chair and vice chair in the future from a wider pool of persons. It also revokes article 13 of the Order of 2005 which contains the Commissioner's existing capital borrowing power.
<b>18,19 and 20</b>	Saving for Trinity House, the Queen's Harbour Master and Crown Rights	These articles contain standard saving provisions for Trinity House, the Queen's Harbour Master and the Crown.
<b>21</b>	Notices	This article has been included at the request of the Marine Management Organisation. It sets out how notices required under the Order are served.
<p>In addition to the specific provisions of Schedule 2 to the 1964 Act mentioned in tables 3(a) and 2(b) above, paragraph 17 of Schedule 2 of the Act provides that a Harbour Revision Order may include provision for:</p> <p><i>“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.”</i></p> <p>For the reasons mentioned above, it is considered that to the extent that any provision contained in the Order does not fall specifically within any other paragraph of Schedule 2, the provisions of the Order would be conducive to the efficient functioning of Cattewater Harbour and it is therefore within the scope of the 1964 Act for them to be included in the Order.</p>		

**Table 4: Relevant policies, guidance and plans**

<b>Plan, policy or guidance</b>	<b><i>Demonstration that application is compliant with relevant plan, policy or guidance.</i></b>
<b>Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)</b>	<p><b>COMPLIANCE WITH UK MARINE POLICY STATEMENT AND DRAFT SOUTH WEST MARINE PLAN</b></p> <p>Cattewater Harbour is situated within the draft South West Marine Plan inshore area. The latest iteration of the draft South West Inshore and South West Offshore Marine Plan was published for consultation in January 2020. Once published as a Consultation Draft, Marine Plans become a material consideration and as such, although the draft South West Inshore and South West Offshore Marine Plan is not yet adopted, it is considered in this Statement of Support in addition to the UK Marine Policy Statement.</p> <p>The proposed Order is a relatively short, non-works HRO (i.e. it does not authorise a plan or project). Its provisions are focused on modernising the Commissioners' existing statutory powers to support the efficient and economical operation, maintenance, management and improvement of Cattewater Harbour. Predominantly this modernisation of powers relates to the Commissioners' enforcement activities. The modernisation, amends the process by which such enforcement provisions can be made, amended and repealed (General Directions instead of byelaws).</p>

The proposed Order also clarifies the existing harbour limits to expressly include the harbour premises removing uncertainty over the exercise of the Commissioners' enforcement powers above high water. As such it is expected that the effects of the proposed Order on the South West Inshore Marine Plan area will be very limited and that any effects will be positive as the proposed Order supports the economic and efficient management of Cattewater Harbour (including with respect to environmental considerations). A brief summary of compliance is nevertheless set out below.

#### **Compliance with UK Marine Policy Statement**

The UK Marine Policy Statement ('MPS') sets out (in section 2.1) that the UK vision for the marine environment is for '*clean, healthy, safe, productive and biologically diverse oceans and seas*'. The core purpose of the proposed Order is to modernise the Commissioners' enforcement powers enabling them to keep their enforcement provisions under review and to update, amend and repeal them in a more timely and efficient manner than through byelaws. This will support the Commissioners in ensuring they meet, both their environmental duties under s48A of the Harbours Act 1964 and compliance with the Port Marine Safety Code. Both of which will support the vision of ensuring that the marine environment in around Cattewater Harbour is kept '*clean, healthy, safe, productive and biologically diverse*'. The provisions of the proposed Order also support the following high level objectives contained in the MPS:

- (a) **Achieving a sustainable marine economy:** Marine businesses are acting in a way which respects environmental limits and is socially responsible.
- (b) **Ensuring a strong, healthy and just society:** The coast, seas, oceans and their resources are safe to use.
- (c) **Living within environmental limits:** Biodiversity is protected, conserved and where appropriate recovered and loss has been halted.
- (d) **Promoting Good Governance:** Marine businesses are subject to clear, timely, proportionate and, where appropriate, plan-led regulation.

#### **Compliance with draft South West Inshore and South West Offshore Marine Plan**

As stated above, until its adoption, the draft South West Inshore and South West Offshore Marine Plan ('SW Marine Plan') is a material consideration. Through its modernisation of the Commissioners' statutory powers the proposed Order will support the following objectives contained in the SW Marine Plan:

- (a) **Achieving a sustainable marine economy:** Marine businesses are taking long-term strategic decisions and managing risks effectively. They are competitive and operating efficiently.
- (b) **Ensuring a strong, healthy and just society:** The coast, seas, oceans and their resources are safe to use.
- (c) **Living within environmental limits:** Biodiversity is protected, conserved and where appropriate recovered and loss has been halted.

In addition, the proposed Order is supported by policy SW-PS-1, which expressly supports competitive and efficient port and shipping operations, recognising '*that Ports and harbours are essential to realise economic and social*

	<i>benefits for the south west marine plan areas and makes sure proposals do not restrict current port and harbour activity or future growth, enabling long-term strategic decisions, and supporting competitive and efficient port and shipping operations.'</i>
<b>Insert other relevant plans/policy/guidance in this section</b>	<u>Port Marine Safety Code</u> See table 3A above.

**Table 5: Any other relevant information**

<p>No general formal pre-application consultation has been carried out in respect of this application due to the potential imminence of the proposed increase in Harbour Order application fees. However, alongside submission of the application, the Commissioners have engaged with the Queen's Harbour Master regarding the proposed Order. In particular the input of the Queen's Harbour Master and his relevant advisors has been sought with regard to the final wording for articles 12 and 19 of the proposed Order and confirmation has been received that the wording of those provisions is acceptable.</p>
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**Appendix 1: Plan of current harbour premises**



