



Statement in Support of Harbour Revision Order (HRO) Application

Table 1: Application details

1. Date application made to MMO	14 September 2022 Case Reference: HRO/2022/00010
2. Name of primary contact	James O'Connor, Partner, Eversheds Sutherland (International) LLP
3. Contact details of primary contact	<i>Email: jamesoconnor@eversheds-sutherland.com Telephone: +44 (0)207 919 4877</i>
4. Address of primary contact	Eversheds Sutherland (International) LLP, 1 Wood Street, London EC2V 7WS
5. Name of Statutory Harbour Authority	Blyth Harbour Commissioners
6. Is this a Works Order?	No
a. Brief description of proposed works	N/A
b. Date when notification of intention was submitted to MMO	N/A
c. Date when EIA screening	N/A

<p>opinion was issued by MMO</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>This application is for a harbour revision order (“HRO”) to be made under the powers conferred on the Secretary of State for Transport by section 14 of the Harbours Act 1964 which are delegated to the MMO by the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674).</p> <p>The HRO application is a non-works Order application as it is purely for administrative purposes in that it will only confer statutory authority to amend the existing harbour limits within which the statutory harbour authority exercises jurisdiction. A works order application is not required or necessary in this case as the HRO application is not seeking any new powers that would authorise the statutory harbour authority to carry out any works or other forms of development.</p> <p>This HRO would authorise an extension to the current statutory harbour limits in respect of Blyth Harbour within which the Blyth Harbour Commissioners (“the Commissioners”) exercise jurisdiction as statutory harbour authority to include an additional area known as Ash Barge Dock which is adjacent to the existing limits of Blyth Harbour. The HRO would accordingly then amend section 11 of the Blyth Harbour Act 1986, which provides for the existing limits of Blyth Harbour, to provide for the area known as Ash Barge Dock to be included within the definition of “<i>the harbour</i>” as provided by that Act.</p> <p>The HRO application is accompanied by “<i>the Ash Barge Dock Limits Plan</i>” (as defined in article 2 of the draft HRO) which identifies the exact location and extent of the extension to the Commissioners’ jurisdiction limits for Blyth Harbour to be authorised by the draft HRO.</p> <p>The extension of the harbour limits is being sought by the Commissioners in consequence of the development</p>

	<p>by Advance Northumberland (Commercial) Limited (an economic regeneration company wholly owned by Northumberland County Council which owns the land being developed) of the Northumberland Energy Park Project.</p> <p>That project includes the construction by Advance Northumberland (Commercial) Limited of a new deep water facility at Ash Barge Dock which is situated adjacent to, but does not currently fall within, the limits of Blyth Harbour.</p> <p>Further information on this project and the construction of Ash Barge Dock is provided in Table 3 below. The need and justification to include Ash Barge Dock within the limits of Blyth Harbour is explained in Table 3a below,</p>
8. Location (coordinates must be provided in WGS84 format if this is a works order)	Blyth Harbour
9. State the title of all relevant charts/maps/plans included with application (if appropriate)	The Ash Barge Dock Limits Plan
10. State the legislation relevant to the Harbour Authority and included with this application (if appropriate)	The Blyth Harbour Acts and Orders 1858 to 2015 listed in Table 5 below make provision in respect of the Commissioners and the powers conferred on the Commissioners to manage and regulate Blyth Harbour. Since this HRO application seeks only to authorise a limited extension to the current limits of the harbour by means of an amendment to the Blyth Harbour Act 1986, it is not considered necessary to include copies of all those enactments with this HRO application expect for a copy of that Act (as enacted) and a copy of that Act marked-up with the amendments proposed by the draft HRO.
11. If you have received any pre-application guidance from the MMO in relation to this application please briefly describe this here.	N/A

12. Have you included the required fee for your application?	Yes
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Table 3: Statutory Harbour Authority background

The Statutory Harbour Authority:

Blyth Harbour Commissioners (“**the Commissioners**”), are the statutory harbour authority for Blyth Harbour and are constituted under, and governed by their own local legislation, principally the Blyth Harbour Act 1986 and the Blyth Harbour Revision (Constitution) Order 2004. The Commissioners are responsible for the administration, maintenance and improvement of Blyth Harbour, which is further described below. The Commissioners are also the Local Lighthouse Authority for Blyth Harbour and a Competent Harbour Authority for the purposes of Pilotage.

In managing Blyth 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 port and harbour industry, except where not relevant to the Commissioners’ constitution.

Blyth Harbour (Port of Blyth):

Blyth Harbour is classed by the Department for Transport as a Trust Port, located at the tidal reaches of the river Blyth, comprising of commercial terminals. There are 4 key terminals at the Blyth Harbour:

1. The South Harbour Terminal; a modern facility which accommodates some of the offshore energy sector’s leading commercial companies and is utilised for project-related cargo. It is the Port’s main base for container movements and storage. The terminal is served by two berths, and it provides 40,000 square metres (“**sqm**”) of modern warehousing and 3 hectares (“**HA**”) of open storage.
2. The Bates Terminal; featuring 7HA of redeveloped quayside land with clean energy and accommodates a number of major offshore energy clients and a unique Wind Turbine Training Facility. The terminal was a result of a £6,000,000 redevelopment programme over two years delivering a heavy load out quay, new roads and hardstanding, cranes and warehouse improvements. The terminal is served by two berths, strengthened for heavy lift operations offering up to 7.6m Lowest Astronomical Tide (“**LAT**”). The terminal also benefits from a Roll-on/Roll-off (“**RoRo**”) pontoon, over 16,000 sqm of existing warehousing and workshop space, a marine fuels facility and 7HA of open storage/development land.
3. The Battleship Wharf Terminal; utilised for major wind farm mobilisations, project cargoes, bulk and breakbulk cargoes. It also accommodates the Port’s fully licenced decommissioning facility. The terminal is served by four deep water berths, strengthened for heavy lift operations, accommodating vessels up to 9m LAT. There is over 10,000 sqm of modern, purpose built warehousing and 8HA of open storage/development land. A rail loading facility offers fast access to and from the UK freight railway network with provision for trains up to 420m in length.

4. The SUF Terminal; a bulk discharge facility offering three bulk storage silos, a pneumatic vessel discharger and access to both road and rail. The terminal is served by one berth offering up to 10.4m LAT and has capacity for additional large scale dry bulk importation.

All operational terminals at Blyth Harbour benefit from a wide range of handling equipment and experience for lifting project pieces up to 600 tonne and moving pieces greater than this by RoRo and Self-Propelled Modular Transporters.

More generally, the Blyth Harbour facilitates:

- Offshore energy: supporting some of the leading companies; the Blyth Harbour is recognised as one of the UK's leading offshore energy support bases.
- Decommissioning: hosting a fully licenced decom facility and a partnership with Thompsons of Prudhoe.
- Unitised & Logistics: a twice weekly European service, supported by the Commissioners' wholly owned logistics subsidiary Transped, providing unitised transport to and from the UK.
- Bulks and Other Cargoes: providing bulk cargo handling services covering dry, liquid and break bulk cargoes, utilising experience and modern equipment.
- Property and Storage: the Port offers a wide range of property related opportunities from quayside redevelopment sites and first class engineering facilities to storage warehouses and open storage.
- Training and Education: the Commissioners have an award winning training division providing fully accredited and industry recognised qualifications to ports, marine, warehousing and logistics and offshore industries.

Ash Barge Dock:

Advance Northumberland (Commercial) Limited ("**ANCL**") is part of a group of regeneration companies wholly owned by Northumberland County Council with a clear remit to improve prosperity, quality of life and increase business activity throughout the communities of Northumberland.

ANCL, in collaboration with its partners which make up the Energy Central partnership, is currently managing the Northumberland Energy Park Project – a development of one of the UK's leading deep-water offshore energy bases ("**the Project**"). Phase 1 of the Project includes the construction of a new deep water dock at Ash Barge Dock. Ash Barge Dock is situated adjacent to the existing limits of Blyth Harbour.

As explained in Table 1 above, this HRO application is a non-works HRO application. The works to construct Ash Barge Dock have already been separately authorised by ANCL and the main marine element of the works to widen Ash Barge Dock are already broadly complete. As such, Ash

Barge Dock as shown on the Ash Barge Dock Limits Plan deposited with the HRO application already exists, but the dock is not yet operational. Further information can be found at <https://www.advancenorthumberland.co.uk/latest-projects/northumberland-energy-park-phase-1>.

It is anticipated that all works to the Ash Barge Dock will be completed by 1 January 2024 after which time it will become operational.

Table 3a: Need and justification for order

The Ash Barge Dock needs to be expressly included within the area of jurisdiction ('the harbour limits') of the Blyth Harbour Commissioners ("**the Commissioners**") so that the Commissioners are able to exercise their powers as statutory harbour authority within the Ash Barge Dock in the future (regardless of who is operating the Ash Barge Dock), to ensure compliance with the Port Marine Safety Code ("**the Code**") and their powers as Competent Harbour Authority, for pilotage purposes, so that Acts of Pilotage do not have to cease at the entrance to the Ash Barge Dock.

Port Marine Safety Code:

As the harbour authority for the Blyth Harbour, the Code (November 2016) published by the Department for Transport 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 harbour 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 statutory 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 statutory harbour authorities should seek additional powers if the existing powers are insufficient to meet their obligations to provide safe navigation.

In accordance with this, the Commissioners seek to alter their statutory harbour limits to improve the safety in port marine environment, enabling them to exercise their statutory harbour powers over the newly proposed extended harbour limits (i.e. Ash Barge Dock) in order for them to continue complying with the wider recommendations of the Code. The extension of the harbour limits would as a result also comply with the requirements of the Harbours Act 1964, discussed below.

Pilotage:

As set out above the Commissioners are also a Competent Harbour Authority for the purposes of pilotage under the Pilotage Act 1987 within the harbour limits. As such the extension of the Commissioners' area of jurisdiction (harbour limits) to include Ash Barge Dock will also mean that the Commissioners will be the Competent Harbour Authority for the area within the Ash Barge Dock. Accordingly, Acts of Pilotage will be able to end once a ship subject to Pilotage is safely berthed in the Ash Barge Dock rather than at the Ash Barge Dock entrance, which will again improve navigational safety.

Harbours Act 1964:

Section 14 of the Harbours Act 1964 ("**the 1964 Act**") confers powers which have been devolved 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) 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 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 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.

This application for the HRO 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 port 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 a 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.

General:

The proposed HRO would alter the statutory harbour limits of the Blyth Harbour by making amendments to the existing local legislation, namely the Blyth Harbour Act 1986 which provides for the limits of the harbour at section 11. The newly established limits would be conducive to the efficient management of Blyth Harbour by the Commissioners as the statutory harbour authority.

An explanation of, and the need for, each substantive article in the draft HRO is set out below in Table 2b. These examples are not intended to be exhaustive of the ways in which the powers may lawfully be exercised.

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

Table 2b: Justification for inclusion of provisions

Article in HRO	Summary of Provision	Requirement for provision
<p style="text-align: center;">3</p> <p>Amendment of the Act of 1986</p>	<p>This article provides for the extension of the existing harbour limits for Blyth Harbour so to include Ash Barge Dock and for the amendment of the Blyth Harbour Act 1986 which sets out the current statutory harbour limits of the Commissioners at section 11.</p> <p>This article makes provision for the limits of the harbour as defined in section 11 of the Act of 1986 to be extended to include Ash Barge Dock.</p> <p>This article then accordingly makes provision to amend the Act of 1986 by:-</p> <p style="padding-left: 40px;">(a) inserting the necessary definitions of “Ash Barge Dock” and “the Ash Barge Dock Limits Plan”, into</p>	<p>This article is required to alter the statutory harbour limits of Blyth Harbour so that they are extended to include Ash Barge Dock and to make the necessary amendments to the current limits set out in the Act of 1986. The amendments to the Act of 1986 are necessary to complete the process of altering the harbour limits in conjunction with the provisions of the HRO.</p> <p>This article is authorised by paragraph 6 of Schedule 2 to the 1964 Act, as follows:</p> <p><i>“Settling (either for all purposes or for 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>This article is conducive to the efficient and economic management of</p>

	<p>section 2 (Interpretation) of the Act of 1986 by reference to the HRO which provides the definitions of these terms (see article 2 of the draft HRO);</p> <p>(b) inserting into section 11 (Limits of jurisdiction) of the Act of 1986, a new paragraph (c) which extends the limits within which the Commissioners are empowered to exercise jurisdiction under that section to include Ash Barge Dock as provided for in the Ash Barge Dock Limits Plan; and</p> <p>(c) making very minor amendments to the formatting of section 11 in consequence of the insertion of new paragraph (c), namely the removal of “and” at the end of paragraph (b) and providing for the existing paragraph (c) to become paragraph (d).</p>	Blyth Harbour by expressly and clearly updating the statutory harbour limits with reference to a deposited plan which delineates the additional limits.
<p>4</p> <p>Saving for Trinity House</p>	This article provides the standard saving provision for the rights of Trinity House.	No further justification required.
<p>5</p> <p>Crown Rights</p>	This article provides the standard saving provision for Crown Rights.	No further justification required.

Table 4: Relevant policies, guidance and plans

Plan, policy or guidance	<i>Demonstration that application is compliant with relevant plan, policy or guidance.</i>
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Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)

Blyth Harbour is situated within the North East Inshore Marine Plan Area. Once published, Marine Plans become a material consideration and as such, it is considered in this Statement of Support in addition to the UK Marine Policy Statement. The relevant marine plan applying therefore is the 'North East Inshore and North East Offshore Marine Plan', June 2021 ("**the North East Marine Plan**").

The proposed HRO is a non-works HRO (i.e. it does not authorise a plan or project). Its provisions are focused on extending the existing harbour limits for Blyth Harbour to expressly include Ash Barge Dock. As such, it is expected that the effects of the proposed HRO on the North East Inshore Marine Plan area will be very limited and that any effects will be positive as the proposed HRO supports the economic and efficient management of Blyth Harbour by extending the area of jurisdiction of the Blyth Harbour Commissioners ("**the Commissioners**"). 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 HRO is to extend the harbour limits for Blyth Harbour and therefore the Commissioners' area of jurisdiction, so clarifying the exercise of their powers over Ash Barge Dock. This exercise is an important part of keeping statutory powers and duties under review and up to date (as required by the Port Marine Safety Code) and 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 is kept '*clean, healthy, safe, productive and biologically diverse.*' The provisions of the proposed HRO 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 North East Marine Plan

The North East Marine Plan was published in June 2021. Through its modernisation of the Commissioners' statutory powers enabling the efficient and economic management of Blyth Harbour and the activities that take place there, the proposed HRO will support the following objectives contained in the North East Marine Plan:

- (A) **Objective 1:** Infrastructure is in place to support and promote safe, profitable and efficient marine businesses.
- (B) **Objective 2:** The marine environment and its resources are used to maximise sustainable activity, prosperity and opportunities for all, now and in the future.
- (C) **Objective 3:** Marine businesses are taking long-term strategic decisions and managing risks effectively. They are competitive and operating efficiently.
- (D) **Objective 6:** The use of the marine environment is benefitting 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.
- (E) **Objective 7:** The coast, seas, oceans and their resources are safe to use.
- (F) **Objective 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.

In addition, the proposed HRO is supported by policy NE-PS-1, which expressly supports competitive and efficient port and shipping operations, recognising that:-

“Ports and harbours are essential to realising economic and social benefits for the north-east marine plan areas and the UK. NE-PS-1 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.”

“NE-PS-1 provides clarity on how the economic interests and statutory duties of ports and harbours should be protected, and makes sure new development does not restrict current activities or future growth, or compliance with the Port Marine Safety Code...”

“...Also recognised is the need to ensure safe navigation both within and in the approaches to ports, at present and in the future. Harbour masters are recognised experts in navigational safety within their jurisdictional areas.”

	<p><i>Accordingly, the policy recognises that their views regarding how proposals affect safety of navigation, the Open Port Duty and compliance with the Port Marine Safety Code should be sought and given significant weight”.</i></p>
<p>Insert other relevant plans/policy/guidance in this section</p>	<p>Port Marine Safety Code</p> <p>Please see our comments earlier in this Statement of Support relating to the Port Marine Safety Code (Table 3a).</p>

Table 5: Any other relevant information

No formal pre-application consultation has taken place other than with Advance Northumberland (Commercial) Limited who are supportive of the HRO application.

In addition to the specific provisions of Schedule 2 to the 1964 Act, paragraph 17 of Schedule 2 provides that a harbour revision order may include provision for:

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

For the reasons mentioned above, it is considered that to the extent that any provision contained in the draft HRO does not fall specifically within any other paragraph of Schedule 2, the provisions of the draft HRO would be conducive to the efficient functioning of Blyth Harbour and are therefore within the scope of the 1964 Act for them to be included in the draft HRO.

Legislation application to Blyth Harbour being the Blyth Harbour Acts and Orders 1858 to 2015

- The Blyth Harbour and Dock Act 1858.
- The Blyth Harbour and Dock Act 1860.
- The Blyth Harbour Act 1882.
- The Blyth Harbour Act 1912.
- The Blyth Harbour Act 1915.
- The Blyth Harbour Act 1919.
- The Coal Industry Nationalisation (Harbour Commissioners) Order 1947 (as far as it relates to the Commissioners).
- The Blyth Harbour Act 1957.
- The Blyth Harbour (Amendment of Local Act) Order 1969.
- The Blyth Harbour Revision Order 1977.
- The Blyth Harbour Act 1986.
- The Blyth Harbour Revision Order 1989.
- The Blyth Harbour Act 1986 (Amendment) Order 1995.
- The Blyth Harbour Revision (Constitution) Order 2004.
- The Blyth Harbour Revision Order 2015.