

National Infrastructure Planning
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Date: 3 October 2024
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To Whom It May Concern

Planning Act 2008 – Section 89 and The Infrastructure Planning (Examination Procedure) Rules 2010

Application by H2Teesside Limited for an Order Granting Development Consent for the H2Teesside Project

Unique Reference: 20049374

Response to Deadline 2 – Response to ExQ1

This letter is sent on behalf of PD Teesport Limited (“PDT”), registered as an Interested Party for the above application, in accordance with Deadline 2.

Response to ExQ1

Please see below for PDT’s response to the ExA’s written questions.

Where PDT have no comment on a written question, these questions are not included for brevity.

I trust that the below is clear however please do not hesitate to contact me should you have any queries.

Yours sincerely

[REDACTED]

Peter Nesbit

Partner

Eversheds Sutherland (International) LLP

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Response to ExQ1

PD Teesport Limited

ExQ1	Question to:	Question	Response
Q1.6.52	PD Ports	<p>Objections to the grant of powers of CA and TP. In the RR of PDT [RR-014], at paragraph 2.2 it is stated that 'the harbour area is particularly complicated from a land interest perspective with a vast number of businesses relying upon the Port's activities, historic rights and infrastructure and PDT must seek to protect these broader interests in the continuing operations of the Port'. Please detail in what regard PDT proposes to protect these businesses in the examination process and are any of these businesses not registered as IPs in their own right.</p>	<p>PDT represent their tenants' interests particularly in terms of access rights and generally protect assets and services on their land. There are a number of such businesses, not all of which will be registered as IPs.</p> <p>PDT co-ordinate the emergency plan relating to the emergency access road as discussed in PDT's RR. As co-ordinator of this emergency access road, PDT will liaise with the Applicant and the various tenants.</p> <p>There are also various tenants of the pipeline infrastructure corridor which runs under PDT's land. The parties within infrastructure located in that corridor will be identified in the Applicant's BoR.</p>
Q1.6.53	PD Ports	<p>Objections to the grant of powers of CA and TP. In the RR of PDT [RR-014], at paragraph 2.8 it is stated that "If the relevant land is not removed then PDT considers that material determinant (sic) may be caused to its undertaking, within the meaning set out in section 127 of the 2008 Act.". Please clearly detail the land this refers to and also detail what options are being proposed which are alternatives to that currently shown in the Proposed Development.</p>	<p>In the absence of draft PPs, the RRs identify a number of parcels of land included within the draft DCO limits.</p> <p>PDT are Statutory Harbour Authority in the area shown on plan 2020-455-REV0, as attached to this document. Under the Tees and Hartlepoons Port Authority Act 1966 (the 1966 Act), PDT's duties as statutory harbour authority include the following:</p> <p><i>12.— General duties of Authority.</i></p> <p><i>(1) It shall be the duty of the Authority, subject to the provisions of this Act, to take such steps from time to time as they may consider necessary for the conservancy, maintenance and improvement of the</i></p>

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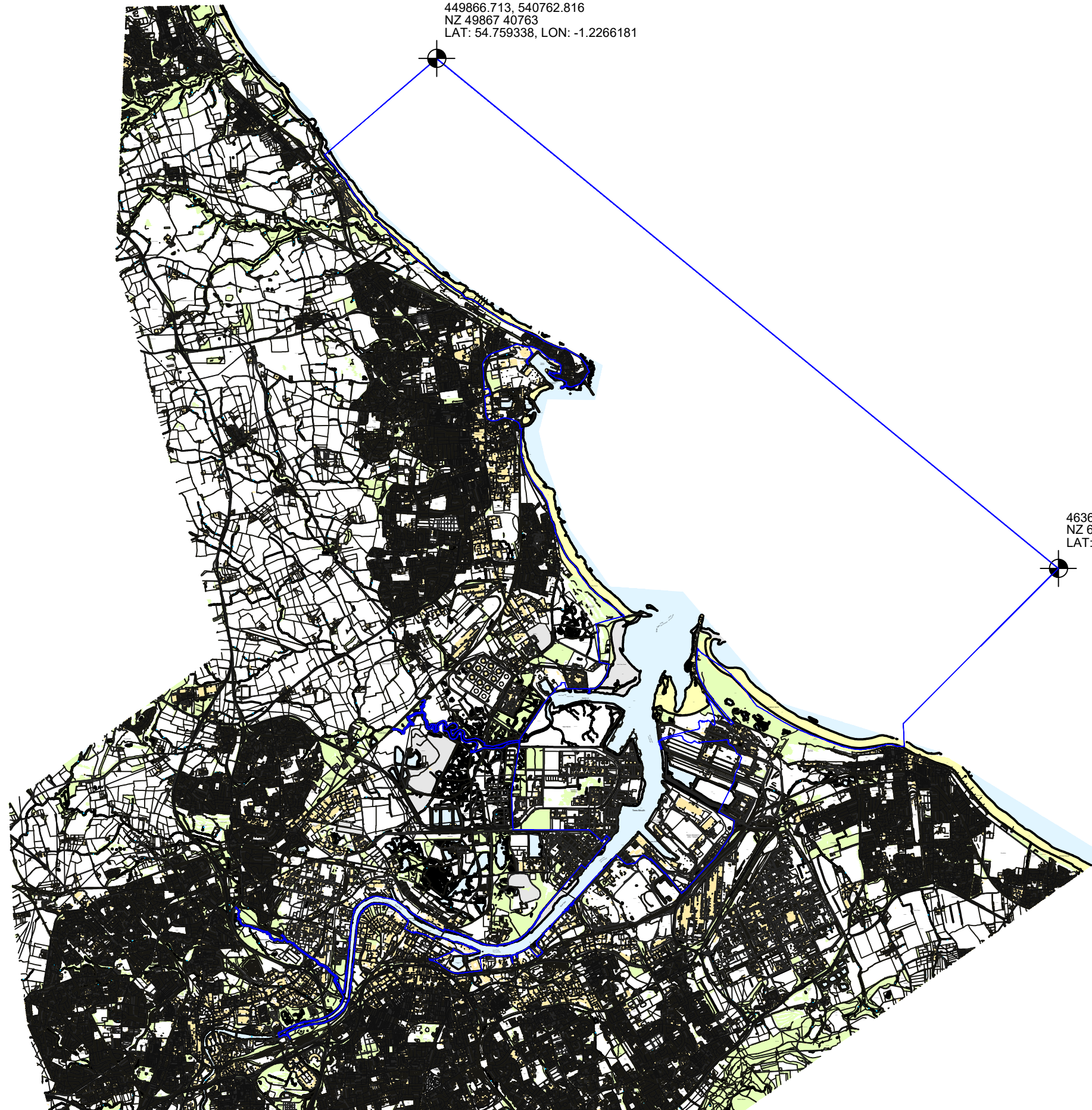
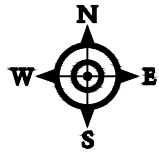
			<p><i>harbour and the facilities afforded therein or in connection therewith, and for the reclamation of land.</i></p> <p><i>(2) For those purposes, and without prejudice to the generality of the foregoing, the Authority may—</i></p> <p><i>(a) improve, maintain, regulate, manage, mark and light the harbour and, subject to the provisions of this Act, provide port facilities therein;</i></p> <p><i>(b) acquire, carry on and improve any undertaking (whether within or outside the harbour) affording or intended to afford accommodation or facilities for the transport, loading, unloading, receiving, forwarding or warehousing of goods;</i></p> <p><i>(c) turn their resources to account so far as not required for the purposes of the undertaking; and</i></p> <p><i>(d) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the undertaking.</i></p> <p><i>(3) In the performance of their functions under this section the Authority shall take such steps from time to time as may be necessary for the maintenance of so much of the harbour as comprises the existing port and harbour of Hartlepool in a condition not less efficient, safe and commodious than it is at the passing of this Act.</i></p> <p>Some areas within the Order Limits are particularly problematic as highlighted in PDT's RR, such as the Tees Dock roundabout to the BOC Middlesborough site, the emergency access road and Riverside ro-ro including the point at which the pipeline crosses the River Tees.</p>
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			<p>As Statutory Harbour Authority, PDT are interested in any activity which disturbs the seabed and may affect its role in the coordination of the emergency access road plan, and statutory duties.</p> <p>The Seal Sands roads provide access to the west site and if disturbed, this will be detrimental to PDT exercising its rights and carrying out its duties under the 1966 Act. These roads are essential to PDT's role as Statutory Harbour Authority as they provide emergency access in the event of an oil spill/other pollution and provides protection from such. Businesses using the jetties also rely on access.</p>
Q1.9.14	PD Ports	<p>Dis-application. Article 9 (Application and Modification of Statutory Provisions) - The ExA notes that Article 9 (Application and Modification of Statutory Provisions) seeks to disapply: i. requirements of section 22 (licensing of works) of the Tees and Hartlepool Port Authority Act 1966 (the 1966 Act); and ii. a number of bylaws and directions made under the 1966 Act, the Tees and Hartlepool Port Authority Revision Order 1974 and the Tees and Hartlepool Harbour Revision Order 1994, which prevent, restrict, condition or require the consent of the Tees Port and Hartlepool Authority or the Harbour Master to any such works. The ExA would specifically seek the comments of the statutory harbour authority in regard to the proposed dis-applications listed above. Should you consider any or all of the above mentions dis-applications to be of concern, the ExA would welcome any comments or suggestions in regard to how the requirements referred to in i. above and the bylaws and directions referred to in ii. above could be complied with in an acceptable manner and to the satisfaction of the statutory harbour authority without adversely</p>	<p>Thank you for drawing this to our attention. The ExA will be aware that the 1966 Act regulates and requires a works licence for works in, on or under the Tees and that this is an important function of the Authority which has to manage the interaction between shipping and navigation, operations such as river dredging and then subsurface infrastructure and risks to such sub surface infrastructure.</p> <p>The port diligently deals with applications for works and indeed has done so for multiple projects within its jurisdiction and the Applicant should be required to follow the normal process for securing such approvals.</p> <p>The disapplication of the powers in that respect are unjustified and should be retained. We are not aware of any evidence put forward by the Applicant that this should be regarded as an impediment to implementing the Project as evidenced by the varied existing infrastructure under the river constructed without the benefit of as DCO.</p> <p>The provisions of the 1966 Act and the Order are therefore important for reasons associated with the</p>

		<p>affecting the Applicant's ability to implement any DCO which may be made by the SoS.</p>	<p>management of the jurisdictional area of the port, including the conservancy, maintenance and improvement of the harbour and the facilities afforded therein or in connection therewith.</p> <p>To the extent the Applicant wishes to disapply any of those conditions, it should specify which ones and provide justification in each instance which we will respond to.</p> <p>The Explanatory Memorandum does not assist in this regard and simply contains a broad statement that the Applicant does not wish to be controlled by the Act but does not contain any justification.</p>
Q1.6.7	Affected Persons/ IPs	<p>The accuracy of the BoR, Land Plans and points of clarification. Are any Affected Persons or IPs aware of any inaccuracies in the BoR [AS-012], SoR [APP-024] or Land Plans [AS-003]? If so, please set out what these are and provide the correct details.</p>	<p>PDT understands that the BoR is not accurate in relation to the emergency access road. PDT have a lease over Plot 7/3, however this does not appear to be recorded in the BoR.</p>
Q1.6.62	Applicant, relevant IPs	<p>General, Detailed or Other Matters. Please detail any land which, following acquisition of rights or freehold and extinguishment of existing right, will be inaccessible, severed, have no access or will be economically unviable.</p>	<p>The emergency access road as referred to in PDT's RR is leased to PDT from the Crown Estates and others. The leases do not appear to be recorded in the Book of Reference. Any interference with this access track might compromise the emergency egress arrangements for a number of businesses in the Seal Sand area, as more particularly described in PDT's relevant representation. Exercise of compulsory acquisition rights in relation to the emergency access road will have the effect as explained in the RR and would affect various businesses on Seal Sands.</p> <p>Similarly, PDT's land in the Seal Sands area is served by access roads which are subject to compulsory acquisition/ extinguishment powers. This is the only access to occupiers of sites within Seal Sands.</p>

			<p>PDT's land at Redcar Bulk Terminal is served by access road which is subject to compulsory acquisition/ extinguishment powers and is the only access to occupiers of the site.</p> <p>Teesdock Road/roundabout is the principal access to PDT's port such that any interference to the port and its tenants accessway would severely impact the operations of the port.</p>
Q1.9.28	Applicant and IPs.	<p>Clarification. Article 32 (Temporary use of land for carrying out the authorised development) – Article 32(5)(b) provides an exemption whereby “the undertaker is not to be required to... (b) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development.” Please define the term ‘ground strengthening works’ and provide written examples and/ or drawings of what they would be likely to consist of. Additionally the ExA would ask: • The Applicant for an explanation of the potential implications of having to removing ‘ground strengthening works’ should Article 32(5)(b) be removed. • Interest Parties for their views as to any potential implications of leaving such ‘ground strengthening works’ in situ.</p>	<p>PDT's response is dependent upon greater specificity in relation to the proposed works which we understand has been requested by the ExA.</p>
Q1.9.67	IPs and Statutory Undertakers	<p>Clarification Schedule 12 (PPs) – Please provide details of discussions and progress regarding PPs (if applicable). If you are in agreement with PPs relevant to you, please confirm this, if not, either provide copies of preferred wording for PPs, or if you have provided it elsewhere (such as in a SoCG), signpost where it can be found and explain why you do not want the wording as currently drafted to be used. Note, if this is provided in the requested Land Rights Tracker please signpost this to the ExA.</p>	<p>Draft protective provisions are awaited.</p>

Q1.17.1	Applicant and relevant IPs	Update/ Views sought. It would be necessary to use accesses in the ownership and use of a number of IPs and other operators. A number of RRs have raised maintenance of their access rights as an issue. Please could all parties provide an update on whether access concerns remain and if the DCO or relevant PPs offer suitable protection to IPs?	No protective provisions have been issued as yet and therefore all access concerns remain outstanding.
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PROJECT **N/A**
LOCATION **TEES & HARTLEPOOL**
TITLE **JURISDICTION AND COORDINATES**

DRAWN **GIC** DATE **08.07.20** SCALE @ A3 **1:100,000**
CHECKED **MD** DATE **08.07.20** STATUS **PRELIMINARY**

DRAWING No. **2020-455-REV0**