

REPORT

Northern Gateway Container Terminal Harbour Revision Order Extension

Proposed scope of environmental assessment

Client: PD Teesport

Reference: I&BPB6776R001F0.1

Revision: 0.1/Final

Date: 23 August 2017

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Table of Contents

1	Introduction	1
1.1	Background	1
1.2	Purpose of this document	1
2	Environmental assessment	2
2.1	Proposed scope of the environmental assessment	2
3	References	7

1 Introduction

1.1 Background

PD Teesport (PDT) applied for a Harbour Revision Order (HRO) for the proposed Northern Gateway Container Terminal (NGCT) under Section 14 of the Harbours Act 1964 in 2006. An application for planning permission under the Town and Country Planning Act 1990 was also submitted to Redcar and Cleveland Borough Council (RCBC) at the same time. In support of these applications, Royal HaskoningDHV carried out an Environmental Impact Assessment (EIA) and produced the NGCT Environmental Statement (ES) in 2006 (Royal Haskoning, 2006) (referred to as the 2006 ES). The Teesport Harbour Revision Order (HRO) (referred to as the 2008 HRO) (Statutory Instrument 2008 No. 1160) was subsequently made on 18th April 2008, coming into force on 8th May 2008 (and expiring on 8th May 2018). The 2008 HRO is included in Appendix 1. Planning permission was granted by RCBC in 2007.

The marine elements of the NGCT have not yet been implemented, however the landside elements of the proposed scheme have commenced (and therefore the planning permission granted by RCBC has been implemented). PDT is proposing to extend the expiry date of the 2008 HRO for 15 years until 8th May 2033.

PDT intends to apply to the Marine Management Organisation (MMO) for a time extension to the 2008 HRO only at this stage as opposed to simultaneously applying for a marine licence (i.e. no application will be made for construction works at the present time).

The proposed scheme is defined in full within Section 3 of the 2006 ES (which is appended to the EIA screening request). In summary, the proposed scheme comprises:

- Capital dredging of the approach channel to the proposed NGCT (equating to approximately 4.8 million m³ of material).
- Disposal of dredged material (through a combination of beneficial reuse (localised reclamation and raising land levels within the proposed terminal site) and offshore disposal of dredged material).
- Construction of a container terminal facility.
- Construction of various landside elements (buildings, rail terminal, road access, lighting, drainage and a pumping station).

1.2 Purpose of this document

This document proposes a scope of environmental assessment that is considered necessary to support an application to MMO to extend the 2008 HRO. The scope of environmental assessment has been informed through discussion with the MMO during a meeting on 28th April 2017. Minutes of this meeting are provided in Appendix 2.

2 Environmental assessment

2.1 Proposed scope of the environmental assessment

Royal HaskoningDHV attended a meeting with MMO and PDT in April 2017 to discuss the nature of the environmental information that would be required to support PDT's proposed application to extend the 2008 HRO. In summary, it was agreed that:

- The 2006 ES will be resubmitted with a supplementary environmental information report (SEIR).
- The supplementary environmental information report will assess the effect of any material changes since the 2006 ES was produced.
- If objections are raised during consultation on the application to extend the 2008 HRO which were dealt with prior to the 2008 HRO coming into force, MMO would require evidence to illustrate that such objections have already been appropriately addressed.
- The SEIR will aim to demonstrate whether the impacts of the project are within the scope of the 2006 ES (i.e. whether the assessment within the 2006 ES remains valid).
- A sediment sampling regime would only be necessary if a marine licence was also being applied for at the same time as the HRO extension. As the HRO does not authorise physical works, no further sampling would be required as part of an application for an HRO extension only.

In light of the above, we have developed a scope of works which is considered appropriate to satisfy the requirement for provision of environmental information in support of the application. The proposed scope of environmental assessment is presented in Table 2.1.

Table 2.1 Proposed scope of the SEIR

Topic	Proposed approach
Topics considered within the 2006 ES	
Hydrodynamic and sedimentary regime	<p>Given that no significant change to the bathymetry of the Tees estuary has occurred since 2006, it is considered that a desk based assessment approach is the most appropriate means of assessing the potential effects of the proposed scheme on the hydrodynamic and sedimentary regime.</p> <p>This will comprise a review of the 2006 ES findings and providing an evidence base as to why the potential effects on the hydrodynamic and sedimentary regime remain valid. A review of the findings of other environmental assessments (e.g. the York Potash Harbour Facilities ES, QEII ES and Tees Dock No.1 Quay ES) will also be undertaken to inform the desk based assessment. No further modelling hydrodynamic or sedimentary modelling is proposed.</p>
Marine sediment quality	<p>The 2006 ES was informed by historic sediment quality surveys in the Tees estuary, as well as a site-specific sediment quality survey. Since 2006, several sediment quality surveys have been undertaken at various locations within the Tees estuary, the most recent being in 2014 to inform the EIA for the York Potash Harbour Facilities. We propose to review all relevant sediment quality data since 2006 to further inform our understanding of the sediment quality within the Tees estuary and to determine whether there would be an issue regarding the offshore disposal of dredged material. The MMO confirmed during April 2017 that there is no requirement to take additional sediment quality samples if PDT is proposing to apply for an HRO extension only. We therefore do not propose to take any additional sediment quality samples to inform the assessment.</p>
Soil quality and geology	<p>The landside elements of the proposed scheme have commenced (under the planning permission granted by RCBC in 2007). As noted in the minutes from the meeting with MMO in April 2017, PDT is not seeking new permissions or changes to the development that is already authorised under the existing planning permission. Based on the above, no further work is considered necessary with regard to soil quality and geology.</p>
Water quality	<p>The findings from the desk based review of existing sediment quality data and the hydrodynamic and sedimentary regime will be used to determine whether the findings from the 2006 ES remain valid (particularly with regard to the potential for remobilisation of contaminated sediment during dredging and disposal). We will request the most recent water quality data from the Environment Agency to assess whether the baseline environment has changed to that which was assessed in 2006 in a way that would materially affect the conclusions of the 2006 and its supplement. No site specific water quality surveys are considered necessary.</p>
Marine ecology	<p>A marine ecology survey was undertaken in 2006 to inform the 2006 ES. More recent marine ecology surveys have been undertaken in the Tees estuary, the most recent being in 2014 for the York Potash Harbour Facilities. We will undertake a review of relevant marine ecology survey data from the Tees estuary since 2006 to determine whether the baseline environment has changed to that presented in the 2006 ES, in a way that would materially affect the conclusions of the 2006 and its supplement. The findings of the hydrodynamic and sedimentary regime review and sediment and water quality review will be used to determine whether the findings from the 2006 ES remain valid with respect to potentials effect on marine ecology. As noted above, the MMO confirmed in April 2017 that if PDT is applying only to extend the 2008 HRO (rather than simultaneously applying for a marine licence as well), there would be no requirement for additional sediment quality sampling. We consider that the same principle would apply with regard to marine ecology, and therefore no further benthic ecology survey is proposed.</p>
Waterbirds, seabirds and European sites	<p>The footprint of the NGCT is located adjacent to the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site. Natural England has consulted on proposed revisions to the boundary and qualifying features of the SPA and therefore context for the assessment of potential effects on waterbird and seabird populations has changed to that which was assessed in the 2006 ES. While the proposed revisions to the SPA do not affect the status of the SPA as it was in 2006, it is deemed necessary to assess the implications of the NGCT in the context of the qualifying</p>

Topic	Proposed approach
	<p>features and extent of the SPA as consulted on by Natural England.</p> <p>We propose to update the baseline for waterbird and seabird populations with the most recent Wetland Bird Survey (WeBS) data from the British Trust for Ornithology and any other data that is available and which has informed the proposed revision to the SPA. The findings from the hydrodynamic and sedimentary regime assessment and sediment and water quality assessment will then be used to determine whether the assessment presented in the 2006 ES remains valid.</p> <p>We will therefore update the Habitats Regulations Assessment (HRA) to reflect more recent data and to account for the proposed revisions to the SPA.</p>
Terrestrial and coastal ecology	<p>The landside elements of the proposed scheme have commenced (under the planning permission granted by RCBC in 2007). As noted in the minutes from the meeting with MMO in April 2017, PDT is not seeking new permissions or changes to the development that is already authorised under the existing planning permission. Based on the above, and the controls that are enforced through the planning permission and its conditions, no further work is considered necessary with regard to terrestrial and coastal ecology.</p>
Fisheries resource	<p>The baseline environmental presented in the 2006 ES was informed through consultation with key stakeholders (e.g. North Eastern Sea Fisheries Committee (NESFC) and the Environment Agency). We will consult with the North Eastern Inshore Fisheries and Conservation Authority (NEIFCA) to obtain data to allow determination as to whether the baseline environment presented in the 2006 ES has materially changed. We will then utilise the findings of the sediment quality assessment, water quality assessment and marine ecology assessment to determine whether the impacts (and significance of those impacts) predicted in the 2006 ES remain valid.</p>
Commercial navigation	<p>The baseline environment in the 2006 ES was informed through consultation with the Tees estuary Harbour Master. We will undertake additional consultation with the Harbour Master to verify whether there has been any material change in baseline conditions that could alter the conclusions of the 2006 ES.</p>
Archaeology and heritage	<p>The landside elements of the proposed scheme have commenced (under the planning permission granted by RCBC in 2007). As noted in the minutes from the meeting with MMO in April 2017, PDT is not seeking new permissions or changes to the development that is already authorised under the existing planning permission. Based on the above, and the controls that are enforced through the planning permission and its conditions, no further work is considered necessary with regard to terrestrial archaeology and heritage.</p> <p>The baseline environment is considered unlikely to have significantly changed with regard to marine archaeology and cultural heritage and therefore no further assessment is considered necessary. However, consultation will be undertaken with English Heritage directly to ensure that this approach is acceptable to support the HRO extension application.</p>
Recreational and access	<p>As noted in the 2006 ES, the landward elements of the proposed scheme are located on privately owned land, and recreational navigation within the estuary is low. The landside elements of the proposed scheme have commenced (under the planning permission granted by RCBC in 2007). As noted in the minutes from the meeting with MMO in April 2017, PDT is not seeking new permissions or changes to the development that is already authorised under the existing planning permission. Based on the above, and the controls that are enforced through the planning permission and its conditions, no further assessment is considered necessary with regard to recreational and access (landside). We will undertake additional consultation with the Harbour Master to verify whether there is any material change in the use of the estuary from a recreational navigation perspective that could alter the conclusion of the 2006 ES.</p>

Topic	Proposed approach
Road and rail traffic	<p>As advised by MMO during April 2017, we will need to undertake further environmental assessment to ensure that the landside traffic implications are appropriately assessed. To do this we will prepare a new Transport Assessment (TA) which will focus on the demand generated by the NGCT development during the operational phase and draw comparisons with the approved forecast data to inform the mitigation requirements. It is not proposed to revisit the construction traffic demand as the impacts were previously assessed as negligible.</p> <p>The 2006 ES also considered the impact of increased traffic upon the rail network and the capacity of the existing rail network to accommodate this. The ability of rail network to accommodate TEUs will also influence the volume transferring to road. To understand rail capacity the following activities are proposed:</p> <ul style="list-style-type: none"> • Review realised improvements to the rail network since the 2006 ES and associated forecast train paths. • Review the rail strategy publications to establish how the train paths will be allocated and the policy framework underpinning these decisions. • Review the evidence base for changes in train utilisation, specifically Total Equivalent Units (TEUs) per train.
Noise and vibration and air quality	<p>As noted above, the landside elements of the proposed scheme have commenced (under the planning permission issued by RCBC in 2007). We therefore do not propose to undertake any additional noise or air quality assessment as it is considered that such impacts have already been appropriately assessed and determined as acceptable by RCBC. However, if the TA predicts that the assessment presented in the 2006 ES is no longer valid, it is likely that additional noise and air quality assessment would be required to understand the implications of the revised traffic volumes on noise and air quality. At present, we consider that there is no requirement for additional assessment into these topics however if it becomes evident from the TA that additional assessment is required, we will consult further with MMO and RCBC to agree a suitable scope of assessment.</p>
Landscape and visual	<p>The landside elements of the proposed scheme have commenced (under the planning permission granted by RCBC in 2007). As noted in the minutes from the meeting with MMO in April 2017, PDT is not seeking new permissions or changes to the development that is already authorised under the existing planning permission. In addition, the baseline environment and the proposed scheme design has not changed significantly to that presented in the 2006 ES (which concluded no impacts during construction or operation). Based on the above, and the controls that are enforced through the planning permission and its conditions, no further work is considered necessary with regard to landscape and visual.</p>
Coastal protection and flood defence	<p>We will undertake a review of flood risk documents produced following production of the 2006 ES (including the Environment Agency's Tees Tidal Flood Risk Management Strategy and the Tidal Tees Integrated Flood Risk Modelling Study) to determine whether the proposed NGCT is likely to impact tidal flood risk at or immediately adjacent to the proposed scheme footprint, beyond that described in the 2006 ES. As the landside elements of the proposed scheme have commenced (under the planning permission granted by RCBC in 2007), no further assessment is considered necessary with regard to the landside elements. The assessment will therefore be focussed specifically on the proposed marine works.</p>
Infrastructure and land drainage	<p>The baseline environment in the 2006 ES was informed through desk based assessment only. We will undertake a review of the potential impacts presented in the 2006 ES to determine whether the assessment requires an update. If additional assessment is considered necessary, this will be informed through a review of relevant EIAs undertaken for consented schemes in the Tees estuary since 2006.</p>
Socio-economics	<p>Although the socio-economic impact of the NGCT project was predicted to be beneficial, we propose that socio-economic issues are considered in the SEIR. The rationale for this is partly due to the change in baseline conditions that will have occurred since 2006, but also to ensure that the SEIR is robust in terms of fully assessing the implications of the scheme and demonstrating that its effects are within the scope of the consented project. A full reassessment (to the level of detail undertaken for the 2006 ES) is not considered necessary; however, we will undertake a high level assessment of</p>

Topic	Proposed approach
	the socio-economic impact during the construction and operational phase.
Offshore disposal	We will undertake a review of publicly available information published since the 2006 ES (including benthic monitoring undertaken by Cefas) to determine whether the assessment presented in the 2006 ES remains valid. It is not envisaged that the findings of the 2006 ES will be materially affected on the basis that the offshore disposal site has been used continually since the 2006 ES for its intended purpose (i.e. offshore disposal of dredged material).
Monitoring	Following completion of the above activities, we will undertake a review of monitoring proposals outlined in the 2006 ES and determine whether the proposals remain valid and proportionate to the potential impacts of the proposed NGCT.
Additional topics to consider (as a result of changes in legislation, including the Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017)	
Water Framework Directive compliance assessment	To ensure the proposed scheme complies with the WFD, it will be necessary to undertake a WFD compliance assessment, in accordance with the Clearing the Waters for All guidance published by the Environment Agency.
Major accidents and natural disasters	The main major accident / natural disaster which could affect the proposed scheme is tidal flooding. The findings from the coastal protection / flood defence assessment will therefore address this risk and no further assessment is considered necessary.
Climate change	The proposed scheme will result in the release of exhaust emissions from plant during construction and operation. This was previously assessed within the 2006 ES. Significant climate change impacts are not anticipated, however this issue will be addressed within the SEIR with reference to the 2006 assessment.
Use of natural resources (including land, soil, water)	The proposed scheme would result in the generation of waste (particularly dredged material from the navigation channel). Although there would be the requirement for the use of natural resources during construction and operation (i.e. water for drinking/WC use), this is not considered to be significant / unusual for a project of this nature (and no significant natural resource demands are anticipated). The assessment will therefore be focussed on waste minimisation and beneficial reuse of the dredged material.
Population and human health	There are no residents located within 3km of the proposed scheme. Noise, landscape and visual and air quality assessments were undertaken as part of the 2006 ES, all of which concluded no significant adverse impacts. No further assessment is therefore considered necessary with regard to population and human health.
Biodiversity	It is considered that the 2006 ES adequately addressed the potential implications of the proposed scheme on biodiversity under the marine ecology, fisheries and terrestrial and coastal ecology sections. These sections will be reviewed as part of the environmental assessment works proposed to support the extension to the 2008 HRO and therefore it is considered that this topic will be addressed without the requirement for a specific biodiversity topic.

3 References

Royal Haskoning, 2006. Northern Gateway Container Terminal Environmental Statement

Royal Haskoning, 2007. Northern Gateway Container Terminal. Supplement to the Environmental Statement

Statutory Instrument 2008 No. 1160. The Teesport Harbour Revision Order 2008

Appendix 1

Teesport HRO

Appendix 2

Minutes from meeting with MMO



Mr Mark Pearson
Group Projects Director
PD Ports
(email only)

Reference: DC10120

18 August 2017

Dear Mr Pearson,

DC10120 Application for an extension of time limit under the Teesport Harbour Revision Order (“HRO”) 2008

Thank you for your enquiry to the Marine Management Organisation (“MMO”) enquiring about the process for extending the Teesport HRO 2008.

We have discussed your enquiry with the Department for Transport (“DfT”) and have also considered the information from Monica Peto on your behalf. We have also reviewed the 2017 amendments to the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) (“MWR”) and The Harbours Act 1964 (Delegation of Functions) Order 2010, which devolved certain powers under the Harbours Act 1964 to the MMO.

In order for the MMO to deal with your application for an extension to the Teesport Harbour Revision Order 2008, the following process should be followed:

- A formal letter requesting a 10 year extension to the current HRO, under article 6 of the HRO, as well as a request for a screening opinion is to be submitted to the MMO. Sufficient information regarding the project should be provided to inform the screening opinion.
- The MMO will issue a letter to acknowledge receipt and indicate that we are minded to grant the 10 year extension subject to the following procedure:
- We will undertake the screening opinion to assess the 10 year extension under the MWR. Under paragraph 89 of the MWR, any change to or extension of a development of a description listed in paragraph 1 to 87 of Schedule A2 where that development is already authorised, executed or is in the process of being executed which is considered to have significant adverse effects on the environment, could be screened into the EIA process.
- A letter will be provided to state whether the extension has been screened in or out of the regulations. If the extension is screened out, the consultation process can continue and a copy of the screening opinion sent to consultees as part of the consultation pack.



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- Should the MMO decide to screen the extension in, an updated environmental statement (“ES”) and a map and or chart, identifying where the works are, is to be provided by you, the applicant.
- The ES will need to provide updated evidence that the potential impacts of the project have been assessed, taking into consideration any newly designated or potential European protected sites and marine protected areas. The original ES can be updated with an addendum.
- Ahead of advertising and consultation, we request that an up to date list of any relevant consultees that may be impacted by this extension is submitted to the MMO. This list should include all those that were originally consulted (and are still relevant) as well as any organisations and or individuals relevant to this application.
- In accordance with the MWR the MMO requests that a notice be advertised in the same local newspapers as used for the original application, for two consecutive weeks, as well as on the Port website.
- The documents will be made available on the MMO’s Harbour Order public register.
- The notice will allow a period of 42 days, within which, any person wishing to comment can contact the MMO. The notice will state that the MMO, as Secretary of State, is minded to grant the extension, subject to any written comments received on it.
- A draft of the notice is to be agreed prior to its publication. The MMO will provide a blank template to be completed ahead of time. The wording of the notice will state whether or not the application has been screened into the EIA process.
- The MMO may direct you, as the applicant to send a copy of the application submission and ES to statutory consultees.
- Any comments, objections or representations received will be acknowledged by the MMO but are to be responded to by you, the applicant. If there are any outstanding objections, these are to be reported to the MMO.
- In accordance with Schedule 5 (1) of the MWR, the MMO must consider whether or not the representation is capable of being dealt with in accordance with Schedule 5 and the remaining provisions.
- If the MMO concludes that a representation is capable of being addressed by an arrangement between it, you, as the applicant and the maker of the representation, they may invite those parties to enter into discussions with a view to making the arrangement.
- If the MMO concludes that a representation gives rise to a dispute that calls for a resolution of a question of fact in order to enable it to make its EIA consent decision, it may, if it considers appropriate to do so, instigate a local inquiry or appoint a person it considers an expert in the matter to report to it on the question of fact.
- None of the above will affect the existing HRO which will remain in full force.

As discussed in our telephone conversation on 6 April, if the marine licence applications are submitted alongside the application for time extension, article 10 of the MWR provides that an EIA is not required if the MMO is satisfied that an assessment of any significant effects on the environment of the project has already been, is being or is to be carried out by the appropriate authority. In this instance the MMO can defer an EIA consent decision, for a marine licence, to a consent decision for the time extension. This would only apply if the application was to be screened into the EIA process and the ES covers all relevant activities.

If the marine licence applications are submitted at the same time as the time extension, there is the option of a joint notice to be advertised in such newspapers or other publications as the MMO may specify.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Chris Turner', written in a cursive style.

Chris Turner
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Marine Management Organisation

PD Teesport – HRO extension meeting notes

28 April 2017

Meeting at Lancaster House 14:00 – 16:00

Attendees:

MMO – Brian Hawkins, Jayne Burns, Melissa Gaskell-Burnup
PD Teesport – Mark Pearson
Royal Haskoning DHV – Steven Rayner, Matt Simpson

Introduction to the project and original HRO:

- Northern Gateway Container Terminal (“NGCT”), 1.5million teu project to be carried out in phased manner. Approach channel dredge, up to 4million cubic metres from the full development. Current HRO expires in May 2018, planning approval has been granted and works have begun.
- Transshipment volumes have increased from 85,000 – 200,000 teu’s since 2006 and show continued upwards growth.
- Port is not far from capacity. Business is growing and works on the first berth are ready to go ahead in the next five years.
- No 1 Quay was reconstructed 12 months ago.
- NGCT project reconfigures the Port and fits in with the Port Master Plan for the Port.

Other applications:

- Screening opinion sought on the general deepening of the Tees – overlap with the NGCT approach channel dredge. Dredging is not considered an EIA project, but PD Teesport have requested confirmation of the scope of environmental studies the MMO requires to support a marine licence application.
- NGCT – 1km quay line, disposal of material at Tees Bay site. Approach channel dredge to -14.5m CD.

For HRO extension:

- PD Teesport asked whether if there are objections raised during any new consultation that were originally dealt with – can they be discounted?
The MMO would require the Port to provide the previous evidence and decision. MMO request that for consultation on the extension a list on interested parties is provided by PD Teesport.

- The original ES, submitted with the 2008 application, will be resubmitted with a supplementary report.
- The supplementary report will assess the effect of any material changes, since the original ES was produced, to the project that could alter the conclusions of the original EIA.
- The supplementary report aims to demonstrate whether or not the impacts of the project are within the scope of the conclusions of the 2008 assessment.
- Sample requirements – a sampling regime could be included in the ES.
- (Royal Haskoning DHV are correct in their understanding that: a sampling regime would only be necessary if a marine licence was also being applied for at the same time as the HRO extension. Because the HRO does not authorise physical works, no further sampling would be required as part of an application for HRO extension only. However, the MMO is suggesting that this section be updated to reflect the requirements of sampling every 3-5 years for a marine licence. This would enable the ES and sample plans to be used to support an application for a marine licence. In order to consider deferring an EIA consent decision for a marine licence application, to an EIA consent decision for a HRO, we would need to be satisfied that all the relevant information was up to date).
- Terrestrial works being carried out under the planning permission. PD Teesport not seeking new permissions or changes to the development that is authorised under the existing planning permission.
- MMO will provide a draft of the notice to be placed in the relevant newspapers, PD Teesport to complete and send back to the MMO to be confirmed ahead of publishing.

ACTIONS:

Royal Haskoning DHV to:

- look into the timetable for the project
- consider whether the Tees Dock project needs to be considered as part of the ES update, in combination effects.
- consider updating information on a sampling regime in the supplementary report in order to support an application for a marine licence.

PD Teesport to:

- send copy of Monica Peto's (Eversheds adviser to PD Ports) notes on the draft process map for the MMO to consider and amend as necessary.

MMO to:

- look into fee for the works and send estimate.
- draft notice to be sent to applicant.
- forward copy of the meeting notes to all attendees.
- (MMO to update the process map to reflect the 2017 update to the Marine Works Regulations.



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Page 2 of 2