



# Statement in Support of the Teesport Harbour Revision Order Application

Table 1: Application details

<b>1. Date application made to MMO</b>	2 September 2022 Case Reference: HRO/2022/00001
<b>2. Name of primary contact</b>	James O'Connor
<b>3. Contact details of primary contact</b>	Email:jamesoconnor@eversheds-sutherland.com Tel: +44 (0)20 7919 4877
<b>4. Address of primary contact</b>	1 Wood Street, London EC2V 7WS
<b>5. Name of Statutory Harbour Authority</b>	PD Teesport Limited
<b>6. Is this a Works Order?</b>	No
<b>a. Brief description of proposed works</b>	N/A
<b>b. Date when notification of intention was submitted to MMO</b>	N/A
<b>c. Date when EIA screening</b>	N/A

<p><b>opinion was issued by MMO</b></p>	
<p><b>d. If screened in, date when scoping opinion was issued by MMO</b></p>	<p>N/A</p>
<p><b>e. If screened in and if an optional ES review was undertaken, date when review was completed by MMO</b></p>	<p>N/A</p>
<p><b>7. Non-technical summary – please explain what you are seeking to achieve in this application in no more than 200 words.</b></p>	<p>The Harbour Revision Order application (“<b>the HRO application</b>”) 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>The HRO application seeks only to amend the existing limits of the harbour, within which PD Teesport Limited (“<b>PDT</b>”) exercise jurisdiction as statutory harbour authority of the Ports of Tees and Hartlepool (which are together referred to in this Statement in Support as “<b>Teesport</b>”), to include an additional area of land known as South Bank which is adjacent to a part of the River Tees (that part of the River being within the current limits of jurisdiction of PDT) as a consequence of a development being constructed by South Tees Developments Limited pursuant to consents secured by South Tees Developments Limited.</p> <p>Phase 1 of the development being constructed by South Tees Developments Limited comprises works which include the construction and operation of a new quay (known as South Bank Quay) within a newly created area that will be set back into the existing riverbank. The proposed amendment to PDT’s limits of jurisdiction sought by the HRO application would extend those existing limits to include this additional area of land which will be covered by water and will form a berth for vessels using the new South Bank Quay following South Tees Developments Limited’s completion of phase 1 of their development.</p>

	<p>Details of the marine licences granted in connection with phase 1 of this development and details of the related planning permission for phase 1 of this development which have been secured by South Tees Developments Limited to date are provided in Table 5: (<i>Any other relevant information</i>) below.</p> <p>The area to be added to PDT's existing limits of jurisdiction in consequence of phase 1 of the development being delivered by South Tees Developments Limited is shown on the harbour limits plan accompanying the HRO application.</p> <p>The existing harbour limits within which PDT currently exercises jurisdiction as statutory harbour authority are shown for information purposes only on the plan included within Table 5 below (<i>Any other relevant information</i>). The existing limits are shown edged by a blue line. The general location of the area proposed to be added to the existing limits is indicated by the red rectangle shown on the plan. The HRO application is accompanied by a "<i>harbour limits plan</i>" (as defined in article 2 of the draft HRO) which identifies the exact location and extent of the extension to PDT's jurisdiction limits for Teesport to be authorised by the draft HRO (see also Row 9 below).</p>
<p><b>8. Location (coordinates must be provided in WGS84 format if this is a works order)</b></p>	<p>54.595470°,-1.174291° (WGS84)</p>
<p><b>9. State the title of all relevant charts/maps/plans included with application (if appropriate)</b></p>	<p>The Teesport Harbour Revision Order 202[X] Harbour Limits Plan</p>
<p><b>10. State the legislation relevant to the Harbour Authority and included with this application (if appropriate)</b></p>	<p>The Teesport Acts and Orders 1966 to 2008 listed in Table 5 below (<i>Any other relevant information</i>) make provision in respect of PDT and the powers conferred on it to manage and regulate Teesport. Since the current HRO application seeks only to authorise a small extension to the current limits of the harbour by means of an amendment to the Tees and Hartlepoons Port Authority Act 1966, it is not considered necessary to include copies of all of those enactments with the HRO application except for a copy of that Act.</p>
<p><b>11. If you have received any pre-application guidance from the MMO</b></p>	<p>N/A</p>

<p><b>in relation to this application please briefly describe this here.</b></p>	
<p><b>12. Have you included the required fee for your application?</b></p>	<p>Yes</p>

**Table 3: Statutory Harbour Authority background**

<p><b>P D TEESPORT</b></p> <p>PDT is a company incorporated under the Companies Act 1985 whose registered number is 2636007. PDT is the statutory harbour authority for the 12 miles of the River Tees within its limits of jurisdiction and has the powers and duties conferred on it by the Teesport Acts and Orders 1966 to 2008 and by general public legislation relevant to harbour authorities.</p> <p>The general duty of PDT is <i>“to take such steps from time to time as they may consider necessary for the conservancy, maintenance and improvement of [Teesport] and the facilities afforded therein or in connection therewith, and for the reclamation of land”</i> (See s.12 of the Tees and Hartlepoons Port Authority Act 1966).</p> <p>Although PDT is a company set up under the Companies Acts and is part of a Group carrying on commercial activities, in its capacity as a statutory harbour authority it operates public functions which must be exercised for the benefit of present and future harbour users of Teesport.</p> <p>Teesport is the fifth largest port in the UK and is a major deep sea maritime complex in the North East of England, contributing over £1.4 billion to the UK economy each year. Facilitating the movement of over 28 million tonnes of cargo annually, Teesport is actively engaged in a vast array of sectors including free flowing bulks, containerised cargo, liquid bulks and offshore.</p> <p>Home to an expansive range of businesses including port operators, shipping agents, energy providers and support services, the River Tees is at the heart of a region that remains a major centre for manufacturing and production whilst also sitting at the forefront of new advancing technologies such as hydrogen and offshore wind.</p> <p>Containers, logistics, chemicals, energy, renewables: the multi-modal hub that is Teesport plays a pivotal role in countless complex supply chains connecting the UK to key global markets.</p>
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**Table 3a: Need and justification for order**

**Port Marine Safety Code**

As PDT are the statutory harbour authority for Teesport, the Port Marine Safety Code (November 2016) ("**the Code**") applies to PDT. Paragraph 6 of the Executive Summary to the Code outlines what the Code is intended to cover as follows:-

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

Paragraph 10 of the Executive Summary to the Code identifies 10 measures which a statutory harbour authority must consider in order to comply with, and to successfully implement, the Code. Amongst other items this identifies as Measure 3:-

*"**Legislation:** The duty holder must review and be aware of their existing powers based on local and national legislation, seeking additional powers if required in order to promote safe navigation."*

Furthermore, paragraph 2.5 of the Code states:-

*"In particular, harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already."*

In consequence of phase 1 of the development being constructed by South Tees Developments Limited and creating the new South Bank Quay for the berthing of vessels, PDT have, in accordance with its above duties under the Code, reviewed its existing powers and identified a need to secure additional powers through the promotion of the HRO application, namely the extension of PDT's existing harbour limits. The purpose being to ensure PDT's harbour limits would remain contiguous with the newly created area and that PDT's jurisdiction as statutory harbour authority covers the new area so that there is no 'gap' in that area by providing that PDT's existing statutory powers (including for example general direction powers) apply to

this newly created area (up to Mean High Water Springs) so to enable PDT's continued ability to meet its statutory duty to provide safe navigation within Teesport.

### **Harbours Act 1964**

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 1964 Act.

Under section 14(2)(a) of the 1964 Act, a 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, a 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 a HRO can only be made to achieve all or any of the objects specified in Schedule 2 to the 1964 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 PDT as the statutory harbour authority for Teesport.

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 of 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 HRO application made under section 14 of the 1964 Act meets the conditions set out in that section. In particular, the HRO 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 1964 Act.
- (b) section 14(2) of the 1964 Act because:
  - (i) The HRO 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 application, the making of the HRO is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner.

The only substantive provision of the draft HRO (article 3) seeks to amend the existing limits of jurisdiction of PDT as statutory harbour authority for the harbour at Teesport. Such an order is authorised to be made under section 14(1) of the 1964 Act and by virtue of paragraph 6 of Schedule 2 to the 1964 Act which provides that a HRO may be made for *‘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.’*

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

Article in HRO	Summary of Provision	Requirement for provision
Article 3 (Limits of harbour and modification of the 1966 Act)	<p>Article 3 amends the Tees and Hartlepoons Port Authority Act 1966 to add to the current limits of jurisdiction set out in Schedule 2 to that Act, an additional area which is shown on the harbour limits plan accompanying the HRO.</p> <p>Article 3 also makes an amendment to section 3 of the 1966 Act to insert a definition of the harbour limits plan to mean the plan accompanying the HRO.</p>	<p>This provision is required in order to alter the harbour limits at Teesport so that they extend to include the new area which will be formed in the River Tees providing a berth for vessels using the South Bank Quay following completion of its construction of phase 1 of its development.</p> <p>The part of the River Tees adjacent to the proposed South Bank Quay is already situated within the harbour limits and any vessel using the new facility would therefore need to pass through the existing harbour limits in order to access that facility.</p>

		<p>The extension of the harbour limits thereby ensures that they would remain contiguous with the newly created area and that PDT's jurisdiction as statutory harbour authority covers the new area so that there is no 'gap' in that area.</p>
<p>Article 4 (Saving for Trinity House)</p>	<p>Article 4 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 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 4 which is a usual provision included in HROs in order to provide appropriate protection for the interests Trinity House (see for example the Saint Mawes Pier and Harbour Revision Order 2022 (S.I. 2022 No. 228).</p>
<p>Article 5 (Crown rights)</p>	<p>Article 5 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</p>



		<p>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 5 which is a usual provision included in HROs in order to provide protection for Crown interests (see for example the Saint Mawes Pier and Harbour Revision Order 2022 (S.I. 2022 No. 228).</p>
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**Table 4: Relevant policies, guidance and plans**

Plan, policy or guidance	<i>Demonstration that application is compliant with relevant plan, policy or guidance.</i>
<b>Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)</b>	<p><b>Compliance with the UK Marine Policy Statement and the North East Inshore and North East Offshore Plan</b></p> <p>The HRO application is for a non-works HRO in that the HRO would not authorise development or a project. The substantive provisions of the proposed HRO as submitted with the HRO application are limited to seeking an extension to the existing limits of jurisdiction of PDT as statutory harbour authority for Teesport. The purpose of this extension being to ensure PDT’s harbour limits would remain contiguous with a newly created area (being delivered and consented by a third party, South Tees Developments Limited) and that PDT’s jurisdiction as statutory harbour authority covers this new area so that there is no ‘gap’ in that area by providing that PDT’s existing statutory powers (including for example general direction powers) apply to this newly created area (up to Mean High Water Springs) so to enable PDT’s continued ability to meet its statutory duty to provide safe navigation within Teesport. Accordingly, it is anticipated that the effects of the HRO application on the UK Marine Policy Statement and the North East Inshore and North East Offshore Marine Plan (June 2021) will be very limited. However, it is anticipated that any effects will be positive as the HRO application will support the safe, economic and efficient operation and management of Teesport, including with respect to environmental consideration. Therefore a brief summary of compliance is detailed below.</p> <p><i>Compliance with the UK Marine Policy Statement</i></p>

The UK Marine Policy Statement (“**the 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 primary purpose of the HRO application is to seek an extension to the existing limits of jurisdiction of PDT as statutory harbour authority for Teesport. This extension is being sought to enable PDT to exercise PDT’s existing statutory powers (including for example general direction powers) within a newly created area (being delivered and consented by a third party, South Tees Developments Limited) so to ensure PDT’s continued ability to meet its statutory duty to provide safe navigation within Teesport and its compliance with the Code. Meeting these obligations will help contribute to the MPS vision of ensuring that the marine environment within and around Teesport is “*clean, healthy, safe, productive and biologically diverse*”. The HRO application will also contribute to meeting the following high level objectives set by the MPS (see Box 1 on Page 11 of Chapter 2):-

- (1) **Achieving a sustainable marine economy:** Marine businesses are taking long-term strategic decisions and managing risks effectively. They are competitive and operating efficiently.
- (2) **Ensuring a strong, healthy and just society:** The coast, seas, oceans and their resources are safe to use.
- (3) **Living within environmental limits:** Biodiversity is protected, conserved and where appropriate recovered and loss has been halted.
- (4) **Promoting good governance:** Marine businesses are subject to clear, timely, proportionate and, where appropriate, plan-led regulation.

*Compliance with the North East Inshore and North East Offshore Marine Plan*

Teesport is situated within the inshore area for the North East Inshore and North East Offshore Marine Plan (June 2021) (“**the 2021 Marine Plan**”). The HRO application will contribute to meeting the marine plan objectives set by the 2021 Marine Plan (see Table 1 on Page 17 of Section 2.2):-

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

Furthermore, the HRO application is supported by policy NE-PS-1 of the 2021 Marine Plan (see Table 2 on Page 21 of Section 2.3) which supports competitive and efficient port and shipping operations and identifies policy aims including:-

	<p><i>“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 that proposals do not restrict current port and harbour activity or future growth, enabling long-term strategic decisions, and supporting competitive and efficient port and shipping operations”.</i></p> <p><i>“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...”.</i></p> <p><i>“...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. 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><b>Insert other relevant plans/policy/guidance in this section</b></p>	<p><b>Port Marine Safety Code</b></p> <p>See Table 3a above.</p>

**Table 5: Any other relevant information**

The MMO case references for the Marine Licences granted to date to South Tees Developments Limited in relation to the South Bank Quay works comprised in phase 1 of their development, in connection with which the HRO application seeks to extend the existing harbour limits, are:-

- Phase 1 = Case Reference MLA/2020/00506; and
- Phase 2 = Case reference: MLA/2020/00507.

PDT's Harbour Master was a statutory consultee to the above Marine Licence applications and in particular the requirement noted in the Environmental Impact Assessment (see section 4.2, page 27) submitted in support of these applications that a non-works HRO application would be required to vary the boundary of PDT's jurisdiction.

To date planning permission has also been granted to South Tees Developments Limited by Redcar and Cleveland Borough Council in connection with phase 1 of their development (Planning application reference NO. R/2020/0357/OOM).

It is understood by PDT that further marine licences and / or planning permissions may be sought by South Tees Developments Limited for a drainage scheme in relation the South Bank Quay works comprised in phase 1 of their development.

No general formal pre-application consultation has been carried out in respect of the HRO application due to the localised and limited nature of the powers sought by PDT in the HRO application. However, PDT's Harbour Master has engaged with South Tees Developments Limited on the need for and extent of the extension to the existing limits of jurisdiction of PDT as statutory harbour authority for the harbour at Teesport in the context of the new South Bank Quay works comprised in phase 1 of the development being constructed by South Tees Developments Limited, and South Tees Developments Limited have confirmed with PDT that they agree on the need for and extent of this HRO application.

Legislation applicable to Teesport being the Teesport Acts and Orders 1966 to 2008

1. Tees and Hartlepool Port Authority Act 1966 (c. xxv).
2. Tees and Hartlepool Port Authority Act 1969 (c. iv).
3. Tees and Hartlepool Port Authority Revision Order 1974 (S.I. 1975 No. 693).
5. Tees and Hartlepool Port Authority Act 1982 (c. xiii).

6. Tees and Hartlepool Port Authority Scheme 1991 Confirmation Order 1991 (S.I. 1991 No, 2908).
7. Tees and Hartlepool Harbour Revision Order 1994 (S.I. 1994 No. 2064).
8. Teesport Harbour Revision Order 2008 (S.I. 2008 No. 1160).

**PLAN SHOWING EXISTING HARBOUR LIMITS EDGED BY THE BLUE LINE AND THE GENERAL LOCATION OF THE AREA PROPOSED TO BE ADDED TO THOSE LIMITS (WITHIN THE RED RECTANGLE) UNDER THE HRO APPLICATION**

The plan below has been included for information purposes only so as to identify the area within which PDT's jurisdiction limits for Teesport are proposed to be amended in the context of PDT's wider existing jurisdiction limits for Teesport. However, the HRO application is accompanied by a "*harbour limits plan*" (as defined in article 2 of the draft HRO) which identifies the exact location and extent of the extension to PDT's jurisdiction limits for Teesport to be authorised by the draft HRO.



