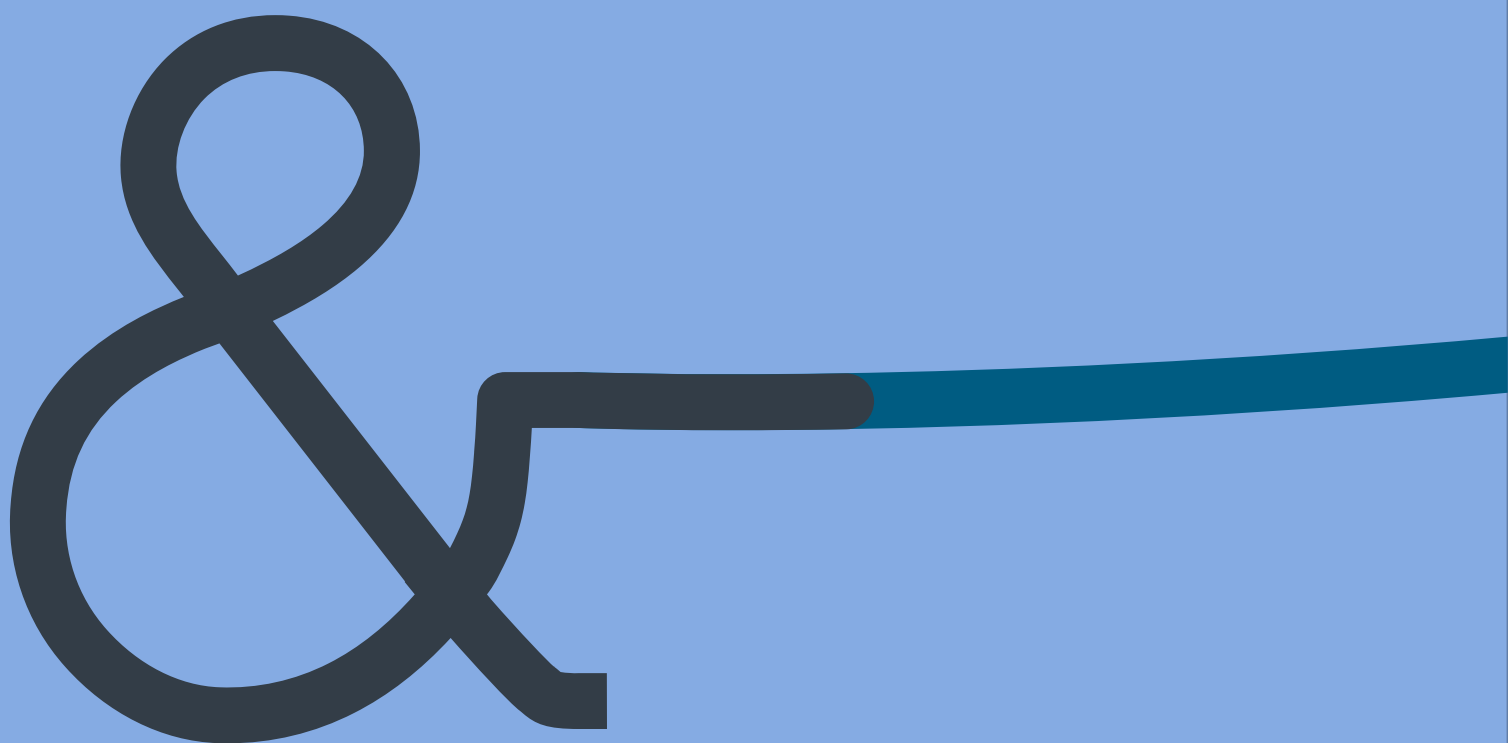


Bird & Bird

# Ports

Our capabilities

2022





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# Our leading ports infrastructure team

*With the beginning of the new decade, megatrends such as new mobility concepts, sustainability and technology transformation increasingly continue to lead to new legal and regulatory challenges in port infrastructure projects.*

In addition, COVID-19 led to additional attention on infrastructure needs, also for ports. These developments are offering opportunities for the next wave of big investments supported by the public sector, sponsors and financial institutions.

Whether you are an operator, a public entity, a private company or a financier, our dedicated port infrastructure projects team will guide you through the changing market environment. We combine extensive experience across the full range of traditional, smart and technology-driven projects with technical know-how in the most critical maritime infrastructure to help you achieve successful outcomes on time and budget.

## All-around port infrastructure projects advice

Your project runs smoothest when all legal and regulatory aspects of its lifecycle are duly covered and managed. With experts in all key areas of law, we are a one-stop-shop to support you at every stage of your infrastructure projects, from the planning and development to the commissioning, funding and delivering stages. We collaborate both across our international network and with other professional advisers of all disciplines to ensure you have the necessary skills at your disposal. Our expert team will make sure that your projects:

- are planned and structured correctly from a corporate law, bankability, investment and state aid perspective;
- obtain official permits and approvals;
- meet all the regulatory requirements for maritime infrastructure;
- are guided through the procurement process;
- are protected against legal risks covered in contracts;

- reflect the requirements of bank and non-bank lenders including sustainability and ESG goals;
- take account of the political, competition and state aid framework;
- have no potential for significant consequences where there is a late delivery or a post-completion defect;
- fulfil post-completion operation and maintenance requirements.

## Guiding through the transformation by technology

Technology transforms our clients' businesses in all our key sectors, whether linked with energy, telecommunications, transport, defence or other. External events like the COVID19 pandemic can accelerate the transformation even further. We draw on our expertise in these areas for port infrastructure as well.

Properly utilised and integrated technology is a key element also to the success of port infrastructure projects. We help both traditional players and new entrants through the changing landscape as well as in new digital and smart infrastructure projects. If you are planning to introduce digital products or need to manage a large amount of data, our leading experts in data and technology can help you integrate the best technical solutions as your project progresses.

Our experts can assist on the project development and project finance stages to close port infrastructure deals across continents. Moreover, our deep knowledge of the banking system together with our connections in the market may help in finding the right financial structure for the deal taking into account all the opportunities offered by the financial markets.

## Our global team of experts

Our Infrastructure Group has exceptional experience of helping those involved in major projects to achieve successful outcomes.

We draw on our experience to define the new ways of working we believe are required to successfully and sustainably deliver major port projects. Our success using these new approaches, and overwhelmingly positive feedback from clients, suggests they are extremely effective.

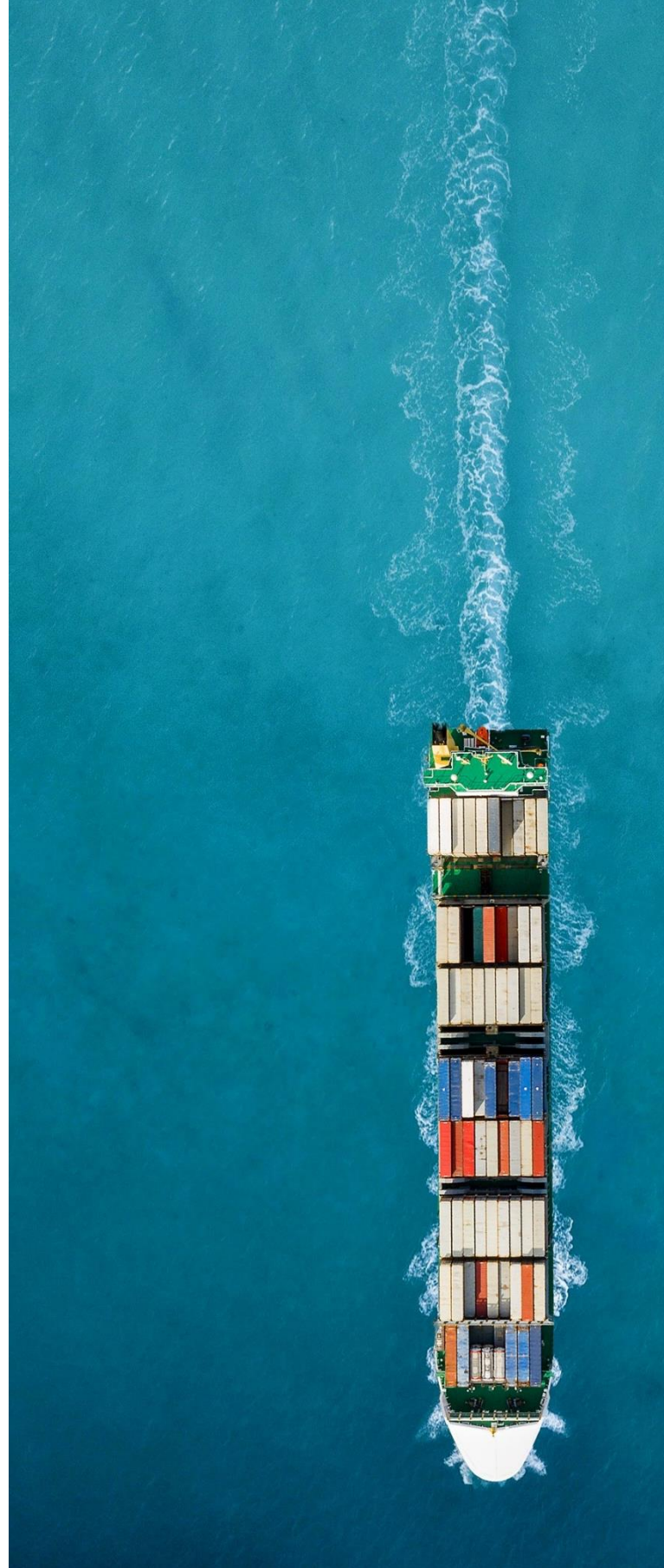
Our specialist lawyers, with construction, procurement, permitting, regulatory and commercial experience, have unparalleled technical knowledge and an ability to think creatively about clients' solutions.

We work collaboratively as a team across our office network as well as with other professional advisers of all disciplines to bring the necessary skills to advise our clients on major projects which:

- comprise technically complex engineering;
- require creative procurement solutions;
- work within the regulatory requirements of the affected industries;
- take due account of the political, competition and state aid framework;
- have the potential for significant consequences where there is late delivery or a post-completion defect; and/or
- have post-completion operation and maintenance requirements.

All of these matters are critically important to any major infrastructure project, including ports, and we are happy to help you.

We were delighted to be recognised for our strength in infrastructure at The Lawyer Awards 2021 by winning the Energy & Infrastructure Team of the Year Award.



# Our expertise in Ports

## Sponsors

- Advising an International Gas Company on regulatory issues and third-party access aspects for an LNG Terminal and related infrastructure at the Port of Rotterdam, including on EU regulations (such as the current Gas Package and recast proposals) as they relate to the use of dedicated infrastructure situated in the port to receive imported (shipped) green ammonia.
- Advising a concessionary company in the context of the financing of extension works of a marina within the framework of a port public service delegation
- Advising the builder in the framework of the construction contract to be concluded with the concessionaire of the port of Calais
- Advising SNC Lavalin within the framework of a project to form a consortium to bid for the award of the public service contract launched by the Nord Pas de Calais Region, relating to the operation of the seaports of Boulogne sur Mer and Calais and the carrying out of work to extend the port of Calais.
- Advising the consortium formed by Vinci and Keolis for the award of a management contract regarding the restoration of the maritime characteristics of the Mont Saint-Michel Bay
- Acting for a UK company on disputes regarding the provision of scanning and loading services at a major port in West Africa.
- Acting as arbitrator in an LCIA arbitration regarding a joint venture for the provision of port services at a major port in Ghana.
- Advising the main contractor in relation to contracts and appointments for development of Victoria Terminal, Belfast Harbour. Construction of a new build port facility on an existing reclaimed 32-acre brownfield site within Belfast Harbour.
- Acted for Bechtel Corporation (as project manager) in relation to a significant expansion of coal transport facilities at Port Waratah, Newcastle.
- Advising an Indonesian group on the proposed development of a coal railway and coal export port project in Sumatra.

- Advising an international commodity trading house on the development of transshipment and storage terminals for Indonesian commodities
- Acted on the initial acquisition of a major new coking coal deposit in Kalimantan, Indonesia and for an international consortium that proceeded to develop the project to commercial production. The role included acting on associated finance and road and port infrastructure development.

## Financial institutions

- Advising on financing for an international financing institution for:
  - A Turkish group acquiring and developing leisure marinas around the Aegean
  - A river port on the Danube
  - The construction of a new railport in Turkey (co-financed by commercial banks)
- Advising Equiter S.p.A. and Intesa Sanpaolo S.p.A. in a project financing for the development, construction, implementation and maintenance of the port of Capo d'Orlando in Sicily.
- Providing legal assistance to the pool of investors who have submitted a project financing proposal for the rebuild and the management of the Port of Sanremo.
- Advising Crédit Foncier de France on the financing of a partnership agreement relating to the construction of the Cotinière Harbour (Ile d'Oléron)
- Advising Caisse des Dépôts et Consignations on the bond financing of extension works in a marina within the context of a harbour public service delegation agreement
- Advising Caisse d'Epargne Provence Alpes Corse in the context of the termination procedure for default of the PPP contract relating to the shipping terminal of Ile de la Réunion
- Providing assistance to a Chinese conglomerate on the acquisition of interests in the SPV managing the Lomé harbour in Togo

## Public entities

- Aberdeen Harbour Board on the procurement of a £350 million harbour redevelopment project. Construction has now commenced on the client's South Harbour following six years of discussion with the key stake holders and public and a comprehensive pre-construction feasibility study, which included a large-scale Environmental Impact Assessment, an integrated investigation into funding streams, and the creation of a Development Framework, which considered the opportunities presented by the potential investment in the new harbour for the wider Nigg, East Tullos and Altens area.
- Advising Cairnryan Harbour & Terminal on the procurement and delivery of a new **floating wharf system** at Loch Ryan Terminal and new berths.
- Providing the Hamburg Port Authority with comprehensive advice on the preparations for and conducting of an international competition inviting ideas for a market exploration procedure based on realistically conceivable and pioneering land development concepts for a strategically important harbour area, including the planning of the pan-European procurement procedure subsequent to the competition and the necessary approval procedures.
- Advising the Commune of Barcarès for the award of a concession of works relating to port equipments of the city and the establishment of a société d'économie mixte à objet unique (SEMOP)
- Advising Voies Navigables de France (VNF) for an audit of the end of public service delegations relating to four ports in Moselle
- Advising Voies Navigables de France (VNF) for the renewal of delegations of public service relating to three ports in Alsace
- Advising the Région Nord-Pas-de-Calais for the award of an harbour public service concession agreement (Projet Calais 2015)
- Advising the Conseil Général de Charente Maritime for the award of a partnership agreement relating to the financing, design, construction, operation and maintenance of la Cotinière Harbour
- Advising the CCI des Côte d'Armor in the context of the renewal of the public service delegation for the fishing, commercial and ship repair ports which it holds.
- Over a 5 year period acted as the principal international legal adviser to the Indonesian Government owned Indonesia Ports Corporation (PT. Pelabuhan Indonesia II) on the development of New Priok Port at Tanjung Priok, Jakarta. New Priok Port is a major port expansion involving in its first stage 3 container terminals (comprising 4.5 million TEU) and 2 product terminals. The first container terminal achieved commissioning in 2016. The work on New Priok Port has involved all aspects of project delivery including preparation of the principal Concession Agreement and associated sub-concessions between government bodies, major dredging and port infrastructure works, negotiations with multiple international consortiums tendering for sub-concession arrangements, and attending to associated road and power infrastructure arrangements. New Priok Port was awarded Asia Pacific Ports Deal of the Year at the IJ Global Awards 2015.
- Acting for the Indonesian Government owned Indonesia Ports Corporation (PT. Pelabuhan Indonesia II) on the successful raising of a US\$ 1 billion bond from a consortium of international banks led by Deutsche Bank for utilisation in Indonesian maritime developments.

# Case Study: Hutchinson Ports

Our cross-border team has been appointed by new client Hutchinson Ports, the world's leading ports developer and operator, to advise them in connection with its development and subsequent operation of a container terminal at Norvik Port.

Norvik is located 60km south of Stockholm and is a brand new, state of the art, container shipping port that will serve the greater Stockholm area. It will have better access, deeper water, and greater capacity than the city-centre facilities it will replace.

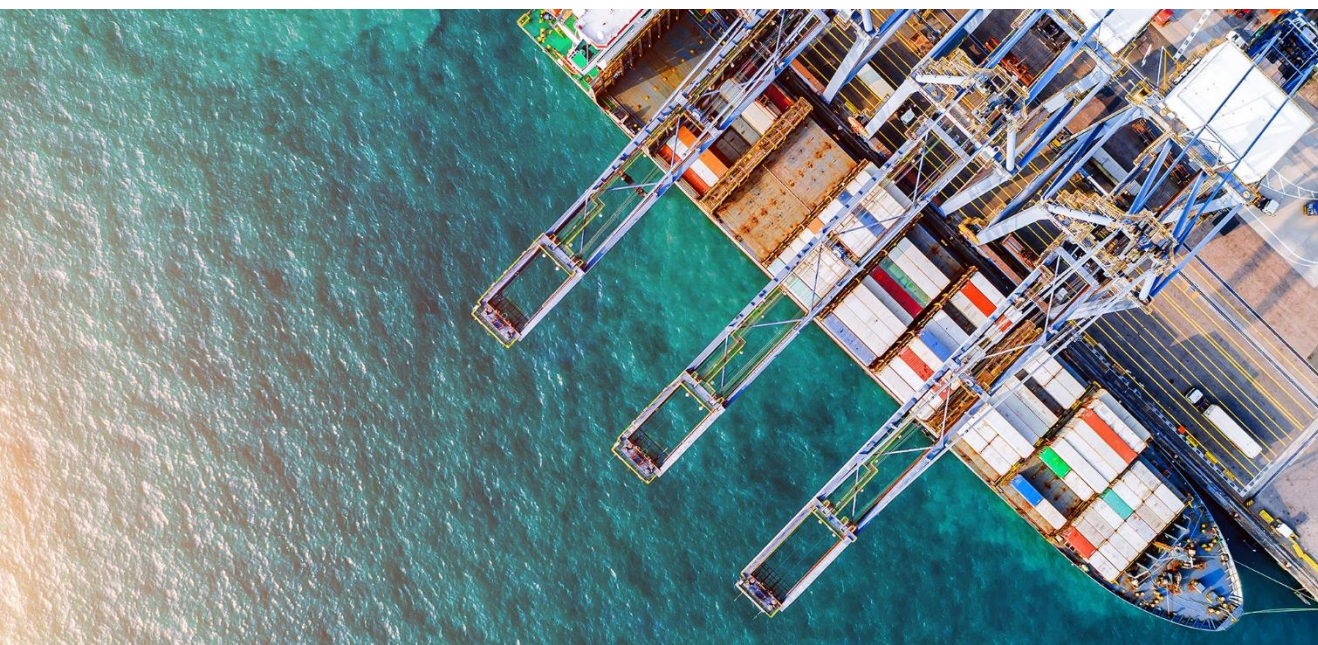
Crucially, it will allow larger container ships to serve the Swedish capital, bring cargo closer to the country's largest market and reduce the number of ships that sail through the environmentally sensitive archipelago.

The work has been varied and has touched upon all aspects of the development of the container terminal including:

- Procurement;
- Construction;
- Property; and
- The negotiation of commercial agreements for the supply of goods, materials and services.

There has also been a significant employment work stream as Hutchinson needed to employ a significant number of new staff in order to ramp up operations.

Mattias Lindberg, Partner and Head of Commercial, Sweden comments: *"In addition to the Norvik Port project's great importance to the firm's Nordic infrastructure practice, the work that we do on a day-to-day basis is significant because it is a high-profile project in Stockholm which strengthens experience in our expanding infrastructure practice and highlights our strong co-operation between different offices."*



# Key contacts



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# Thank you

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