



Statement in Support of the Dover Harbour Revision Order Application

Table 1: Application details

1. Date application made to MMO	20 October 2021
2. Name of primary contact	James O'Connor
3. Contact details of primary contact	Email:jamesoconnor@eversheds-sutherland.com Tel: +44 (0)20 7919 4877
4. Address of primary contact	1 Wood Street, London EC2V 7WS
5. Name of Statutory Harbour Authority	Dover Harbour Board
6. Is this a Works Order?	Yes
a. Brief description of proposed works	A Wave Wall (also referred to as a wave screen wall) within the Outer Harbour at Dover Harbour comprising a detached, piled structure approximately 70m in length located at the entrance to the recently constructed marina at Dover Harbour, 20m west of the existing breakwater at the marina entrance, aligned in a NW-SE direction and designed to protect the marina from wave energy reflected from the north-eastern corner of the harbour at high water.
b. Date when notification of intention was submitted to MMO	18 June 2021

<p>c. Date when EIA screening opinion was issued by MMO</p>	<p>12 October 2021</p>
<p>d. If screened in, date when scoping opinion was issued by MMO</p>	<p>N/A</p>
<p>e. If screened in and if an optional ES review was undertaken, date when review was completed by MMO</p>	<p>N/A</p>
<p>7. Non-technical summary – please explain what you are seeking to achieve in this application in no more than 200 words.</p>	<p>Statutory authority to construct and maintain the Wave Wall described in section 6a above together with relevant associated powers required in connection with the construction of the Wave Wall, the Wave Wall being required in order to protect the new marina within Dover Harbour from wave energy.</p>
<p>8. Location (coordinates must be provided in WGS84 format if this is a works order)</p>	<p>The proposed Wave Wall would be located within the Outer Harbour at Dover Harbour. It would be approximately 70 metres in length and aligned in a NW-SE direction, commencing at a point at 51°07'09.3"N, 1°19'14.2"E proceeding in easterly direction and terminating at a point at 51°07'08.7"N, 1°19'17.6"E.</p> <p>The proposed location and extent of the Wave Wall is shown on the location and extent of work plan shown on the same sheet as the plan and section accompanying the application for the Harbour Revision Order.</p>
<p>9. State the title of all relevant charts/maps/plans included with application (if appropriate)</p>	<p>The Dover Harbour Revision Order 2021/2 Plan and Section</p>

<p>10. State the legislation relevant to the Harbour Authority and included with this application (if appropriate)</p>	<p>The Dover Harbour Acts and Orders 1954 to 2016 (listed in Table 5: 'Any other relevant information' below) make provision in respect of the constitution of the Dover Harbour Board ("the Board") and the powers conferred on the Board to manage and regulate Dover Harbour. Since the current HRO application seeks to authorise a discreet, self-contained project, it is not considered necessary to include copies of all of those enactments with the HRO application. However, the proposed Wave Wall sought to be authorised under the HRO is required in connection with the operation of the marina at Dover Harbour which was authorised to be constructed by the Dover Harbour Revision Order 2012 (S.I. 2012 No. 416). https://www.legislation.gov.uk/ukxi/2012/416/pdfs/ukxi_20120416_en.pdf See Work No. 13 in article 4 (power to construct works).</p>
<p>11. If you have received any pre-application guidance from the MMO in relation to this application please briefly describe this here.</p>	<p>N/A</p>
<p>12. Have you included the required fee for your application?</p>	<p>Yes</p>

Table 3: Statutory Harbour Authority background

<p>DOVER HARBOUR BOARD</p> <p>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 2016 (listed in Table 5: 'Any other relevant information' below).</p> <p>The Board is responsible for the administration, maintenance and improvement of the Port which is more fully described below. As a Trust Port, Board Members are appointed by the Secretary of State for Transport and by the Board itself in accordance with the provisions of the Dover Harbour (Constitution) Revision Order 2016 and there are no shareholders or owners.</p> <p>Every year the Board takes responsibility for approximately 11.1 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 observes the standards set out in Government guidelines for trust port</p>

governance which deal with accountability, and seek to act in an open and accountable way but without compromising commercial confidentiality or legal responsibility.

DOVER HARBOUR

The Port is situated in the county of Kent on the south-east tip of England and in close proximity to the Continent. The limits of the Harbour within which the Board exercises jurisdiction as statutory harbour authority and within which the powers of the harbour master are exercisable are defined in section 4 of the Dover Harbour Consolidation Act 1954 (interpretation) as substituted by article 3 of the Dover Harbour Revision Order 2012 (limits of harbour) being the limits which are shown edged by a red line on sheet number 26 of the deposited plans accompanying the 2012 Order. The Wave Wall sought to be authorised by this proposed HRO would be located within those limits.

The Port 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 by which a large proportion of the UK's cross Channel freight and passengers can enter or leave the UK.

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. The introduction of double-deck berths and further redevelopment of the ferry terminal led to the construction of further berths in 2005 which were opened 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.

In 2019 (pre-Covid), the Port received around 17,300 vessels, and handled 2.4 million commercial road haulage vehicles and 11.1 million passengers. Its Group revenue was £71.5 million. The value of freight traffic through the Port is up to £122 billion per year and up to 17% of the UK's trade in goods. The Port is crucial to the UK's economy and national resilience in terms of trade flows, with the value of the connectivity it provides estimated to be worth up to £3 billion. In addition, the Port is a major employer in the region, supporting approximately 22,000 jobs, over 90% of which are in Kent and around half of which are in Dover.

In addition to freight and passenger traffic handled by the Port's ferry, cruise and cargo businesses, the Port also provides facilities for resident and visiting recreational craft and for small commercial vessels in three existing marinas with a combined capacity of 400 berths. Due to its location, Dover is one of the first ports of call for recreational vessels arriving from Europe and one of the last ports for vessels transiting to Europe. The marina also provides a base for the RNLI's offshore lifeboat which covers the adjacent section of the English Channel.

Table 3a: Need and justification for order

In March 2016 the Board was granted a Marine Licence in respect of the construction of the Dover Western Docks Revival (DWDR) Scheme. The DWDR Scheme takes forward the vast majority of the marine works authorised to be constructed by the Dover Harbour Revision Order 2012 (“the 2012 HRO”) and will provide the fundamental infrastructure required to transform Dover’s waterfront in the Western Docks. The £250 million programme of works includes the construction of two new cargo berths, land reclamation to create new operational areas, the construction of a new marina and the creation of public realm facilities including a new pier, and a public recreational area and development site. The development has facilitated the relocation of Dover’s cargo terminal and distribution centre and will provide vast economic development not only for the Dover area, but for the UK’s trade and prosperity links with the European Union (EU), as well as greatly enhancing employment and recreation opportunities for Dover’s local community

The construction phase of the DWDR Scheme is being undertaken in stages and many of the activities have already been completed, including all elements of Stage 1, Stage 1A and Stage 2. This includes the dredging, reclamation and construction works necessary for creating Berths A and C and the new marina and associated structures. Stage 3A has also been completed and a new public realm space opened in June 2021.

Following completion of the construction of the marina and adjacent pier under construction Stage 2, the Board identified an unexpected situation whereby wave heights within the new marina under south westerly storm conditions, in combination with high water, were leading to unacceptable movement of the floating pontoons within the new marina.

In an attempt to rectify this problem, in November 2020 the Board successfully procured a variation to the existing DWDR Scheme Marine Licence (L/2016/00056/8) to include the construction of a 14.4m long inner wave wall screen at the entrance to the marina, in the aperture between the Marina Curve and the new Marina Pier and within the limits of deviation of the works authorised under the 2012 HRO, to limit the propagation of reflected waves into the marina. The inner wave wall screen was successfully completed in December 2020.

However, following a review of the performance of the recently-constructed inner wave wall screen, it has been determined that, as a result of the nature of the incident waves and the limited reduction in wave height arising from more frequent events, further wave attenuation measures are required before the marina is suitable for use. It is therefore proposed to construct an outer wave wall screen of approximately 70m in length comprising contiguous tubular steel piles similar to those used to construct the inner wave wall screen. The final design is still being developed, but it is now anticipated that up to 59 piles will be required, with a diameter of approximately 1.1m. Due to the location the piles will be driven from a floating or jack-up barge.

This outer wave wall screen is designed to protect the entrance to the marina from wave energy reflected from the north-eastern corner of the harbour at high water and its location is outside the limits of deviation provided for under the 2012 HRO.

The proposed HRO application is therefore needed in order to authorise the Board to construct and maintain this outer wave wall screen and to confer relevant associated powers required in connection with its construction.

Section 14 of the Harbours Act 1964 (“the 1964 Act”) confers powers (delegated to the MMO by the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674)) to make an order under that section (known as a harbour revision order (“HRO”)) 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.

Under section 14(2)(a) of the 1964 Act, an HRO must be made on an application made “*by the authority engaged in improving, maintaining or managing [the harbour] or by a person appearing to [the MMO] to have a substantial interest..*”. However, an HRO can only provide for the powers to carry out works (and any incidental powers) to be conferred on the harbour authority. This is because under section 14(1) of the 1964 Act an HRO can only be made to achieve all or any of the objects specified in Schedule 2 to the Act, and those objects are in terms of powers being conferred on the harbour authority.

“*Harbour authority*” is defined in section 57 of the 1964 Act as “*any person in whom are vested under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order powers or duties of improving, maintaining or managing the harbour*”. The application for this HRO is therefore made by the Board as the statutory harbour authority for Dover Harbour.

Section 14(2)(b) of the 1964 Act 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 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)	As is demonstrated above in relation to the need for the HRO, 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.

Table 2b: Justification for inclusion of provisions

Article in HRO	Summary of Provision	Requirement for provision
<p>Articles 3 (Power to construct works), 4 (Power to deviate) and 5 (Subsidiary works)</p>	<p>Article 3(1) authorises the Board to construct and maintain the principal work being the Wave Wall (Work No. 1) which as mentioned above, is required to protect the new marina within Dover Harbour. The work is described in article 3 as follows –</p> <p><i>‘Work No. 1 – A wave wall of steel piled construction 70 metres in length, commencing at a point at 51°07’09.3"N, 1°19’14.2"E proceeding in easterly direction and terminating at a point at 51°07’08.7"N, 1°19’17.6"E the location and a section of which are shown on the deposited plan and section respectively.’</i></p> <p>Article 3(1) provides for the work to be constructed in accordance with the plans and sections accompanying the application for the HRO but this is subject to the horizontal and vertical limits of deviation provided by article 4 of the HRO (see below).</p> <p>Article 3(2) authorises the Board to reconstruct, extend, enlarge, replace or relay Work No.1 but only within the limits of deviation.</p> <p>Article 4 - provides some flexibility in the construction of the works authorised by article 3 and enables them to deviate from the lines or situations shown on the plans accompanying the application for the HRO within the</p>	<p>Paragraph 3 of Schedule 2 to the 1964 Act includes provision which enables a HRO to be made for varying or abolishing a harbour authority’s existing powers conferred under its local legislation in respect of improving, maintaining or managing its harbour undertaking and making safe navigation within the harbour.</p> <p>Paragraph 4 of Schedule 2 to the 1964 Act then enables a HRO to be made conferring on the harbour authority additional powers for the purposes specified in paragraph 3.</p> <p>In addition, paragraph 7B of Schedule 2 to the 1964 Act enables a HRO to be made the effect of which is to extinguish public rights of navigation <i>‘for the purposes of works described in the order or works ancillary to such works, or permitting interference with the enjoyment of such rights for the purposes of such works...’</i></p> <p>It is considered that paragraphs 4 and 7B of the 1964 Act provide powers which enable the HRO to include provision such as is made by article 3. The drafting of article 3 is well precedented in numerous HRO’s made in recent years which have conferred powers on harbour authorities to construct marine works such as Work No.1 which, as demonstrated above, is required to be constructed by the Board.</p>

	<p>limits of deviation also shown on the plans. Vertically, deviation is permitted 3 metres upwards and to such extent downwards as may necessary or convenient from the levels shown for the works on the sections accompanying the application for the HRO.</p> <p>Article 5 authorises the Board to construct subsidiary works within the limits of deviation of the principal works shown on the plans accompanying the HRO.</p>	<p>In particular, such provision is included in the Dover Harbour Revision Order 2012 which authorised the Board to construct the marina which now necessitates the construction of the Wave Wall sought to be authorised by the proposed HRO.</p>
<p>Article 6 (Obstruction of works)</p>	<p>Article 6 creates the offences of:</p> <ul style="list-style-type: none"> • intentionally obstructing any person acting under the authority of the Board in setting out the lines of or in constructing the works; and • interfering with, moving or removing equipment for the purposes of setting out. <p>Persons guilty of either offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and liable to repay the Board as a debt any expenses incurred in making good any damage resulting from the obstruction.</p>	<p>Section 14(3) of the 1964 Act enables a HRO to ‘include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or in connection with, the order, including, but without prejudice to the generality of the foregoing words, penal provisions...’.</p> <p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 6 which provides a remedy within the HRO should a person attempt to prevent the lawful construction of the works authorised by the HRO and is usually included in HRO’s which authorise works.</p> <p>The creation of these offences and the power to impose sanctions for these purposes is necessary to enable the Board to manage the construction of the works and to regulate the carrying on by others of activities relating to the construction of the works.</p>

		<p>Therefore this provision ensures that the Board has the appropriate means to ensure that the construction of the works as authorised by the HRO can be carried out unhindered by providing the Board with a remedy within the HRO should a person attempt to prevent the lawful construction of the works authorised by the HRO.</p> <p>The level of fine specified in the draft HRO reflects modern drafting (see the Folkestone HRO 2017, article 10) and complies with section 14(3)(a)(ii) of the 1964 Act.</p> <p>It is a standard, precedented approach to include such provisions in HROs and similar statutory instruments.</p>
Article 7 (Survey of tidal works)	Article 7 provides that the Secretary of State may order a survey and examination of a tidal work or a site upon which it is proposed to construct the work.	<p>Section 14(3) of the 1964 Act enables a HRO to '<i>include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or in connection with, the order,...</i>'.</p> <p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 7 which is a usual provision which is expected to be included in HROs authorising tidal works since it provides the Secretary of State with a degree of control over how the works are carried out after the order is granted.</p>
Article 8 (Provision against danger to navigation)	Article 8 makes provision in the case of injury to, or destruction or decay of, a tidal work and requires the Board to notify Trinity House, the Maritime and Coast Guard Agency and the UK Hydrographic Office in such	Section 14(3) of the 1964 Act enables a HRO to ' <i>include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or</i>

	<p>circumstances which may direct the Board to take steps for preventing danger to navigation.</p> <p>The provision makes it an offence by the Board in the case of a failure by the Board to comply with the provision.</p>	<p><i>in connection with, the order, including, but without prejudice to the generality of the foregoing words, penal provisions...’.</i></p> <p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 8 being a usual provision which is expected to be included in HROs authorising tidal works along with the corresponding creation of an offence should the Board fail to comply with the provisions of this article or such other steps as directed by Trinity House to prevent danger to navigation arising from the injury to, or destruction or decay of, a tidal work. It also confers specific powers on Trinity House ensuring the continued safety of navigation in relation to the works should they be damaged or fall into decay.</p>
<p>Article 9 (Abatement of works abandoned or decayed)</p>	<p>Article 9 makes provision in a case where a tidal work is abandoned or falls into decay and provides that the Secretary of State may require the Board at its own expense either to repair and restore the work or remove it and restore the site</p> <p>Provision is made for the Secretary of State to execute the works and to recover any expenditure incurred in doing so.</p>	<p>Section 14(3) of the 1964 Act enables a HRO to ‘<i>include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or in connection with, the order,...</i>’.</p> <p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 9 being a usual provision which is expected to be included in HROs authorising tidal works.</p>

		It confers specific powers on the Secretary of State for the removal of the works should they be abandoned or fall into decay ensuring the continued safety of navigation.
Article 10 (Lights on tidal works during construction)	<p>Article 10 requires the Board to exhibit lights and take such other steps for the prevention of danger to navigation in relation to the works as Trinity House may direct.</p> <p>If the Board fail to comply with a direction it is guilty of an offence.</p>	<p>Section 14(3) of the 1964 Act enables a HRO to <i>'include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or in connection with, the order, including, but without prejudice to the generality of the foregoing words, penal provisions...'</i></p> <p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 10 being a usual provision which is expected to be included in HROs authorising tidal works along with the corresponding creation of an offence should the Board fail to comply with a direction from Trinity House to take such steps as directed by Trinity House to prevent danger to navigation during the demolition, construction, renewal reconstruction or alteration of tidal works.</p> <p>It also confers specific powers on Trinity House to ensure the safety of navigation during the construction of the works.</p>
Article 11 (Permanent lights on tidal works)	<p>Article 11 requires the Board to exhibit lights and take such other steps for the prevention of danger to navigation as Trinity House may direct after the works are completed.</p> <p>If the Board fail to comply with a direction it is guilty of an offence.</p>	<p>Section 14(3) of the 1964 Act enables a HRO to <i>'include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or in connection with, the order, including, but without prejudice to the generality of the foregoing words, penal provisions...'</i></p>

		<p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 11 being a usual provision which is expected to be included in HROs authorising tidal works along with the corresponding creation of an offence should the Board fail to comply with a direction from Trinity House to take such steps as directed by Trinity House to prevent danger to navigation after the completion of tidal works.</p> <p>It also confers specific powers on Trinity House to ensure the safety of navigation after the works have been constructed.</p>
Article 12 (Period for completion of works)	Article 12 requires the works to be substantially completed within ten years from the coming into force of the HRO or such extended time as the Secretary of State may on the application of the Board allow.	<p>Paragraph 16 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for –</p> <p><i>‘Extending the time within which anything is required or authorised by a statutory provision of local application affecting the harbour to be done in relation to the harbour by the authority or fixing a time within which anything authorised by the order to be so done must be done.’ [emphasis added].</i></p> <p>It is therefore considered that this provision of the 1964 Act enables the HRO to include provision such as is sought to be made by article 12 which is a usual provision included in HRO’s to ensure that the power to construct works is not ‘open ended’ and will expire if the works are not completed within a reasonable period of time (or such extended period of time as the Secretary of State should the Secretary of State consider it appropriate).</p>
Article 13 (Works to be deemed to be part of harbour)	Article 13 provides for the works authorised under the HRO to be deemed for all purposes to be part of Dover Harbour (which is defined in article 2 of the Order) and	Section 14(3) of the 1964 Act enables a HRO to <i>‘include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any</i>

	<p>for all enactments etc. relating to the harbour to apply to the works.</p>	<p><i>supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or in connection with, the order,...</i></p> <p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 13 which ensures that the works authorised under the HRO form part of the Dover Harbour and the provisions applying to Dover Harbour apply consistently to the new works authorised by the HRO.</p>
<p>Article 14 (Defence of due diligence)</p>	<p>Article 14 provides for it to be a defence in any proceedings for an offence under articles 8, 10 and 11 for the Board to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.</p>	<p>Section 14(3) of the 1964 Act enables a HRO to <i>'include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or in connection with, the order,...</i></p> <p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 14 which provides a defence to the offences created under the HRO in terms usually included in HROs authorising works.</p>
<p>Article 15 (Saving for Trinity House)</p>	<p>Article 15 provides for the protection of the interests of Trinity House.</p>	<p>Section 14(3) of the 1964 Act enables a HRO to <i>'include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any</i></p>

		<p><i>supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or in connection with, the order,...</i></p> <p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 15 which is a usual provision included in HROs authorising works in order to provide appropriate protection for the interests Trinity House.</p>
<p>Article 16 (Crown rights)</p>	<p>Article 16 makes provision for the protection of Crown interests.</p>	<p>Section 14(3) of the 1964 Act enables a HRO to <i>'include all such provisions as appear to the [MMO] to be requisite or expedient for rendering of full effect any other provision of the order and any supplementary, consequential or incidental provisions appearing to [the MMO] to be requisite or expedient for the purposes of, or in connection with, the order,...</i></p> <p>In addition, paragraph 17 of Schedule 2 to the 1964 Act makes provision which enables a HRO to include provision for any object which, though not falling within any of the other paragraphs of Schedule 2, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>It is therefore considered that these provisions of the 1964 Act enable the HRO to include provision such as is sought to be made by article 16 which is a usual provision included in HROs authorising works in order to provide protection for Crown interests.</p>

Table 4: Relevant policies, guidance and plans

Plan, policy or guidance	<i>Demonstration that application is compliant with relevant plan, policy or guidance.</i>
<p>Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)</p>	<p>National Policy Statement for Ports</p> <p>The National Policy Statement for Ports (DfT, 2012) is part of a planning system established under the Planning Act (2008). It is a National Policy Statement (NPS) and provides the framework for decisions on proposals for new port development. It is also a ‘relevant consideration’ for the MMO, which decides other port development proposals, and for local planning authorities where they have a role to play.</p> <p>The NPSfP establishes the significance of ports by stating that 95% of total volume of UK trade came through ports in 2010 and 23 million passengers travelled to or from ports in 2009. On the same page, the NPS claims that “...sufficient sea port capacity will remain an essential element in ensuring sustainable growth in the UK economy”. By providing increased port capacity, the DWDR scheme (which is currently being implemented) will enable the sustainable growth as indicated by the NPS.</p> <p>The NPSfP also recognises the importance of ports for recreation and tourism: “<i>Sea ports play an important role in the tourism and leisure industries, supporting many different forms of economic and social activity, including passenger cruise liners, Channel ferries, sea going yachts and dinghies</i>”. The revival of the Western Docks aims to initiate the creation of businesses and thus allow for economic growth in Dover. The proposed outer wave scheme will therefore facilitate this vision though providing the necessary infrastructure to allow the newly created marina to function at optimum capacity and to provide enhanced facilities for sea-going yachts.</p> <p>Marine Plans</p> <p>Marine plans are prepared under the policy framework provided by the Marine Policy Statement, and together they underpin the marine planning system for England. The Marine Policy Statement builds on the shared UK wide high-level marine objectives, and provides an overview of relevant national policy, including the National Planning Policy Framework and associated National Policy Statements (such as the NPSfP).</p> <p>Part 3 of the MCAA 2009 provides a framework for marine planning. In England, the MMO is the planning authority for the marine environment, and the inshore and offshore waters have been split into 11 plan areas. The proposed scheme is located wholly within the ‘South East Inshore’ Marine Plan area, which stretches from Felixstowe in</p>

Suffolk to near Folkestone in Kent, covering approximately 1,400 kilometres of coastline, taking in a total of approximately 3,900 square kilometres of sea. The South East Inshore Marine Plan was adopted by the MMO on 23 June 2021.

The proposed scheme is also located 1.7km north of the 'South Inshore' Marine Plan area, which was formally adopted in July 2018.

Compliance with the Marine Plans

The proposed scheme is located within a busy port setting subject to regular and very frequent commercial vessel movements. Marine plans for this region recognise the industrial character of the Port of Dover in order to support the development of well-regulated human activity in the area.

A marine plan compliance assessment for the proposed scheme has been undertaken and is presented in the tables below. These tables are also replicated in **Appendix 4** of the Environmental Report which accompanies the application for the HRO and related Marine Licence application (Environment Report (Royal HaskoningDHV 2021, *Harbour Revision Order and Marine Licence Applications for Outer Wave Screen*. 24 November 2021. Ref: PB1552-RHD-ZZ-XX-RP-Z-0004).

Objectives and policies contained within the adopted South East Inshore marine plan (June 2021) have been compared with those in the adopted South Inshore marine plan (July 2018). There are no additional policies contained within the South Inshore marine plan that are not also included (and updated) within the South East Inshore marine plan. Therefore, marine plan compliance assessment has been undertaken with reference to the South East Inshore marine plan policies. As the proposed scheme is considered to be compliant with the South East inshore marine plan, it is also therefore considered to be compliant with the South Inshore marine plan.

Table 1 South East Inshore Marine plan policies and how they are addressed within Environmental Report PB1552-ZZ-XX-RP-Z-0004 (Green highlight = policy relevant to the proposed scheme)

Policy Code	Policy Wording	How addressed?
SE-INF-1	Proposals for appropriate marine infrastructure which facilitates land-based activities, or land-based infrastructure which facilitates marine activities (including the diversification or regeneration of sustainable marine industries), should be supported.	The proposed scheme complies with this policy as it will facilitate the use of the new marina at Dover Harbour, through the provision of protection of infrastructure from potentially damaging wave action, and encourage use of the new facilities for tourism and recreation.

	SE-INF-2	<p>(1) Proposals for alternative development at existing safeguarded landing facilities will not be supported.</p> <p>(2) Proposals adjacent and opposite existing safeguarded landing facilities must demonstrate that they avoid significant adverse impacts on existing safeguarded landing facilities.</p> <p>(3) Proposals for alternative development at existing landing facilities (excluding safeguarded sites) should not be supported unless that facility is no longer viable or capable of being made viable for waterborne transport.</p> <p>(4) Proposals adjacent and opposite existing landing facilities (excluding safeguarded sites) that may have significant adverse impacts on the landing facilities should demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-adverse impacts so they are no longer significant.</p>	Not applicable to the proposed scheme.
	SE-CO-1	<p>Proposals that optimise the use of space and incorporate opportunities for coexistence and co-operation with existing activities will be supported.</p> <p>Proposals that may have significant adverse impacts on, or displace, existing activities must demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-adverse impacts so they are no longer significant.</p> <p>If it is not possible to mitigate significant adverse impacts, proposals must state the case for proceeding.</p>	<p>Dover is the busiest roll-on/roll-off port (vessels carrying wheeled cargo) in Europe, providing local job opportunities and supporting the local and national economy. The port is also well used by recreational users. The proposed scheme will facilitate the continued coexistence of activities.</p> <p>Section 5.5 Shipping and Navigation</p>
	SE-AGG-1	<p>Proposals in areas where a licence for extraction of aggregates has been granted or formally applied for should not be authorised, unless it is demonstrated that the proposal is compatible with aggregate extraction.</p>	Not applicable to the proposed scheme.

	SE-AGG-2	Proposals within an area subject to an Exploration and Option Agreement with The Crown Estate should not be supported unless it is demonstrated that the proposal is compatible with aggregate extraction.	Not applicable to the proposed scheme.
	SE-AGG-3	<p>Proposals in areas of high potential aggregate resource that may have significant adverse impacts on future aggregate extraction should demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-significant adverse impacts on future aggregate extraction so they are no longer significant.</p> <p>If it is not possible to mitigate significant adverse impacts, proposals should state the case for proceeding.</p>	Not applicable to the proposed scheme.
	SE-AQ-1	<p>Proposals within existing or potential strategic areas of sustainable aquaculture production must demonstrate consideration of and compatibility with sustainable aquaculture production. Where compatibility is not possible, proposals that may have significant adverse impacts on sustainable aquaculture production must demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-adverse impacts on sustainable aquaculture production so they are no longer significant.</p> <p>If it is not possible to mitigate significant adverse impacts, proposals should state the case for proceeding.</p>	Not applicable to the proposed scheme.
	SE-AQ-2	Proposals enabling the provision of infrastructure for sustainable aquaculture and related industries will be supported.	Not applicable to the proposed scheme.

	SE-CAB-1	Preference should be given to proposals for cable installation where the method of protection is burial. Where burial is not achievable, decisions should take account of protection measures for the cable that may be proposed by the applicant. Where burial or protection measures are not appropriate, proposals should state the case for proceeding without those measures.	Not applicable to the proposed scheme.
	SE-CAB-2	<p>Proposals demonstrating compatibility with existing landfall sites and incorporating measures to enable development of future landfall opportunities should be supported. Where this is not possible proposals will, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-adverse impacts on existing and potential future landfall sites so they are no longer significant.</p> <p>If it is not possible to mitigate significant adverse impacts, proposals should state the case for proceeding.</p>	Not applicable to the proposed scheme.
	SE-CAB-3	Where seeking to locate close to existing subsea cables, proposals should demonstrate compatibility with ongoing function, maintenance and decommissioning activities relating to the cable.	Not applicable to the proposed scheme.
	SE-DD-1	In areas of authorised dredging activity, including those subject to navigational dredging, proposals for other activities will not be supported unless they are compatible with the dredging activity.	Dover Harbour Board is the proponent of the proposed scheme, and also responsible for the maintenance dredging regime for the wider harbour within the port's jurisdiction under its statutory powers. The proposed scheme has been located in an area which will not interfere with ongoing harbour operations, but will provide the optimum protection to the new marina from wave energy.
	SE-DD-2	<p>Proposals that cause significant adverse impacts on licensed disposal sites should not be supported. Proposals that may have significant adverse impacts on licensed disposal sites must demonstrate that they will, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-adverse impacts so they are no longer significant.</p> <p>If it is not possible to mitigate the significant adverse impacts, proposals must state the case for proceeding.</p>	Not applicable to the proposed scheme.

	SE-DD-3	Proposals for the disposal of dredged material must demonstrate that they have been assessed against the waste hierarchy. Where there is the need to identify new dredge disposal sites, including alternative use sites, proposals should be supported if they conform to best practice and guidance.	Not applicable to the proposed scheme.
	SE-OG-1	Proposals in areas where a licence for oil and gas has been granted or formally applied for should not be authorised unless it is demonstrated that the other development or activity is compatible with the oil and gas activity.	Not applicable to the proposed scheme.
	SE-OG-2	Proposals within areas of geological oil and gas extraction potential demonstrating compatibility with future extraction activity will be supported.	Not applicable to the proposed scheme.
	SE-PS-1	<p>In line with the National Policy Statement for Ports, sustainable port and harbour development should be supported.</p> <p>Only proposals demonstrating compatibility with current port and harbour activities will be supported.</p> <p>Proposals within statutory harbour authority areas or their approaches that detrimentally and materially affect safety of navigation, or the compliance by statutory harbour authorities with the Open Port Duty or the Port Marine Safety Code, will not be authorised unless there are exceptional circumstances.</p> <p>Proposals that may have a significant adverse impact upon future opportunity for sustainable expansion of port and harbour activities, must demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-adverse impacts so they are no longer significant.</p> <p>If it is not possible to mitigate significant adverse impacts, proposals should state the case for proceeding.</p>	<p>The proposed scheme is located wholly within Dover Harbour and will be compatible with existing port operations undertaken by the Port of Dover. Potential impacts on navigational safety and recreational users have been assessed in the environmental report. As the scheme lies outside the navigational area of the harbour it will have no impact on opportunities for future expansion.</p> <p>Section 5.5 Shipping and Navigation</p>
	SE-PS-2	Proposals that require static sea surface infrastructure or that significantly reduce under-keel clearance must not be authorised within or encroaching upon International Maritime Organization routing systems unless there are exceptional circumstances.	The proposed scheme is located wholly within Dover Harbour and will not interfere with IMO routing systems.

	SE-PS-3	Proposals that require static sea surface infrastructure or that significantly reduce under-keel clearance which encroaches upon high density navigation routes, strategically important navigation routes, or that pose a risk to the viability of passenger services, must not be authorised unless there are exceptional circumstances.	The proposed scheme is located wholly within Dover Harbour and will not interfere with strategically important navigation routes or pose a risk to the viability of passenger services.
	SE-PS-4	Proposals promoting or facilitating sustainable coastal and/or short sea shipping as an alternative to road, rail or air transport will be supported where appropriate.	Not applicable to the proposed scheme.
	SE-REN-1	Proposals that enable the provision of renewable energy technologies and associated supply chains, will be supported.	Not applicable to the proposed scheme.
	SE-REN-2	Proposals for new activity within areas held under a lease or an agreement for lease for renewable energy generation should not be authorised, unless it is demonstrated that the proposed development or activity will not reduce the ability to construct, operate or decommission the existing or planned energy generation project.	Not applicable to the proposed scheme.
	SE-REN-3	Proposals for the installation of infrastructure to generate offshore renewable energy, inside areas of identified potential and subject to relevant assessments, will be supported.	Not applicable to the proposed scheme.
	SE-HER-1	<p>Proposals that demonstrate they will conserve and enhance the significance of heritage assets will be supported.</p> <p>Where proposals may cause harm to the significance of heritage assets, proponents must demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-any harm to the significance of heritage assets.</p> <p>If it is not possible to mitigate, then public benefits for proceeding with the proposal must outweigh the harm to the significance of heritage assets.</p>	<p>The proposed scheme does not have the potential to have adverse impacts upon heritage assets.</p> <p>Section 5.9 Archaeology and Heritage</p>

	SE-SCP-1	<p>Proposals should ensure they are compatible with their surroundings and should not have a significant adverse impact on the character and visual resource of the seascape and landscape of the area.</p> <p>The location, scale and design of proposals should take account of the character, quality and distinctiveness of the seascape and landscape.</p> <p>Proposals that may have significant adverse impacts on the seascape and landscape of the area should demonstrate that they will, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-adverse impacts so they are no longer significant.</p> <p>If it is not possible to mitigate, the public benefits for proceeding with the proposal must outweigh significant adverse impacts to the seascape and landscape of the area.</p> <p>Proposals within or relatively close to nationally designated areas should have regard to the specific statutory purposes of the designated area. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks and Areas of Outstanding Natural Beauty.</p>	<p>The proposed scheme is considered to have an impact of negligible significance on landscape / seascape character, as it will be in keeping with existing port infrastructure in a heavily developed port setting.</p> <p>Section 5.6 Landscape and visual impacts</p>
	SE-FISH-1	<p>Proposals that support a sustainable fishing industry, including the industry's diversification, should be supported.</p>	<p>Not applicable to the proposed scheme.</p>
	SE-FISH-2	<p>Proposals that enhance access for fishing activities should be supported. Proposals that may have significant adverse impacts on access for fishing activities must demonstrate that they will, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-adverse impacts so they are no longer significant.</p> <p>If it is not possible to mitigate significant adverse impacts, proposals should state the case for proceeding.</p>	<p>Not applicable to the proposed scheme.</p>
	SE-FISH-3	<p>Proposals that enhance essential fish habitat, including spawning, nursery and feeding grounds, and migratory routes, should be supported. Proposals that may have significant adverse impacts on essential fish habitat, including spawning, nursery and feeding</p>	<p>Not applicable to the proposed scheme.</p>

		<p>grounds, and migratory routes, must demonstrate that they will, in order of preference:</p> <p>a) avoid</p> <p>b) minimise</p> <p>c) mitigate</p> <p>-adverse impacts so they are no longer significant.</p>	
	SE-EMP-1	<p>Proposals that result in a net increase in marine-related employment will be supported, particularly where they meet one or more of the following:</p> <p>1) are aligned with local skills strategies and support the skills available</p> <p>2) create a diversity of opportunities</p> <p>3) create employment in locations identified as the most deprived</p> <p>4) implement new technologies</p> <p>-in, and adjacent to, the south east marine plan area.</p>	Not applicable to the proposed scheme.
	SE-CC-1	<p>Proposals that conserve, restore or enhance habitats that provide flood defence or carbon sequestration will be supported.</p> <p>Proposals that may have significant adverse impacts on habitats that provide a flood defence or carbon sequestration ecosystem service must demonstrate that they will, in order of preference:</p> <p>a) avoid</p> <p>b) minimise</p> <p>c) mitigate</p> <p>-adverse impacts so they are no longer significant</p> <p>d) compensate for significant adverse impacts that cannot be mitigated.</p>	Not applicable to the proposed scheme.
	SE-CC-2	<p>Proposals in the south east marine plan area should demonstrate for the lifetime of the project that they are resilient to the impacts of climate change and coastal change.</p>	<p>The proposed scheme options were modelled by HR Wallingford using the Environment Agency's 2020 'guidance for assessing flood risk of coastal projects' and Met Office UKCP18 data. As such the development of the preferred option has been designed in such a way as to provide the desired benefits with regards to wave attenuation, whilst taking into account future climate change scenarios and predicted sea level rise.</p> <p>Section 5.1 Coastal processes</p>
	SE-CC-3	<p>Proposals in the south east marine plan area, and adjacent marine plan areas, that are likely to have significant adverse impacts on coastal change, or on climate change adaptation</p>	Not applicable to the proposed scheme.

		<p>measures inside and outside of the proposed project areas, should only be supported if they can demonstrate that they will, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-adverse impacts so they are no longer significant.</p>	
	SE-CCUS-1	Decommissioning programmes for oil and gas facilities should demonstrate that they have considered the potential for re-use of infrastructure.	Not applicable to the proposed scheme.
	SE-AIR-1	<p>Proposals must assess their direct and indirect impacts upon local air quality and emissions of greenhouse gases.</p> <p>Proposals that are likely to result in increased air pollution or increased emissions of greenhouse gases must demonstrate that they will, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-air pollution and/or greenhouse gas emissions in line with current national and local air quality objectives and legal requirements.</p>	<p>Construction of the proposed scheme will result in very minor emissions of greenhouse gases due to vessel movements and the operation of construction plant, however the proposed scheme is very small in nature and delivery of piles to the construction site will be by sea resulting in only an insignificant number of additional road/HGV movements, when placed in the context of the port. The proposed scheme will be passive in its operational phase, with only minimal maintenance activities required.</p> <p>Section 5.11 Climate change</p>
	SE-ML-1	<p>Public authorities must make adequate provision for the prevention, re-use, recycling and disposal of waste to reduce and prevent marine litter.</p> <p>Public authorities should aspire to undertake measures to remove marine litter within their jurisdiction.</p>	Not applicable to the proposed scheme.
	SE-ML-2	<p>Proposals that facilitate waste re-use or recycling to reduce or remove marine litter will be supported.</p> <p>Proposals that could potentially increase the amount of marine litter in the marine plan area must include measures to, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-waste entering the marine environment.</p>	<p>No waste materials are envisaged from either the construction or operation of the proposed scheme. All piles will be fabricated to pre-determined lengths and cutting of piles should therefore not be required. In the event that piles did require to be cut to meet the design requirements of the outer wave screen (e.g. due to pile refusal), any pile offcuts would be collected and transported to shore for recycling in accordance with the Contractors Construction Environmental Management Plan (CEMP).</p> <p>Chapter 5 Description of potential environmental effects</p>

	SE-WQ-1	<p>Proposals that protect, enhance and restore water quality will be supported.</p> <p>Proposals that cause deterioration of water quality must demonstrate that they will, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-deterioration of water quality in the marine environment.</p>	<p>The proposed scheme is predicted to have an impact of negligible significance on water quality during the construction phase (via temporary localised increases in suspended sediment concentrations), and no impacts during the operational phase.</p> <p>Section 5.2 Water and sediment quality</p>
	SE-ACC-1	<p>Proposals demonstrating appropriate enhanced and inclusive public access to and within the marine area, including the provision of services for tourism and recreation activities, will be supported.</p> <p>Proposals that may have significant adverse impacts on public access should demonstrate that they will, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-adverse impacts so they are no longer significant.</p>	<p>The Marina Pier is currently open to the public for recreational access, but this is controlled by DHB, and the pier is closed each night. The Marina Curve has also recently (7 June 2021) been opened up to public access. During the proposed works, DHB as landowner will restrict recreational use of the Marina Pier whilst construction works are ongoing. Public access will however be maintained along the Marine Curve, providing an equivalent amount of access to recreational activities. Any restriction to public access of the Marina Pier would also be of short duration (e.g. approximately six weeks).</p> <p>Chapter 5 Description of potential environmental effects</p>
	SE-TR-1	<p>Proposals that promote or facilitate sustainable tourism and recreation activities, or that create appropriate opportunities to expand or diversify the current use of facilities, should be supported.</p> <p>Proposals that may have significant adverse impacts on tourism and recreation activities must demonstrate that they will, in order of preference:</p> <p>a) avoid b) minimise c) mitigate</p> <p>-adverse impacts so they are no longer significant.</p>	<p>The proposed scheme will increase public/recreational access to marine areas through allowing the new marina to function as intended.</p> <p>Section 5.5 Shipping and Navigation</p>
	SE-SOC-1	<p>Those bringing forward proposals should consider and demonstrate how their development shall enhance public knowledge, understanding, appreciation and enjoyment of the marine environment as part of (the design of) the proposal.</p>	<p>Not applicable to the proposed scheme.</p>
	SE-DEF-1	<p>Proposals in or affecting Ministry of Defence areas should only be authorised with agreement from the Ministry of Defence.</p>	<p>Not applicable to the proposed scheme.</p>

	SE-MPA-1	<p>Proposals that support the objectives of marine protected areas and the ecological coherence of the marine protected area network will be supported.</p> <p>Proposals that may have adverse impacts on the objectives of marine protected areas must demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-adverse impacts, with due regard given to statutory advice on an ecologically coherent network.</p>	<p>An MCZ assessment has been undertaken for the proposed scheme. No adverse impacts are predicted on either Dover to Deal or Dover to Folkestone MCZs.</p> <p>Chapter 6 Marine Conservation Zone Assessment</p>
	SE-MPA-2	<p>Proposals that enhance a marine protected area's ability to adapt to climate change, enhancing the resilience of the marine protected area network, will be supported.</p> <p>Proposals that may have adverse impacts on an individual marine protected area's ability to adapt to the effects of climate change, and so reduce the resilience of the marine protected area network, must demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-adverse impacts.</p>	<p>An MCZ assessment has been undertaken for the proposed scheme. No adverse impacts are predicted on either Dover to Deal or Dover to Folkestone MCZs.</p> <p>Chapter 6 Marine Conservation Zone Assessment</p>
	SE-MPA-3	<p>Where statutory advice states that a marine protected area site condition is deteriorating or that features are moving or changing due to climate change, a suitable boundary change to ensure continued protection of the site and coherence of the overall network should be considered.</p>	<p>Not applicable to the proposed scheme.</p>
	SE-MPA-4	<p>Proposals that may have significant adverse impacts on designated geodiversity must demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-adverse impacts so they are no longer significant.</p>	<p>Not applicable to the proposed scheme.</p>
	SE-BIO-1	<p>Proposals that enhance the distribution of priority habitats and priority species will be supported.</p>	<p>Environmental assessments for marine ecology (Section 5.3); marine and coastal ornithology (Section 5.4); marine mammals (Section 5.7); migratory and resident fish (Section 5.8) have been</p>

		<p>Proposals that may have significant adverse impacts on the distribution of priority habitats and priority species must demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-adverse impacts so they are no longer significant</p> <ul style="list-style-type: none"> d) compensate for significant adverse impacts that cannot be mitigated. 	<p>undertaken and the results are presented in the Environmental report.</p>
SE-BIO-2	<p>Proposals that enhance or facilitate native species or habitat adaptation or connectivity, or native species migration, will be supported.</p> <p>Proposals that may cause significant adverse impacts on native species or habitat adaptation or connectivity, or native species migration, must demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate <p>-adverse impacts so they are no longer significant</p> <ul style="list-style-type: none"> d) compensate for significant adverse impacts that cannot be mitigated. 	<p>Environmental assessments for marine ecology (Section 5.3); marine and coastal ornithology (Section 5.4); marine mammals (Section 5.7); migratory and resident fish (Section 5.8) have been undertaken and the results are presented in the Environmental report.</p>	
SE-BIO-3	<p>Proposals that conserve, restore or enhance coastal habitats, where important in their own right and/or for ecosystem functioning and provision of ecosystem services, will be supported. Proposals must take account of the space required for coastal habitats, where important in their own right and/or for ecosystem functioning and provision of ecosystem services, and demonstrate that they will, in order of preference:</p> <ul style="list-style-type: none"> a) avoid b) minimise c) mitigate d) compensate for <p>-net habitat loss.</p>	<p>Not applicable to the proposed scheme.</p>	
SE-INNS-1	<p>Proposals that reduce the risk of introduction and/or spread of invasive non-native species should be supported.</p> <p>Proposals must put in place appropriate measures to avoid or minimise significant adverse impacts that would arise through the</p>	<p>During construction, all marine vessels and construction equipment will be checked for presence of invasive species before commencing operations. There is no risk of introducing or transferring INNS during the operational phase.</p>	

		<p>introduction and transport of invasive non-native species, particularly when:</p> <p>1) moving equipment, boats or livestock (for example fish or shellfish) from one water body to another</p> <p>2) introducing structures suitable for settlement of invasive non-native species, or the spread of invasive non-native species known to exist in the area.</p>	7 Water Framework Directive Compliance Assessment
	SE-INNS-2	Public authorities with functions to manage activities that could potentially introduce, transport or spread invasive non-native species should implement adequate biosecurity measures to avoid or minimise the risk of introducing, transporting or spreading invasive non-native species.	Not applicable to the proposed scheme.
	SE-DIST-1	<p>Proposals that may have significant adverse impacts on highly mobile species through disturbance or displacement must demonstrate that they will, in order of preference:</p> <p>a) avoid</p> <p>b) minimise</p> <p>c) mitigate</p> <p>-adverse impacts so they are no longer significant.</p>	Environmental assessments for marine ecology (Section 5.3); marine and coastal ornithology (Section 5.4); marine mammals (Section 5.7); migratory and resident fish (Section 5.8) have been undertaken and the results are presented in the Environmental report.
	SE-UWN-1	Proposals that result in the generation of impulsive sound must contribute data to the UK Marine Noise Registry as per any currently agreed requirements. Public authorities must take account of any currently agreed targets under the Marine Strategy Part One Descriptor 11.	It is expected that such a requirement will form a condition of any marine licence granted for the proposed scheme.
	SE-UWN-2	<p>Proposals that result in the generation of impulsive or non-impulsive noise must demonstrate that they will, in order of preference:</p> <p>a) avoid</p> <p>b) minimise</p> <p>c) mitigate</p> <p>-adverse impacts on highly mobile species so they are no longer significant.</p> <p>If it is not possible to mitigate significant adverse impacts, proposals must state the case for proceeding.</p>	<p>All piling works will be carried out in accordance with Condition 5.2.12 of the marine licence for the DWDR Scheme (L/2016/00056/8) and it is anticipated that this condition will also form a condition of the new marine licence once determined:</p> <p><i>“During the construction phase piling operations, soft-start procedures must be used, as set out in Piling Method Statement (v1) in Schedule 7 [of L/2016/00056/8]. Should changes to this methodology be required, a revised Piling Method Statement must be developed in consultation with Natural England and submitted to the MMO at least 4 weeks prior to the proposed commencement of the piling activities. Piling activities must not re-commence until written approval of the revised Piling Method Statement is provided by the MMO.</i></p>

		<i>Licensed activities must be undertaken in accordance with the agreed Piling Method Statement."</i> Section 2.3 Construction Methodology
SE-CE-1	Proposals which may have adverse cumulative effects with other existing, authorised, or reasonably foreseeable proposals must demonstrate that they will, in order of preference: a) avoid b) minimise c) mitigate -adverse cumulative and/or in-combination effects so they are no longer significant.	The proposed scheme has been assessed cumulatively with other known or reasonably foreseeable plans and projects, and no cumulative impacts are predicted. Chapter 8 Cumulative Assessment
SE-CBC-1	Proposals must consider cross-border impacts throughout the lifetime of the proposed activity. Proposals that impact upon one or more marine plan areas or terrestrial environments must show evidence of the relevant public authorities (including other countries) being consulted and responses considered.	The proposed scheme does not have the potential to have adverse cross-border impacts with either the South Inshore Marine Plan, or any terrestrial plans. Dover District Council (as Local Planning Authority) will be fully consulted by the MMO as part of the HRO and Marine Licence application processes. The proposed scheme will help to realise the full potential of the new marina.

Table 2 Achievement of South East Inshore marine plan objectives through marine plan policies (Green highlight = relevant to the proposed scheme; note – many policies support multiple objectives and are therefore repeated in the table.

Marine plan objective			Contributing policies										
Achieving a sustainable marine economy	1	Infrastructure is in place to support and promote safe, profitable and efficient marine businesses.	SE-AQ-2	SE-CAB-2	SE-INF-1	SE-INF-2	SE-PS-1	SE-PS-2	SE-PS-3	SE-CBC-1			
	2	The marine environment and its resources are used to maximise sustainable activity, prosperity and opportunities for all, now and in the future.	SE-AGG-1	SE-AGG-2	SE-AGG-3	SE-DD-1	SE-DD-2	SE-DD-3	SE-OG-1	SE-OG-2	SE-REN-1	SE-REN-2	SE-REN-3
			SE-AQ-1	SE-AQ-2	SE-CCUS-1	SE-EMP-1	SE-FISH-2	SE-PS-1	SE-PS-2	SE-PS-3	SE-CO-1	SE-CBC-1	SE-CE-1

		3	Marine businesses are taking long-term strategic decisions and managing risks effectively. They are competitive and operating efficiently.	SE-AGG-1	SE-AGG-2	SE-AGG-3	SE-CCUS-1	SE-PS-1	SE-PS-4	SE-AIR-1	SE-OG-1	SE-OG-2	SE-CAB-1	
				SE-CAB-2	SE-CAB-3	SE-REN-1	SE-REN-2	SE-REN-3	SE-CC-2	SE-CC-3	SE-FISH-1	SE-CE-1	SE-CBC-1	
		4	Marine businesses are acting in a way which respects environmental limits and is socially responsible. This is rewarded in the market place.	SE-AQ-1	SE-CAB-1	SE-CAB-3	SE-EMP-1	SE-FISH-1	SE-CO-1	SE-CE-1	SE-CBC-1			
		Ensuring a strong, healthy and just society	5	People appreciate the diversity of the marine environment, its seascapes, its natural and cultural heritage and its resources and can act responsibly.	SE-HER-1	SE-SCP-1	SE-SOC-1	SE-CBC-1						
	6		The use of the marine environment is benefiting society as a whole, contributing to resilient and cohesive communities that can adapt to coastal erosion and flood risk, as well as contributing to physical and mental wellbeing.	SE-CC-1	SE-CC-2	SE-CC-3	SE-SOC-1	SE-TR-1	SE-ACC-1	SE-CO-1	SE-CBC-1	SE-CE-1	SE-HER-1	
	7		The coast, seas, oceans and their resources are safe to use.	SE-ML-1	SE-ML-2	SE-WQ-1	SE-AIR-1	SE-INNS-1	SE-INNS-2	SE-CBC-1				
	8		The marine environment plays an important role in mitigating climate change.	SE-CC-1	SE-BIO-3	SE-CBC-1	SE-REN-1	SE-REN-2	SE-REN-3	SE-CO-1				

		9	There is equitable access for those who want to use and enjoy the coast, seas and their wide range of resources and assets and recognition that for some island and peripheral communities the sea plays a significant role in their community.	SE-ACC-1	SE-FISH-2	SE-HER-1	SE-SCP-1	SE-TR-1	SE-CO-1	SE-CBC-1	SE-SOC-1				
		10	Use of the marine environment will recognise, and integrate with, defence priorities, including the strengthening of international peace and stability and the defence of the United Kingdom and its interests.	SE-DEF-1	SE-CO-1	SE-CBC-1									
	Living within environmental limits	11	Biodiversity is protected, conserved and, where appropriate, recovered, and loss has been halted.	SE-BIO-1	SE-BIO-2	SE-BIO-3	SE-MPA-1	SE-MPA-2	SE-MPA-3	SE-MPA-4	SE-WQ-1	SE-CE-1	SE-CC-1		
				SE-CC-3	SE-INNS-1	SE-INNS-2	SE-DIST-1	SE-FISH-3	SE-UWN-2	SE-ML-1	SE-ML-2	SE-CO-1	SE-CBC-1		
		12	Healthy marine and coastal habitats occur across their natural range and are able to support strong, biodiverse biological communities and the functioning of healthy, resilient and adaptable marine ecosystems.	SE-BIO-1	SE-BIO-2	SE-BIO-3	SE-DIST-1	SE-MPA-1	SE-MPA-2	SE-MPA-3	SE-FISH-3				
				SE-CC-1	SE-CC-3	SE-CE-1	SE-CO-1	SE-CBC-1	SE-INNS-1	SE-INNS-2					
		13	Our oceans support viable populations of representative, rare, vulnerable, and valued species	SE-DIST-1	SE-UWN-1	SE-UWN-2	SE-BIO-1	SE-BIO-2	SE-BIO-3	SE-CO-1	SE-CBC-1				
				SE-MPA-1	SE-MPA-2	SE-MPA-3	SE-FISH-3	SE-INNS-1	SE-INNS-2	SE-CE-1					

Insert other relevant plans/policy/guidance in this section	<p>As is mentioned at Table 3 above, the Wave Wall sought to be authorised by the HRO is required to be constructed as a consequence of the construction of the new marina under stage 2 of the Dover Western Docks Revival Scheme which takes forward the vast majority of the marine works authorised to be constructed by the Dover Harbour Revision Order 2012 and in respect of which the Board was granted a Marine Licence in March 2016.</p> <p>The project is not sponsored or grant funded by any other bodies or organisations.</p>
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Table 5: Any other relevant information

Dover Harbour Board recognises the importance of stakeholder consultation and hosts a number of regular consultation forums, including the following which are of particular relevance to this HRO application and at which the Wave Wall proposals were discussed:

- Leisure Zone Management Consultation – 31 March 2021;
- Marina Berth Holders meeting – 25 March 2021; and
- Public Annual Consultative Meeting – 26 May 2021.

In addition, the Wave Wall proposals were discussed in detail with the Royal Yachting Association on 19 May 2021 and a further update was provided on 6 September 2021.

Marine Licence Application

A marine licence application under Part 4 of the Marine and Coastal Access Act 2009 has been made by the Dover Harbour Board to the MMO in connection with the proposed works sought to be authorised by this HRO application. This marine licence application has been given the case number **MLA/2021/00448**.

Environmental Report

This HRO application was confirmed in the MMO screening opinion issued on 12 October 2021 as screened out of requiring an environmental impact assessment under the Harbours Act 1964 or the Marine Works (Environmental Impact Assessment) Regulations 2007.

However, a report entitled '*Environmental Report – Harbour Revision Order and Marine Licence Applications for Outer Wave Screen*' and dated 24 November 2021 has been submitted with the HRO application to provide the necessary environmental information in support of the HRO application.

Legislation applicable to the Dover Harbour Board

1. Dover Harbour Consolidation Act 1954 (c. iv)
2. Dover Harbour Act 1963 (c. xxix)
3. Defence (Transfer of functions) (Dover Harbour) Order 1964 (S.I. 1964 No. 932)
4. Dover Harbour Revision Order 1969 (S.I. 1969 No. 1578)
5. Dover Harbour Revision Order 1975 (S.I. 1975 No. 568) [Revoked by the 2016 Constitution Order – No.12 below]
6. Dover Harbour Revision Order 1977 (S.I. 1977 No. 2082)

7. Dover Harbour Revision Order 1978 (S.I. 1978 No. 1069)
8. Dover (Pilotage) Harbour Revision Order (1988 S.I. 1988 No. 2298)
9. Dover Harbour Revision Order 2006 (S.I. 2006 No. 21670)
10. Dover Harbour Revision Order 2012 (S.I. 2012 No. 4160)
11. Dover Harbour Revision Order 2014 (S.I. 2014 No. 27200)
12. Dover Harbour (Constitution) Revision Order 2016 (S.I. 2016 No. 250)