

REPORT

Boston Alternative Energy Facility

Comments on Relevant Representations

Client: Alternative Use Boston Projects Ltd

Planning Inspectorate EN010095

Reference:

Document Reference: 9.2

Pursuant to: N/A

Reference: PB6934-ZZ-XX-RP-Z-4038

Status: Final/0.0

Date: 19 October 2021





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Document title: Boston Alternative Energy Facility

Document short title:

Reference: PB6934-ZZ-XX-RP-Z-4038
Status: 0.0/Final
Date: 19 October 2021
Project name: Boston Alternative Energy Facility
Project number: PB6934
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Date: 19.10.21



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Date: 19.10.21



Classification

Project related

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1 Comments on Relevant Representations

1.1.1 This 'Comments on Relevant Representations' document for the Boston Alternative Energy Facility (the Facility)) supports the application for a Development Consent Order (DCO) (the DCO application) that has been made to the Planning Inspectorate under Section 37 of the Planning Act 2008 (the Act) by Alternative Use Boston Projects Limited (AUBP) (the Applicant).

1.1.2 A total of 27 Relevant Representations were received by the Planning Inspectorate in respect to the Facility during the statutory consultation period under Section 56 of the Act.

1.1.3 The 27 Relevant Representations comprise of the following:

- 13 from statutory consultees;
- 5 from non-statutory organisations;
- 2 from local authorities; and
- 7 from members of the public.

1.1.4 The tables in the rest of this document set out each relevant representation along with the Applicant's response. Additionally, in **Table 1-13** (Natural England) as well as providing a response to each of Natural England's relevant representations the Applicant has also added in information exchanged since this date to allow a fuller understanding of the representation, as a number of issues have moved on since the relevant representation was submitted. The last two columns ('NE response from email 13th September 2021' and 'AUBP response to NE comments') contain information exchanged since the relevant representation was made. We hope the Examining Authority finds this useful to understand the current position on such matters.

1.2 Statutory

Table 1-1 Environment Agency (RR-013)

No.	Topic	Relevant Representation	AUBP Response
1	Draft DCO	We have objected to the Draft Development Consent Order (DCO) as you have sought to disapply legislation relating to the management and protection of flood management infrastructure. You require our consent to disapply this legislation, and to date we have not received a request from you for this. At the current time we would not consent to disapply the legislation.	The Applicant is committed to working with the Environment Agency (EA) to provide the information needed in relation to the management and protection of flood management infrastructure and work with the EA to reach agreement on the protective provisions and any necessary legal agreements to enable the disapplication of the requirement to obtain an environmental permit for a flood risk activity. The Applicant has included provisions for the protection of the Environment Agency in Schedule 8 Part 4 of the draft DCO (document reference 2.1, APP-005), which give the Environment Agency the power to approve works in the vicinity of flood defences. The Applicant welcomes any specific comments the Environment Agency has on those provisions.
2	Draft DCO	This an urgent matter and we encourage you to contact us as soon as possible to start these discussions. The Environment Agency has experience of this process and we will be able to provide you with advice that may help resolve the issue, but you should be aware that this process takes time, and we will not be in a position to withdraw our objection until it is fully resolved.	Please refer to the response in RR-013-1 above.
3	Wharf design	We still require detailed drawings, cross sectional areas, plans and methodologies including how the defences will be removed, set back, development of the site and wharf constructed without reducing the standard of protection of the defence at a height of 6.5mAOD at any time. The exact details of this will be dependent upon the final design configuration / level of the wharf and flood defence through the site.	The existing flood defence would be required to be relocated and realigned with a new flood defence for this section because the new suspended deck wharf structure will cut through it. This new section of flood defence will be formed by installing a sheet pile wall immediately behind the new wharf. The rear face of the sheet pile wall will include an in-situ concrete facing to ensure it is water-tight. The sheet piles will

No.	Topic	Relevant Representation	AUBP Response
			<p>be driven sufficiently far into the ground to ensure both stability and to stop the flow of water penetrating under these piles.</p> <p>The sheet pile wall will be merged into the existing flood defence on both sides of the new wharf. The level of the new flood defence will be set at +7.2m AOD, in accordance with the Environment Agency's requirements (see Indicative Wharf Plans, document reference 4.11, APP-021). As noted in Wharf Construction Outline Methodology (document reference 9.17), to maintain the integrity of the defence, the sheet pile wall comprising the new flood defence will be installed at the outset of construction to ensure that, as a minimum, the current standard of protection against potential flooding will continue to be provided throughout the construction, and subsequently operation, of the proposed development.</p>
4	Project description	We also still have questions around decommissioning the site after its lifespan, including long term maintenance of any structure that would may be left behind.	<p>The flood defence along the frontage of the proposed development will be maintained by the Operator throughout the operational lifetime of the facility.</p> <p>As the flood defence is set to the maximum level of that proposed for the wider Haven Banks scheme, there will be no requirement to increase the crest height of the defence, as part of the Environment Agency adaptive management approach. Within the draft DCO (document reference 2.1, APP-005) there is a requirement (Requirement 22) for a decommissioning scheme to be submitted and approved by the relevant planning authority and in consultation with the Environment Agency. The maintenance of the flood defence once the facility has been decommissioned will be subject to an agreement between the Environment Agency and the Applicant.</p>

No.	Topic	Relevant Representation	AUBP Response
5	Project description	We need clarification of whether land raising will be undertaken across the site. If this is the case, then the impact this could have to flood flows across the site will need to be investigated.	<p>Over the main site approximately 0.5 m of surface material will be removed and replaced with 0.8 m of surcharged material to ensure the site is level.</p> <p>There is no requirement or proposal to undertake large scale land raising across the Application Site.</p>
6	Project description	Your Flood Risk Assessment (FRA) has discussed embedding mitigation across the site in the section Finished Floor Levels, starting at 13.1.20. There appear to be conflicting points in this section, and it is not clear if the proposed floor level of 6.71mAOD will be incorporated into the construction. We also need clarification about any specific raising of critical infrastructure on the site.	<p>For clarification, the discussion on Finished Floor Levels (FFL) is found from paragraph 13.1.120 onwards (rather than 13.1.20) of Appendix 13.2 Flood Risk Assessment (document reference 6.4.13, APP-106).</p> <p>The discussion on FFLs relates to the guidance set out within the Environment Agency standing advice and the implications this may have for the development. However, the FRA also notes in paragraph 13.1.121, that if FFLs cannot be raised above the estimated flood level then extra resistance and resilience measures should be considered.</p> <p>For the Facility, it is necessary to set the buildings at ground level to aid access for its operation and as such the FFLs cannot be raised as per the Environment Agency standing advice.</p> <p>However, it can be confirmed that sensitive equipment within the buildings will be raised above ground level to an appropriate height for resilience measures as per paragraph 13.1.126 of the Flood Risk Assessment (Appendix 13.2, document reference 6.4.13, APP-106).</p>
7	Project description	We also have outstanding questions relating to dredging from previous correspondence which the documents do not appear to answer. In particular we need to know:	As referenced in Chapter 16 Estuarine Processes (paragraph 16.7.17) (document reference 6.2.16, APP-054) the worst case estimate of sedimentation is 0.5 m/year (50 cm/year). At a sedimentation rate of 0.5m per annum this will result in

No.	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> Where there has been mention of dredging, is there a figure on how many times the channel will require dredging? We note in 5.4 of the PB6934-RHD-01-ZZ-RP-N-2002_ Construction of New Wharf –draft document that the distance from the proposed wharf edge to the main channel will be 50m and the need for floating plant maybe required. If this required detailed design drawings and methodologies need to be submitted to articulate how dredging will be performed and how many times a year it will be needed. This is required to ensure dredging activities do not affect the stability of the existing or new defences. 	<p>maintenance dredging being required as a minimum every two years, and ideally on an annual basis.</p> <p>Descriptions of the proposed capital dredging are provided within section 2.3 and 2.5 of the Wharf Construction Outline Methodology (document reference 9.17); the indicative timescale is provided in section 3. Maintaining the integrity of the flood defence is highlighted within section 3.3. As detailed in this section, construction of the sheet piled wall (which will form the new flood defence, set at +7.2m AOD) will be the first task to be undertaken. Until this new flood defence is in place the existing flood defence embankment cannot be breached, and no work on the wharf can commence.</p> <p>In addition, under condition 12 of the Deemed Marine Licence (DML) included in Schedule 9 to the draft DCO (document reference 2.1, APP-005) the Applicant must submit details of the dredging to the MMO's for approval in the form of a method statement at least 13 weeks before commencement of the licenced activity.</p>
8	Estuarine Processes	<p>In Chapter 16 of the Environmental Statement the overall effect of increased ship wash under a WCS for the identified estuarine processes receptor groups (The Wash EMS and Havenside LNR) is identified as a negligible effect. We need evidence to support this, and to show that no impact will be had on the opposite bank due to the increase in ship numbers and the proposed dredging.</p>	<p>The evidence for a negligible effect due to ship wash on The Wash European Marine Site and Havenside Local Nature Reserve is presented in Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054), Paragraphs 16.7.46 to 16.7.58. The key evidence supporting this conclusion is that the increase in time that ship wash would be active on the intertidal mudflats (from 0.15 % of a year pre the Facility to 0.37 % of a year post the Facility) will still be very small compared to the relatively large amount of time that natural wind-waves are active (greater than 99.6% of a year both pre- and post-Facility). So, even though the percentage of time that ship wash is active would be doubled, the relative amount of</p>

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			<p>time it is active compared to natural wind-waves is still small. Hence, the annual effect of erosion by wind-waves (and tidal currents) would continue to significantly exceed the erosion caused by ship wash, and the increase in erosion from such ship wash is considered to be negligible.</p> <p>With respect to the bank opposite the Facility (where Havenside Local Nature Reserve is located), as ships approach the wharf, they will be travelling very slowly so although the incidence of ship wash would be doubled, the wave heights would be small and would not create additional significant erosion.</p> <p>Given the very small predicted increases the Applicant considers that no additional quantitative work is required to underpin the conclusions set out in the ES.</p>
9	Estuarine Processes	We are concerned that the evidence you have submitted is not robust enough to demonstrate that harm won't arise to the waterbody as a result of the construction and operation of the facility. This is a serious concern, and we will not be in a position to withdraw our objection until further evidence is provided.	Noted. Further responses outlined below in RR-013-10 and RR-013-11.
10	Marine Ecology	<p>In particular we need to see:</p> <ul style="list-style-type: none"> a more detailed and structured strategy that considers saltmarsh as a priority habitat in its own right, as well as recognising its value as a supporting habitat for birds. 	Findings from the 2011, 2014 and 2017 surveys carried out for the EA were used to inform the existing status of the saltmarshes adjacent to the development site. These reports stated that the saltmarsh in The Haven was generally of poor quality. A site visit was also undertaken by Royal HaskoningDHV in October 2018 which concurred with these findings given the limited extent and condition of the marsh (a lot of debris was observed on the marsh areas. Loss of habitat has been considered in the impact assessments and a

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			<p>biodiversity calculation undertaken to investigate the needs for mitigation. A mitigation package is being drawn up to address the habitat losses. Habitat loss is included in its own right in Chapter 17 (Marine and Coastal Ecology) (document reference 6.2.17, APP-055) Section 17.6 which also refers to the priority status of this habitat. In addition, assessments of any hydrodynamic changes to the saltmarsh habitat were assessed in Section Chapter 16 (Marine and Coastal Ecology) (document reference 6.2.16, APP-054) Section 16.7.</p>
11	Estuarine Processes	<ul style="list-style-type: none"> Greater consideration of indirect effects of the project as well as direct loss within the construction and dredging footprints, for example, would vessel numbers/size be expected to increase as a result of the proposed waste facility, and if so, has the risk of erosion from increased vessel wash been predicted? 	<p>From an estuarine processes perspective, this comment relates to the increase in vessel numbers and the potential for increased erosion due to increased ship wash. Although vessel numbers will increase, vessel sizes will be no larger than the vessels already using the waterway. With respect to ship wash, please refer to RR-013-8 and RR-013-19.</p>
12	Project Description	<p>Will the risk of litter in the marine environment increase and what mitigation will there be for such risks?</p>	<p>The Applicant is fully aware of the potential for litter to result from operations. Once the Refuse Derived Fuel (RDF) has been unloaded from the delivery vessels the bales containing the RDF will be under cover whilst on site, being transported to the bale shredding plant by covered conveyor. The highest risk for litter release relates to the unloading of the RDF bales from the vessels at the wharf. All bales would be inspected in situ on the vessel prior to being unloaded, and any damaged bales would not be accepted into the facility. This non-acceptance will be managed through contractual conditions with the vessel operators/owners and by Operational Procedures. Three levels of physical litter barriers will be provided:</p> <p>1) Any RDF that escapes from bales that split whilst being removed by crane from the vessel will be captured by underslung sheeting designed to slope either back into the</p>

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			<p>vessel or to the wharf (depending on the tidal state). Additionally, any RDF on the wharf will be subject to an operational procedure to immediately clear the area.</p> <p>2) Nets will be provided on the down-wind side of vessels to catch any airborne litter.</p> <p>3) Local floating flexible barriers will be provided in the water in case of any litter floating on the river surface. These can be temporarily removed should a vessel be departing or arriving.</p> <p>The Applicant anticipates litter reduction and management will be covered by the Environmental Permit. The Applicant would be grateful if the Environment Agency could please confirm that management of operational waste will be controlled through the Environmental Permit.</p>
13	Estuarine Processes	<p>We have reviewed the information submitted in Chapter 16 of the Environmental Statement. Most of the chapter is based on pre-existing data, and as such there are some gaps. An Expert Geomorphological Assessment (EGA) is mentioned, but the assessment is not included in the supporting material. Since some of the conclusions are based on the EGA, we need to review this assessment as part of the supporting material.</p>	<p>The Applicant has requested from the Environment Agency a more detailed list of baseline data gaps to assist us in our response to the Relevant Representation (requested during a meeting on 30th June 2021 and in a letter issued on 1st October 2021).</p> <p>The use of EGA is integral to the assessment of effects on each of the different estuarine processes (waves, currents, suspended sediment transport) and is not a technique that can be represented in a single supporting document. The EGA is embedded within each of the relevant assessments set out in Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054), and is better suited to inclusion in the individual assessments rather than a separately presented EGA. Therefore, by reviewing the individual assessments within the Chapter the EGA supporting that section has also been reviewed - the evidence is built-in to the assessment of effects.</p>

No.	Topic	Relevant Representation	AUBP Response
14	Flood risk	<p>We welcome the use of UKCP18 sea level rise projections, however additional information is still required in relation to surges. Whilst Paragraph 16.6.20 gives some information regarding possible water level increase due to storm surge, it is unclear what effect rSLR would have on these predicted levels. Consideration should also be given to climate change related increases in storm intensity which may lead to larger surge events happening more often.</p>	<p>The proposed development would not change the levels of the wider Environment Agency's flood defences along The Haven, which are being improved by the Environment Agency as part of the Boston Combined Strategy. As part of the adaptive defence scheme works undertaken by the Environment Agency to construct the Boston Barrier and the Haven Banks, it is assumed that the design and setting of the crest levels for these adaptive defences has taken account of future storm surges including the operation of the Boston Barrier.</p> <p>Following discussion and agreement with the Environment Agency, the proposed wharf and flood defence is set at the current maximum level of the Environment Agency's proposed adaptive defences i.e. +7.2m AOD, which the Environment Agency has indicated, as part of the Boston Combined Strategy, will provide protection up to and including the 1 in 300-year event in 100 years' time.</p> <p>By adopting this maximum crest level from the outset the proposed development is providing protection against the maximum future flood risk for the lifetime of the Facility, whilst the adjacent Environment Agency defences will require improvement to match this over time.</p> <p>Therefore, in flood risk terms it is anticipated that due to the relatively short lifetime of the proposed development (i.e. 25 years) compared with the level of protection provided by the new flood defence (i.e. 1 in 300-year for 100 years), the new flood defence would provide greater protection against storm surge events than the adaptive defences either side of the Facility.</p>
15	Flood risk	<p>We also need further information on the effect closing the Boston Barrier would have on the area during a tidal surge. You should also consider any impacts to the development itself, such as the wharf and storage buildings.</p>	<p>Please refer to the response above at RR-013-14.</p>

No.	Topic	Relevant Representation	AUBP Response
16	Estuarine Processes	It appears you have only examined tidal currents to the north of the facility site using data from previous studies. Paragraph 16.7.39 suggests that there may be an increase in tidal currents downstream of the site once constructed, but there are no figures to confirm or deny this. We need more information on the velocities downstream of the facility site, and what the impact on tidal velocities would be once the site has been constructed.	<p>The baseline data for tidal currents presented in ES Chapter 16 (document reference 6.2.16, APP-054) was restricted to The Haven upstream of the Facility. The model results used to support the baseline (Mott MacDonald, 2016. Boston Barrier TWAO Hydraulic Modelling Report. Report to the Environment Agency, June 2016) probably extended further downstream, but this data was not presented in the report. Therefore, our assessment of effects was based on a quantitative analysis of the change in tidal prism due the facility compared to the tidal prism of the entire Haven, and the potential effect that change would have on currents downstream. Such an analysis is a good proxy for changes to tidal currents given the linear nature of The Haven in the vicinity of the proposed Facility.</p> <p>Our conclusion was that an increase of under 2% of the tidal prism would occur due to the provision of the new wharf, and this is predicted to have a similar magnitude of effect on tidal currents downstream (i.e. less than 2% increase in tidal currents). Spring tide flows at the facility are about 1m/s, and a 2% increase resulting from provision of the wharf is well within the variation in flow due to natural processes and is not considered to be significant in terms of estuarine processes (Chapter 16, Paragraphs 16.7.39 to 16.7.45).</p>
17	Project description	In relation to Suspended Sediment Transport and Deposition (16.6.40-47) relating to tidal currents, waves and shipwash, previous studies indicate that the current suspended sediment load is high. More detail is required about how the impacts of dredging during the revetment construction will be managed.	<p>The assessment concluded that there would be no change in suspended sediment concentrations during revetment construction. This is because it will be constructed using land-side plant (Paragraphs 16.7.7 and 16.7.8 of ES Chapter 16 (document reference 6.2.16, APP-054)). Long-arm hydraulic excavators would sit on top of the flood defence and excavate the slope. The dredged sediment would be recovered or disposed on land.</p> <p>This method of excavation means that there will be no effect on</p>

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			<p>estuarine processes. This is because none of the sediment that is dredged can enter the water column as suspended load. Hence, no management of impacts with respect to estuarine processes is required.</p>
18	Estuarine Processes	<p>The proportion of recent sediment (wetter and more likely to cause a sediment plume) and harder/older sediments is difficult to ascertain, as boundaries between sediment units difficult to establish (16.7.10). In a dynamic environment such as an estuary there is a lot of lateral variation. In previous studies, detailed in these chapters, made ground has been encountered in several locations, and we consider that this may also be true of the proposed Wharf site. We recommend a geotechnical investigation of the site to establish what is there.</p>	<p>The Applicant agrees that there is lateral (and vertical) variation in sediment types in the estuary. However, from the perspective of estuarine processes the details of the transition from older Holocene sediment to more recent sediments is not a relevant consideration within the assessment. This is because the assessment is based on a worst case scenario where it is assumed that increases in suspended sediment concentrations due to capital dredging, result in all the sediment released into the water column being broken down into its constituent particles (Paragraphs 16.7.11 and 16.7.12 of Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054)).</p> <p>A geotechnical investigation will be undertaken prior to construction of the wharf.</p>
19	Estuarine Processes	<p>We consider that the assessment of shipwash is overly simplistic. Bed shear analysis does not appear to have been undertaken, as previously recommended. However, despite this the report does state that shipwash may cause erosion, especially in the WCS, but that the flood dominance of the estuary, and natural infilling of the estuary under current conditions (tidal currents and wind waves), far exceed the erosion potential of shipwash. A more detailed assessment (including in combination effects of shipwash, tidal currents and waves) of the bed shear stress and forces required to overcome it in order to initiate sediment movement, is required to support the conclusion of “negligible” effect.</p>	<p>The assessment of ship wash starts from the premise that erosion due to ship wash already occurs in The Haven and will continue to occur once the numbers of vessels increase (Paragraph 16.7.52 of Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054)). The assessment does not rely on calculations of bed shear stress, as the assumption is made that the waves created by ship wash are large enough to create bed shear stress that is greater than the critical bed shear stress for erosion and sediment transport both before and after construction (Paragraph 16.7.51). The magnitude of the bed shear stress required to do this does not need to be quantified - it is implicit in the assessment that erosion would</p>

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			<p>continue to occur. Calculations of bed shear stress would therefore be a disproportionate task to carry out.</p> <p>The important element of the assessment is whether the increase in erosion induced by extra vessels is significant. The evidence supporting the conclusion that the increase in erosion would be negligible is that the increase in time that ship wash would be active on the intertidal mudflats (from 0.15 % of a year pre the Facility to 0.37 % of a year post the Facility) will still be very small compared to the relatively large amount of time that natural wind-waves are active (greater than 99.6% of a year both pre- and post-Facility). So, even though the percentage of time that ship wash is active would be doubled, the relative amount of time it is active compared to natural wind-waves is still small. Hence, the annual effect of erosion by wind-waves (and tidal currents) would continue to significantly exceed the erosion caused by ship wash, and the latter increase in erosion is considered to be negligible.</p>
20	Surface water	<p>We note the proposal to construct a sealed surface water drainage system where water enters the excavations during construction from surface runoff or groundwater seepage and is then pumped via settling tanks, sediment basins or mobile treatment facilities to remove sediment, before being discharged into local ditches or drains via temporary interceptor drains.</p> <p>The discharge to surface water from excavations during the construction phase will require an Environmental Permit unless the activity can meet the criteria of the Regulatory Position Statement 'Temporary dewatering from excavations to surface water'. This is available at: https://www.gov.uk/government/publications/temporary-dewatering-from-excavations-to-surface-water.</p>	<p>The Applicant acknowledges that an environmental permit for the discharge to surface water from excavations during the construction phase may be required and will continue to engage with the Environment Agency in respect of any permitting requirements.</p> <p>In addition, Section 4 of the Outline Code of Construction Practice (document reference 7.1, APP-120) sets out a commitment to prepare a Pollution Prevention and Incident Response Plan. A Code of Construction Practice is committed to in paragraph 10 of Schedule 2 of the draft DCO (document reference 2.1, APP-005), and that such a plan should be substantially in accordance with the Outline Code of</p>

No.	Topic	Relevant Representation	AUBP Response
			Construction Practice. The Environment Agency is also a consultee on Requirement 10.
21	Waste	Providing that the Definition of Waste: Code of Practice (DoWCoP) is followed in full we have no objections to materials re-use, in accordance with our position statement (attached). Materials not used in accordance with the DoWCoP process in full may be deemed waste and will require a relevant permit for deposit.	Noted. The Applicant will ensure that any materials not re-used in line with an agreed Materials Management Plan as part of the DoWCoP process may be deemed waste and would require separate management. Where appropriate, relevant permits will be sought from the Regulatory authority.
22	Waste	A formal Declaration must be submitted by a QP before any transfer occurs. A verification report is required to be completed at the end of the project and a copy submitted to CL:AIRE. Materials illegally deposited or deposited at inappropriate sites may be subject to relevant landfill taxes, payable by all parties. Only robust due diligence is a defence against joint liability.	The Applicant notes this point.
23	Waste	The decision to use the CL:AIRE Definition of waste Code of Practice is the responsibility of the holder of the materials. The project manager should collate all relevant documents; permissions, site reports, MMP etc and consult with an independent QP to confirm that the site meets the requirements and tests for use of the DOWCOP. If the site meets the tests that materials are suitable for re-use, certain to be re-used, are not excessive in volume and pose no risk to the environment or harm to human health then the QP can make a formal Declaration via CL:AIRE.	Should any soil/sediment reuse be required in the scheme, the requisite CL:AIRE DoWCoP and Material Management Plan declaration will be followed in advance (Environmental Statement, Chapter 11 Contaminated Land, Land Use and Hydrogeology (document reference 6.2.11, APP-059)).
24	Waste	For clarification however, it is important to note that DoWCoP declarations cannot be made retrospectively. In addition to this if you wish to re-use material under the 'site of origin scenario' and this material has previously been imported to that site as	Please see our response to RR-013-21.

No.	Topic	Relevant Representation	AUBP Response
		waste without authorisation for example a historical illegal deposit then it does not originate at that site. It is not site derived material and you cannot use DoWCoP site of origin scenario for this activity, you will require an appropriate waste authorisation such as an environmental permit.	
25	Waste	The operator/developer needs to be aware that a DoWCoP declaration does not remove the need for an environmental permit where treatment of the excavated waste is required prior to re-use. The remediation standards to be achieved through the treatment operation should be discussed/agreed with the Environment Agency in advance, please ensure you include the EPR Waste North Team in your pre-application process.	The Applicant will consult with the Environment Agency on the permitting requirements if excavated wastes require treatment prior to re-use.
26	Waste	Dredged material will not be considered as suitable for use until the appropriate amount of dewatering has taken place and is a waste. The dredged material can subsequently be put to use in earthworks as a non-waste once it is confirmed that it will not need to undergo any further treatment.	Noted. The Applicant will ensure that any dredged materials will be de-watered prior to processing or further re-use, the management routes informed by testing, where applicable.
27	Waste	The D1 waste exemption (https://www.gov.uk/guidance/d1-waste-exemption-depositing-waste-from-dredging-inland-waters): depositing waste from dredging inland waters allows treatment to screen and remove the water from dredging's, but it is limited to certain conditions and quantities. If you cannot meet the exemption's conditions you will need an environmental permit.	Noted. The Applicant will follow the guidance on exemptions, and ensure relevant conditions are followed. If required, an environmental permit will be sought in advance of works.
28	Marine Water and Sediment Quality	We would like to raise further concerns that Chapter 15 Marine Water and Sediment Quality Section 15.6.8_Contaminants shows that some of the sediment samples taken in 2017 from the Haven exceeded Cefas Action level 1 values. This was the case for some trace metals (Arsenic, Chromium, Nickel and	The Applicant is aware of the exceedances of a number of determinants identified in sediment samples taken from the Haven in 2017. The Applicant is liaising with the MMO on a condition relating to sampling. Prior to deposit on land (noting that sediments may be

No.	Topic	Relevant Representation	AUBP Response
		Zinc) and PAHs. The Cefas Action levels are used to make decisions regarding contaminant levels of sediment and the disposal of the dredged material to sea. However, the results suggest that further investigation will be required before the dredged sediment is deemed suitable for land recovery.	dewatered and temporarily stockpiled on land prior to final deposition), sediment samples will be collected and subject to further testing. Subsequent assessment is required with respect to potential reuse within the proposed development. The use of sediments within the proposed development is only appropriate if the outcome of the reuse assessment determines the sediments do not pose an unacceptable risk to human health or the environment. The deposit of sediments on land will be subject to non-statutory or statutory routes to deposit on land within regulatory requirements detailed within the response in RR-013-63 below.
29	Waste	You must follow the waste classification technical guidance to assess your dredging spoil to make sure it is not hazardous: [REDACTED] [REDACTED]	Dredging spoil will be sampled in line with an agreed methodology and plan. The results of chemical analysis will be used to inform the classification of the materials as non-hazardous or hazardous in line with the criteria set out in the latest waste classification technical guidance.
30	Consultation	Please ensure you include the EPR Waste North Team in your pre-application process.	The pre-application process has been directed through a central Planning Specialist at the Environment Agency who has co-ordinated their response.
31	Ground Conditions and Contamination	The proposed development is located on or within 250m of a landfill site that is potentially producing landfill gas. Landfill gas consists of methane and carbon dioxide. It is produced as the waste in the landfill site degrades. Methane can present a risk of fire and explosion. Carbon dioxide can present a risk of asphyxiation or suffocation. The trace constituents of landfill gas can be toxic and can give rise to long- and short-term health risks as well as odour nuisance.	The migration of ground gas onto the site from the adjacent landfills may pose a risk to receptors at the site (human health, temporary and permanent buildings etc). Chapter 11 Contaminated Land, Land Use and Hydrogeology of the Environmental Statement (document reference 6.2.11, APP-049) identifies ground gas and vapour risk associated with the off-site landfills as a potential contaminant of concern with respect to both the construction and operational phase of the proposed development.
32	Ground Conditions	The risks associated with landfill gas will depend on the controls in place to prevent uncontrolled release of landfill gas from the landfill site. Older landfill sites may have poorer	

No.	Topic	Relevant Representation	AUBP Response
	and Contamination	controls in place and the level of risk may be higher or uncertain due to a lack of historical records of waste inputs or control measures.	As set out in Requirement 9 of the draft DCO (document reference 2.1, APP-005), pre-commencement ground investigation is required. Requirement 9 has been amended in the version of the draft DCO submitted at Deadline 1 (document reference 2.1(1)) to specifically to ground gases and require that "the risk assessment required under sub-paragraph (2) must adopt the source-pathway-receptor principle and take into account potential migration of off-site ground gases".
33	Ground Conditions and Contamination	Development on top of or within 50m of any permitted landfill site that accepted hazardous or non-hazardous waste should be considered very carefully, as even with appropriate building control measures in place, landfill gas can accumulate in confined spaces in gardens (e.g., sheds, small extensions) and can gain access to service pipes and drains where it can accumulate or migrate away from the site.	Consultation and a request for further information pertaining to the off-site landfills has been made to the current landfill operator, the Environment Agency, and the Local Authority (Environmental Protection Team).
34	Ground Conditions and Contamination	Under the conditions of the Environmental Permit for the landfill, the operator is required to monitor for sub-surface migration of landfill gas from the site. An examination of our records of this monitoring show that there is previous evidence of landfill gas migration from the site that could affect the proposed development. This environmental monitoring data from the site is available on our public register.	Post investigation mitigation measures may be required which would be set out in a Remediation Strategy to support the discharge of likely pre-commencement planning conditions. Mitigation measures could include a combination of methods to interrupt the ground gas pathway into the proposed development and, if necessary, the contractors compound.
35	Ground Conditions and Contamination	You should consider the potential risk to the development from landfill gas, ensuring that appropriate assessments have been carried out to identify potential risks. Where risks are identified you should ensure that measure to address these concerns are included as part of any planning permission. We would advise seeking the views of your local planning authority's Environmental Health and Building Control departments to ensure that any threats from landfill gas have been adequately addressed in the proposed development. Where this includes building construction techniques that minimise the possibility of landfill gas entering any enclosed structures on the site, then you should consider the removal of permitted development rights to ensure that these prevention measures are not compromised by future alterations/ extensions.	Mitigation proposed would be agreed with the Local Authority Environmental Protection Team / Contaminated Land Officer ahead of breaking ground activities related to construction and erection of the contractors' compound (if required).

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36	Ground Conditions and Contamination	<p>The following publications provide further advice on the risks from landfill gas and ways of managing these:</p> <ul style="list-style-type: none"> • Waste Management Paper No 27 • Environment Agency LFTGN03 'Guidance on the Management of Landfill Gas' • Building Research Establishment guidance – BR 414 'Protective Measures for Housing on Gas-contaminated Land' 2001 • Building Research Establishment guidance – BR 212 'Construction of new buildings on gas-contaminated land' 1991 • CIRIA Guidance – C665 'Assessing risks posed by hazardous ground gases to buildings' 2007. 	<p>Section 11.2.8 of Chapter 11 Contaminated Land, Land Use and Hydrogeology of the Environmental Statement (document reference 6.2.11, APP-049) lists relevant guidance which will be used within the assessment of contaminated land. Some of the guidance, specific to ground gas and vapour risk listed by the Environment Agency such as CIRIA C665, is inter alia other relevant guidance used for the assessment of contaminated land. Where further guidance is used within the assessment process, reference to the relevant guidance documents will be added to amended versions of the Environmental Statement.</p>
37	Flood risk	<p>The Environment Agency OBJECTS to the proposed DCO being granted at this time due to the impact on flood risk management infrastructure and the potential increase of flood risk to others.</p>	<p>The Applicant has committed to the provision of a new flood defence, at a level of +7.2m AOD from the outset of construction thereby ensuring that there is continuous protection against flood risk both to the site and the surrounding area throughout construction, and subsequently operation, of the proposed development. The standard of protection provided by the flood risk infrastructure on the site will exceed that provided by the adjacent Environment Agency defences, and as such the Applicant considers that the analysis presented in the Flood Risk Assessment (Appendix 13.2, document reference 6.4.13, APP-106) clearly demonstrates that there would be an improvement to the flood risk management infrastructure along the site frontage. Furthermore, the ES Chapter on Estuarine Processes (document reference 6.2.16, APP-054) clearly demonstrates that there would be no impact on flood risk management infrastructure as increased vessel movement would not result in increased erosion of the defences or heightened risk of their failure. On this basis, the Applicant considers that there would</p>

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			be no increase in flood risk to others as a result of the proposed development.
38	Flood risk	We do not consider that the evidence provided is sufficient to demonstrate that the proposals will not result in an increase in flood risk to others. We believe this is contrary to the Exception Test as set out in Paragraph 5.7.16 of the Overarching National Policy Statement for Energy (EN-1).	<p>Please refer to the response in RR-013-37 above.</p> <p>It is noted that EN-1 paragraph 5.7.16 is based around an old definition of the Exception Test, comprising three elements, which has been superseded within the NPPF. A draft of the revised EN-1 has been published for consultation, which takes into account the revised two part Exception Test.</p> <p>Notwithstanding the above, it is understood that the part of the Exception Test being referred to by the Environment Agency relates to the need to demonstrate that the project will be safe, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.</p> <p>In this context the Applicant considers that this part of the Exception Test has been demonstrated through the provision of a new flood defence, providing a greater standard of protection than the adjacent defences. This will ensure the site is safe throughout its lifetime as well as being incorporated into the continued line of protection along The Haven such that there is also no increase in flood risk elsewhere.</p>
39	Flood risk	The Environment Agency seeks to support the delivery of infrastructure projects such as this. We are not opposed to the principle of disapplication of the requirement to obtain a flood risk activity permit under the Environmental Permitting (England and Wales) Regulations 2016 ("EPR 2016") subject to measures being put in place to protect the integrity of flood defences and maintaining public safety. For other applications of this nature this has been done through a combination of protective provisions and a separate legal agreement with the applicants, where possible prepared prior to submission of the application.	The Applicant is committed to working with the Environment Agency to provide the information needed in relation to the management and protection of flood management infrastructure and work with the Environment Agency to develop a separate legal agreement and the protective provisions to enable the disapplication of the requirement to obtain an environmental permit for a flood risk activity. The Applicant's legal advisors met with the Environment Agency on 23 rd September 2021 to discuss the progression of the legal agreement and protective provisions. The Applicant can confirm these discussions are ongoing.

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40	Flood risk	However, the applicant has not sought to enter into a legal agreement with the Environment Agency and has not requested or received any consent from the Environment Agency to agree to the removal of the requirement to obtain a flood risk activity permit under EPR 2016, as required under s150(1) of the Planning Act 2008. At this time, we are therefore not able to agree to the disapplication of the requirement for a flood risk activity permit.	Please refer to the response set out in RR-013-39 above.
41	Flood risk	<p>We do not consider that the current protective provisions are adequate to ensure that harm to flood management infrastructure does not arise as a result of the proposed development. Before we can consent to the removal of the requirement for a flood risk activity permit, we will need to agree these protective provisions.</p> <p>The Environment Agency has made the applicant aware of these requirements and invited it to enter into discussions regarding a legal agreement as soon as possible.</p>	The Applicant has included provisions for the protection of the Environment Agency in Schedule 8 Part 4 of the draft DCO (document reference 2.1, APP-005), which give the Environment Agency the power to approve works in the vicinity of flood defences. The Applicant is committed to working with the Environment Agency on the wording of the protective provisions to ensure harm to flood management infrastructure does not arise as a result of the proposed development. The Applicant welcomes any specific comments the Environment Agency has on those provisions.
42	Flood risk	<p>Further evidence is also required to ensure flood risk to others is not increased during construction, operation, and decommissioning. These include, but are not limited to:</p> <ul style="list-style-type: none"> Detailed drawings and methodologies for any works affecting the existing flood defences and the proposed wharf; Details of site and finished floor levels, including any proposed land raising; Decommissioning of the site and long term maintenance; Details of dredging activities and any potential impacts on flood defences; and 	<p>The Applicant notes the Environment Agency's request for further information and has provided clarification in relation to the points raised. Clarification on finished floor levels, land raising, wharf construction methodology, decommissioning and maintenance, dredging activities and shipwash have been provided within the following responses:</p> <ul style="list-style-type: none"> Finished floor levels – RR-013-6; Land raising - RR-013-5; Wharf construction methodology – RR-013-3; Decommissioning and maintenance – RR-013-4; Dredging activities – RR-013-7 and RR-013-33; and Shipwash – RR-013-19.

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		<ul style="list-style-type: none"> Details of increased shipwash and any impacts on flood defences. <p>The Environment Agency has notified the applicant of our position and invited it to commence detailed discussions to resolve the above matters as soon as possible.</p>	
43	Draft DCO	The Environment Agency considers that the protective provisions as set out in Schedule 8, Part 4 are not adequate to ensure that harm to flood management infrastructure does not arise as a result of the proposed development. We therefore OBJECT to the draft DCO as it currently stands.	Covered by the response given in RR-013-42.
44	Draft DCO	With respect to deviation limits in Article 7, we request an exception is made in relation to Work No. 4, to ensure that wharf heights are not changed. A lower wharf height would not provide the standard of flood protection required.	Requirement 5 (parameters of authorised development) of the draft DCO (document reference 2.1(1)) has been amended to add a minimum height of the wharf, which will ensure the wharf height is at the required height.
45	Draft DCO	We are unclear as to the interpretation of Article 7(1)(c), and we would be grateful for further clarification.	Paragraph (c) of Article 7 of the draft DCO (document reference 2.1, APP-005) confirms that the scope for deviation between the boundary of two adjoining areas of works is 20m either side of that boundary (as shown on the works plans), to provide limited flexibility between boundaries between the works areas. This allows the Applicant to adjust the location of works to reflect the ground conditions on the site and any adjustments that arise out of the detailed design process. The York Potash Harbour Facilities Order 2016 contains similarly drafted limits of deviation.
46	Draft DCO	We are concerned that the general exception to the limits of deviation in Article 7 is without any reference to re-consultation with the relevant statutory consultees, including the	The wording of the exception in paragraph (1) of Article (7) of the draft DCO (document reference 2.1, APP-005) is identical to article 6(2) of the M42 Junction 6 Development Consent

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		Environment Agency. We request that this clause be amended to explicitly provide for appropriate re-consultation.	Order 2020. Notwithstanding this, the Applicant has amended Article 7 of the draft DCO (document reference 2.1(1)) to require consultation with the Environment Agency.
47	Draft DCO	We request an amendment so that Article 22 does not apply to works to or that would affect the Environment Agency's flood defence structures.	The Applicant requests that the Environment Agency please provide an example of a made DCO where flood defence structures have been specifically excluded from a similar "protective work to buildings" article.
48	Draft DCO	We note that Paragraph 5.117 of the Explanatory Memorandum to the draft DCO states that aspects of the Water Resources Act 1991 are to be disapplied. This does not appear to be reflected in Article 41 of the draft DCO. For clarity the Environment Agency does not support the disapplication of any part of the Water Resources Act 1991 at this time.	This is an error in the draft DCO (document reference 2.1, APP-005) and it is intended to seek the disapplication of the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991(b). The disapplication of byelaws made under those provisions is consistent with a number of made DCOs including, Article 6 of the Riverside Energy Park Order 2020, article 3 of the Great Yarmouth Third River Crossing Development and article 3 of the Lake Loathing (Lowestoft) Third Crossing Order 2020 Consent Order 2020. Protective provisions have been included for the benefit of the Environment Agency to protect its flood defences and the Applicant wishes to work with the Environment Agency to agree to these provisions.
49	Draft DCO	We request that Schedule 2, Part 1, Requirement 3 is amended to require consultation with and approval by the Environment Agency prior to confirmation that any amendments do not give rise to environmental effects not previously considered. We consider this is necessary to safeguard the integrity of flood defences and public safety, and to ensure the protection of waterbodies.	The Applicant has amended Requirement 3 in the latest version of the draft DCO (document reference 2.1(1)) to include consultation with the "Environment Agency to the extent that it relates to matters relevant to its function".

No.	Topic	Relevant Representation	AUBP Response
50	Draft DCO	<p>We request that, for clarity and to ensure the protection of controlled waters, the wording in the following sections is amended from 'substantially in accordance with' to 'in accordance with':</p> <ul style="list-style-type: none"> • Schedule 2, Part 1, Requirement 5 (2) • Schedule 2, Part 1, Requirement 8 (1) 	<p>The use of "substantially in accordance with" is used in a number of similar recently made DCO requirements including those in the Riverside Energy Park Order 2020, the A1 Birtley to Coal House DCO 2021, A19 / A184 Testos Junction Improvement DCO 2018, among others. The use of 'substantially' is considered appropriate in both of these requirements as it allows for an appropriate degree of flexibility in the preparation of the final strategies.</p>
51	Draft DCO	<p>In Schedule 2, Part 1, Requirement 8 (1) it refers to a 'surface water drainage strategy'. However, in Requirement 8 (3) it refers to the 'surface water and drainage strategy'. For clarity, we request that both references are amended to 'surface and foul water drainage strategy'. This is to make it clear that it refers to the disposal of foul and surface water.</p>	<p>Requirement 8 has been amended in the latest version of the draft DCO (document reference 2.1(1)) to refer to an "Outline Surface Water Drainage Strategy". The Outline Surface Water Drainage Strategy has been submitted at Deadline 1 (document reference 9.4).</p> <p>The Applicant is in discussions with Anglian Water as to the management of foul water and will consider following those discussions if any amendment to the requirements or Outline Surface Water Drainage Strategy is required. The anticipated pathway for foul discharges is to sewer with no discharge to the environment (i.e. The Haven of any local watercourses or groundwaters).</p>
52	Draft DCO	<p>We consider that Schedule 2, Part1 Requirement 22 is not sufficient to ensure that the flood defences are adequately maintained following the decommissioning of the plant. We consider that a legal agreement will be required prior to consent being granted to ensure proper maintenance and aftercare.</p>	<p>The Applicant is willing to enter into an agreement with the Environment Agency regarding the maintenance of the flood defences following the decommissioning of the plant.</p>
53	Draft DCO	<p>We note that the FRA is referred to in Schedule 10 as document reference 6.4.11. It is listed as 6.4.13 on the applicant's website page.</p>	<p>This error has been corrected in the latest version of the draft DCO (document reference 2.1(1)).</p>

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54	Water Framework Directive	<p>Compliance with the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (“WFD Regulations”)</p> <p>The Environment Agency OBJECTS to the proposed DCO being granted at this time as there is insufficient evidence that the proposed development will not adversely impact on marine and transitional waterbodies beyond the effects currently identified. This is contrary to Paragraph 5.3.18 of EN-1.</p>	<p>Evidence that the proposed development would not adversely impact the hydro morphology and biology (sensitive habitats) of the Witham and Wash Inner transitional water bodies and the Wash Outer coastal water body is presented in Environmental Statement Chapter 16 (Estuarine Processes) (document reference 6.2.16, APP-054) Sections 16.7 and 17.6. These sections demonstrate that impacts on sensitive habitats are only likely to occur as a result of changes to hydrodynamics resulting from ship wash. However, any increases in the amount of time that ship wash would be active on the intertidal mudflats (from 0.15 % of a year pre the Facility to 0.37 % of a year post the Facility) will be very small compared to the relatively large amount of time that natural wind-waves are active (greater than 99.6% of a year both pre- and post-development). Even though the percentage of time that ship wash is active would be doubled, the relative amount of time it is active compared to natural wind-waves is still exceedingly small. Hence, the annual effect of erosion by wind-waves (and tidal currents) would continue to significantly exceed the erosion caused by ship wash, and the increase in erosion from such ship wash is considered to be negligible. Furthermore, with respect to the bank opposite the Facility, as ships approach the wharf, they will be travelling very slowly so although the incidence of ship wash would be doubled, the wave heights would be small and would not create additional erosion sufficient to affect the hydro morphology or biology of the water body.</p> <p>Impacts on physico-chemistry and chemistry of the water bodies during operation would be avoided through the application of measures to prevent contamination as a result of discharges from the permanent site drainage system which do</p>

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			<p>not discharge to The Haven. These measures are set out in the Outline Surface Water Drainage Strategy (document reference 9.4) submitted at Deadline 1. Furthermore, measures set out in the Outline Code of Construction Practice (document reference 7.1, APP-120) would prevent impacts on physico-chemistry or chemistry during the construction stage. No part of the authorised development may commence until a code of construction practice for that part has been submitted to and approved by the relevant planning authority and this must be substantially in accordance with the outline code of construction practice.</p>
55	Marine ecology	<p>The further assessment section of Appendix 13.1 Water Framework Directive Compliance Assessment (Document 6.4.12) considers potential marine ecology impacts to the Witham transitional water body. We consider that the qualitative assessment undertaken does not provide robust and credible evidence that the combined impacts during construction and operation will not result in a deterioration of saltmarsh quality.</p>	<p>Evidence that the proposed development would not adversely impact the biology (sensitive habitats) of the Witham transitional water body is presented in Environmental Statement Chapter 16 (Estuarine Processes) (document reference 6.2.16, APP-054) Sections 16.7 and 17.6, with regards to physical changes that could affect biological quality elements. These sections demonstrate that impacts on sensitive habitats are only likely to occur as a result of changes to hydrodynamics resulting from ship wash. However, any increases in the amount of time that ship wash would be active on the intertidal mudflats (from 0.15 % of a year pre the Facility to 0.37 % of a year post the Facility) will be very small compared to the relatively large amount of time that natural wind-waves are active (greater than 99.6% of a year both pre- and post-development). Even though the percentage of time that ship wash is active would be doubled, the relative amount of time it is active compared to natural wind-waves is still exceedingly small. Hence, the annual effect of erosion by wind-waves (and tidal currents) would continue to significantly exceed the erosion caused by ship wash, and the increase in erosion from such ship wash is considered to be negligible.</p>

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			<p>Furthermore, with respect to the bank opposite the Facility, as ships approach the wharf, they will be travelling very slowly so although the incidence of ship wash would be doubled, the wave heights would be small and would not create additional erosion sufficient to affect the biology or hydro morphology of the water body.</p> <p>Impacts on physico-chemistry of the water body during operation would be avoided through the application of measures to prevent contamination as a result of discharges from the permanent site drainage system which do not discharge to The Haven [details of surface water discharge have been provided in an Outline Surface Water Management Plan (document reference 9.4) to be supplied to the Examination at Deadline 1]. Furthermore, measures set out in the Outline Code of Construction Practice (document reference 7.1, APP-120) would prevent impacts on physico-chemistry or chemistry during the construction stage. No part of the authorised development may commence until a code of construction practice for that part has been submitted to and approved by the relevant planning authority and this must be substantially in accordance with the outline code of construction practice. This means that there would not be any adverse effect on physico-chemistry and therefore the biology that it supports (i.e., saltmarsh).</p>
56	Estuarine Processes	We are also concerned that the wider impacts of sediment movement as a result of both the construction and operation of the facility have not been fully assessed. We consider that further assessment of the impacts is required, including evidence of the Expert Geomorphological Assessment (EGA) undertaken.	The Applicant has requested in a letter issued to the Environment Agency on 1 st October more detail on what potential wider impacts have been missed to assist in the response. However, it is the Applicant's position that the impacts of sediment movement as a result of construction and operation of the Facility have been fully assessed (Paragraphs 16.7.27 to 16.7.36, and 16.7.59 to 16.7.66, Chapter 16

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			<p>Estuarine Processes of the ES, document reference 6.2.16, APP-054).</p> <p>With respect to EGA, please refer to the response at RR-013-13.</p>
57	Marine and Coastal Ecology	<p>The Outline Landscape and Ecological Mitigation Strategy (Document 7.4) is predominantly a terrestrial document and does not adequately assess the impact on intertidal saltmarsh. We are concerned that the impact of permanent intertidal habitat loss (saltmarsh and mudflat) on the marine ecology and the risks of further loss or degradation of saltmarsh at the operational stage have not been fully considered or mitigated for.</p> <p>The proposed mitigation is located outside the WFD waterbody and does not mitigate for the loss off saltmarsh habitat. Plans for net gain should also consider designs that will benefit fish and invertebrates and saltmarsh plants. We do not consider that the DCO as it currently stands would adequately protect the WFD waterbody.</p> <p>The Environment Agency has notified the applicants of our position and invited them to continue discussions to resolve the matter.</p>	<p>The Outline Landscape and Ecological Management Strategy (OLEMS) document (document reference 7.4, APP-123) is currently under review, particularly Appendix 1 which includes the intertidal habitat loss and proposed management measures. Further work is currently underway to identify additional opportunities for intertidal habitat creation within close proximity to the area of habitat loss. As an additional net gain measure improvement of saltmarsh quality is proposed through hand removal of anthropogenic debris which is apparent within the saltmarsh and appears to be unmanaged to any degree at present.</p>
58	WFD	<p>We request that the Environment Agency is a named consultee in relation to Schedule 2, Part 1, Requirement 14. This is to enable us to ensure that any potential risks to the marine environment are adequately understood and managed.</p>	<p>The Applicant has amended Requirement 14 in the latest version of the draft DCO (document reference 2.1(1)) to include consultation with the Environment Agency to the extent that it relates to matters relevant to its function.</p>
59	Ground Conditions	<p>The applicant has proposed various activities which may be exempt from Environmental Permitting, provide they are carried out in accordance with the relevant processes. In</p>	<p>Noted. Requirement 9 of the draft DCO (document reference 2.1(1)) sets out pre-commencement ground investigation. Subsequent assessment will follow the Environment Agency's</p>

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	and Contamination	principle we have no objection to this but given the potential risk of contaminants entering into controlled waters, we consider that additional care should be taken when undertaking this work.	Land Contamination Risk Management (LCRM) 2021 guidance. The Applicant continues to liaise with the Environment Agency regarding an Environmental Permit.
60	Ground Conditions and Contamination	The application site is also located within 250m of a landfill site that is potentially producing landfill gas. The application does not currently include measures to investigate or mitigate this risk.	Requirement 9 of the draft DCO (document reference 2.1(1)) has been amended to specifically refer to ground gases. Mitigation will be incorporated should the outcome of the risk assessment recommend this.
61	Draft DCO	Given the potentially complex nature of waste management during construction and the sensitivity of receptors in the area, we request that the draft DCO is amended to include the Environment Agency is included as a required consultee in Schedule 2, Part 1, Requirement 10(1). This will also enable us to review the evidence in relation to surface water management and potential contamination.	The Applicant has amended Requirement 10 in the latest version of the draft DCO (document reference 2.1(1)) to include consultation with the Environment Agency to the extent that it relates to matters relevant to its function.
62	Draft DCO	We also request that Schedule 2, Part 1, Requirement 10(3) is amended to include reference to the need to investigate potential landfill gas intrusion and identify what measures (if any) will be implemented to mitigate any risks to the site.	Requirement 9 of the draft DCO (document reference 2.1(1)) has been amended to specifically refer to ground gases. The risk assessment undertaken under Requirement 9 must adopt the source-pathway-receptor principle to identify plausible contaminant linkages and consider potential migration of off-site ground gases. Mitigation will be incorporated should the outcome of the risk assessment recommend this.
63	Ground Conditions and Contamination	Further advice has been provided to the applicant regarding the requirements for securing exemptions from Environmental Permitting in relation to waste and the need to assess potential impacts from landfill gas intrusion.	Advice has been provided by the Environment Agency in consultation response letter (Ref. AN/2021/131768/01). Upon detailed design and estimation of volume, the appropriate regulatory route for deposit of soils/sediments will be determined and anticipated to comprise one of the three outline options: 1. Exemption to deposit soils 2. CL:AIRE Definition of Waste Code of Practice (DoW CoP);

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			or 3. Deposit for recovery Environmental Permit.
64	Surface Water	The Environment Agency has no objections to the proposals for the management and disposal of surface and wastewater as set out in the Surface Water Flood Risk and Drainage Strategy (Document Ref 6.2.13). This is subject to the requirement for the Environment Agency to be a required consultee for the Detailed Surface and Foul Water Drainage Strategy as specified in Schedule 2, Part 1, Requirement 8 of the draft DCO.	The Applicant has submitted an Outline Surface Water Drainage Strategy (document reference 9.4) to the Examination at Deadline 1. Requirement 8 in the draft DCO (document reference 2.1(1)) has been to require a Final Surface Water Drainage Strategy that is substantially in accordance with the outline strategy to be submitted and approved. The Environment Agency is a consultee to that requirement. The Applicant has been in consultation with the Black Sluice Internal Drainage Board (IDB) and the Applicant will continue to feedback to the Environment Agency with regard those discussions related to drainage and permitting matters to ensure that the Environment Agency remain informed of progress.
65	Surface Water	Further advice has also been provided to the applicant regarding requirements for Environmental Permitting relating to the drainage of the site during construction.	Please refer to the response in RR-013-20.
66	Ground Conditions and Contamination	The Environment Agency has no objections to the proposal in relation to the protection of groundwater sources. We understand the application site is greenfield in nature and the likelihood of contamination being present from previous site use is considered to be very low. In addition, the site is in an area of low sensitivity for groundwater.	The Applicant concurs with the Environment Agency's view with respect to groundwater sources, very low likelihood of on-site contamination being present and low sensitivity for groundwater. This is also presented within the preliminary risk assessment (PRA) report, appended as Appendix 11.1 to the Environmental Statement (document reference 6.4.8, APP-101).
67	Draft DCO	Notwithstanding this, our request to amend the draft DCO to include the Environment Agency is included as a required consultee in Schedule 2, Part 1, Requirement 10(1) would also allow us to review the result of ground investigations and	As outlined above, the Applicant has amended Requirement 10 in the latest version of the draft DCO (document reference 2.1(1)) to include consultation with the Environment Agency to the extent that it relates to matters relevant to its function.

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		assess any contamination identified and whether further work to protect controlled waters is required.	
68	Environmental Permit	This development will require a bespoke permit under the Environmental Permitting Regulations (England and Wales) 2016. We do not have enough information to know if the proposal can meet our requirements to prevent, minimise and/or control pollution in order to be granted an environmental permit.	The Applicant has set out its position relating to the submission of a formal environmental permit (EP) application in its submission for Procedural Deadline B (insert reference). In summary, there is no legal, policy or guidance requirement for the EP application to be submitted at the same time as the DCO application, or indeed at a certain point of examination (notwithstanding that parallel applications are encouraged by guidance).
69	Environmental Permit	We will not be able to determine an application for a permit until a full application has been made to us. We recommended that the applicant parallel tracked the planning and permit applications to enable us to identify and resolve any issues at the earliest opportunity. This position is also clearly explained in the Planning Inspectorate's Advice Note 11, Annex D. However, this recommendation has not been taken up. We are therefore not likely to be in a position to provide the Examining Authority with any assurance before the end of the DCO examination period, as to whether it is likely that we can grant a permit for the development to be consented by DCO. We cannot predetermine a decision on a permit application; therefore, we can only provide assurance as to our likely position on the permit application once we are in a position to publish a draft decision on that permit application.	<p>The Applicant considers it key that it is a matter of fact that the Proposed Development cannot operate without the approval of the EA and the adherence to the eventual EPs. There is no danger to interested parties, or the public, that the Proposed Development would not be adequately regulated when operating.</p> <p>The NPS EN-1 also makes clear that consent should not be refused on the basis of pollution impacts unless it has good reason to believe that any relevant necessary operational pollution control permits, or licences will not subsequently be granted. Clearly, the Proposed Development, like many other energy facilities, produces environmental impacts that are within the type and nature that fall within the EP regime. Although, certain requirements may be imposed in any EP granted, there is no reason to believe that the requisite EPs would not be granted. The Proposed Development is using technologies and techniques that are established and proven such that it is possible to assume that an EP would be granted.</p>

No.	Topic	Relevant Representation	AUBP Response
70	Environmental Permit	Notwithstanding this The Environment Agency has reviewed the information submitted and has identified some areas of concern for both the Environmental Permit and DCO processes.	The specific points raised by the Environment Agency (EA) are noted and the Applicant will continue to liaise with the EA on all such matters.
71	Air Quality	The information submitted in relation to air quality shows that the maximum predicted pollution contribution for a range of pollutants is at receptor R35. For nitrogen dioxide the predicted environmental concentration is 94% of the annual air quality standard. This allows little headroom, although it should be appreciated that the modelling study should be conservative. This assessment has been based on a stack height of 80m, which we understand is the upper limit to avoid impacts on other planning considerations.	The information presented in Table 14-28 of Chapter 14 of the ES (document reference 6.2.14(1)) states that, whilst receptor R35 experienced the greatest Process Contribution (PC) to NO ₂ concentrations, this is not the receptor which experienced the highest Predicted Environmental Concentration (PEC). The highest NO ₂ PEC was experienced at receptor R28, which is located within the Havenside Bridge Air Quality Management Area (AQMA) and therefore experiences elevated NO ₂ concentrations. However, at this location, the contribution of the Facility is small due to the distance and prevailing wind direction. Appendix 14.3 of the ES (document reference 6.4.16(1)) has been resubmitted at Deadline 1 to include the full tabulated operational phase NO ₂ results which show the predicted PC and PEC at each receptor considered in the assessment.
72	Air Quality	The data in Appendix 14.3 of the Environmental Statement does not appear to include nitrogen dioxide levels for the operational phase of the development. This data is fundamental to understanding the impact on local air quality, particularly for those areas of Boston where air quality is already poor with respect to nitrogen dioxide. This data will show the additional contribution from the BAEF and how significant the contribution is in the Air Quality Management Areas situated to the west.	Appendix 14.3 of the ES (document reference 6.4.16(1)) has been resubmitted at Deadline 1 to include the full tabulated operational phase NO ₂ results, which show the predicted PC and PEC at each receptor considered in the assessment.
73	Air Quality	The air quality study identifies the consented gas-fired peaking plant at Lealand Way as being a possible contributor to in-combination impacts. The report notes that only annual mean	As noted in Chapter 14 of the ES (document reference 6.2.14, APP-052), the air quality assessment submitted for the planning application for the gas-fired peaking power plant at

No.	Topic	Relevant Representation	AUBP Response
		NOx concentrations at the Havenside LNR was considered in the peaking plant's application and so 'in-combination impacts of other pollutants and averaging times and impacts on other designated sites could not be considered'. However, a detailed air quality impact assessment is available on-line for the peaking plant and this assesses the air quality impacts both short- term and long-term on a host of sensitive receptors in the locality. This report contains all the necessary input data to assess the in-combination impact with the BAEF and this assessment should be carried out.	Lealand Way only considered annual mean concentrations of NOx at the Havenside Local Nature Reserve (LNR). There is no consideration within the report of impacts upon nutrient nitrogen or acid deposition or impacts upon the Slippery Gowt Sea Bank Local Wildlife Site (LWS) or the South Forty Foot Drain LWS. If further information in regard to nitrogen and acid deposition or impacts upon the LWSs was submitted as part of an Environmental Permit application, we would welcome a copy of this to be provided so that consideration can be given to these additional parameters and sites.
74	Air Quality	We request that pollution contour maps be submitted to provide an easy to see picture of the contribution of the plant to existing background levels and the spatial extent of the stack emissions.	Pollution contour plots were submitted with the ES as Figures 14.6 to 14.15 (document reference 6.3.22, APP-088).
75	Air Quality	The application assumes that existing vessel activity movements on The Haven were included in the Defra mapped background pollutant concentrations. This may not be the case and there may be occasions when shipping movements will increase background pollution levels above the Defra levels. We consider that this will need to be reviewed.	The Defra Background Maps User Guide and supporting technical reports state that mapped background concentrations include contributions from shipping. Emissions from shipping are based on data from the National Atmospheric Emissions Inventory and Automatic Identification System (AIS) data, which provides more specific vessel details and enables emissions to be appropriately spatially distributed. It is not expected that short-term fluctuations in vessel numbers would significantly impact upon annual mean pollutant concentrations and impacts in relation to short-term changes in concentrations are expected to be adequately captured by doubling the annual mean background concentration, as recommended in Environment Agency guidance 'Air Emissions Risk Assessment for your Environmental Permit 2021'.
76	Air Quality	There are two stacks associated with the Lightweight Aggregate Plants (LWA). The volumetric flow rate of the exhaust gases is modelled with one of them operating at 50%	This comment is noted for the Environmental Permitting stage.

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		as one of the four kilns will be held in reserve. The environmental permit will need to limit operation to three kilns at any one time to reflect the operations that have been modelled in the air quality study.	
77	Air Quality	The LWA plants have the potential to release metals and other pollutants that are present within the Air Pollution Control residues (APCr), a feedstock. The LWA emissions data used for the planning application air quality modelling study will need to be verified as being worst-case during as part of the assessment of the environmental permit application and also during commissioning of the facility.	This comment is noted for the Environmental Permitting stage.
78	LVIA	The dispersion model used in the AQ study calculates the number of hours in each year of meteorological data that visible plumes from each stack will occur, the number of visible plume groundings, and the minimum/maximum and average visible plume length. This data could not be located in the reports, although the report did state that the maximum visible plume length was modelled at 925m.	Additional analysis has been undertaken and the visible plume assessment is included within the revised Chapter 14 of the ES (document reference 6.2.14(1)).
79	LVIA	Consequently, the visible impact from the plant during unfavourable meteorological conditions will be significant as all five stacks will produce a visible steam plume and each stack has a high volumetric discharge rate meaning the plumes will be large. The steam plumes may pass over the top of sensitive receptors depending on wind direction.	Additional analysis has been undertaken and the visible plume assessment is included within the revised Chapter 14 of the ES (document reference 6.2.14(1)). The amenity risk assessment indicated that the EfW stacks are described as having a low significance impact on the local amenity, and the LWA Stacks are described as having a medium significance impact. SEPA H1 guidance states "Conditions that result in medium or lower impacts can be considered acceptable"; as such, no mitigation measures were required.
80	LVIA	The applicant does not appear to have included within the application documents a photomontage showing the plant	It is correct the photomontages (document references 6.3.7, APP-073 / 6.3.8, APP-074 / 6.3.9, APP-075 / 6.3.10, APP-076 / 6.3.11, APP-077 / 6.3.12, APP-078) do not illustrate visible

No.	Topic	Relevant Representation	AUBP Response
		operating with visible plumes. Nor does the public information website contain a photomontage showing visible plumes.	plumes. The Applicant does not have detailed 3D computer models of the Facility and as such the heights and massing of proposed Facility structures are illustrated in the photomontages schematically, as 'block' models. The Applicant does not consider it appropriate to either schematically illustrate visible plumes or photo-realistically illustrate plumes in a schematic photomontage.
81	LVIA	We would make the general point that this proposal will have a large visual impact on the landscape because of the sheer scale of the buildings and associated plant.	Environmental Statement Chapter 9 (Landscape and Visual Impact Assessment) (document reference 6.2.9, APP-047) identifies significant, irreversible adverse visual effects upon certain visual receptors. Effects upon wider landscape character are lessened due to the existing baseline and presence of industrial and infrastructure features. (Paragraphs 9.8.25 to 9.8.37 and 9.8.46 to 9.8.57 of Chapter 9 Landscape and Visual Impact Assessment of the ES, document reference 6.2.9, APP-047).
82	Odour	Any RDF bale splitting should be undertaken in an enclosed building to prevent the release of odours.	As described in ES Chapter 5 Project Description (document reference 6.2.5, APP-043) the feedstock bales will be loaded into a shredder from the conveyor lines inside the bale shredding building. The unit will operate in an enclosed environment using odour control measures to ensure no unacceptable odour is released. The air from the space over the shredded RDF bunker will be continually extracted and fed to the thermal treatment process for use as combustion air. Hence, all odours will be treated at >850°C for >2 seconds.
83	Noise	The applicant has worked with the assistance of Boston Borough Council on the noise and vibration study. We would highlight the noise impact from the air-cooled condensers on the residential properties to the south and southeast of the site and the mitigation being planned must be effective as this will	The noise modelling study outlined in Section 10.7 of ES Chapter 10 (Noise and Vibration) (document reference 6.2.10, APP-048) provides an assessment and required mitigation for the Air Cooled Condensers (ACCs) and Wharf Activity. After

No.	Topic	Relevant Representation	AUBP Response
		be a significant and intrusive noise source. Activities on the wharf will also have the potential to cause nuisance to those properties across the Haven and a high standard of operation will need to be maintained at all times.	mitigation measures, no significant impacts are predicted at the residential receptors.
84	Examination	The Environment Agency requests that the start of the DCO examination is delayed to address the issues raised in our response. This work can take time and would prevent the application being properly considered.	The Applicant considers that a deferral of any duration would be unjustified for the reasons set out in the Applicant's Procedural Deadline B (PDB-001) and cross-refer to RR-013-69.
85	General	We are also concerned that the assessment of impacts on marine and transitional water bodies will require substantial further work before it will be at a stage where we would be able to withdraw our objections to the proposed development.	The Applicant continue to engage with the Environment Agency on the impacts to water bodies. We are confident of resolving such issue within the duration of the Examination.
86	Environmental Permit	We also consider that the DCO application would be better considered alongside an application for an Environmental Permit, to ensure that both regulatory processes are properly aligned.	<p>The Applicant is aware of the EA's position but maintains that the necessary information can be provided to the EA without the need for a formal EP application as set out in the Applicant's Procedural Deadline B (insert reference).</p> <p>The Applicant is confident it can be agreed with the EA during the DCO Examination that the Proposed Development is of a type and nature that can be, in principle, regulated under the Environmental Permitting Regulations. In the event that the EA considers that it requires further environmental information in order to provide this 'in principle' view in respect of the development's permitability, the Applicant will seek to respond to reasonable requests during the examination period.</p> <p>The Applicant is also committed to ensuring that the EA is involved in the evolution of the Proposed Development following the grant of the DCO. The EA holds a significant role in the detailed design of the Proposed Development and the</p>

No.	Topic	Relevant Representation	AUBP Response
			production of the management plans under the current drafting of Schedule 2 of the draft DCO.
87	Examination	For these reasons we request that the Planning Inspectorate pause the application process at the current stage and does not commence to the Preliminary Meeting until the applicants have progressed these issues.	See RR-013-84.
88	Examination	For information, the applicant sent the application information to the Environment Agency's Head Office in Bristol. Due to the current restrictions, that information has not been available to the local Environment Agency Officers managing the case. Our comments have been based on the information made available on the applicant's website. All future correspondence should be sent the Environment Agency's offices at Ceres House, Lincoln.	The Applicant notes this point and we have confirmed that information is exchanges with a central point of contact within the Environment Agency's Lincolnshire and Northamptonshire Area team.

Table 1-2 Anglian Water (RR-018)

Number	Topic	Relevant Representation	AUBP Response
1	Draft DCO	Anglian Water Services Limited (Anglian Water) was in dialogue with the promoter in 2019 and requested that further discussion take place regarding protective provisions with a view to agreeing a Statement of Common Ground prior to submission. As the application has been submitted and accepted without that further discussion Anglian Water has contacted the promoter's agent to enable that discussion to take place.	Protective provisions have been included within the draft DCO (document reference 2.1, APP-005) for the protection of electricity, gas, water and sewerage undertakers at Part 1, Schedule 8. These provisions are in accordance with a number of made DCOs and have been acceptable to several undertakers on other schemes. However, since receipt of the relevant representation from Anglian Water, the parties have exchanged email comments on protective provisions. The Applicant will seek to discuss protective provisions with Anglian Water in detail, in order to resolve any concerns.
2	Draft DCO	Anglian Water has no in principle objection to the scheme and seeks to ensure that through the agreement of protective provisions we continue to provide customers with	The Applicant is pleased to note that Anglian Water has no in principle objection to the scheme.

Number	Topic	Relevant Representation	AUBP Response
		uninterrupted water and wastewater services during construction and then the operation of the scheme.	
3	Draft DCO	We note that the Consultation Report states that 'The Applicant will continue to engage with Anglian Water throughout the DCO process' and we would want to agree protective provisions with the applicant. The issues on which we would welcome discussion to agree protective provisions with Alternative Use Boston Projects Limited include: a) Definitions, in particular "apparatus". b) Anglian Water's facilities and rights when alternative apparatus has been constructed and is in operation to our reasonable satisfaction c) Cost's as a result on the undertaker's scheme which necessitate the provision of new Anglian Water infrastructure.	The Applicant remains committed to agreeing a suitable set of protective provisions with Anglian Water. Protective provisions have been included within the draft DCO (document reference 2.1, APP-005) for the protection of electricity, gas, water and sewerage undertakers at Part 1, Schedule 8. These provisions are in accordance with a number of made DCOs and have been acceptable to several undertakers on other schemes. Notwithstanding this, the Applicant will seek to engage further with Anglian Water in order to reach agreement on the form of protective provisions.
4	Draft DCO	On land and rights acquisition, Anglian Water notes that the Book of Reference records that nine of the plots of land required to deliver the project include Anglian Water assets.	The Applicant can confirm that Anglian Water have interests in plots 1, 4, 5, 10, 11, 12, 16, 18, and 18a. Compulsory acquisition powers are not sought over these plots. As Anglian Water's interests relate directly to their apparatus, the Applicant proposes to protect these interests via the protective provisions at Part 1, Schedule 8 to the draft DCO (document reference 2.1, APP-005).

Table 1-3 RSPB (RR-024)

Number	Topic	Relevant Representation	AUBP Response
1	Consultation	Consideration of the full suite of conservation objectives for the protected sites that could be adversely affected by the proposed projects.	The Applicant confirms that the Environmental Statement, Habitats Regulations Assessment (HRA) (document reference 6.4.18, APP-111) and the addendum documents (document references 9.13, 9.14, 9.15) submitted for examination, systematically consider the potential impact of all construction and operation activities of the proposed development on each conservation objective for protected sites and their designated features. This is apparent in the Baseline Information for Protected Sites in the HRA (document reference 6.4.18, APP-111, paragraph A17.3.5 and Table A17-1) and when screening for Likely Significant

Number	Topic	Relevant Representation	AUBP Response
			Effects to inform Appropriate Assessment in the addendum document (document reference 9.13, section 6 and Table 6-1) which has been submitted at Examination Deadline 1. The Applicant thanks the RSPB for providing the further breakdown of conservation objectives by species and impact (RR-024, Appendix 2). This will be factored in to our final checks of the addendum document.
2	Consultation	<p>Whilst consultations have been carried out by the Applicant, it is disappointing that these have not followed a formal Evidence Plan Process with respect to stakeholder engagement. There have been no formal Expert Topic Groups convened during the project development. We acknowledge that there have been conversations with the Applicant on the following occasions:</p> <ul style="list-style-type: none"> • June 2019 – Applicant visited Frampton Marsh and discussed project with the RSPB’s Senior Sites Manager. • Sept 2019 – Applicant met with the RSPB to discuss our PEIR comments and agreed to carry out wintering and breeding bird surveys, which included a specific focus on bird disturbance at the mouth of The Haven. • 13 October 2020 – meeting to discuss survey information and plans for the Application submission. • 5 February 2021 – Update from the Applicant following withdrawal of the original Application, discussion of ornithological information and feedback from stakeholders on outstanding concerns. • 26 February 2021 – Discussion about stakeholder feedback on the draft HRA. 	<p>The evidence plan approach was not applied to this project in the earlier stages and it is noted that this is not a statutory requirement. Following on from concerns expressed by ecology stakeholders to the project in late 2020 a more formalised approach has been undertaken. In addition to the meetings identified in the relevant representation meetings can also be confirmed on:</p> <ul style="list-style-type: none"> • 23/06/2021; • 19/08/2021; • 22/09/2021; and • 23/09/2021. <p>Within the meetings, formal expert topic groups have been discussing the relevant representations.</p>

Number	Topic	Relevant Representation	AUBP Response
3	Consultation	<p>Whilst the Applicant has convened these occasional conversations with the RSPB and other stakeholders, we regret that they have failed to address concerns about several potential environmental impacts where critical underpinning evidence was missing or inadequate. For this reason, the RSPB considers the resulting Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) are not robust. This was raised with the Applicant both prior to the initial application submission in December 2020 and again prior to the application resubmission in March 2021. The RSPB therefore remains concerned that many of these issues have not been resolved in the material submitted as part of the Application and that it is not possible to properly assess the Application and all its potential impacts on protected sites and species and biodiversity in the surrounding area. We set out our concerns in more detail below.</p>	<p>The Applicant appreciates the feedback regarding the EIA (document reference 6.2.17, APP-055) and HRA (document reference 6.4.18, APP-111) well in advance of Examination. The Applicant maintains that the EIA and HRA are suitably robust in their own right and that subsequent collection of site-specific baseline data for additional seasons at the request of stakeholders has had a limited effect on the scoped species, impacts and conclusions. Integration of the more recently collected data has been achieved through dissemination of HRA Supplementary Data (05 March 2021) and most recently in an addendum to the EIA and HRA (document reference 9.13) submitted at Examination Deadline 1.</p>
4	Consultation	<p>A robust stakeholder engagement plan was requested by the RSPB and other stakeholders to enable appropriate discussions to be held to address key concerns prior to the Application's submission. The RSPB and other stakeholders reinforced the need for this in light of the withdrawal of the initial Application. The 'Boston Alternative Energy Facility – Ornithology and Marine Ecology Stakeholder Engagement Plan' was sent to the RSPB and others on 17 February 2021 for discussion at our meeting with the Applicant and RHDHV on 26 February. Concerns were raised at that meeting with respect to the</p>	<p>RSPB's concerns in relation to timescales were noted. The Applicant was (and still is) of the opinion that all of the work required to reach a conclusion by the end of the examination can be achieved.</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>proposed timeframes outlined within the plan and the scale of work needed to address stakeholders' concerns. Subsequently, the Applicant chose to resubmit the application in March 2021.</p>	
5	Consultation	<p>An updated Stakeholder Engagement Plan was sent to the RSPB and others on 4 May 2021, six weeks after the Application had been resubmitted. Whilst we will seek to "...engage pro-actively and constructively in the process" it is difficult to see how the timeframes set out can be considered reasonable or realistic in the context of a live examination, given the number of outstanding concerns left to resolve. For example,</p> <p>Reference (task) 5 of the revised Stakeholder Engagement Plan was to "Review of additional bird data collated over winter 2021 and additional WeBS count data received in April" in May 2021, with the aim "To determine the suitability of the bird data to provide an effective baseline for assessment." The RSPB and others have still not received the Winter 2021 survey report or the evaluation of the WeBS data. We also understand that surveys are continuing into June, which will then take some time to write up and provide to stakeholders for review.</p> <p>We, therefore, consider that the outstanding issues are fundamental to the DCO determination process, as they relate to:</p> <ul style="list-style-type: none"> • the scale of impact of the proposed facility; and 	<p>We note RSPBs outstanding concerns and ongoing work is being undertaken to assist in alleviating such concerns. Such work has been included in addendums to the Environmental Statement Chapter 17 - Marine and Coastal Ecology (document reference 6.2.17, APP-055) and Habitats Regulations Assessment (document reference 6.4.18, APP-111) as well as a without prejudice Habitats Directive Derogation Case (HRDC) which will be submitted to the Examination at Deadline 2. Further survey work has been undertaken to support this additional work and are facilitating further conclusions to be made. The Applicant is still of the opinion that the proposals do not cause an Adverse Effect on the Integrity (AEoI) of any national network site. The Applicant notes that RSPB helpfully confirmed at Preliminary Meeting 1 their approval of the Applicant's intention to submit its without prejudice HRDC at Deadline 2. Reports containing the results of the surveys referred to in this representation have since been circulated by the Applicant among interested parties including RSPB, in August 2021.</p>

Number	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> the scale and type of mitigation and, if required, compensation measures to ensure that The Wash's conservation objectives will not be undermined and its overall integrity will be maintained. 	
6	Examination	<p>Consequently, the RSPB requests that consideration be given to pausing the start of the examination process to enable a realistic stakeholder engagement plan to be put in place and implemented and which provides sufficient time to review evidence that is still outstanding, meaningfully discuss outstanding concerns and develop appropriate detail for an in-principle derogation case that includes realistic and potentially viable compensation measures with the Applicant. This would enable the examination itself to proceed on a more sound and fully informed basis.</p>	<p>The Applicant notes that the RSPB raised whether the examination of the Proposed Development could be paused or if the Applicant could submit a draft in-principle derogation case and objects to the application. The Applicant recognises that Natural England (NE) also raised when a draft in-principle derogation case would be submitted. The Applicant, as stated in its Procedural Deadline A submission (PDA-002), intends to submit at Deadline 2 a 'without prejudice' Habitats Regulations Derogation Case (HRDC). The Applicant considers that this submission will give RSPB, NE, and any other interested parties, sufficient time to review and provide comments, which the Applicant will give due consideration to. The Applicant notes that RSPB helpfully confirmed at the PM1 their approval of the Applicant's intention to submit its HRDC at Deadline 2. The Applicant also notes that there have been a number of meetings with RSPB and NE regarding their relevant representations and discussions are ongoing. RSPB and NE are also a part of the Marine Ecology Topic Group that meets monthly to discuss work being done by the Applicant on marine ecology and matters raised by the stakeholders. The Applicant is committed to ensuring that views raised by RSPB and NE are carefully considered and that discussions continue to be constructive.</p>
7	Examination	<p>The RSPB objects to the Application. This is because we currently do not consider the Applicant has provided sufficient and/or appropriate evidence to demonstrate, beyond reasonable scientific doubt, that there will not be an adverse effect on the integrity of The Wash SPA/Ramsar. Similarly, we cannot conclude that The Wash SSSI will not be adversely affected.</p>	<p>Refer to RR-024-6 above.</p>

Number	Topic	Relevant Representation	AUBP Response
		The RSPB supports the views of Natural England and the Lincolnshire Wildlife Trust with respect to concerns about The Wash & North Norfolk Coast SAC, notably due to potential adverse effects on harbour seal.	
8	Marine and Coastal Ecology/HRA	A full two years of data have not been completed. This is good practice for developments, especially where there are potential adverse effects on protected sites and species. This is necessary to enable variation across seasons and years to be better understood.	The Applicant confirms that data has been collected over two full wintering bird seasons and two full breeding bird seasons, thereby covering and summarising two years of ornithological activity for these periods. Collection of data for passage numbers includes two years of spring passage and one year of autumn passage. Very low numbers of birds were observed during autumn passage as was expected. As detailed further in section 5 of the ornithology addendum to the ES and HRA (document reference 9.13), Wintering Bird Surveys (WBSs) have been completed at the proposed development site over two full winter seasons: from October to March of winter 2019/20, and January to March of winter 2020/21. Surveys comprised one high water and one low water visit per month, therefore a total of 18 survey visits were completed over the two seasons. Breeding Bird Surveys (BBSs) have also been completed over two full breeding seasons: from April to June of 2020 and 2021. In all, six visits were made across the two seasons. The BBSs covered the whole development site and the same sections of the Haven as in the wintering bird surveys. All BBSs were carried out around low water. Changes in Behaviour (CIB) observation sessions quantifying bird responses to vessel movements at the proposed development site were carried out on six dates in winter 2020/21 and summer 2021. At the mouth of the Haven, CIB observation sessions have been completed over two full winter seasons: from November to March of winter 2019/20, and January to March of winter 2020/21. Although no species is designated as a feature of The Wash SPA as a passage population, CIB observation sessions were also completed in May to July 2021 to quantify response to vessel traffic of waterbirds present during spring passage and the breeding season.

Number	Topic	Relevant Representation	AUBP Response
9	Marine and Coastal Ecology/HRA	There has been no assessment of disturbance to The Wash SPA/Ramsar/SSSI foraging and roosting birds along the entire length of The Haven. This is important to understand the full impact of the increased vessel movements and the overall scale of impact from the proposed development.	The Applicant confirms that data has been collected and analysed at both broad (mouth of the Haven) and narrow (proposed development site) sections of the Haven that demonstrate how disturbance to foraging or roosting birds from vessel movements (whether this is visual disturbance from presence or physical disturbance through producing a wake) is attributed to the different types of vessels using the Haven at the different channel widths involved (redrawn RSPB tables in section 6 of the ornithology addendum to the ES and HRA (document reference 9.13)). The most likely mechanism for this relationship is the increased proximity of foraging or roosting birds to the waterway at narrower sections, such as at the proposed development site. From this, sources and rates of disturbance are predicted to be appropriate to apply to the intervening length of the Haven which, being historically intensively managed, is consistently a similar width to the section at the proposed development site. Surveys of waterbirds at known consistently used roost sites along the intervening length of the Haven are continuing to take place, and additional data is scheduled to be analysed by Examination Deadline 2
10	Marine and Coastal Ecology/HRA	There is a lack of detailed assessment of ship movements, which are irregular and unlikely to allow birds to habituate to the activity. This is important, as the Applicant's surveys have demonstrated that disturbance to birds using the mouth of The Haven occurs under the current baseline level of vessel movements. The assessments need to review in more detail the implications of an increased impact of all navigable tides being used by large vessels and their associated pilot vessels over and above the baseline levels of disturbance.	The Applicant confirms that data has been collected and analysed at both broad (mouth of the Haven) and narrow (proposed development site) sections of the Haven that demonstrate how disturbance to foraging or roosting birds from vessel movements (whether this is visual disturbance from presence or physical disturbance through producing a wake) is attributed to the different types of vessels using the Haven at the different channel widths involved (redrawn RSPB tables in section 6 of the ornithology addendum to the ES and HRA (document reference 9.13)). The most likely mechanism for this relationship is the increased proximity of foraging or roosting birds to the waterway at narrower sections, such as at the proposed development site. From this, sources and rates of disturbance are predicted to be appropriate to apply to the intervening length of the Haven which, being historically intensively managed, is consistently a similar width to the section at the proposed development site. Surveys of waterbirds at known consistently used

Number	Topic	Relevant Representation	AUBP Response
			<p>roost sites along the intervening length of the Haven are continuing to take place, and additional data is scheduled to be analysed by Examination Deadline 2.</p> <p>The Applicant highlights that the question of impact of increased vessel movements was fully addressed firstly in the ES (document reference 6.2.17, APP-055) and HRA (document reference 6.4.18, APP-111). The Applicant appreciates the RSPB's presentation of an alternative tabulation for vessel disturbance data from the Changes In Behaviour [sic] reports, which demonstrates disturbance responses to successive vessel movements (Table 4 of Appendix 2, RR-024). In response to the request for a) more detailed assessment and b) incorporation of data from more recent seasons of bird behavioural observations, the addendum to the ES and HRA (document reference 9.13) will address the question of how the projected increase in i) high tides utilised by commercial vessels and ii) commercial vessel movements per tide translates on a more quantitative basis into number of disturbances and numbers of birds involved; incorporating the potential pattern of decreasing rates of disturbance, or 'availability' to be disturbed, with successive vessel movements within a high tide period.</p>
11	Marine and Coastal Ecology/HRA	There is a lack of wider assessment of baseline disturbance effects to assess cumulative and in-combination impacts.	The Applicant considers the presence of other sources of baseline disturbance and assesses their effects as part of Cumulative Impacts Assessment and In-Combination Effects sections of Chapter 17 (Marine Ecology) of the ES (document reference 6.2.17, APP-055) and the HRA (document reference 6.4.18, APP-111), and the ornithology addendum to these documents (document reference 9.13).
12	Marine and Coastal Ecology/HRA	There is outstanding work to be reported around Wetland Bird Survey (WeBS) data to assess the full impact of the significant increase in vessel movements on all relevant WeBS sectors (see Appendix 2 in Annex 1 and Appendix 2 in Annex 2).	With the exception of Freiston 30, which was last surveyed in the 2009/10 WeBS year and is therefore of limited relevance to analysis, data from all WeBS sectors listed in the relevant response from RSPB have been acquisitioned in full from the British Trust for Ornithology (BTO) (all species, all visits over five most recent years). These have been used to generate a baseline dataset for understanding aspects such as the rate of occurrence and the importance of each WeBS sector to key waterbird species in a whole-Wash SPA context. The

Number	Topic	Relevant Representation	AUBP Response
			species recorded, their rates of occurrence (proportion of visits), mean counts and peak counts at each WeBS sector are reported in Appendix 1 of the ornithology addendum to the ES and HRA (document reference 9.13). The importance of the Haven, and of the mouth of the Haven at Tabs Head, to The Wash Special Protection Area (SPA) feature species plus northern lapwing and European golden plover as key SPA waterbird assemblage species, is quantified in a Wash SPA context in Tables 1-3 of Appendix 4 of the addendum to the ES and HRA (document reference 9.13). This has further been used in the addendum to the HRA (document reference 9.13) to test the potential impact of vessel movements on the disturbance-related Conservation Objectives and Conservation Advice for The Wash SPA designated feature waterbird species as part of Appropriate Assessment.
13	Marine and Coastal Ecology/HRA	The Applicant's latest wintering and breeding bird surveys have not yet been provided to interested parties to review.	Reports containing the results of the surveys referred to in this representation have since been circulated by the Applicant among interested parties, in August 2021.
14	Marine and Coastal Ecology/HRA	More robust assessments on the scale of impact are needed to enable the nature, scale, and effectiveness of mitigation measures to be assessed. This will inform discussions on whether there is a need for compensation measures. For example, greater understanding of how The Wash SPA/Ramsar/SSSI waterbirds use The Haven and the surrounding area is required to understand the full scale of impact of vessel movements on these protected areas.	The scale of impact is robustly assessed, as demonstrated through the emphasis on quantitative analyses undertaken, in the Environmental Statement Chapter 17 - Marine and Coastal Ecology (document reference 6.2.17, APP-055), the HRA (document reference 6.4.18, APP-111) and the addendum to these documents (document reference 9.13). The Applicant has at every opportunity aimed to express baseline and projected impacts in quantitative terms. This includes providing a) existing, historic and projected numbers of vessels, b) baseline populations of birds at the proposed development site and on 17 WeBS sectors in the area, and the quantified importance of the Haven and the mouth of the Haven to SPA waterbird species, c) the worst-case area of habitat lost to wharf construction, etcetera. The nature, scale and effectiveness of mitigation measures has been refined through more recent dialogue between the Applicant and the RSPB and other stakeholder groups. Rationale and design, on an equally quantitative basis, for the mitigation measures is outlined in the addendum to the ES and HRA, and in the Outline Landscape and

Number	Topic	Relevant Representation	AUBP Response
			Ecological Mitigation Strategy (OLEMS) (document reference 7.4), which will be updated for Deadline 2.
15	Marine and Coastal Ecology/HRA	The cumulative (ES) and in-combination (HRA) assessment is incomplete. For example, it incorrectly limits its scope to only considering sites and features where “project alone” impacts have been identified. This does not account for plans or projects that may have small effects but when combined they become significant. The process is deliberately designed to assess the type and scale of impacts which will be excluded by the Applicant’s current approach. The RSPB fundamentally disagrees with this approach and considers it undermines the purpose of the Habitats Regulations requirements.	All projects identified on the cumulative and in-combination assessment were assessed in terms of any impacts, even small effects, that could occur that had the potential for interaction, whether singly or combined. Paragraph A17.5.5 of Appendix 17.1 Habitats Regulations Assessment (document reference 6.4.18, APP-111) notes the following principle: “for the proposed scheme to have the potential to contribute to in-combination effects, there must be sufficient cause to consider that a relevant habitat or species is sensitive to effects due to the project itself.”, this doesn’t distinguish the significance of the impact, just the sensitivity of the receptor.
16	Marine and Coastal Ecology/HRA	Failure to define a realistic worst-case scenario of the proposed development to assess impacts against.	While worst-case scenarios were detailed in a manner that applied to all taxa in the ES (document reference 6.2.17, APP-055), the Applicant acknowledges that the passages discussing impacts on birds do not relate back to the definitions of the scenarios explicitly. This has, however, been ensured in the ornithology addendum to the ES and HRA (document reference 9.13) to be submitted for Examination Deadline 1.
17	Marine and Coastal Ecology/HRA	Non-breeding redshank are a feature of The Wash SPA/Ramsar and there is a restore target in the Supplementary Conservation Advice for The Wash non-breeding redshank population ⁹ . Non-breeding and breeding redshank are a feature of The Wash SSSI. Significant declines in saltmarsh breeding redshank on The Wash have also occurred and are being explored with Natural England to identify what measures are needed to restore the breeding population. Any impacts from the project alone or in-combination with other	The proposed development does not stand to compromise efforts to fulfil the ‘restore...’ Conservation Objective for redshank in the Wash SPA, on account of the level of significance of the impacts. The additional habitat offsets and net gain measures will also be designed to be capable of supporting roosting, foraging and potentially breeding by redshank within close proximity to the sites. These measures are detailed in the addendum to the ES and HRA (document reference 9.13) submitted at Deadline 1 and will be detailed in the updated Outline Landscape and Ecological Mitigation Strategy (OLEMS) to be submitted at Deadline 2. The Applicant is also completing a ‘without prejudice’ Habitats Directive Derogation Case which outlines

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		<p>activities that affect the redshanks using The Haven therefore has serious implications for restoring both the non-breeding and breeding populations.</p>	<p>compensation for waterbirds including redshank. The Applicant also draws attention to the current absence of any 'WeBS Alert' regarding the Wash WeBS population trend for redshank (Woodward et al. 2019). The significance of this is that there is no indication that redshank trends in The Wash differ from those at broader spatial scales, therefore site-specific pressures or indeed measures are not indicated to be key drivers of the regional or local redshank population. [Woodward, I.D., Frost, T.M., Hammond, M.J., and Austin, G.E., 2019. Wetland Bird Survey Alerts 2016/2017: Changes in numbers of wintering waterbirds in the Constituent Countries of the United Kingdom, Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSIs) and Areas of Special Scientific interest (ASSIs). BTO Research Report 721. BTO, Thetford. Available at: [REDACTED] [REDACTED]</p>
18	Marine and Coastal Ecology/HRA	<p>The Applicant's surveys have recorded over 1% of The Wash SPA/Ramsar population of redshank roosting and feeding adjacent to the application site (see Appendix 1 in Annex 1 & Table 3 in Appendix 2). The redshank using The Haven during the non-breeding season (which includes the winter, and the autumn and spring migration periods) will also include resident, breeding birds. Birds will move between the application site and The Wash SPA/Ramsar site at different times in the tidal cycle, and potentially seasonally. Therefore, the application site is functionally linked to The Wash SPA/Ramsar.</p>	<p>The Applicant concurs that the distance between The Wash SPA boundary and the proposed development site, combined with individual redshanks' winter site fidelity once a successful daily and seasonal strategy has been established, means that redshanks present at the project site during high tide roosting could include individuals which forage within The Wash SPA, and conversely that redshanks foraging at the project site when mudflats are exposed could include individuals which roost within The Wash SPA. It is on this basis that the Applicant has considered redshanks present at the proposed development site to have connectivity with The Wash SPA throughout the ES and HRA (e.g. paragraph A17.4.5) (document reference 6.4.18, APP-111), and the addendum to these documents (document reference 9.13). It is, however, impossible to determine without individual marking, what proportion of redshank present at the proposed development site, are connected to the Wash SPA, and whether this proportion is significant or in fact consistently low or even zero. The Applicant notes that some marked individuals in the Cardiff Barrage study remained upriver (on the Rhydney) from the main estuary for the entire winter (Burton et al.</p>

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			1998). Birds following this strategy in the Haven may have no connectivity to the Wash SPA non-breeding redshank population. [Burton, N.H.K., Rehfisch, M.M. and Clark, N.A., 1998. The Effect of the Cardiff Bay Barrage on Waterfowl Populations: Distribution and Movement Studies, August 1997-May 1998. British Trust for Ornithology Research Report 205]
19	Marine and Coastal Ecology/HRA	The presented evidence indicates that the roost would be lost and that there would be impacts to foraging birds. Like other redshanks, the redshanks using The Haven are highly site faithful during the non-breeding season and will be formed from a mixture of resident, breeding birds and migrants from breeding populations elsewhere in the UK and abroad (e.g. Iceland, continental Europe). Where roost sites have been lost from other sites (e.g. Cardiff Bay), even a relative short displacement distance of 4km has been found to reduce their body condition and survival rates ¹¹ . In order to maintain the redshank population there would need to be an increase in recruitment of young birds ¹² to any new habitat created to replace that lost. For The Wash redshank population, however, there has been a decline in breeding numbers and therefore it is not clear that, if The Haven roost was lost, recruitment would be sufficient to compensate for a reduction in survival. This has implications for the restoration target for The Wash SPA redshank population. This highlights the complexity of understanding and addressing impacts for this species and is an area that requires significantly more attention. It also reinforces the importance of maintaining the	The Applicant is aware of the publications on wintering redshank cited in the relevant representation and of the survival consequences for displaced birds. However, in the cited case, the displacement was caused not by disturbance but by a wholesale transition of an estuarine area to an inundated area, with extensive mudflats permanently removed. The Applicant project does not involve the same level of habitat change or removal due to construction, and the area of available roosting substrate is moveable and maintainable therefore the roost is not predicted to be lost. Additional measures for habitat offsets are designed to prioritise access to refugia and alternative habitats for redshank for all non-breeding activities (roosting, foraging, bathing, loafing) within 1 to 2 km of the proposed development site. Such measures are also designed for within 1 to 2 km of the mouth of the Haven. These measures are outlined in the addendum to the ES and HRA (document reference 9.13) and the Outline Landscape and Ecological Mitigation Strategy (OLEMS) (document reference 7.4). The Applicant will seek stakeholder guidance on ensuring these measures have the best chance of success.

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		redshank roost and feeding function of the adjacent mudflats.	
20	Marine and Coastal Ecology/HRA	More information is needed to assess the full scale of impact on these SPA/Ramsar birds and demonstrate the proposed alternative roost would avoid the risk of an adverse effect on site integrity. This includes more detailed information on the alternative roost design, location, effectiveness, and long-term management to ensure it remains effective for the life of the project. Of particular importance is the need to clearly demonstrate that noise and visual disturbance during and post-construction, and recreational disturbance, will be effectively managed to provide sufficient confidence that the proposed alternative roost will be effective for the full period of time that non-breeding redshank are present.	The updated Outline Landscape and Ecological Mitigation Strategy (OLEMS) (to be submitted at Deadline 2) recognises that land parcels of readily transitioned open habitat are potentially available within the 1 to 2 km radius of all parts of the Haven which are suitable for managing to provide alternative roosting, foraging and furthermore breeding in redshank. Key ongoing management will feature in the plans and dialogue with stakeholders is sought to ensure planned management activities are a success.
21	Marine and Coastal Ecology/HRA	The impacts of disturbance and boat wash arising from the predicted c.140% increase in large vessels and associated pilot vessels using The Haven as a result of the proposed Facility on the important concentrations of roosting and feeding birds at the mouth of The Haven, over and above existing impacts from current vessel movements.	The Applicant highlights that the question of impact of increased vessel movements was fully addressed firstly in the ES (document reference 6.2.17, APP-055) and HRA (document reference 6.4.18, APP-111). The Applicant acknowledges the RSPB's presentation of an alternative tabulation for vessel disturbance data from the Changes In Behaviour [sic] reports, which demonstrates disturbance responses to successive vessel movements (Table 4 of Appendix 2, RR-024). In response to the request for a) more detailed assessment and b) incorporation of data from more recent seasons of bird behavioural observations, the ornithology addendum to the ES and HRA (document reference 9.13) addresses the question of how the projected increase in i) high tides utilised by commercial vessels and ii) commercial vessel movements per tide translates on a more quantitative basis into number of disturbances and numbers of birds involved; incorporating the potential pattern of decreasing rates of disturbance, or 'availability' to be disturbed, with successive vessel movements within a high tide period.

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22	Marine and Coastal Ecology/HRA	There is insufficient information available to understand fully the impact and consequences for this area of The Wash, which appears disproportionately important for a number of The Wash SPA/Ramsar features based on WeBS data reported in The Wash Bird Decline Investigation 2014	Since this relevant representation was submitted, the Applicant has completed and analysed site- and project-specific survey data and acquisitioned data from the BTO WeBS (Core Counts data from a further 14 sectors). See the Applicant's response to RR-024-23 below.
23	Marine and Coastal Ecology/HRA	More robust assessment is necessary to inform the scale and significance of predicted impacts on the SPA/Ramsar/SSSI birds using this important area. This will in turn inform the need and potential options for compensation measures.	The ornithology addendum updating the ES and HRA (document reference 9.13) combines the project-specific and WeBS data sources in analysis to quantify the importance of the Haven local area and the mouth of the Haven for all species (including in a Wash SPA context), and rates and typical numbers disturbed, again including Wash SPA population context. These are reported in Appendix 3.2 and Appendix 4 of the addendum to the ES and HRA (document reference 9.13).
24	Marine and Coastal Ecology/HRA	<p>The RSPB is concerned that the Applicant has failed to properly assess the impacts of the Application on The Wash SPA, Ramsar and SSSI. Based on the information available and our knowledge of the bird species affected, the RSPB has concluded that it is not currently possible to rule out an adverse effect on the integrity of the SPA/Ramsar site (as well as the SSSI).</p> <p>Therefore, we consider the Applicant should submit a detailed "In Principle Derogation Package", including a full suite of relevant and secured compensation measures in order to protect the overall coherence of the National Sites Network. Our detailed reasons are in line with recent Government advice and set out below in the section titled "The need for an "in principle derogation case" to be prepared and consulted on as part of the DCO application".</p>	The Applicant has provided assessments across the ES (document reference 6.2.17, APP-055), HRA (document reference 6.4.18, APP-111) and the ornithology addendum to these documents (document reference 9.13), which systematically address the potential routes to impact on each Conservation Objective for the Wash SPA, Ramsar and SSSI and their designated feature species, therefore impacts have been properly assessed. A 'without prejudice' Habitats Directive Derogation Case is being prepared following responses from stakeholders that it was an advisable inclusion, and this will be submitted at Deadline 2.

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25	Marine and Coastal Ecology/HRA	<p>With specific reference to compensation measures, the RSPB's concerns include:</p> <ul style="list-style-type: none"> • There is uncertainty that the proposed redshank compensation measures are viable, as no evidence has been presented to demonstrate that the proposed measures for this species can be secured and delivered to effectively address the loss of the redshank high tide roost. • No measures have yet been proposed to address the significant impacts on roosting and feeding birds at the mouth of the Haven. 	<p>The 'without prejudice' Habitats Directive Derogation Case to be submitted at Examination Deadline 2 provides options and preferences for redshank and other waterbirds' compensation measures, of suitable scale, detail and quantitative robustness to serve as evidence that the measures could be secured and delivered for numbers of redshank exceeding the population of the identified high tide roost. This document provides these details for compensation of waterbirds both in proximity to the proposed development site and at the mouth of the Haven.</p>
26	Marine and Coastal Ecology	<p>The RSPB is concerned that a substantial amount of detail relating to, for example, mitigation, compensation, biodiversity net gain, marine pollution is being left to the development of detailed plans post consent. This does not enable proper scrutiny by the Examining Authority and interested parties during the examination process. As a consequence, we cannot have confidence that the issues highlighted with the proposed facility will be effectively addressed to ensure there will be no adverse effect on integrity of The Wash SPA/Ramsar.</p>	<p>The OLEMS and 'without prejudice' Habitats Directive Derogation Case to be submitted to the Examination at Deadline 2 includes detailed plans and has benefitted from ongoing dialogue with stakeholders regarding mitigation, compensation and biodiversity net-gain.</p>
27	Marine and Coastal Ecology/HRA	<p>A failure to assess the disturbance effect on features of The Wash SPA that could be created from ships stacking up along The Haven whilst vessels are turning. The Applicant's documents indicate this could result in delays of 30-45 minutes for other vessels using The Haven, which could have significant consequences for redshank and other features of The Wash SPA/Ramsar and</p>	<p>The means by which vessel traffic moves to and from the Port of Boston means that vessels are not able to be stacked up along the Haven. For much of its length it operates as a one-way channel for the larger vessels (e.g. excluding passing of fishing and other smaller vessels), and there is only one place (intersection with Hobhole Drain) on The Haven where larger vessels can pass. The Port of Boston times vessels arriving and departing to coincide with passing at this location. Therefore, vessels waiting to travel up The Haven wait in the Wash until instructed to move upstream. There is a requirement for</p>

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		SSSI that maybe roosting and foraging within The Haven.	careful timing to ensure that all vessels can get in and out within the tidal window.
28	Marine and Coastal Ecology/HRA	No information to assess the effect on foraging and roosting birds arising from potential changes in fishing vessel activity and behaviour to avoid the potential delays caused by the additional vessels turning.	The Applicant is working on a Navigational Risk Assessment which will confirm the ability of fishing vessels to continue to transit The Haven similarly to the current case. The Applicant does not consider that the facility will operate in any way that significantly affects fishing vessel movements and mitigation (in the form of a Navigational Management Plan) is identified to help achieve this (Environmental Statement Chapter 18 (Navigational Issues) (document reference 6.2.18, APP-056). A Navigational Risk Assessment (which will be provided to the Examination at Deadline 2) will provide further certainty on this matter.
29	Marine and Coastal Ecology/HRA	Failure to provide more detail on the potential that the fishing fleet could relocate downstream of the facility should it be developed, as this would also have the potential to cause an adverse effect on integrity of The Wash SPA/Ramsar and result in additional habitat loss and disturbance to SPA/Ramsar and SSSI features, as a consequence of the proposed facility.	Relocation of the fishermen's wharf is not included as part of the Boston Alternative Energy Facility proposal. Although Chapter 18 (Navigational Issues) of the ES (document reference 6.2.18, APP-056) concludes a significant effect to the fishing fleet, it is proposed that this is managed through use of a Navigational Management Plan (NMP) as secured by a condition in the deemed marine licence in Schedule 9 to the draft DCO (document reference 2.1(1)). Consultation is ongoing with the fishing fleet and the NMP will be produced with input from the fishing fleet as well as the Port of Boston. Therefore, no additional assessment is required related to this issue.
30	Water quality	Lack of detail on water discharge from the application site to demonstrate that this will not affect water quality in The Haven and ultimately The Wash SPA/Ramsar/SSSI and The Wash & North Norfolk Coast SAC.	There will be no operational discharge to The Haven from the application site with surface water being discharged to the surface water drainage network at its current location. An Outline Surface Water Drainage Strategy (document reference 9.4) has been submitted to the Examination at Deadline 1 which outlines the discharge location and the pollution prevention measures which will be incorporated within the site, including extensive use of a Sustainable Urban Drainage System and penstocks to retain and slow water flows. The Applicant recognises that water from the main drainage system is pumped to RSPB reserves. Furthermore, the wharf will be graded to ensure that any potentially contaminated drainage on this area flows away from The Haven and into the sealed drainage system that will convey flows

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			through via oil interceptors under the wharf deck, with individual recovery pumps to a water system for nodule formation within individual pelletising lines for water re-use.
31	Water quality	Lack of detail on run-off from the application site to demonstrate that this will not affect water quality in the drainage network surrounding the site. The RSPB abstracts water directly from the main drain to maintain the wetland habitats and wildlife of Frampton Marsh (functionally linked to The Wash SPA/Ramsar/SSSI).	Refer to RR-024-30 above.
32	Water quality	A failure to assess the oil, fuel oil and rubbish pollution that could be caused by an additional 580 large vessels per annum using The Haven, as well as the anchorage area on The Wash.	<p>Paragraph 4.2.2 to paragraph 4.2.5 of the Outline Code of Construction Practice (Outline CoCP) (document reference 7.1, APP-120) sets out measures to mitigate spillages to the marine environment. The draft DCO (document reference 2.1, APP-005) states that the (final) CoCP submitted for approval must be substantially in accordance with the Outline CoCP. Additionally, paragraph 15.7.1 of Environmental Statement Chapter 15 (Marine Water and Sediment Quality) (document reference 6.2.15, APP-053) states that, "all work practices and vessels requirements of the International Convention for the Prevention of Pollution from Ships (MARPOL) 73/78; specifically Annex 1 Regulations for the prevention of pollution by oil concerning machine waters, bilge waters and deck drainage and Annex IV Regulations for the prevention of pollution by sewage from ships concerning black and grey waters." Such a commitment is included as embedded mitigation.</p> <p>Please refer to RR-013-12 for a response regarding litter.</p> <p>In addition, the DML (Schedule 9 to the draft DCO (document reference 2.1(1))) includes a condition requiring the approval by the MMO of a marine pollution contingency plan and a number of additional conditions also relating to spills and dropped objects."</p>

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33	Marine and Coastal Ecology	Lack of certainty regarding changes to the frequency of capital/maintenance dredge activity along The Haven as a result of the increased vessel movements, and/or any aspirations the Port of Boston may have to facilitate additional vessels in the future. This could have implications for intertidal habitats and The Wash SPA/Ramsar and SSSI features that forage within The Haven.	<p>Paragraph 5.5.20 of Environmental Statement Chapter 5 (Project Description) (document reference 6.2.5, APP-043) provides details of the capital dredge and states, "There will be two phases of dredging for the construction of the wharf and the berthing pocket.". Further detail on wharf construction has also been provided in Wharf Construction Outline Methodology (document reference 9.17) submitted at Deadline 1 of the Examination.</p> <p>To inform maintenance dredging requirements, Environmental Statement Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054) estimates siltation rates of 50 cm/year. Using this as a baseline sedimentation rate in the berthing areas would lead to accumulation of mud of approximately 8,000 m³ /year. It is anticipated that dredging on a yearly or 2-yearly cycle will be required for this volume. The maintenance dredging will be undertaken via land-based equipment and the material will be used in the Lightweight Aggregate Plant with no disposal to sea. Chapter 17 (Marine and Coastal Ecology) (document reference 6.2.17, APP-054) assesses the effect of habitat changes within the footprint of the wharf from construction as minor adverse (i.e. not significant) and habitat changes due to hydrodynamic changes in operation also as minor adverse (i.e. not significant). The Applicant is not aware of any additional dredging the port may wish to undertake that would constitute cumulative activity during either the construction or operational phases of the Facility.</p>
34	Recreation	RSPB's concerns include the adequacy of the baseline data collected.	Refer to RR-024-3 and RR-024-8 above.
35	Marine and Coastal Ecology	The potential change in use of the footpath adjacent the proposed redshank compensation area due to the England Coast Path and proposed footbridge construction.	It is acknowledged that the proposed route of the England Coast Path passes through the application site, however this is considered as part of the baseline of the assessment as it uses existing footpaths. In addition, the England Coast Path is being diverted along existing footpaths through the Riverside Industrial Estate, and there is no change in the footpath adjacent to the Habitat Mitigation Area.

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36	Marine and Coastal Ecology	The Outline Landscape and Ecological Mitigation Plan fails to set out how recreational pressures will be managed to ensure any created habitat will function effectively.	The Applicant draws attention to the isolation of the Haven-side saltmarsh areas earmarked as mitigation areas, from recreational access on land due to a shear stepdown in height between the England Coast Path and this habitat. Recreational impacts from visual presence and on-water activities are also considered in design of management measures in the updated OLEMS (to be submitted at Deadline 2).
37	Noise	Concerns regarding significance of noise impacts during construction and operation on the non-breeding waterbirds using The Haven (functionally linked to The Wash SPA/Ramsar).	The assessment of noise on non-breeding waterbirds is included in Chapter 17 (Marine Ecology) of the ES (document reference 6.2.17, APP-055) and HRA (document reference 6.4.18, APP-111). Additional analysis has also been undertaken for the Environmental Statement and HRA addendum submitted to the Examination at Deadline 1 (document reference 9.13).
38	Noise	Lack of detailed assessment of the impacts of night-time operational noise and effects on designated sites, despite regular significant activity (including vessel deliveries and unloading) scheduled to take place at night.	The assessment of noise is included in Chapter 17 (Marine Ecology) of the ES (document reference 6.2.17, APP-055) and HRA (document reference 6.4.18, APP-111). Additional analysis has also been undertaken for the ES and HRA addendum (document reference 9.13). Noise levels are also presented and discussed in detail in Environmental Statement Chapter 10 (Noise and Vibration) (document reference 6.2.10, APP-048).
39	Lighting	Limited detail presented regarding potential impacts of lighting on birds from the proposed facility and associated vessels.	The Applicant addresses the question of artificial lighting effects in the HRA (document reference 6.4.18, APP-111). Lighting will be targeted and minimised to only what is necessary to provide light for the operation of the facility and it is not anticipated that lighting would have an effect on birds.
40	Marine and Coastal Ecology/HRA	As stated above, the RSPB considers the Applicant needs to submit a full "in principle" derogation case for examination, setting out its case on: <ul style="list-style-type: none"> Why it considers there are no less damaging alternative solutions to the project. Why any identified adverse effects on integrity are justified for imperative reasons of overriding public interest. 	A 'without prejudice' Habitats Directive Derogation Case will be submitted by the Applicant at Examination Deadline 2.

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		<ul style="list-style-type: none"> A detailed package of targeted and effective compensation measures that has been secured and has a reasonable guarantee of success in protecting the overall coherence of the National Sites Network. 	
41	Marine and Coastal Ecology/HRA	In respect of compensation measures, this [derogation in principle] is essential for impacts at the mouth of The Haven where the applicant's own documents indicate mitigation measures would be insufficient and habitat would need to be created outside of The Wash SPA/Ramsar to accommodate displaced birds. In addition, the proposed redshank habitat creation downstream from the Application site is properly considered as compensation, as it would not avoid the adverse impact to the SPA/Ramsar site.	The measures provided by the Applicant in the updated OLEMS (to be submitted at Deadline 2) and the addendum to the ES and HRA (document reference 9.13) address the potential for displacement due to disturbance. The measures outlined for habitat offset and net gain would also provide additional habitat around the Application Site and the mouth of the Haven (e.g. proposed creation of a sufficiently large wetland area) to provide refugia and additional roost sites in close proximity to the existing roosting and bathing sites. The measures outlined in proximity to the proposed development site include redistribution of roosting substrate (rock armour) as only one of multiple measures which again are provided in sufficient proximity (1-2 km) to ensure daily use of the area by non-breeding waterbirds continues to be viable and sustainable for individuals, therefore displacement from the area is not expected to occur. The Applicant therefore does not anticipate compensation will be required and has prepared a 'without prejudice' Habitats Directive Derogation Case to allow consideration of all aspects during the Examination and assist the ExA and SoS.
42	Marine and Coastal Ecology/HRA	Natural England and the RSPB made strong recommendations on the need for a derogation package to the Applicant at meetings in February and March 2021, including the need to consult with stakeholders on its content prior to resubmission. We are therefore disappointed that such critical information has not formed part of the Application and consider it is a key omission in the Applicant's application.	A 'without prejudice' Habitats Directive Derogation Case will be submitted by the Applicant at Examination Deadline 2.

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43	Marine and Coastal Ecology/HRA	As discussed with the Applicant, our position is reinforced by BEIS's advice on, and approach to, these matters set out in recent offshore wind farm decision letters ¹⁴ and, more recently, the extended consultation for the Norfolk Boreas scheme. Both Natural England and ourselves also highlighted the Planning Inspectorate's scrutiny of these matters at both the application and examination stages of recent Nationally Significant Infrastructure Projects (NSIP) proposals.	A 'without prejudice' Habitats Directive Derogation Case will be submitted by the Applicant at Examination Deadline 2.
44	Marine and Coastal Ecology/HRA	In practical terms, the Secretary of State has strongly advised developers to consult with SNCBs (and we recommend, other relevant stakeholders) on derogation proposals during the pre-application phase, even though the developer may disagree on the need for such proposals. This is to ensure any subsequent application includes all the necessary information for proper scrutiny during the examination. The advice for the offshore wind farm schemes is therefore pertinent to the BAEF Application.	The Applicant notes this opinion. Meetings have taken place to discuss potential opportunities with SNCBs and other stakeholders throughout the pre-application process and are ongoing. Opportunities will be put forward in the Outline Landscape and Ecological Mitigation Strategy (OLEMS) and the 'without prejudice' Habitats Directive Derogation Case.
45	Marine and Coastal Ecology/HRA	More recently, we note that BEIS has expanded on the issues it is seeking views on in relation to the compensation measures that form part of any derogation package. In his letter of 28 April 2021 ¹⁵ seeking further information in respect of the Norfolk Boreas offshore wind farm, the Secretary of State has sought the following categories of information in respect of compensation proposals: <ul style="list-style-type: none"> • A description of the compensation strategies proposed for each species with an explanation of how they will effectively compensate for the 	While the Applicant does not anticipate compensation will be required, it has prepared a 'without prejudice' Habitats Directive Derogation Case to be submitted at Deadline 2 to allow consideration of all aspects during the Examination and assist the ExA and SoS.

Number	Topic	Relevant Representation	AUBP Response
		<p>negative effects of the project on the species and how they will ensure that the overall coherence of the National Site Network is protected.</p> <ul style="list-style-type: none"> • Evidence of how any proposed compensation site(s) will be acquired/leased. • Any implementation timetable for when the compensation measures will be delivered and achieve their objectives in relation to the first impact of the development. • Details of any proposed routine maintenance and species population monitoring during the project lifetime, together with funding mechanisms for their delivery. <p>This is supported by the recent questions posed by the Examining Authority dealing with examination into the East Anglia One North and East Anglia Two projects. 16 The Examining Authority has noted the Secretary of State's letter seeking further information on the Norfolk Boreas project and has sought views on matters including:</p> <ul style="list-style-type: none"> • The level of detail required to support compensation measure proposals, • The duration of compensation measures. <p>The RSPB supports the need to consider this level of detail in any derogation package so that it can be properly scrutinised during the examination process. The recent BEIS advice underlines that a decision not to submit such a package for examination is at the developer's own risk. In the situation where the Secretary of State considers</p>	

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		an adverse effect on the integrity of an SPA and/or SAC could not be ruled out he has made clear that he now expects a derogation package to be fully examined. Lack of such a package for examination means the Examining Authority and Secretary of State would not have the necessary information before them to determine whether a derogation could be approved.	
46	Marine and Coastal Ecology/HRA	The Applicant's decision not to present an in-principle derogation package as part of the Application supports the RSPB's request that the examination be paused until the scale of impact of the proposed development is known, the type and scale of compensation measures have been identified and to allow interested parties to have sufficient time to engage with the Applicant to prepare and consult publicly on a detailed "In Principle Derogation Package".	A 'without prejudice Habitats Directive Derogation Package will be submitted by the Applicant at Examination Deadline 2.
47	Marine and Coastal Ecology/HRA	For clarity, the RSPB confirms that high-level, in principle conversations took place with the Applicant in October 2020 regarding options that might be appropriate to consider as compensation (see para 17.3.2 (p.30) of Chapter 17 Marine and Coastal Ecology of the ES). These discussions included an update on work that the RSPB is looking to undertake at our Freiston Shore and Frampton Marsh reserves. However, no agreements were made regarding what measures the Applicant could take forward as compensation, as the discussions were only in principle to consider the type of measures that might be appropriate in the general location. No further discussion has taken place with the Applicant on	The RSRB confirmed verbally to the Applicant's consultant (Royal HaskoningDHV) in September 2021 that land would not be available on local RSPB reserves for any significant contribution to measures to mitigate or compensate for impacts on estuarine bird species. The Applicant has commenced discussions with other parties for land where opportunities for such measures could be constructed and an appropriate level of detail will be set out in the 'without prejudice' Habitats Directive Derogation Case to be submitted to the Examination at Deadline 2.

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		in principle compensation and consequently the Applicant has not, to the best of our knowledge, explored the viability of any potential options.	
48	Marine and Coastal Ecology/HRA	At this time, the RSPB is unable to enter into further in principle discussions with respect to compensation, as we still do not consider impacts are fully understood. This is necessary to determine the type, scale and location of compensation that might be required to address any residual adverse effects on site integrity.	The Applicant has submitted an addendum to the ES and HRA (document reference 9.13) at Deadline 1 which further evidences a robust assessment of the project's potential impacts. This information will form the basis of without prejudice discussions as to compensation.
49	Marine and Coastal Ecology/HRA	The RSPB commits to continuing to work with the Applicant in a positive and constructive manner in order to attempt to resolve the significant concerns set out in this representation.	The Applicant thanks the RSPB for this commitment and notes that this is already evident in numerous meetings bilaterally arranged and held between the Applicant and the RSPB.
50	Marine and Coastal Ecology/HRA	The RSPB is also in contact with Lincolnshire Wildlife Trust to ensure minimal repetition of joint areas of concern and save Examination time. For now, it should be noted that the RSPB is supportive of the issues raised in the Relevant Representations by the Lincolnshire Wildlife Trust.	The Applicant notes this.
51	General	The RSPB reserves the right to add to and/or amend its position in light of changes to or any new information submitted by the Applicant.	Noted.
52	HRA	In our red line HRA comments, we did not consider sufficient information had been presented to demonstrate that there would not be an adverse effect on integrity (AEOI) on The Wash Special Protection Area (SPA) and Ramsar site. This was based on the high numbers of wintering redshank recorded roosting and feeding adjacent to the application site, and the significant impact that a c.140% increase in large vessels using The Haven as a result of the proposed Facility would have on	With the exception of Freiston 30, which was last surveyed in the 2009/10 WeBS year and is therefore of limited relevance to analysis, data from all WeBS sectors listed in the RSPBs relevant response have been acquisitioned in full from the BTO (all species, all visits over five most recent years). These have been used to generate a baseline dataset for understanding aspects such as the rate of occurrence and the importance of each WeBS sector to key waterbird species in a whole-Wash SPA context. The species recorded, their rates of occurrence (proportion of visits), mean counts and peak counts at each WeBS sector are reported in Appendix 1 of the addendum to the ES

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		<p>roosting and feeding birds at the mouth of The Haven, over and above existing impacts from current vessel movements. Critically, we identified that the assessment was based on a limited number of Wetland Bird Survey (WeBS) sectors and we highlighted additional sectors for which data was needed to enhance the analysis (see Section 2a and Appendix 2 below). The need for these additional sectors to be included is essential given the number of species that were demonstrated to be displaced by at least 800m from vessels, as identified in the surveys undertaken at the mouth of The Haven (see Figure 1, Appendix 3 and the discussion in Sections 2a, 2c and 2k below). We still have not seen these data and have had no timeline for when interested parties will be able to review these additional data. We request clarity on when this will be made available and an update HRA produced.</p>	<p>and HRA (document reference 9.13). The importance of the Haven, and of the mouth of the Haven at Tabs Head, to SPA feature species plus northern lapwing and European golden plover as key SPA waterbird assemblage species, is quantified in a Wash SPA context in Tables 1-3 of Appendix 4 of the addendum to the ES and HRA. This has further been used in the addendum to the HRA to test the potential impact of vessel movements on the disturbance-related Conservation Objectives and Conservation Advice for The Wash SPA designated feature waterbird species as part of the assessment.</p>
53	HRA	<p>We further highlighted that no details on mitigation measures to address impacts on the redshank roost near the application site had been provided, nor had any details of a compensation package to address impacts on the high tide roost at the mouth of The Haven or for intertidal habitat that would be lost as a result of the construction the facility. Whilst some proposals to potentially mitigate the redshank roost have been proposed, we have not seen information that confirms its viability. We also are not aware that a compensation package has been prepared given the habitat loss and scale of disturbance. We seek</p>	<p>The Applicant puts forward in the Outline Landscape and Ecological Mitigation Strategy (OLEMS) (document reference 7.4, APP-123) and in the addendum to Chapter 17 of the ES and the HRA (document reference 9.13) the mitigation measures and other measures which are capable of supporting roosting, foraging and indeed breeding by redshank within close proximity to the sites. Further details will be provided within the updated OLEMS to be submitted at Deadline 2. The Applicant is also completing a 'without prejudice' Habitats Directive Derogation Case which outlines compensation for waterbirds including redshank, in reference to displacement suggested at the proposed development site and the mouth of the Haven. This document is to be submitted at Examination Deadline 2.</p>

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		clarity on when this information will be available for interested parties to review.	
54	HRA	Impacts were also noted on the harbour seal population feature of The Wash & North Norfolk Coast Special Area of Conservation (SAC), of which we were supportive of the comments made by Natural England and the Lincolnshire Wildlife Trust.	Comments by Natural England and Lincolnshire Wildlife Trust have been fully considered by The Applicant.
55	HRA	Whilst supplementary information has been provided on the HRA and additional information provided in the Navigation Chapter of the Environmental Statement (both documents received on the 5 March 2021; Appendix 1), our substantive concerns outlined above remain unchanged. In addition, there has been no detail provided to date on a full derogation case, including alternative solutions, Imperative Reasons of Overriding Public Interest (IROPI), and a compensation package to address habitat loss. Whilst some detail of possible mitigation options for the redshank roost near the application site have been put forward these still need to be fully discussed and tested to demonstrate that they are viable. If mitigation measures will not be sufficient, or are not viable, then the impact on the redshank roost will need to be assessed as an AEOI and compensation measures proposed as part of the derogation package.	A 'without prejudice' Habitats Directive Derogation case will be submitted by the Applicant at Examination Deadline 2. Measures for the mitigation area will be put forward in the updated Outline Landscape and Ecological Mitigation Strategy (OLEMS) (to be submitted at Deadline 2) which will include requirements for ongoing maintenance.
56	HRA	A failure to assess the oil, fuel oil and rubbish pollution that could be caused by an additional 580 large vessels per annum using The Haven.	Refer to RR-024-32 above

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57	HRA	Lack of detail on water discharge from the application site to demonstrate that this will not affect water quality in The Haven.	Refer to RR-024-30 above
58	HRA	No assessment of disturbance to The Wash SPA features along the entire length of The Haven and the disturbance to foraging and roosting birds along the entire length. Wider assessment of baseline disturbance effects and how these would be affected by the proposed development have not been considered in the assessments to date.	The Applicant confirms that data has been collected and analysed at both broad (mouth of the Haven) and narrow (proposed development site) sections of the Haven that demonstrate how disturbance to foraging or roosting birds from vessel movements (whether this is visual disturbance from presence or physical disturbance through producing a wake) is attributed to the different types of vessels using the Haven at the different channel widths involved (redrawn RSPB tables in section 6 of the addendum to the ES and HRA (document reference 9.13)). The most likely mechanism for this relationship is the increased proximity of foraging or roosting birds to the waterway at narrower sections, such as at the proposed development site. From this, sources and rates of disturbance are predicted to be appropriate to apply to the intervening length of the Haven which, being historically intensively managed, has areas that are of a similar width to the section at the proposed development site. Two years of survey for overwintering and breeding birds have been undertaken to support the analysis.
59	HRA	A failure to assess the disturbance effect on features of The Wash SPA that could be created from ships stacking up along The Haven whilst vessels are turning.	Refer to RR-024-27 above.
60	HRA	No information to assess the effect that potential changes in fishing vessel activity to avoid the potential delays caused by the additional vessels turning could have on foraging and roosting birds.	Refer to RR-024-28 above.
61	HRA	Lack of assessment of ship movements, as they appear irregular and unlikely to allow birds to habituate to the activity. Disturbance is therefore always likely to occur and requires greater attention in the assessments.	The Applicant highlights that the question of impact of increased vessel movements was fully addressed firstly in the ES (document reference 6.2.17, APP-055) and Appendix 17.1 HRA (document reference 6.4.18, APP-111). The Applicant acknowledges the RSPB's presentation of an alternative tabulation for vessel disturbance data from the Changes In Behaviour reports, which demonstrates disturbance responses to

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			successive vessel movements (Table 4 of Appendix 2, RR-024). In response to the request for a) more detailed assessment and b) incorporation of data from more recent seasons of bird behavioural observations, the ornithology addendum to the ES and HRA (document reference 9.13) will address the question of how the projected increase in i) high tides utilised by commercial vessels and ii) commercial vessel movements per tide translates on a more quantitative basis into number of disturbances and numbers of birds involved; incorporating the potential pattern of decreasing rates of disturbance, or 'availability' to be disturbed, with successive vessel movements within a high tide period.
62	HRA	The HRA approach has been limited by only considering sites and features where "project alone" impacts have been identified (paragraph A17.5.5 of the HRA). This does not account for plans or projects that may have small effects but when combined they become significant.	All projects identified on the cumulative and in-combination assessment were assessed in terms of any impacts, even small effects, that could occur that had the potential for interaction, whether singly or combined. Paragraph A17.5.5 of Appendix 17.1 Habitats Regulations Assessment (document reference 6.4.18, APP-111) notes the following principle: "for the proposed scheme to have the potential to contribute to in-combination effects, there must be sufficient cause to consider that a relevant habitat or species is sensitive to effects due to the project itself.", this doesn't distinguish the significance of the impact, just the sensitivity of the receptor.
63	HRA	An incomplete cumulative and in-combination assessment to assess the overall scale of impact that could arise from the proposed facility.	As in Chapter 17 of the ES (document reference 6.2.17, APP-055) and the HRA (document reference, 6.4.18, APP-111) previously included in the Submission, the addendums to the ES and HRA to be submitted at Examination Deadline 1 (document references 9.13, 9.14 and 9.15) includes a complete Cumulative Impact Assessment and assessment of In-Combination Effects. Those carried out in the addendum document make use of information on more recent projects and applications.
64	HRA	Failure to provide more detail on the potential that the fishing fleet could relocate downstream of the facility should it be developed, as this would also have the potential to cause an adverse effect on integrity of The Wash SPA/Ramsar and	Refer to RR-024-29 above.

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		exacerbate impacts arising from the facility development and increased vessel movements.	
65	HRA	Limited mitigation measures to address impacts on the harbour seal feature of The Wash & North Norfolk Coast SAC. We will look to NE and LWT to comment on proposed mitigation measures, but support the need for vessels to, for example, have covered propellers.	Concerns raised in relation to harbour seals have been addressed in Chapter 17 (Marine Ecology) of the ES (document reference 6.2.17, APP-055) and HRA (document reference 6.4.18, APP-111). Additional analysis to address further concerns has also been undertaken for the marine mammals ES and HRA addendum (document reference 9.14) submitted to the Examination at Deadline 1.
66	HRA	Failure to define worst case scenario of the proposed development to assess impacts against.	While worst-case scenarios were detailed in a manner that applied to all taxa in the ES (document reference 6.2.17, APP-055), the Applicant acknowledges that the passages discussing impacts on birds do not relate back to the definitions of the scenarios explicitly. This has, however, been addressed in the ornithology addendum to the ES and HRA (document reference 9.13) submitted at Examination Deadline 1.
67	HRA	Consequently, our original concerns remain unchanged and have been increased having identified further deficiencies in the Environmental Statement chapters and HRA that we have been provided. We do not consider sufficient information has been presented to demonstrate that there would not be an AEOI on The Wash SPA and Ramsar site. Our detailed comments are provided below.	The ES (document reference 6.2.17, APP-055) and HRA (document reference 6.4.18, APP-111) report from a sufficient breadth of data sources to have made appropriate conclusions of impacts on protected sites and designated feature bird species. However, the Applicant acknowledges that the additional data collected makes the data basis for assessment more robust. Therefore, the Applicant has completed an ornithology addendum to the ES and HRA (document reference 9.13) which makes use of the full complement of additional data collected in response to prior stakeholder comments.
68	HRA	Whilst a limited amount of data were obtained within The Haven to consider the importance for features of The Wash SPA/Ramsar this was a limited data set. We acknowledge that additional data are being obtained, but it remains unclear when these data, and any analyses of the larger data set, will be available for review. We request clarity on the timeline for making this information available for comment by interested parties.	With the exception of Freiston 30, data from all WeBS sectors listed in the relevant response have been acquisitioned in full from the BTO (all species, all visits over five most recent years). These have been used to generate a baseline dataset for understanding aspects such as the rate of occurrence and the importance of each WeBS sector to key waterbird species in a whole-Wash SPA context. The species recorded, their rates of occurrence (proportion of visits), mean counts and peak counts at each WeBS sector are reported in Appendix 1 of the addendum to the ES and HRA (document reference 9.13). The importance of the Haven, and of the mouth of the Haven at Tabs Head,

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			to SPA feature species plus northern lapwing and European golden plover as key SPA waterbird assemblage species, is quantified in a Wash SPA context in tables 1-3 of Appendix 4 of the addendum to the ES and HRA.
69	HRA	<p>The HRA (paragraph A17.6.15) acknowledges that there are significant numbers of SPA features using the area based on the survey work that has been carried out:</p> <p>“The peak count of Lapwing disturbed (c1,100) is equivalent to 7.53% of the Wash population. c3,000 Golden Plover is equivalent to 21.2% of the Wash population. Whilst black-tailed godwit (c2,000) equates to 23.8% of the Wash population and is also over double the count required to identify a site holding internationally important numbers.”</p> <p>We also note that the HRA Supplementary Data note states that c.1000 dark-bellied brent geese (c.7.9% of The Wash SPA population) were disturbed during the January 2021 count and c.425 lapwing (c.3.7% of The Wash SPA population) were disturbed during the February 2021 count (Ref 2G, p.6).</p>	<p>The Applicant has completed analyses of the full two years of vessel and bird behaviour data collected at the mouth of the Haven and reported in the Changes In Waterbird Behaviour [sic] documents. The data and analysis are included in Appendix A 3.2 and Appendix 4 of the addendum to the ES and HRA (document reference 9.13). The analyses draw on the WeBS analysis results which quantified importance of the Haven local area and mouth of the Haven in a Wash SPA context for designated waterbird species, and the percentages of a) local and b) Wash SPA 5-year average peak populations involved in average and peak disturbance counts of each species. The analysis therefore captures and properly considers observations highlighted in this relevant representation.</p>
70	HRA	<p>It is critical to have a full understanding of the baseline importance of the mouth of The Haven with respect to the features it supports of The Wash SPA/Ramsar site. Some species may be disproportionately using this area of The Wash and some species may have seen declines (see Section 21 below regarding restoration objectives for The Wash SPA features). These pieces of</p>	<p>With the exception of Freiston 30, which was last surveyed in the 2009/10 WeBS year and is therefore of limited relevance to analysis, data from all WeBS sectors listed in the relevant response have been acquisitioned in full from the BTO (all species, all visits over five most recent years). These have been used to generate a baseline dataset for understanding aspects such as the rate of occurrence and the importance of each WeBS sector to key waterbird species in a whole-Wash SPA context. The species recorded, their rates of occurrence</p>

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		<p>information can be gained from a wider WeBS data assessment and will be critical in making judgements in the HRA regarding impacts and the scale of compensation that will be required. Appendix 2 provides a map of all the WeBS sectors that we recommended needed to be included in a more detailed analysis in our red line comments on the HRA</p> <p>provided 25 February 2021. The data for all the following WeBS sectors data need to be collated and analysed (data for sectors with an * have been used in the current assessments):</p> <ul style="list-style-type: none"> • Freiston 50 • Freiston 30 • Witham 60 • Witham 52 • Witham 51 • Witham 41 • Witham 40 • Witham 20 • Frampton North 60* • Frampton North 31 • Frampton North 27 • Frampton North 26 • Frampton North 25 • Frampton North 24 • Frampton North 23* • Frampton North 22 • Frampton North 21 • Slippery Gowt Pits* 	<p>(proportion of visits), mean counts and peak counts at each WeBS sector are reported in Appendix 1 of the addendum to the ES and HRA (document reference 9.13). The importance of the Haven, and of the mouth of the Haven at Tabs Head, to SPA feature species plus northern lapwing and European golden plover as key SPA waterbird assemblage species, is quantified in a Wash SPA context in Tables 1-3 of Appendix 4 of the addendum to the ES and HRA. Additionally, WeBS Online Reporting has been consulted to identify the presence or absence of WeBS Alerts for all The Wash SPA feature and assemblage waterbird species covered by the WeBS Alerts analysis (Woodward et al. 2019). This benefits the ES and HRA as it highlights species likely to a) encounter site-specific pressures on their population currently and b) carry a restoration Conservation Objective for the protected site. This work is reported in the addendum to the ES and HRA (document reference 9.13) submitted at Deadline 1. [Woodward, I.D., Frost, T.M., Hammond, M.J., and Austin, G.E., 2019. Wetland Bird Survey Alerts 2016/2017: Changes in numbers of wintering waterbirds in the Constituent Countries of the United Kingdom, Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSIs) and Areas of Special Scientific interest (ASSIs). BTO Research Report 721. BTO, Thetford. Available at: [REDACTED]</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>All these sectors have the potential to experience disturbance from vessel movements, especially when an 800m buffer is applied (see Section 2c below on the need to consider disturbance out to at least this distance).</p>	
71	HRA	<p>We first raised concerns about the WeBS sector data in our response to the Preliminary Environmental Information Report in August 2019 (key text highlighted):</p> <p>“Bird distribution variability along the Haven. It appears that WeBS data have been used to determine potential impacts from the proposal. It does not appear from Figure 17.3 that any WeBS units cover the application area and therefore there does not appear to be an accurate assessment of species distribution along the Haven. Species will aggregate differently depending on habitat, prey availability and factors such as disturbance. Sufficient information must be presented to understand the importance of the intertidal habitat to be directly impacted by the proposal, as well as areas that will be exposed to increased disturbance around the planned wharf area. Greater information must be presented to demonstrate that the application site and its impact on adjacent intertidal areas will not adversely affect birds using the area and which are likely features of The Wash SPA. If data from the Boston Barrier works are being relied upon to fill in the WeBS data gaps the RSPB notes that the reports were written in 2014. The</p>	<p>The intertidal area alongside the proposed development site is not served by WeBS counting effort. However, it has received project-specific survey effort over two years (two full wintering and breeding seasons). Surveys covered survey section A of the Haven between British National Grid references TF 33863 42815 and TF 34245 42312, a distance of approximately 700 metres which included the proposed wharf construction area; and section B immediately downstream between TF 34245 42312 and TF 34659 41763, a distance of approximately 670 metres. The river width in sections A and B was 70-75 m and 70-80 m respectively. Wintering bird surveys comprised one high water and one low water visit per month, recording all bird species following the methodology of the BTO WeBS Core Counts (counting all birds present within a defined wetland area). Surveys lasted for three hours starting 1.5 hours before the high or low tide time and ending 1.5 hours after this tide time. In total 18 survey visits were completed over the two seasons. Breeding Bird Surveys (BBSs) were completed from April to June of 2020 and 2021. Surveys comprised one four-hour visit per month recording adult birds of all species following the methodology of the BTO Common Birds Census (CBC), mapping all adult birds using symbols to indicate observed breeding behaviours. The results of surveys covering the two year period are included and discussed in the ornithology addendum to the ES and HRA (document reference 9.13). The intertidal areas from the western boundary of The Wash SPA on the Haven to the mouth of the Haven are covered by WeBS sectors, the data for which have been acquisitioned and included in assessment. Surveys are scheduled for waterbirds and consistent high</p>

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		<p>latest CIEEM guidance highlights any data that is over three years old would require updating to inform decisions on any projects. We request clarity on the full suite of data that has been used to inform decisions about the project and confirmation that all data are not more than three years old. Irrespective of the age of the data, if no bird data is currently held for the area of intertidal habitat that will be directly impacted by the development the RSPB expects additional data to be collected in advance of a DCO application to ensure any decisions are based on up-to-date and appropriate evidence.</p> <p>We discussed this point at our meeting of 11 September 2019, yet we are still waiting for this wider assessment. We request confirmation on the exact sectors that data have been requested and when the analysis of these data will be available for comment by interested parties.</p>	<p>tide roosts along the intervening section of Haven in October 2021, with analysis to be reported by Examination Deadline 2.</p>
72	HRA	<p>Increases in large vessel movements will be significant but may also exacerbate any existing impacts from other activities that are already happening, making maintenance or restoration of the conservation objectives more difficult or impossible (see Section 21 below). A c.140% increase in large vessels (which appear to have the greatest disturbing effect; Table 1 below), as well as the unquantified increase in pilot vessels, will be significant and has the potential to adversely affect the integrity of The Wash SPA/Ramsar.</p>	<p>As concluded in the HRA (document reference 6.4.18, APP-111), a more recent analysis of the numbers of birds disturbed (in both absolute terms and in local-area and whole-Wash SPA contexts) indicates no adverse effect on the integrity of The Wash SPA/Ramsar/SSSI. Birds which leave the Haven on first disturbance have existing access to areas of off-Haven wetland in close proximity both inside and outside the boundaries of the RSPB reserves to the north and south. This is evident in the typical and peak counts of the same waterbird species in the analysed WeBS sectors which lie outside the nature reserves. Furthermore, the OLEMS (document reference 7.4) and ornithology addendum to Chapter 17 of the ES and HRA (document reference 9.13) respectively outline details of mitigation and</p>

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			<p>offset and net gain measures which include to re-use rocks and restore scrapes in existing marsh and create wetland within 1 to 2 km of the mouth of the Haven and the proposed development site. Movements of birds over this distance during the tide cycle in response to vessels is part of the baseline situation, therefore the Applicant does not consider facilitation of these movements to continue (and support of larger numbers of non-breeding waterbirds in previously unsuitable habitat) violates the Conservation Objective of maintaining the birds' distribution in the local area.</p>
73	HRA	<p>Surveys have highlighted that bird numbers using The Haven at the application site are greater than had been anticipated in conversations in 2019 due to a lack of knowledge of the area around the application site, hence the need for bird surveys to understand the importance and potential impacts. It was always indicated that there would be larger numbers of birds roosting and foraging at the mouth of The Haven. This was communicated to the Applicant when we met on 11 September 2019. We also communicated our concerns about data gaps and the need for further surveys in our letter dated 1 October 2020 (key point highlighted):</p> <p>“ 3. The observed impact of vessels on waterbirds roosting at the Haven mouth</p> <p>The RSPB is pleased that wintering bird surveys have been specifically conducted at the Haven mouth, as this is known to be an area where a high tide roost is present. We agree with the methodology that was used to conduct the surveys. However, the surveys do not capture the migration period in September or April. It therefore remains unclear how important the Haven is</p>	<p>Data was collected for the spring passage for birds for two years (2020/2021) and for one season for autumn passage (2021). These data have been circulated where available to the interested parties prior to submission to the Examination as part of the ES and HRA (document reference 9.13, 9.14 and 9.15) addendums submitted at Deadline 1.</p>

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		during the migration and early spring periods. This could potentially be important during poor weather and any late cold periods extending into the spring (e.g. as evidenced with the 'Beast from the east' in 2018). There are, therefore, gaps in the survey data." (Section 2, p.1)	
74	HRA	Additional surveys should have been undertaken to ensure two full survey seasons were completed.	The Applicant confirms that data has been collected over two full wintering bird seasons and two full breeding bird seasons, thereby covering and summarising two years of ornithological activity for these seasons. As detailed further in section 5 of the ornithology addendum to the ES and HRA (document reference 9.13), Wintering Bird Surveys (WBSs) have been completed at the proposed development site over two full winter seasons: from October to March of winter 2019/20, and January to March of winter 2020/21. Surveys comprised one high water and one low water visit per month, therefore a total of 18 survey visits were completed over the two seasons. Breeding Bird Surveys (BBSs) have also been completed over two full breeding seasons: from April to June of 2020 and 2021. In all, six visits were made across the two seasons. The BBSs covered the whole development site and the same sections of the Haven as in the wintering bird surveys. All BBSs were carried out around low water. Changes in Behaviour (CIB) observation sessions quantifying bird responses to vessel movements at the proposed development site were carried out on six dates in winter 2020/21 and summer 2021. At the mouth of the Haven, CIB observation sessions have been completed over two full winter seasons: from November to March of winter 2019/20, and January to March of winter 2020/21. Although no species is designated as a feature of The Wash SPA as a passage population, CIB observation sessions were also completed in May to July 2021 to quantify response to vessel traffic of waterbirds present during spring passage and the breeding season.
75	HRA	The RSPB notes that additional surveys will be carried out until June 2021. Unfortunately, there	The Applicant notes that while the majority of waterbird species designated as features of the protected areas are designated as non-

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		<p>will not be two full seasons of data, as no surveys will have been carried out during autumn and early winter 2020. This will mean that the autumn passage period will not have been surveyed. It is also important to note that whilst colder months will have been surveyed, this is not the same as severe winter weather which has a specific definition and triggers voluntary restraints under the Wildlife and Countryside Act 1981 (as amended) (see https://jncc.gov.uk/our-work/severe-weather-scheme/). The full use of The Haven during severe winter weather therefore remains unknown and a precautionary approach must be adopted. This needs to be made clear within the Environmental Statement and HRA for clarity.</p>	<p>breeding populations, no species is named as a passage population. The Applicant considers that while passage periods may be the predominant period spent on The Wash SPA per year for individuals, they are unlikely to be key periods for the entire Wash or local populations of the species concerned, and therefore winter survey coverage is expected to be sufficient for detecting presence and observing behavioural responses to vessel movements of designated waterbirds. Two full breeding seasons and wintering seasons have therefore been covered by site- and project-specific surveys, as detailed in the ornithology addendum to Chapter 17 of the ES and HRA (document reference 9.13).</p>
76	HRA	<p>The RSPB is pleased that 200m and 300m buffers have been placed around the shipping lane to try and understand where displacement may occur. We note, however, that displacement of up to 800m has been recorded during surveys at the mouth of The Haven (Figure 1; Appendix 3) and, therefore, recommend that an 800m buffer be shown to represent the maximum displacement that has been shown to occur from current large vessel movements. This is supported by the survey data, as set out in Figure 1. Our map in Appendix 2 shows an 800m buffer around the shipping channel and demonstrates the potential area and number of WeBS sectors that could be impacted along The Haven. We also discuss this point in Section 2k below.</p>	<p>With the exception of Freiston 30, which was last surveyed in the 2009/10 WeBS year and is therefore of limited relevance to analysis, data from all WeBS sectors within 800 m of the Haven listed in the relevant response have been acquisitioned in full from the BTO (all species, all visits over five most recent years). These have been used to generate a baseline dataset for understanding aspects such as the rate of occurrence and the importance of each WeBS sector to key waterbird species in a whole-Wash SPA context. The species recorded, their rates of occurrence (proportion of visits), mean counts and peak counts at each WeBS sector are reported in Appendix 1 of the ornithology addendum to the ES and HRA (document reference 9.13). The importance of the Haven, and of the mouth of the Haven at Tabs Head, to SPA feature species plus northern lapwing and European golden plover as key SPA waterbird assemblage species, is quantified in a Wash SPA context in tables 1-3 of Appendix 4 of the addendum to the ES and HRA.</p>

Number	Topic	Relevant Representation	AUBP Response
77	HRA	<p>It is also possible that birds will be displaced along the entirety of The Haven, hence the proposed extension of the 800m buffer up to the application site in Appendix 2. There are no data available on this issue to understand the number of birds that could be impacted. We raised the need to consider disturbance along the whole of The Haven in our letter dated 1 October 2020 (key points highlighted):</p> <p>"The assessment also needs to extend along the entire length of the river up to the development site to understand disturbance and potential displacement for waterbirds, notably redshank. This extension of the assessment area is important given that high tide has been shown to support the highest concentrations of birds and the importance of the site could be increased during cold winters (for which no data is currently available for comparison)." (Section 4, p.4).</p>	<p>The Applicant confirms that data has been collected and analysed at both broad (mouth of the Haven) and narrow (proposed development site) sections of the Haven that demonstrate how disturbance to foraging or roosting birds from vessel movements (whether this is visual disturbance from presence or physical disturbance through producing a wake) is attributed to the different types of vessels using the Haven at the different channel widths involved (redrawn RSPB tables in section 6 of the ornithology addendum to the ES and HRA (document reference 9.13)). The most likely mechanism for this relationship is the increased proximity of foraging or roosting birds to the waterway at narrower sections, such as at the proposed development site. From this, sources and rates of disturbance are predicted to be appropriate to apply to the intervening length of the Haven which, being historically intensively managed, is similar width to the sections at the proposed development site.</p>
78	HRA	<p>We recommend strongly that additional work is undertaken to inform disturbance along the entire Haven channel. This will be necessary to inform the scale of mitigation and compensation measures that will be required.</p>	<p>The Applicant confirms that data has been collected and analysed at both broad (mouth of the Haven) and narrow (proposed development site) sections of the Haven that demonstrate how disturbance to foraging or roosting birds from vessel movements (whether this is visual disturbance from presence or physical disturbance through producing a wake) is attributed to the different types of vessels using the Haven at the different channel widths involved (redrawn RSPB tables in section 6 of the ornithology addendum to the ES and HRA (document reference 9.13)). The most likely mechanism for this relationship is the increased proximity of foraging or roosting birds to the waterway at narrower sections, such as at the proposed development site. From this, sources and rates of disturbance are predicted to be appropriate to apply to the intervening length of the Haven which, being historically intensively</p>

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			managed, is similar width to the sections at the proposed development site.
79	HRA	The RSPB appreciates the extra detail on shipping movements detailed in the navigation chapter of the Environmental Statement (provided 5 March 2021). Having looked at the disturbance incidents in more detail it appears that the pilot vessels had a visual impact on birds (80% of reported incidents; see Table 1), as well as also having impact from the wash that they created (40% of reported incidents; see Table 1). Whilst the number of observed disturbance events represents a small sample size (17 movements), activity associated with commercial shipping (large vessels and pilot vessels) accounted for c.82% of disturbance from all vessels. This demonstrates the importance of robustly assessing the combined impact from all new and additional vessel activity associated with the proposed facility.	The Applicant acknowledges the RSPB's presentation of an alternative tabulation for vessel disturbance data from the Changes In Behaviour [sic] reports (Table 1 of Appendix 2, RR-024). In response to the request for a) robust assessment and b) incorporation of data from more recent seasons of bird behavioural observations, the ornithology addendum to the ES and HRA (document reference 9.13) provides an updated breakdown of vessel type causes of bird disturbance and behavioural change. Some results from this analysis have already been presented in meetings held with the RSPB.
80	HRA	The RSPB notes the information on the variation in vessel numbers and accepts that the 420 vessels proposed as a baseline does seem suitable.	The Applicant notes this.
81	HRA	Whilst the number of vessels is based on available data from the Port of Boston, it does not appear that similar data have been used to inform how the additional vessel movements would impact on The Haven. Whilst it is noted that there is a potential "3.5 hour window during Spring tides" and that it takes "approximately 60 minutes to transit The Haven" this does not appear to have led to any precise modelling to accurately show time	In response to the request for a) more detailed assessment and b) incorporation of data from more recent seasons of bird behavioural observations, the Applicant is providing an ornithology addendum to the ES and HRA (document reference 9.13) which uses the data quoted in the relevant representation (in particular to refine a worst-case scenario of vessel movement patterns) to address the question of how the projected increase in i) high tides utilised by commercial vessels and ii) commercial vessel movements per tide translates on a more quantitative basis into number of disturbances and numbers of birds

Number	Topic	Relevant Representation	AUBP Response
		intervals between movements nor how the proposed increase in vessels would affect the current activity patterns. Given that vessel movements will increase on average from two to five vessels per available tide it is not clear that this can be taken to mean any extra vessels will only enter or leave The Haven within a 45-60 minute window. The additional movements will need to be staggered and account for a range of vessels entering and leaving The Haven. Greater and more detailed information is required to demonstrate how vessels would use The Haven throughout a full tidal cycle to enable robust conclusions on the impact on The Wash SPA/Ramsar site to be made.	involved; incorporating the potential pattern of decreasing rates of disturbance, or 'availability' to be disturbed, with successive vessel movements within a high tide period.
82	HRA	We have reviewed the Navigation chapter (provided 5 March 2021) and appreciate the additional detail that it provides, notably that up to three vessels would be using the wharf concurrently.	The Applicant notes this.
83	HRA	There is, however, no mention of smaller vessels being needed at the wharf area. Will there be a need for pilot, tender or other vessels to be in the area to accompany the shipping leaving the wharf or coming into berth? If so, where will they be and how might they affect the area used by redshank for foraging and roosting?	After completion of the proposed wharf, taxis could be used to transport pilots from Port of Boston to the Facility by road to board vessels leaving the wharf, as using the pilot cutters to transport pilots between the Port and Facility may be inefficient or incapable of meeting time demands.
84	HRA	The Navigation chapter (paragraph 18.7.90) highlights that up to three vessels could dock at the facility on each tide. Based on the information about vessels turning, it would appear the worst-case scenario would be that all three turn in the river channel, which could result in a 30-45 minute	The means by which vessel traffic moves to and from the Port of Boston means that vessels are not able to be stacked up along the Haven. For much of its length it operates as a one-way channel for the larger vessels (e.g. excluding passing of fishing and other smaller vessels), and there is only one place (intersection with Hobhole Drain) on The Haven where larger vessels can pass. The Port of Boston

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		<p>delay for other marine traffic using The Haven. This suggests that there could be a resultant stacking up of vessels along the Haven. The impact of this happening does not appear to have been assessed in the HRA and needs to be assessed. This could have implications for foraging and roosting birds along the entire length of The Haven, as well as the potential effectiveness of any mitigation and/or compensation measures proposed to be implemented along The Haven. Please refer to Section 2I below with respect the need to consider this issue against the conservation objectives for The Wash SPA and, in particular, the ability to meet restoration objectives.</p>	<p>times vessels arriving and departing to coincide with passing at this location. Therefore, vessels waiting to travel up The Haven wait in the Wash until instructed to move upstream. There is a requirement for careful timing to ensure that all vessels can get in and out within the tidal window.</p>
85	HRA	<p>Whilst additional information is provided in the HRA Supplementary Data note on the January and February 2021 surveys, these do not constitute a second full winter's worth of surveys (Section 2b above). The full data have not been made available to us and therefore it is not possible to directly compare with the previous data collected in 2019/20. No conclusions can be drawn from this additional information until the full context of what was observed can be reviewed.</p>	<p>The Applicant confirms that data has been collected over two full wintering bird seasons and two full breeding bird seasons, thereby covering and summarising two years of ornithological activity for these seasons. As detailed further in section 5 of the ornithology addendum to the ES and HRA (document reference 9.13), Wintering Bird Surveys (WBSs) have been completed at the proposed development site over two full winter seasons: from October to March of winter 2019/20, and January to March of winter 2020/21. Surveys comprised one high water and one low water visit per month, therefore a total of 18 survey visits were completed over the two seasons. Breeding Bird Surveys (BBSs) have also been completed over two full breeding seasons: from April to June of 2020 and 2021. In all, six visits were made across the two seasons. The BBSs covered the whole development site and the same sections of the Haven as in the wintering bird surveys. All BBSs were carried out around low water. Changes in Behaviour (CIB) observation sessions quantifying bird responses to vessel movements at the proposed development site were carried out on six dates in winter 2020/21 and summer 2021. At the mouth of the Haven, CIB</p>

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			observation sessions have been completed over two full winter seasons: from November to March of winter 2019/20, and January to March of winter 2020/21. Although no species is designated as a feature of The Wash SPA as a passage population, CIB observation sessions were also completed in May to July 2021 to quantify response to vessel traffic of waterbirds present during passage and the breeding season.
86	HRA	<p>Table 2: Breakdown of the number of occasions that disturbance events resulted in 1% of The Wash SPA features or waterbird assemblage being impacted. Taken from 'Changes in Water Bird Behaviour Due to River Traffic at the Mouth of The Haven, Boston, Lincolnshire' Report (2020). Additional data have been included for January and February 2021 from the HRA Supplementary Data but are incomplete as the full report has not yet been made available.</p> <p>[Note – Table 2 is not reproduced in this document].</p>	The Applicant has completed analyses of the full two years of vessel and bird behaviour data collected at the mouth of the Haven and reported in the Changes In Waterbird Behavior [sic] documents. (The Applicant has circulated these reports among interested parties so they may see the original survey observations.) The data and analysis are included in Appendix A 3.2 and Appendix 4 of the addendum to the ES and HRA (document reference 9.13). The analyses draw on the WeBS analysis results which quantified importance of the Haven local area and mouth of the Haven in a Wash SPA context for designated waterbird species, and the percentages of a) local and b) Wash SPA 5-year average peak populations involved in average and peak disturbance counts of each species. The analysis therefore captures and properly considers observations highlighted in Appendix 2, Table 2 of the relevant representation.
87	HRA	Table 2 above demonstrates that in all months there are significant proportions of The Wash SPA/Ramsar bird populations using the mouth of The Haven. Numbers build through the autumn passage period, peak in the middle of winter and then decline in late winter. Some species were observed to be impacted on several occasions, with lapwing the most affected species having been impacted on all surveys, with 89% of events involving greater than 1% of The Wash SPA population. The fact that disturbance impacted $\geq 1\%$ of The Wash SPA species in all months is	Refer to RR-024-86 above.

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		significant. The HRA Supplementary Data note highlights that there appeared to be fewer birds in the 2021 winter surveys, but these still recorded species being impacted (dark-bellied brent geese and lapwing) in numbers $\geq 1\%$ of The Wash SPA populations. This highlights the importance of this area of The Wash SPA/Ramsar site for waterbirds and reflects the fact that significant numbers of birds occur year- round on The Wash.	
88	HRA	Whilst it is noted that there appeared to be fewer birds present compared to the previous winter surveys there is no analysis to try and understand why this might be. For example, were conditions milder? Were there other disturbances causing birds to avoid the area? Had birds distributed differently, and can this be identified from data across The Wash? Simply stating that the additional "...results so far do not provide concern for any further effects..." is insufficient to address the concern that roosting birds will be significantly impacted by the additional large vessel and pilot boat movements.	The Applicant notes that count totals of waterbirds during project-specific surveys in winter do not correlate with monthly minimum or maximum temperatures, or days of air frost, from historic weather station data from Waddington (Met Office 2021), suggesting that weather is not a factor in number of birds available for disturbance. The Applicant anticipates a similar lack of correlation with daily weather data when this is sourced. [Met Office, 2021. Historic Station Data. Available at: [REDACTED]
89	HRA	Table 3 below (reproduced from Table 1 of the HRA Supplementary Data note) reports all the data on the redshank roost near the application site up to February 2021. We agree that birds are using both survey areas and that there is interchange between areas. Given this, we have added a combined column to reflect full use of the entire survey area. Of the 8 months of surveys reported, 5 months (71% of surveys) have recorded redshank in	The Applicant accepts the analytical treatment of survey Sections A and B as a combined area for generating peak counts of waterbirds, and this has also been ensured in reporting the results of project-specific survey data in the addendum to Chapter 17 of the ES and HRA (document reference 9.13), for the sake of transparency. However the Applicant also draws attention to the disproportionate importance of Section B, further downstream from the proposed development site. This is beneficial to mitigation design as the roost in this section typically holds the majority of redshank and expansion of the roosting substrate in this section is expected to be able to support much of the all-survey peak number of redshank across both sections. The

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		<p>numbers exceeding 1% of The Wash population at high tide (7 months when data are combined or 87.5% of surveys). These limited data clearly highlight the importance of the area for roosting redshank.</p> <p>Whilst numbers are less at low tide (as birds spread out to forage), 37.5% of low tide surveys exceeded the 1% threshold when Area counts were combined, with an additional 25% only just below the threshold. Given that this is a limited data set, the fact that such a high proportion of the observations exceeded the 1% threshold is significant and demonstrates the importance of the survey areas to redshank linked to The Wash SPA/Ramsar site.</p>	<p>Applicant reiterates that the most recent plans for habitat offsets include building into the design measures for roosting and foraging redshank within 1 to 2 km of the site.</p>
90	HRA	<p>With respect to these figures, it should be noted that the Supplementary Conservation Advice for The Wash SPA identifies that the redshank population should be maintained at >4,331 birds, but that the population had declined by 39% to 2,641 birds. A restoration objective for the redshank population of The Wash SPA has a restoration objective. Based on these figures, even a count of as little as 27 redshanks would equate to 1% of the population that is being recovered. The maintenance of the redshank population in this area is therefore essential to achieve the restoration of The Wash SPA redshank population. This needs to be clearly addressed in the HRA.</p>	<p>The Applicant acknowledges the cited figure of 4331 birds from the original SPA citation by Natural England, but also that this population count is from the infancy of the SPA and that monitoring of The Wash SPA waterbirds increasingly refers to BTO WeBS data such as the five-year average WeBS annual peak count and WeBS Alerts (Woodward et al. 2019). The Applicant also draws attention to the current absence of any 'WeBS Alert' regarding the Wash WeBS population trend for redshank (Woodward et al. 2019). The significance of this is that there is no indication that redshank trends in the Wash differ from those at broader spatial scales, therefore site-specific pressures or indeed measures are not indicated to be key drivers of the regional or local redshank population. [Woodward, I.D., Frost, T.M., Hammond, M.J., and Austin, G.E., 2019. Wetland Bird Survey Alerts 2016/2017: Changes in numbers of wintering waterbirds in the Constituent Countries of the United Kingdom, Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSIs) and Areas of Special Scientific interest (ASSIs). BTO Research Report 721. BTO, Thetford.</p>

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			Available at: [REDACTED] [REDACTED]
91	HRA	Given the presence of such significant numbers of redshank linked to The Wash SPA/Ramsar site, any measures taken to address impacts must be considered mitigation and not 'enhancement' as indicated. To provide an alternative redshank roost it is proposed that the rock armour currently in place where the wharf will be constructed could be relocated downstream to enhance the roosting potential closer to Slippery Gowt Pits. It is also proposed that the saltmarsh area adjacent to where the boulders would be relocated could have pools created to provide some additional foraging habitat. If the proposed increase in boulders could be implemented this has the potential to replace the roost in a suitable location. However, as any boulders located on site will impact the flood defences for The Haven, the Environment Agency will need to be consulted to determine if this is viable. Whilst creation of pools within the saltmarsh might provide some benefits the creation of a few pools will not adequately mitigate for the complete loss of feeding habitat. This measure would also involve digging out scrapes within saltmarsh which is a priority habitat. This loss would have to be included in the overall habitat that will need to be compensated.	The Applicant confirms that the measures outlined and recommended in the relevant representation are part of the planned management measures and are considered mitigation not enhancement (reported further in the updated OLEMS to be submitted at Deadline 2).
92	HRA	The alternative roost will also only be effective if: a) The noise from piling during construction has appropriate mitigation and/or compensation applied to ensure that suitable alternative roosting is available during both construction and operation	There is mitigation proposed for noise levels during construction within the ES Chapter 17 (document reference 6.2.17, APP-055). This incorporates adaptive management to ensure no significant impacts on birds using the area. Particularly noisy activities, i.e. piling, has been restricted to periods that avoid overwintering birds.

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		<p>of the facility. The noise assessments indicate that there could be an effect on a significant proportion of the proposed redshank roost mitigation area. This will need to be in place prior to construction starting. More information is therefore required to determine if additional measures will be needed to compensate the high tide roost if it is at risk of disturbance during the construction period.</p> <p>b) The proposed mitigation area is suitably protected from current levels of disturbance. This will require fencing to keep people and dogs off. Suitable signage will also need to be considered. Management and maintenance in perpetuity would need to be secured.</p> <p>c) Any impacts that might arise from the England Coast Path improving access to the area can be effectively managed to ensure any proposed mitigation would not be compromised.</p>	
93	HRA	<p>These issues need to be agreed pre-consent, and prior to the start of the DCO examination, as there needs to be confidence that any mitigation and compensation measures can be secured, created and maintained to support the features that will be affected in perpetuity. Significantly more detailed information needs to be presented to demonstrate that the proposed mitigation measures are viable and can be delivered at a suitable scale to ensure adverse effects on the redshank roost, as well as adjacent feeding areas, will be avoided. We provided guidance on a set of criteria for identifying mitigation in our letter dated 1 October 2020, but which are also appropriate for developing compensation measures. This should</p>	<p>Habitat mitigation, offsets and compensation measures will be discussed in more detail within the updated OLEMS and the 'without prejudice' Habitats Directive Derogation Case which will both be submitted to the Examination at Deadline 2. This will also include for a calculation of the amount of habitat required for creation/restoration. The discussion will also include for determining the functionality of the habitat created its distance from the feature that it is providing for and its sustainability.</p>

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		<p>have enabled a suitable framework for developing both mitigation and compensation packages to be identified and discussed with interested parties. These remain appropriate and link to various comments made through section 2 of this letter and are therefore repeated below:</p> <p>“Having discussed the species of concern and based on our experience of the species identified and our engagement with large infrastructure projects, we consider the following criteria will need to be considered in order to develop appropriate mitigation proposals:</p> <ul style="list-style-type: none"> • The creation of habitat should be greater than the amount lost. The adopted ratio will need to be based on best practice from similar projects. • Habitat created will need to be comparable in quality to that lost, principally, intertidal habitat for use by roosting and feeding waterbirds. • Replacement habitat should be located as close to the current site as possible. • Replacement habitat should be sited where it will be secured and managed in perpetuity. • Factors such as predation, food availability and disturbance should be considered when assessing possible replacement habitat sites. • Replacement habitat should be in place and ideally functioning before, or at least, simultaneously to, the construction phase. • Biodiversity enhancement measures should be applied to maximise the environmental 	

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		benefits that would be derived from the project.” (Section 5, pp.4-5)	
94	HRA	The HRA Supplementary Data note states that smaller vessels have been causing disturbance. This appears to relate primarily to the pilot vessels which accompany the larger vessels (Table 1; Appendix 3). The available data indicate that fishing vessels do not appear to cause disturbance to birds at the mouth of The Haven (Table 1; Appendix 3). Recreation vessels may cause disturbance, but only a single recreational vessel (observed as it entered The Wash and then returned along the Welland channel) was noted in the surveys (Table 1; Appendix 3). The increase in both large vessels and pilot vessels (the type of vessels that cause the most disturbance) need to be accurately reflected in assessments, including their combined impact. This is essential given that 100% of all navigable tides are proposed to be used when the facility is operational.	The Applicant acknowledges the RSPB's presentation of an alternative tabulation for vessel disturbance data from the Changes In Behavior (sic) reports (Table 1 of Appendix 2, RR-024). In response to the request for a) robust assessment and b) incorporation of data from more recent seasons of bird behavioural observations, the ornithology addendum to the ES and HRA (document reference 9.13) provides an updated breakdown of vessel type causes of bird disturbance and behavioural change. Some results from this analysis have already been presented during meetings with the RSPB.
95	HRA	It is not clear why a worst-case scenario of 150-200m is being used to assess displacement effects. Figure 1 shows how birds responded to disturbance events during the November 2019 to March 2020 surveys. Foraging birds moved between 10-300m. Roosting birds moved between 100-800m, with 42% of disturbance events resulting in birds moving at least the full 800m and 62% of disturbance events resulting in birds moving between 500-800m. It should be noted that it is not clear if birds could have potentially moved a greater distance than 800m, but that	The Applicant clarifies that 800 m has been held throughout assessments as the maximum displacement distance, and that the quoted 150 to 200 m relates to distances of stimuli from birds at which an energetically costly reaction is first observed in waterbirds - typically flight, hence reference to the distance as flight initiation distance by some authors (FID). The Applicant confirms that in original source reports on bird disturbance, birds reported as lost from view should be assumed to have flown too far to accurately measure distance.

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		observations of greater distances being moved could not be recorded due to e.g. line of sight. This should be clarified.	
96	HRA	The surveys also reported birds loafing or feeding on the water, and these were displaced between 150-750m (63% of disturbance events resulted in movements between 400-750m). Whilst the results are based on a limited sample size, these data do demonstrate that birds are being displaced greater than 150-200m from the shipping line. Therefore, on a precautionary basis the RSPB strongly recommends that an assessment of the impact of disturbance should be conducted at 400-800m based on the available data. Among other things, this would require the analysis of data for the WeBS sectors shown in red in the map in Appendix 2 and listed in the table in the same appendix.	With the exception of Freiston 30, which was last surveyed in the 2009/10 WeBS year and is therefore of limited relevance to analysis, data from all WeBS sectors within 800 m of the Haven listed in the relevant response have been acquisitioned in full from the BTO (all species, all visits over five most recent years). These have been used to generate a baseline dataset for understanding aspects such as the rate of occurrence and the importance of each WeBS sector to key waterbird species in a whole-Wash SPA context. The species recorded, their rates of occurrence (proportion of visits), mean counts and peak counts at each WeBS sector are reported in Appendix 1 of the ornithology addendum to the ES and HRA (document reference 9.13). The importance of the Haven, and of the mouth of the Haven at Tabs Head, to SPA feature species plus northern lapwing and European golden plover as key SPA waterbird assemblage species, is quantified in a Wash SPA context in Tables 1-3 of Appendix 4 of the addendum to the ES and HRA.
97	HRA	Comparison is made of vessel movements from 100 years ago and that "...it would seem reasonable to assume that the disturbance to birds at the mouth of The Haven is not having an overall effect on distribution and numbers of birds in the SPA." Such a statement is subjective and needs to be assessed objectively. The overall trend in bird numbers needs to be set out. Some species appear to have declined over time (The Wash Bird Decline Investigation, 2014/17) and these declines will need to be reviewed to determine if disturbance from vessels may be a factor. The assessment also needs to consider the foraging opportunity that is provided at the mouth	WeBS Online Reporting has been consulted to identify the presence or absence of WeBS Alerts for all The Wash SPA feature and assemblage waterbird species covered by the WeBS Alerts analysis (Woodward et al. 2019). This benefits the ES and HRA as it highlights species likely to a) encounter site-specific pressures on their population currently and b) carry a restoration Conservation Objective for the protected site. This work is reported in the ornithology addendum to the ES and HRA (document reference 9.13) submitted to the Examination at Deadline 1. [Woodward, I.D., Frost, T.M., Hammond, M.J., and Austin, G.E., 2019. Wetland Bird Survey Alerts 2016/2017: Changes in numbers of wintering waterbirds in the Constituent Countries of the United Kingdom, Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSIs) and Areas of Special Scientific interest (ASSIs). BTO Research Report 721. BTO, Thetford. Available at:

Number	Topic	Relevant Representation	AUBP Response
		of The Haven and whether displacement is forcing birds into less optimum areas.	[REDACTED]
98	HRA	<p>There is no assessment to show how prey availability may differ across the area. Whilst the Marine Conservation Advice Package for The Wash SPA18 is currently being reviewed and may be subject to change, the following objectives from the Supplementary Conservation Advice for The Wash SPA19 are directly applicable to these issues:</p> <ul style="list-style-type: none"> • Maintain safe passage between roosting and feeding areas: turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. • Reduce disturbance: waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. • Maintain extent and distribution of supporting habitat for moulting, roosting, loafing and feeding: waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. • Maintain supporting habitat: feeding: dark-bellied brent goose, wigeon. • Maintain supporting habitat: roosting: waterbird assemblage, turnstone, oystercatcher, grey plover, knot, black-tailed 	<p>The Applicant considers the availability of prey in the tidal reaches of a managed river channel system to be too dynamic to meaningfully map, and notes that, in likely relation to this, the density of foraging redshank during project-specific counts at low tide is highly variable. The Applicant maintains that information on invertebrate-feeding and fish-eating numbers are a suitable baseline and indicator for use in assessment of potential project-specific impacts on waterbirds in the ES, HRA and the ornithology addendum to these documents (document reference 9.13).</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>godwit, bar-tailed godwit, dunlin, redshank, curlew.</p> <ul style="list-style-type: none"> Maintain prey availability: shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew. <p>This is not necessarily a complete list. A complete list of objectives will need to be confirmed with Natural England.</p>	
99	HRA	<p>Where SPA features have declined and are not achieving favourable conservation status, then it is important to recognise that there will be a restore objective for this feature. For example, this is the case for redshank around The Wash, with impacts on wintering birds affecting resident birds that would remain to breed. Anything that impacts overwintering survival for this species could therefore compromise the ability to restore the feature²⁰. Having reviewed the Supplementary Conservation Advice for The Wash SPA there are also restore objectives for turnstone, shelduck, oystercatcher and dunlin; all of which were species recorded being disturbed at the mouth of The Haven.</p> <p>We recommend confirming with Natural England the relevant conservation objectives and supplementary conservation advice for The Wash SPA and The Wash & North Norfolk Coast SAC that apply to the DCO application. A HRA update will then be required to ensure that all relevant Conservation Objectives and Supplementary</p>	<p>The Applicant confirms that an addendum to the ES and HRA (document reference 9.13) has been prepared which makes use of the full complement of additional data collected in response to prior stakeholder comments. The addendum has been submitted at Deadline 1.</p>

Number	Topic	Relevant Representation	AUBP Response
		Conservation Advice have been robustly assessed.	
100	HRA	<p>There is a significant level of assumption applied in the HRA Supplementary Data note.</p> <p>For example, the note states that “It seems likely that the birds use the areas at all other states of the tide and use alternative nearby roosting sites during the periods when the larger vessels transit through The Haven.” There is no evidence to justify this statement. No attempt has been made to document bird usage of the wider area to quantify and then qualify how and why birds are using specific areas around the mouth of The Haven and along The Haven to the application site. There has been no information provided to understand, for example, if some areas are better feeding areas than others. Whilst alternative roosting areas have been stated as being available, these have not been documented or supported by information to suggest that they are not sub-optimal. Evidence is required to support the stated assumptions, otherwise they should be discounted.</p>	<p>The Applicant highlights that birds which leave the Haven on first disturbance have existing access to areas of off-Haven wetland in close proximity both inside and outside the boundaries of the RSPB reserves to the north and south. This is evident in the typical and peak counts of the same waterbird species in the analysed WeBS sectors which lie outside the nature reserves, and observations during project-specific surveys of birds entering saltmarsh and fields within these WeBS sectors during high water. Movements of birds to these locations during the tide cycle in response to vessels is demonstrably part of the baseline situation.</p>
101	HRA	<p>We have reviewed the Navigation chapter and appreciate the additional detail that it provides on the baseline vessel movements. There do remain, however, some concerns about the breakdown of the vessel data and how this information is presented in the HRA.</p>	<p>The Applicant acknowledges the RSPB's presentation of alternative tabulations for vessel disturbance data from the Changes In Behavior [sic] reports (Tables 1,2 and 4 of Appendix 2, RR-024). In response to the request for a) robust assessment and b) incorporation of data from more recent seasons of bird behavioural observations, the ornithology addendum to the ES and HRA (document reference 9.13) provides an updated breakdown of vessel type causes of bird disturbance and behavioural change, and numbers of birds disturbed by successive</p>

Number	Topic	Relevant Representation	AUBP Response
			vessel movements. Some results from this analysis have already been presented during meetings with the RSPB.
102	HRA	It is noted that there will be 89 additional ships using The Haven during construction (over 24 months) and 580 ships annually during operation. There continues to, however, be limited acknowledgement of the increase in pilot vessel movements that would add to the overall impact in the area. Whilst the large vessels created the most disturbance (Table 1), the pilot vessels presence and wash also caused disturbance (Table 1), thus adding to the overall impact.	The Applicant confirms that the ornithology addendum to the ES and HRA (document reference 9.13) utilises the full complement of vessel movement and bird behavioural data, and specific information on pilot cutter activity per tide from the Port of Boston, to complete necessary assessment of impacts by vessel type and number to bird populations at the proposed development site and the mouth of the Haven.
103	HRA	Paragraph A17.69 of the HRA states that the overall increase in vessels will be small compared to the total vessel movements. This does not consider that the increase at the mouth and along The Haven is a c.140% increase in large vessels which are identified as being the most disturbing to birds. There is also an increase from 75% to 100% of all navigable tides for the larger vessels to use The Haven channel and its approach. This change in level of use by these larger vessels must be properly reflected in the HRA and associated Environmental Statement chapters to which it relates.	The Applicant draws attention to paragraph 17.8.155 of the ES (document reference 6.2.17, APP-055) wherein the increase in vessels is referred to as a "significant increase for the Haven area."
104	HRA	Whilst it is suggested that this is only a relatively small increase in vessel movements in The Wash (5.8%) this appears based on the stated total of 11,000 vessels. However, this fails to consider the specific level of vessel movements in the approaches to The Haven, as a failure to do so will dilute any impacts and significantly underestimate the scale of change that 580	The assessment of vessel numbers was undertaken at a number of levels to reflect the different areas within the ES Chapter 17 (document reference 6.2.17, APP-055). These were the wider Wash, the approach to The Haven and within The Haven where large vessel numbers were used as detailed by the Port of Boston. This takes account of the actual number of vessels that would have an impact from the proposals within The Haven and the mouth of The Haven.

Number	Topic	Relevant Representation	AUBP Response
		<p>additional large vessels and additional supporting pilot vessels will have on this highly important area of The Wash. The map shown in Appendix 2 highlights the key area for which assessments about changes in vessel movements must be applied rather than the whole of The Wash i.e. the area covering The Haven and the confluence with the Welland channel. We recommend that in respect of The Wash SPA/Ramsar, the key area of concern should reach no further than an alignment with the north-east boundary of our Freiston Shore reserve or the area used by vessels waiting for suitable tides to access The Haven. This should be agreed with all interested parties.</p>	
105	HRA	<p>There is also not a more detailed breakdown of the movements to determine what proportion of these vessels are smaller craft that have smaller impacts and how many are larger vessels that are known to cause the greatest disturbance (Table 1). The overall increase in numbers of vessels needs to be set in the appropriate context. For example, if larger vessels only constituted 4,000 of the 11,000 vessel movements, there would be an actual increase of 14.5% of the most damaging vessels. This is before additional pilot boat movements are considered. The effect of fishing and recreation craft would remain unchanged. Therefore, the impact on disturbance levels cannot be described as insignificant.</p>	<p>This information has been provided in the ES and HRA ornithology addendum submitted (document reference 9.13) to the Examination at Deadline 1, with respect to the numbers of different vessels causing disturbance during survey work. Data on vessels using The Haven is provided within the ES Chapter 18 (Navigational Issues) (document reference 6.2.18, APP-056).</p>
106	HRA	<p>It is worrying that the increase in vessel movements is based on “anecdotal evidence”. A c.140% increase in large vessel movement would</p>	<p>The Applicant confirms that the ornithology addendum to the ES and HRA (document reference 9.13) utilises the full complement of vessel movement and bird behavioural data, and specific information on pilot</p>

Number	Topic	Relevant Representation	AUBP Response
		be significant (an annual additional 1160 separate movements up and down The Haven). It is also critical to include the additional pilot vessel movements that would also be occurring (we are assuming that these would add a further 1160 pilot vessel movements to the baseline). The combined effect of this increase would be significant, especially as it is proposed that all navigable tides would be used. This point was made in our letter dated 1 October 2020 (see Section 2b above) that provided our comments on the bird survey reports and the need for mitigation.	cutter activity per tide from the Port of Boston, to complete necessary assessment of impacts by vessel type and number to bird populations at the proposed development site and the mouth of the Haven.
107	HRA	To ensure an accurate understanding of vessel movements and how these will change if the facility were constructed it is essential that the actual vessel movements in The Haven are obtained and modelled to understand what this will also mean for intervals between vessel movements.	Actual vessel numbers were obtained and are shown in the ES Chapter 18 (Navigational Issues) (document reference 6.2.18, APP-056). Additional data was also obtained from the Department for Transport data showing past numbers of vessels. These numbers have been included in the ES/HRA ornithology addendum (document reference 9.13) submitted to the Examination at Deadline 1. Further work in relation to vessel numbers (including historical numbers) will be provided to the Examination in a Navigational Risk Assessment.
108	HRA	Table 4 below seeks to analyse the different vessel movements and their respective contribution to disturbance events. Whilst only a small sample of multiple disturbance events (a total of seven), these indicate: <ul style="list-style-type: none"> No clear pattern of time intervals between vessel movements, with a range of 5-118 minutes between successive movements. Where birds were disturbed by the first movement, birds were also disturbed on the second movement 71% of the time. 	The Applicant acknowledges the RSPB's presentation of an alternative tabulation for vessel disturbance data from the Changes In Behaviour [sic] reports, which demonstrates disturbance responses to successive vessel movements (Table 4 of Appendix 2, RR-024). In response to the request for a) more detailed assessment and b) incorporation of data from more recent seasons of bird behavioural observations, the addendum to the ES and HRA (document reference 9.13) will address the question of how the projected increase in i) high tides utilised by commercial vessels and ii) commercial vessel movements per tide translates on a more quantitative basis into number of disturbances and numbers of birds involved; incorporating the potential pattern of decreasing rates of disturbance, or 'availability' to be disturbed, with successive vessel movements within a high tide period.

Number	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> Whilst the majority of first disturbance events affected higher numbers of birds (71%), there was one occasion where more birds were disturbed by the second vessel and one occasion where the number of birds displaced during the second event where equivalent to the number of birds recorded on the first event. 	
109	HRA	Based on the limited data, it would prove impossible to draw any significant conclusions on the impact successive disturbance events are having on birds at the mouth of The Haven and a precautionary approach must be adopted in any analyses. It does appear that vessel movements are not regular and would not allow for species to habituate as might be expected with routine patterns of activity. There is a trend towards birds being displaced by successive disturbance events, but there are occasions where birds displaced are equivalent or greater than on the first event (29% of events). Given the limited data available on which to base conclusions this further highlights that any conclusions being drawn on the impacts of increased shipping must be suitably precautionary. This is especially important in light of the lack of data for the 2020 autumn passage and the overall small sample size.	The Applicant confirms that the analysis referred to in response to the previous comment (please refer to RR-024-108) makes use of an expanded duration of survey data which also includes observation sessions made in the (spring) passage season and summer months.
110	HRA	The RSPB has reviewed the energy budget calculation for lapwing and golden plover. The conclusions drawn in paragraphs A17.6.69- A17.6.70 of the HRA depend on the assumptions made about the data and the area used by the birds. In this case, the assumption is that these	Energy usage for birds has been addressed in more detail in the ES and HRA ornithology addendum (document reference 9.13) submitted to the Examination at Deadline 1.

Number	Topic	Relevant Representation	AUBP Response
		birds are able to compensate for the small increase in energy requirements by increasing energy intake. Whilst it may be right that there will be enough flexibility in the system to allow birds to take in additional energy, this will only be the case if the site is not already at carrying capacity. By increasing the birds' energy requirements by 2% this will effectively reduce the carrying capacity of this part of the Wash by 2%. It is important that this issue is addressed in the HRA and other relevant documents.	
111	HRA	It is also worth noting that whilst birds are sometimes displaced to alternative sites, this is often only after repeated disturbance events, implying that these alternative sites are less preferred. The conclusion that displacement means the birds have somewhere else to go so the only effect is the increased energy expenditure is simplistic and does not appear to be justified by the current evidence, as it is being assumed that there are no other effects impacting on the displaced birds. For example, the birds may have a higher chance of being predated at the alternative sites. Whilst it is difficult to quantify such effects it does need acknowledging that there may be additional impacts on these birds of moving to a less-preferred site that has not been measured in this assessment. This also justifies a precautionary approach being taken when drawing conclusions about the potential impacts at the mouth of The Haven.	This is discussed further in the ES and HRA ornithology addendum (document reference 9.13) (particularly in Section 7.1) submitted to the Examination at Deadline 1. The baseline situation with vessel disturbance has been surveyed and the majority of birds were observed to be displaced on the first large vessel movement occurring. These birds will have been subjected to this disturbance for many years now and have been using these alternative roosting locations. There were a small number of species that were observed to be subject to multiple disturbances and these were subject to analysis for their energy budgets and assessed in terms of the increased number of vessel disturbance events. This was detailed in the ES/HRA sections and is discussed further, with greater detail on how this could impact the conservation objectives of the site, in Section 7.1 and Appendix A1 of the HRA addendum.
112	HRA	With respect to Table A17-8 in the HRA, we have also noted that:	The Applicant confirms that the disturbance data has since been fully tabulated for all visits over the two seasons and is provided in Appendix

Number	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> For some rows, the response is listed simply as “displacement” without saying how far birds went, whereas for others it says e.g. “displacement by 200m”. What does it mean when a distance is not given – did the birds fly to a location that could not be seen hence a distance couldn’t be estimated? A clarification in the table legend may be helpful. The table lists disturbance events but not how many birds were “available” to be disturbed on each occasion, so it isn’t clear whether the occasions where “no behavioural responses in significant numbers” is reported are because there weren’t significant numbers of birds in the area at the time, or whether they were because birds were in the area but did not respond to the disturbance. Were birds in the area counted prior to disturbance or was there some reason this wasn’t possible (e.g. long vegetation?). 	<p>A3 of the ES and HRA ornithology addendum (document reference 9.13) and that distances are given for all displacements - in cases where these were previously blank they have been given minimum values, as birds were lost from view from continued flight. The Applicant confirms that birds at the mouth of the Haven were not counted on the ground during observation sessions on disturbance/changes in behaviour. Visibility of birds in the area was sound as the vantage point was a first floor hide.</p>
113	HRA	<p>Whilst the energy budget has been calculated and assessed for lapwing and golden plover this should also be undertaken for other species, notably redshank, black-tailed godwit and dark-bellied brent goose. Where this is not possible, a clear rationale for why this is the case should be provided. We request this be reviewed and a note provided on this issue.</p>	<p>Further information has been included within the ES and HRA ornithology addendum (document reference 9.13) submitted to the Examination at Deadline 1, to address energy budgets and potential impact on all bird species that could be affected.</p>
114	HRA	<p>The RSPB recognises that there is a section within the Environmental Statement on air pollution associated with the proposed facility. Due to the predominant South-westerly wind, any particulates could land on nearby protected and</p>	<p>Further information on potential for impacts on habitats via air quality has been included in an ES and HRA ornithology addendum (document reference 9.13) submitted to the Examination at Deadline 1.</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>priority habitats, as well as impact the aquatic environment of The Haven. This has been covered briefly in the HRA and we expect this to be followed up with the Environment Agency to ensure this potential impact pathway is addressed fully. It is essential that this issue is robustly assessed in the HRA given the Supplementary Conservation Advice has a specific target to “Maintain concentrations and deposition of air pollutants at below the site-relevant Critical Load or Level values given for this feature of the site on the Air Pollution Information System (www.apis.ac.uk)” for all relevant features of The Wash SPA.</p>	
115	HRA	<p>Throughout the available environmental chapters and HRA, however, there has been a failure to assess the potential impact of oil, fuel, rubbish pollution and anti-fouling measures from an additional 580 large vessels using The Haven, as well as the increase in pilot vessel movements. There are potential pathways that could result in Likely Significant Effects on The Wash SPA/Ramsar site and priority habitats and these topics must therefore be included in the HRA. This is important as the HRA highlights that case law has shown that the LSE needs only to consider the potential of its impact and whether possible pathways exist for an impact to occur (paragraph A17.2.2).</p>	Refer to RR-024-30 and RR-024-32.
116	HRA	<p>The marine and coastal chapter of the Environmental Statement mentions spillages from construction and vessels (paragraphs 17.7.4 & 17.7.6), yet no details are provided on the</p>	Refer to RR-024-32.

Number	Topic	Relevant Representation	AUBP Response
		<p>measures that will be used to prevent any incidents occurring. This could be a serious impact on The Haven, features of The Wash SPA/Ramsar site and priority habitats, however, this has not been considered in the HRA. It has not even been considered in the scoping matrices as a potential issue. Whilst it is proposed to develop a pollution plan in conjunction with nature conservation organisations, there is no plan in place and there is no information available to inform the HRA and ensure that adverse effects on integrity of The Wash SPA, The Wash & North Norfolk Coast SAC and The Wash Ramsar sites would be avoided. More detail concerning this issue is required given the significant increase of vessels and the introduction of large vessel movements on all navigable tides.</p>	
117	HRA	<p>It is recognised in the navigation chapter (paragraph 18.7.123) that there is potential for material from the Refuse Derived Fuel (RDF) bales to potentially be released during unloading and land on surrounding land or in The Haven. It is not clear how material on the vessels would be managed or whether a catch net would be sufficient during moderate to strong winds. There has been a significant amount of work completed regarding the impact of plastics in the environment and the harm that this has on a range of species and habitats. We request more detail to be provided on measures to not only control possible RDF waste entering The Haven, but also what level of routine maintenance will be in place to capture any material that could escape.</p>	Please refer to RR-013-12.

Number	Topic	Relevant Representation	AUBP Response
118	HRA	<p>The navigation chapter highlights that docked vessels will have aggregate loaded. It is not clear what measures will be in place to ensure that none of this material will enter The Haven. This could have implications for water quality, the benthic community and ultimately the foraging birds that use The Haven. This needs to be addressed in the Environmental Statement and HRA.</p>	<p>Only those vessels berthed at the Lightweight Aggregate (LWA) facility can have aggregate loaded via the extending and slewing conveyor.</p> <p>The conveyor will be entirely covered over its extending and slewing sections and discharges via the flexible dust containment chute from the conveyor into the hold on the berthed vessel. The dust containment chute is vented via a dust filter and fanset mounted off the end of the conveyors, so it slews along with the conveyor. This is a standard traditional item of equipment which is used at successfully at a number of existing ports with the equipment originating from an industry leading supplier of Best Accepted Technology (BAT) in material loading technology.</p> <p>Produced LWA are kept in steel compartments according to type of ash, which are installed on the wharf. The total capacity of each type of LWA base is 4000 Tonnes of each type which is then discharged via enclosed conveyors to a single slewing, extending conveyor used to load the single LWA loading berth adjacent to the LWA facility at the southern end of the wharf.</p> <p>There will be zero small diameter LWA (10 to 20mm) discharged to vessels and there will be zero dust in the product as this is polished off after formation in the process prior to firing into a non-leaching form. Both these aspects reduce the potential for accidental pollution to The Haven. The activity will be included within the Permitted site regulated by the Environment Agency and BAT will be required for this procedure.</p> <p>After filling of the receiving vessel the holds will be covered for transit to keep the vessel watertight at sea and remove the chance of cargo escaping.</p>

Number	Topic	Relevant Representation	AUBP Response
119	HRA	<p>Paragraph A17.5.5 states that "...only where the project alone was determined to have the potential for LSE on European sites and features have these sites and features been included in the in-combination assessment." With respect to pollution sources, the RSPB considers that potential pathways exist and should be considered alongside other plans and projects. This should consider pollution plans for the Port of Boston and Environment Agency works. Wider activities may also need to be considered to ensure a full assessment of this issue is included in the application.</p>	<p>All projects identified on the cumulative and in-combination assessment were assessed in terms of any impacts, even small effects, that could occur that had the potential for interaction, whether singly or combined. The quote from Paragraph A17.5.5 is incorrect, Paragraph A17.5.5 of Appendix 17.1 Habitats Regulations Assessment (document reference 6.4.18, APP-111) notes the following principle: "for the proposed scheme to have the potential to contribute to in-combination effects, there must be sufficient cause to consider that a relevant habitat or species is sensitive to effects due to the project itself.", this does not distinguish the significance of the impact, just the sensitivity of the receptor.</p> <p>In addition, the DML (Schedule 9 to the draft DCO (document reference 2.1(1)) includes a condition requiring the approval by the MMO of a marine pollution contingency plan and a number of additional conditions also relating to spills and dropped objects.</p>
120	HRA	<p>This information is essential to ensure that all aspects of the proposed development will not compromise the conservation objectives of The Wash SPA/Ramsar. Whilst the Marine Conservation Advice Package for The Wash SPA is currently being reviewed and may be subject to change, the following objectives from the Supplementary Conservation Advice for The Wash SPA are directly applicable to pollutants; the features which could be affected are also listed:</p> <ul style="list-style-type: none"> Restrict aqueous contaminants to achieve High and Good WFD status: waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. 	<p>The HRA addendum submitted at Deadline 1 provides further detail on the conservation objectives and the potential for impacts on these objectives.</p>

Number	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> • Maintain dissolved oxygen (≥ 5.7mg per litre for 95% of the year): waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. • Maintain water quality: waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. • Maintain turbidity: waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. • Maintain prey availability: shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew. • Maintain supporting habitat: feeding: dark-bellied brent goose, wigeon. • Maintain supporting habitat: roosting: waterbird assemblage, turnstone, oystercatcher, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew. <p>This is not necessarily a complete list. A complete list of objectives will need to be confirmed with Natural England. A HRA update will then be required to ensure that all relevant conservation</p>	

Number	Topic	Relevant Representation	AUBP Response
		objectives and supplementary conservation advice have been robustly assessed.	
121	HRA	<p>There does not appear to be any information provided on water quality. This needs to address any water discharge from the site, including run-off, to demonstrate that this will not affect water quality in The Haven. Whilst project details may have changed, we did highlight that water quality issues needed to be properly addressed in the assessments in our comments on the PEIR provided in August 2019 (key points highlighted):</p> <p>“Impact on water quality. It appears that water management on the site will be managed through an attenuation pond and then released to the River Witham via surface water drains. It is essential that enough information is provided at submission to demonstrate that water quality will not be reduced as a result of any discharges arising from the site. The RSPB also highlights that impacts on water quality may arise from vessels using the wharf area. Sufficient information must be provided to demonstrate that potential adverse impacts on water quality as a result of the container vessels will be avoided.”</p> <p>This was not addressed in the response from BAEF received on 1st October 2019 or recent documents. We request confirmation on when this information will be available for comment by interested parties.</p>	Refer to RR-024-30 and RR-024-32.

Number	Topic	Relevant Representation	AUBP Response
122	HRA	<p>This information is essential to ensure that all aspects of the proposed development will not compromise the conservation objectives of The Wash SPA/Ramsar. Whilst the Marine Conservation Advice Package for The Wash SPA is currently being reviewed and may be subject to change, the following objectives from the Supplementary Conservation Advice for The Wash SPA are directly applicable to water run-off and discharge; the features which could be affected are also listed:</p> <ul style="list-style-type: none"> • Restrict aqueous contaminants to achieve High and Good WFD status: waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. • Maintain dissolved oxygen (≥ 5.7mg per litre for 95% of the year): waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. • Maintain water quality: waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon. • Maintain turbidity: waterbird assemblage, turnstone, shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black- 	<p>The HRA ornithology addendum submitted at Deadline 1 (document reference 9.13) provides further detail on the conservation objectives and the potential for impacts on these objectives.</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>tailed godwit, bar-tailed godwit, dunlin, redshank, curlew, wigeon.</p> <ul style="list-style-type: none"> Maintain prey availability: shelduck, oystercatcher, dark-bellied brent goose, grey plover, knot, black-tailed godwit, bar-tailed godwit, dunlin, redshank, curlew. <p>This is not necessarily a complete list. A complete list of objectives will need to be confirmed with Natural England. A HRA update will then be required to ensure that all relevant conservation objectives and supplementary conservation advice have been robustly assessed.</p>	
123	HRA	<p>Paragraph A17.6.6 in the HRA mentions the effects that additional lighting could have on bird species using The Haven. This is highlighted as a possible negative impact, but there is also the suggestion that lighting could allow some species to forage for longer at night. This may be true but needs to be set against an understanding of any negative impacts that could occur. For example, if more birds were attracted to the area might this increase competition for food and roosting, might there be an increased exposure to night foraging predators such as foxes, and what impact might there be from disturbance. No evidence is presented in support of the statement about positive effects from lighting and this will need to be assessed against these wider considerations. In the absence of evidence to support positive effects from the proposed lighting, a precautionary worst-case scenario must be adopted.</p>	<p>The Applicant addresses the question of artificial lighting effects in the HRA (document reference 6.4.18, APP-111). Lighting will be highly targeted to illuminate the necessary activities only. As such it is not expected to have an adverse effect on birds.</p>

Number	Topic	Relevant Representation	AUBP Response
124	HRA	<p>Table 18-1 of the Navigational Issues chapter (pp.14-15) records comments from the Boston and Fosdyke Fishing Society (BFFS) made in August 2020. They highlighted that should the facility be approved "Relocation of the fishing fleet below the new proposed energy plant is the only way the industry could continue to work in a safe and viable way when the plant becomes operational and to some extent while under construction." This issue is dismissed in the chapter as not needing be considered as part of the DCO application, as it would be captured through any future applications submitted by BFFS. However, this must be addressed in more detail, as this links to the wider indirect effects that could potentially arise from the development of the facility. It could force additional development that has the potential to cause an adverse effect on integrity of The Wash SPA/Ramsar and, therefore, exacerbate impacts arising from the facility development and its increased vessel movements. Any further development south of the facility could also compromise any mitigation and compensation measures being considered for this development. We request more information on how this issue is being addressed.</p>	<p>This is not included as part of the Boston Alternative Energy Facility proposal. Although Chapter 18 (Navigational Issues) of the ES (document reference 6.2.18, APP-056) concludes a significant effect to the fishing fleet, it is proposed that this is managed through use of a Navigational Management Plan (NMP) [as required by the DCO]. Consultation is ongoing with the fishing fleet and the NMP will be produced with input from the fishing fleet as well as the Port of Boston. Therefore, no additional assessment is required related to this issue. Also, cross refer to RR-024-120 and RR-024-121.</p>
125	HRA	<p>Having reviewed the HRA, the RSPB does not consider the in-combination assessment to accurately reflect the plans or projects that could also impact The Haven. Our initial comments are:</p> <ul style="list-style-type: none"> • Ground Investigation works for Boston Barrier Phase 2 – these works required mitigation to 	<p>Appendix 17.1 HRA (document reference 6.4.18, APP-111) section A17.5 covers in-combination effects and notes that "in some circumstances it may be appropriate to include plans and projects not yet submitted to a competent authority for consideration but for which sufficient detail exists on which to make judgements on their impact on the protected site", therefore, only plans and projects have been considered where sufficient detail exists. In addition, the assessment</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>avoid impacts on foraging and roosting birds along The Haven. Therefore, they will need to be considered in the in-combination assessment if further works will overlap with the construction and operation of the facility.</p> <ul style="list-style-type: none"> • Havenside flood defence scheme – this must be considered on a precautionary basis in case the project over runs. For example, once complete there may be a need to do additional maintenance works to ensure it functions as intended. • England Coast Path – this will pass through the application site and is not mentioned. This needs to be included in the in-combination assessment to determine its impact. This has particular implications for the proposed mitigation for the redshank roost. • South-east Lincolnshire Local Plan – this plan should be captured in the in-combination assessment. This is needed to consider the scale of development planned in the area around the proposed facility and how that development could impact on pollution, disturbance etc. • Any pollution plans already in place that cover shipping as well as any consented discharges into The Haven must be considered. • There is also a failure to date to present information on wider activities that are already causing disturbance to features of The Wash SPA/Ramsar site. This is important to understand the full scale of disturbance pressure that would be occurring in the 	<p>adopted the principle "for the proposed scheme to have the potential to contribute to in-combination effects, there must be sufficient cause to consider that a relevant habitat or species is sensitive to effects due to the project itself". Consequently, the list of plans and projects that have the potential to give rise to an in-combination effect were presented in Table A17-5. With regards to the specific projects the RSPB has noted, please see our comments as follows:</p> <ul style="list-style-type: none"> • The ground investigation works related to the Boston Barrier are historic works that have been completed, this is covered in Table A17.5; • The Havenside Flood Defence Scheme is due for completion in 2021, this is covered in Table A17.5; • It is acknowledged that the proposed route of the England Coast Path passes through the application site, however this is considered as part of the baseline of the assessment as it uses existing footpaths. In addition, the England Coast Path is being diverted along existing footpaths through the Riverside Industrial Estate, and there is no change in the footpath adjacent to the Habitat Mitigation Area; • Schemes have been considered from within the South-east Lincolnshire Local Plan where sufficient detail exists; • The review of plans and projects covered project with the potential to have in-combination effects, this included shipping and discharges into the Haven, where relevant (see Section A17.5 and Table 17-5); • The supplementary information for The Wash SPA (circulated to the RSPB on 5 March 2021) was used to determine other activities that are causing disturbance pressures. This includes for people using the footpaths and has also taken consideration of the potential for predators using trees and scrub in the area.

Number	Topic	Relevant Representation	AUBP Response
		presence of the facility and around the mouth of The Haven, and to inform whether proposed mitigation and compensation measures would be likely to be effective in the areas where they are identified.	
126	HRA	Having reviewed the available Environmental Statement chapters, HRA and supplementary information the RSPB continues to conclude that the Environmental Statement and HRA remain deficient in key respects and that there is not sufficient information presented to demonstrate that there will not be an adverse effect on integrity of The Wash SPA and Ramsar.	The ES (document reference 6.2.17, APP-055) and HRA (document reference 6.4.18, APP-111) report from a sufficient breadth of data sources to have made appropriate conclusions of impacts on protected sites and designated feature bird species. However, the Applicant acknowledges that the additional data collected makes the data basis for assessment more robust. Therefore, the Applicant has completed an ornithology addendum to the ES and HRA (document reference 9.13) submitted at Deadline 1 which makes use of the full complement of additional data collected in response to prior stakeholder comments.
127	HRA	<p>The following map shows all the WeBS sectors that we recommended needed to be included in a more detailed analysis in our red line comments on the HRA provided 25th February 2021. Only a limited number of WeBS sector data has been presented to date (highlighted in green on the map). These sectors are:</p> <ul style="list-style-type: none"> • Slippery Gowt Pits • Frampton North 60 • Frampton North 23 <p>The additional sectors that have not yet been included in current analyses are highlighted in red on the map. Data from these sectors is essential to understand the full scale of impact from increased shipping. The sectors where data need to be obtained are set out below:</p>	With the exception of Freiston 30, which was last surveyed in the 2009/10 WeBS year and is therefore of limited relevance to analysis, data from all WeBS sectors listed in the relevant response have been acquisitioned in full from the BTO (all species, all visits over five most recent years). These have been used to generate a baseline dataset for understanding aspects such as the rate of occurrence and the importance of each WeBS sector to key waterbird species in a whole-Wash SPA context. The species recorded, their rates of occurrence (proportion of visits), mean counts and peak counts at each WeBS sector are reported in Appendix 1 of the ornithology addendum to the ES and HRA (document reference 9.13). The importance of the Haven, and of the mouth of the Haven at Tabs Head, to SPA feature species plus northern lapwing and European golden plover as key SPA waterbird assemblage species, is quantified in a Wash SPA context in tables 1-3 of Appendix 4 of the addendum to the ES and HRA.

Number	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> • Freiston 50 • Freiston 30 • Witham 60 • Witham 52 • Witham 51 • • Witham 41 • Witham 40 • Witham 20 • Frampton North 31 • Frampton North 27 • • Frampton North 26 • Frampton North 25 • Frampton North 24 • Frampton North 22 • Frampton North 21 <p>All these sectors have the potential to experience disturbance from vessel movements, especially when an 800m buffer is applied.</p>	

Table 1-4 Marine Management Organisation (RR-008)

Number	Topic	Relevant Representation	AUBP Response
1	Wharf/Habitat mitigation	The MMO's interest in this project is mainly regarding the wharf and habitat mitigation works, including any associated infrastructure as well as any impacts to the UK marine area as described in Section 42 of the 2009 Act.	Noted.
2	Deemed Marine Licence	3.1.1. With regard to Part 1 (1) 'Interpretation' – "maintain" includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace, and improve to the	A very similar definition (including "alter" and "improve") is included in the deemed marine licence (DML) in the Eggborough Gas Fired Generating Station Order 2018.

Number	Topic	Relevant Representation	AUBP Response
		<p>extent that such works do not give rise to any materially new or materially different environmental effects than those identified in the environmental statement and “maintenance” and “maintaining” are to be construed accordingly. The MMO advises that our interpretation of ‘maintenance’ means the upkeep or repair an existing structure or asset wholly within its existing three-dimensional boundaries. ‘Alteration’ or ‘improvement’ means to change an existing structure or asset so that it differs in character from that which already exists. Therefore, the MMO request that the interpretation in the DML is brought in line with our interpretation as the regulator.</p>	<p>“Improve” is included as technology will improve over the life of the authorised development and therefore there may be opportunities to “improve” the structure of the wharf. The definition of maintain is constrained by the requirement that the “works do not give rise to any materially new or materially different environmental effects than those identified in the environmental statement”, which will ensure that any changes do not result in it having a different character than what is existing. The definition is therefore considered appropriate.</p> <p>At a meeting with the MMO on 6 August 2021 the MMO agreed that the current definition of “maintain” was acceptable.</p>
3	Deemed Marine Licence	<p>3.1.2. With regard to Part 1 (1) ‘Interpretation’ – the MMO note that the term ‘licence holder’ has been used. The MMO has moved away from ‘the licence holder’ on standard marine licences and advise that this phrase be replaced when referenced with ‘the undertaker’. We recommend this is used in future iterations of the draft DML.</p>	<p>This amendment has been made to the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)).</p>
4	Deemed Marine Licence	<p>3.1.3. With regard to Part 1 (1) ‘Interpretation’ – ‘Mean High Water Springs’ is abbreviated to ‘MHW’. The MMO note that this may be a typographic error as later the abbreviation used is ‘MHWS’.</p>	<p>This typographic error has been corrected in the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)).</p>
5	Deemed Marine Licence	<p>3.1.4. With regard to Part 1 (2) ‘Contact details’ – MMO advise that the Applicants are expected to submit returns and/or copy of notifications as default via the online web portal, the ‘Marine Case Management System’ (MCMS). Therefore, the MMO suggest the inclusion of the following wording: ‘All notifications must be sent by the undertaker to the MMO must be sent</p>	<p>The draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)) has been amended as follows: “(3) Unless otherwise stated in writing by the MMO, all notifications required by this licence must be sent by the undertaker to the MMO using the MCMS. ”</p> <p>At a meeting with the MMO on 6 August 2021 the MMO agreed that the proposed wording was acceptable. The</p>

Number	Topic	Relevant Representation	AUBP Response
		using the MMO's Marine Casement Management System (MCMS) web portal.'	MMO suggested the inclusion of a definition of "MCMS". The following definition has been added to the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)): "Marine Case Management System" or "MCMS" is the Marine Management Organisation's online case management system.
6	Deemed Marine Licence	3.1.5. With regard to Part 2 (3) (a) – states "form part of, or are related to, the authorised development". It is the understanding of the MMO that the authorised development is outlined in Part 2 (5) so request the wording is simply amended to 'the authorised development'.	In order to read the preceding text as a single sentence, it is considered that this wording needs to be retained as currently drafted. This wording is consistent with a number of DMLs included in made DCOs including the Cleve Hill Solar Park Order 2020, the Great Yarmouth Third River Crossing Development Consent Order 2020, and the Eggborough Gas Fired Generating Station Order 2018. At a meeting with the MMO on 6 August 2021 the MMO stated that the current wording was acceptable in principle.
7	Construction Methodology/Project Description	3.1.6. With regard to Part 2 (5) Table 1 – the MMO request that specific separate information is provided regarding the volume (cubic metres) of the initial capital dredge and a volume for maintenance dredging (for the lifetime of the project and an annual maximum). In addition, the MMO request that the method for capital and maintenance dredging be specified. The MMO note that further comments on dredging matters will be provided at future Deadlines	The volumes for the initial capital dredge are set out in condition 5(b) of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1, APP-005). It is anticipated that the annual volume of material from maintenance dredging of the berthing pocket would be approximately 8,000 m ³ / year. This is based on a predicted 0.5m accretion per year. Bathymetric surveys will be undertaken during the operation of the wharf to determine actual levels of accretion and the details of the maintenance dredging will need to be approved by the MMO under condition 12 of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1, APP-005). The Applicant has not amended the draft DML to include a maximum volume of maintenance dredging as the inclusion of this detail is not consistent with the approach to maintenance dredging on other DMLs.

Number	Topic	Relevant Representation	AUBP Response
			<p>The capital dredge will be carried out mostly by land-based equipment, with some floating plant for excavation of the berthing pocket towards the edge of the channel (paragraphs 5.6.19 and 5.5.20 of Chapter 5 (Project Description) of the Environment Statement (document reference 6.2.5, APP-043). Maintenance dredging of the berthing pocket will be carried out by crane from land as set out in paragraph 5.6.88 of Chapter 5 (Project Description) of the Environment Statement (document reference 6.2.5, APP-043). Further details of the dredging methodology will be submitted to the MMO for approval under condition 12 (previously 13) of the draft DML (schedule 9 of the draft DCO (document reference 2.1(1)). This condition has been amended to explicitly add that the details of the licensed activities to be approved by the MMO will include "details of the detailed dredging methodology to be employed by the undertaker".</p>
8	Deemed Marine Licence	<p>3.1.7. With regard to Part 2 (5) (j) 'authorised development' activities to alter, remove, relocate, or replace any work or structure, the wording is too vague and flexible here. The MMO requires that the wording is more precise and not left open to interpretation. The MMO would also add that these activities do not include the removal, relocation, or detonation of ordinance. Should detonation of ordinance be required, the MMO request a separate Marine Licence application is made.</p>	<p>Paragraph 5(j) of Part 2 of the DML contained in the draft DCO (document reference 2.1(1) has been amended so it reads "activities within The Haven and within the Order limits to—". This constrains the activities in (5)(j). This approach is consistent with the wording in the DMLs contained in the Great Yarmouth Third River Crossing Development Consent Order 2020 and the Lake Lothing (Lowestoft) Third Crossing Order 2020. As the activities in article 5(j)(i) have considerable overlap with those in the definition of "maintain", the Applicant will delete (i). Paragraph 5(j)(vi) already provides for activities to "maintain works and structures".</p> <p>In relation to ordinances, the following will be added as a</p>

Number	Topic	Relevant Representation	AUBP Response
			new sub-paragraph: "but does not include the removal, relocation or detonation of ordinance".
9	Deemed Marine Licence	3.1.8. With regard to Part 2 (5) (k) 'other works and development; - notes 'to provide or alter embankments, foundations, retaining walls, drainage works, outfalls, pollution control devices, pumping stations, culverts, wing walls, fire suppression system water tanks and associated plant and equipment, lighting, and fencing; and... to alter the course of, or otherwise interfere with, navigable or non-navigable watercourses. The MMO recommends engagement with the Maritime and Coastguard Agency and Trinity House in the first instance in regard to navigation. It is also advisable that you engage with nearby harbour authorities.	The Applicant has undertaken considerable consultation with The Maritime and Coastguard Agency's Relevant Representation and Trinity House have both been consulted on the application and neither have provided any responses to date. The Applicant has been engaging closely with the Port of Boston, the local harbour authority, who has specifically reviewed the Deemed Marine Licence.
10	Deemed Marine Licence	3.1.9. With regard to Part 4 (7) 'conditions' – the MMO advise that this point may not be required.	This paragraph has been deleted from the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)) as suggested.
11	Deemed Marine Licence	3.1.10. With regard to Part 4 'conditions' – the MMO advise that all conditions listed in this part must meet the MMO's five tests for condition wording. The MMO's five tests are that conditions must be: Necessary; Precise; Enforceable; Reasonable; Relate to the activity or development.	Noted.
12	Deemed Marine Licence	3.1.11. In relation to point 3.1.10 above – the MMO advise that the conditions for (10) notification of HM Coastguard and (11) local notice to mariners are updated to ensure notifications must be provided at least 5 days prior to commencement and a copy of the notification provided (via MCMS) within 24 hours of issue.	These paragraphs have been updated in the latest version of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)) to reflect the requested amendments.
13	Deemed Marine Licence	3.1.12. With regard to Part 4 (13) 'detailed of licensed activity' – the MMO advise that the inclusion of 'licensed activities must not commence until written approval is	These requested amendments have been made to the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)).

Number	Topic	Relevant Representation	AUBP Response
		provided by the MMO' and suggest the inclusion of 'unless otherwise agreed' to part 3 of these articles to allow for the Applicant to update elements of the submission. The MMO advise that consultation with Natural England and the Environment Agency may also be required.	Natural England and the Environment Agency have not requested to be added as consultees on this condition but if it is raised the Applicant will consider this point.
14	Deemed Marine Licence	3.1.13. With regard to Part 4 (14) 'piling' – the MMO advise the inclusion of 'licensed activities must not commence until written approval is provided by the MMO' and suggest the inclusion of 'unless otherwise agreed' to part 3 of this article to allow for the Applicant to update elements of the submission.	The requested amendments have been made to the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)), subject to amending the first point to say "and piling operations must not commence until written approval is provided by the MMO".
15	Deemed Marine Licence	3.1.14. With regard to Part 4 'conditions' – the MMO request the following conditions are included: 'Any oil, fuel or chemical spill within the marine environment must be reported to the MMO Marine Pollution Response Team within 12 hours using the details provided in Part 1 (2) (2).	Condition 16 of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1, APP-005)) already provides: "(b) report any spill of oil, fuel or chemicals into the marine area to the MMO Marine Pollution Response Team, the harbour master and the Maritime and Coastguard Agency within 12 hours of the spill occurring". At a meeting with the MMO on 6 August 2021 the MMO confirmed the existing condition was acceptable.
16	Deemed Marine Licence	3.1.15. In addition to the above and in connection with 5.2 of this response, the MMO recommend that the following conditions may be required in Part 4: • Percussive piling must only be conducted between May to September, inclusive (to avoid the overwintering period for birds). Condition wording would be subject to agreement with Natural England in their capacity as the SNCB. The MMO welcome engagement with both the Applicant and Natural England to determine the most suitable condition wording.	Condition 13(d) (previously 14(d)) has been amended in the latest version of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)) as follows: "details on the timing of piling activities throughout the year to ensure they are undertaken during non-sensitive periods for overwintering birds (being May – September)".

Number	Topic	Relevant Representation	AUBP Response
17	Deemed Marine Licence	3.1.15. Soft-start procedures must be used to ensure incremental increase in pile power over a set time period until full operational power is achieved. The soft-start duration must be a period of not less than 20 minutes. Should piling cease for a period greater than 10 minutes, then the soft start procedure must be repeated. The MMO will confirm the exact requirements at future Deadlines pending consultation with our scientific advisors and liaison with Natural England.	Condition 14 of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)) on piling already provides that the method statement must include the soft start procedures to be followed. The specific details of the soft start procedures will be included in the method statement rather than being set out in the condition itself. At a meeting with the MMO on 6 August 2021 the MMO confirmed the existing wording was acceptable.
18	Deemed Marine Licence	3.1.15. Sampling will be required throughout the lifetime of the project to ensure contamination levels remain stable. As sample plan may be required every 3-5 years. The MMO will confirm the exact requirements at future Deadlines pending consultation with our scientific advisors.	Condition 13 (2(i)) of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1, APP-005) provides that details of monitoring measures are to be submitted to the MMO. Sampling could form part of that. The Applicant is open to engaging on any specific sampling condition wording.
19	Deemed Marine Licence	3.1.15. No disposal of dredge arisings below MHWS. All waste must be disposed of on land.	The Applicant is not seeking to dispose of any dredge arisings below MHWS.
20	Deemed Marine Licence	3.1.15. No dredging activities must be undertaken between March to June, inclusive (to avoid the sensitive migratory period for juvenile fish). The MMO will confirm the exact requirements at future Deadlines pending consultation with our scientific advisors and engagement with Natural England.	Condition 13 of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1(1)) provides that the details of the licenced activities (including dredging) must include "environmental mitigation measures, which must be substantially in accordance with the measures set out in chapter 17 (marine and coastal ecology) of the environmental statement". Chapter 17 of the Environmental Statement (document reference 6.2.17, APP-055) provides that "Dredging should be undertaken during non-sensitive periods for fish (i.e., Avoidance of juvenile smelt, and trout migration periods (March to June) is recommended)." Therefore, this requirement will form part of the mitigation measures submitted as part of the

Number	Topic	Relevant Representation	AUBP Response
			details of the licenced activities submitted to the MMO under condition 13.
21	Deemed Marine Licence	3.1.15. Bathymetric surveys should be undertaken every six months during the construction period. This would support early warning of erosion and/or deposition exceeding predictions. Bathymetric surveys should also be undertaken during the early operation of the wharf, to monitor sedimentation in the berthing areas and quantify the future requirement for maintenance dredging). The MMO will provide suggested condition wording following consultation with Cefas.	Section 16.8 of Chapter 16 Estuarine Processes of the ES (document reference 6.2.16, APP-054) confirms the requirement for bathymetric surveys every 6 months during construction and during early operation of the wharf. Condition 13 (2(i)) of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1, APP-005) provides that details of monitoring measures are to be submitted to the MMO. Bathymetric surveys could form part of that. The Applicant will consider any specific condition wording suggested by the MMO.
22	Deemed Marine Licence	3.1.15. Best practice regarding marine mammals (such as an observer on board each vessel, looking out for marine mammals) and slow speed (max. 4 knots) to be kept for all vessels.	<p>Condition 14 of the draft DML submitted at Deadline 1 (Schedule 9, of the Draft DCO (document reference 2.1, APP-005) sets out that a navigation management plan is required which must include details (inter alia) of “measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol”.</p> <p>The Marine Mammal Mitigation Protocol (document reference 9.12) submitted at Deadline 1 states that safety, weather and tidal conditions permitting, vessel speed limits of 6 knots for all vessels travelling within The Haven and The Wash. Vessel movements to be incorporated in to recognised vessel routes.</p> <p>Note that it has been identified that it would not be possible for all vessels to travel at 4 knots maximum due to minimum speed requirements for safety and manoeuvrability. Therefore, the vessel speed limit has been amended to be 6 knots in both The Wash and The Haven.</p>

Number	Topic	Relevant Representation	AUBP Response
23	Deemed Marine Licence	3.1.15. A Construction Environmental Management Plan (CEMP) and a pollution response plan should be provided. The MMO will provide suggested condition wording following consultation with our advisors.	The Outline Code of Construction Practice (document reference 7.1, APP-120) sets out a commitment to prepare a Pollution Prevention and Incident Response Plan. A new condition has been added to the DML (schedule 9 of the Draft DCO (document reference 2.1(1)) requiring that all construction activities be carried out in accordance with the Code of Construction Practice approved under paragraph 10(1) of Schedule 2 of the DCO. A condition requiring a Marine Pollution and Contingency Plan has been added to the DML (schedule 9 of the Draft DCO (document reference 2.1(1)). The Applicant requests the MMO provides details of the matters it would wish to be covered by a CEMP condition that are not already covered by other conditions of the DML.
24	Deemed Marine Licence	3.1.15. The MMO will require a decommissioning plan. The MMO will provide suggested condition wording following consultation with our advisers.	AUBP does not consider a decommissioning plan is necessary as the wharf will be retained in situ indefinitely as it will form the necessary flood defences. At a meeting with the MMO on 6 August 2021 the MMO confirmed a decommissioning plan would not be required.
25	Deemed Marine Licence	3.1.15. The MMO will require a Written Scheme of Investigation for heritage impacts. The MMO will provide suggested condition wording following engagement with Historic England.	Requirement 6 of the draft DCO (document reference 2.1, APP-005) provides that "No part of Work Nos. 1, 2, 3, 4, 5 and 6 may commence until for that part a written scheme of investigation, reflecting the relevant mitigation measures set out in the outline written scheme of investigation has been submitted to and approved by the relevant planning authority." Work No. 4 is the wharf. Notwithstanding this, the Applicant has added a condition to the updated DML (schedule 9 of the draft DCO (document reference 2.1(1)) submitted at Deadline 1 requiring a Written Scheme of Investigation.
26	Deemed Marine Licence	3.1.16. With regard to Part 5 (22) 'Further information regarding application' and (24) 'Notice of Determination'	With regard to Part 5 (22) 'Further information regarding application' this wording is identical to that included in

Number	Topic	Relevant Representation	AUBP Response
		<p>- The MMO do not consider it acceptable to place determination periods/timeframes as this impacts the MMO's ability to consult with technical/statutory consultees, regulate marine activities and protect the marine environment, and request that these timeframes are removed.</p>	<p>paragraph 17 of the DML at Schedule 13 of the Great Yarmouth Third River Crossing DCO 2020. This wording is considered appropriate to ensure that further information is requested in a timely manner and the condition allows information to be requested after 30 days with agreement by the applicant.</p> <p>As part of pre-application consultation the MMO provided feedback on the DML and requested that Part 5 (24) 'Notice of Determination' be amended to reflect the timeframes provided for in the DML contained in the Great Yarmouth Third River Crossing DCO 2020. The draft DML was updated so that the wording was consistent with the Great Yarmouth DML. It is considered necessary to include some timeframes to ensure that decisions are made in a timely manner and the wording of paragraph 24 provides that "the MMO must give notice to the undertaker licence holder of the determination of the application within 13 weeks from the day immediately following that on which the application is received by the MMO, or as soon as reasonably practicable after that date." This provides a level of flexibility as to timeframes.</p>
27	Deemed Marine Licence	<p>3.1.17. With regard to Part 6 (25) (2) 'changes to this licence' – please note that if granted and there is the need for a substantive change (outside of what was assessed in the Environmental Statement) then it is likely that a new marine licence application will be required.</p>	Noted.
28	Deemed Marine Licence	<p>3.1.18. With regard to Part 6 (25) (3) 'changes to this licence' – the draft states that "The MMO will grant the variation to this licence within 13 weeks from the day immediately following that on which the variation was requested, or as soon as reasonably practicable,</p>	<p>As part of pre-application consultation, the MMO provided feedback on the DML and requested that Part 6 (25)(3) 'changes to this licence' be amended to reflect the 13-week timeframes, which may be subject to delay. The draft DML was updated to reflect this request. It is considered</p>

Number	Topic	Relevant Representation	AUBP Response
		subject to the licence holder providing updated details of the licenced activity in accordance with paragraph 13 and adequately justifying the requested variation to the reasonable satisfaction of the MMO". Please note that the MMO do not find this acceptable as it impacts our ability as a regulator to protect the marine environment and request that this is removed. The MMO endeavours to provide a determination on 90% of applications within 13 weeks but there is no guarantee that this determination when granted will be positive.	necessary to include timeframes to ensure that decisions are made in a timely manner and the wording of paragraph (25)(3) provides that "The MMO will grant the variation to this licence within 13 weeks from the day immediately following that on which the variation was requested, or as soon as reasonably practicable." This provides a level of flexibility as to timeframes. For consistency with paragraph (24), "after that date" has been added to the end of the sentence.
29	Draft DCO	3.2.1. With regard to Part 6 (47) 'miscellaneous and general' – the MMO note that the reference for licence conditions in this article is Part 2, however from review of the DML the conditions are listed under Part 4 of the Schedule 9.	This error has been corrected in the latest version of the draft DML (document reference 2.1(1)).
30	Draft DCO	3.2.2. With regard to Part 4 (19) 'supplementary powers', the MMO observe the inclusion of supplementary powers. Owing to the manner in which the MMO received the S56 notice further comment will be provided on this at future Deadlines.	Noted.
31	Draft DCO	3.2.3. With regard to "maintain" in relation to the authorised development, alter, remove, and improve; the wording is too vague and flexible here. The MMO requires that the wording is more precise and not left open to interpretation. The MMO would also add that these activities do not include the removal, relocation, or detonation of ordinance.	The inclusion of "alter" and "remove" in the definition of "maintain" appears in the large majority of recently made DCOs. A very similar definition (also including "improve") is included in the Eggborough Gas Fired Generating Station Order 2018 and the Immingham Open Cycle Gas Turbine Order 2020. "Improve" is included as technology will improve over the life of the authorised development and therefore there may be opportunities to "improve" the structure of the wharf. The definition of maintain is constrained by the requirement that the "works do not give rise to any materially new or materially different environmental effects than those identified in the environmental statement", which will ensure that any

Number	Topic	Relevant Representation	AUBP Response
			changes do not result in it having a different character than what is existing. At a meeting with the MMO on 6 August 2021 the MMO agreed that the current definition of "maintain" was acceptable.
32	Draft DCO	3.2.4. With regard to 19. - (1) Subject to Schedule 10 (protective provisions temporarily alter, interfere with, occupy, and use the banks, bed, foreshores, waters and walls of a relevant navigation or watercourse; (e) interfere with the navigation of any relevant navigation or watercourse, The MMO note that the word 'interfere' is used. The MMO consider that this wording is too vague and flexible and should be more specific.	Article 19 is based on the article 16 of the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016, which also included "interfere with" and no issues were raised as to that wording in the examination of that DCO. It is considered that the wording used is appropriate.
33	Draft DCO	46. Subject to article 50 (procedure in relation to approvals, etc., under Schedule 2) and except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order must be referred to and settled by a single (a) 1978 c. 30. 36 arbitrators to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.	No response required.
34	Draft DCO	The MMO notes that arbitration provisions tend to follow model clauses and be confined to disputes between the applicant/beneficiary of the DCO and third parties e.g., in relation to rights of entry or rights to install/maintain apparatus. The MMO does not consider that it was intended to apply such provisions to disagreements between the undertaker and the regulator, and strongly questions the appropriateness of making any regulatory	The Applicant does not intend to make similar arguments to the promoters in the windfarm projects referred to and is of the view that Article 50 is not intended to apply to decisions of the Secretary of State or the MMO. For the avoidance of doubt, the Applicant has added the following wording to article 50 of the latest version of the draft DCO (document reference 2.1(1)):

Number	Topic	Relevant Representation	AUBP Response
		decision or determination subject to any form of binding arbitration.	“For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration”.
35	Draft DCO	3.2.5. When the MMO was created by Parliament to manage marine resources and regulate activities in the marine environment, the Secretary of State delegated their functions to the MMO under the 2009 Act. As both the role of the Secretary of State (in determining DCO applications) and the role of the MMO (as a regulator for activities in the marine environment) are recognised by the 2008 Act, the responsibility for the Deemed Marine Licence (DML) passes from the Secretary of State to the MMO once granted. The MMO is responsible for any post-consent approvals or variations, and any enforcement actions, variations, suspensions, or revocations associated with the DML.	See response above (RR-008-34).
36	Draft DCO	3.2.5. It was not the intention of Parliament to create separate marine licensing regimes following different controls applied to the marine environment. One of the aims of the 2008 Act is the provision of a ‘one stop shop’ for applicants seeking consent for a National Significant Infrastructure Project (NSIP). The new regime allows for the applicant to choose whether to include a DML issued under the 2009 Act within the DCO provision or apply to the MMO for a stand-alone licence covering all activities in the marine environment. In any case, it is crucial that consistency is maintained between DML granted through the provision of a DCO, and Marine Licences issued directly by the MMO independent of the DCO process.	See response above
37	Draft DCO	3.2.5. It is the MMO’s opinion that the referral to arbitration in situations where ‘difference’ may arise, is	See response above

Number	Topic	Relevant Representation	AUBP Response
		contrary to the intention of Parliament and usurps the MMO's role as regulator for activities in the marine environment.	
38	Draft DCO	3.2.5. Once the DCO is granted, the DML falls to be dealt with as any other Marine Licence, and any decisions and determinations made once a DML is granted fall into the regime set out in the 2009 Act. Any decisions or actions the MMO carries out in respect of a DML should not be made subject to anything other than the normal approach under the 2009 Act. To do so introduces inconsistency and potentially unfairness across a regulated community. In the case of any disagreement which may arise between the applicant and the MMO throughout this process, there is already a mechanism in place within that regime to challenge a decision through the existing appeal routes under Section 73 of the 2009 Act.	See response above
39	Draft DCO	3.2.5. The MMO would like to highlight that the regulatory decisions, and indeed any challenges through the existing mechanisms should be publicly available and open to scrutiny. In many cases, members of the public or other stakeholders may wish to make representations in relation to post-consent matters. Ordinarily, their views would be considered by the MMO and they would have the opportunity to follow up and challenge the decision making e.g., through the MMO complaints process, by complaint to the Ombudsman, or by Judicial Review. A private arbitration to resolve post-consent disputes would reduce transparency and accountability.	See response above
40	Draft DCO	3.2.5. Regarding appeals, the MMO draws attention to the position on Norfolk Vanguard Offshore Wind Farm DCO. The Examining Authority (ExA) recommendation	See response above

Number	Topic	Relevant Representation	AUBP Response
		<p>on Schedules 9 to 12, Part 5 – procedure for appeals concluding in paragraph 9.4.42 is outlined as follows: "There is no substantive evidence of any potential delays to support an adaptation to existing procedures to address such perceived deficiencies. To do so would place this particular Applicant in a different position to other licence holders."</p> <p>Similarly, the Hornsea Three Offshore Wind Farm ExA Recommendation report states under the 'Alternative dispute resolution methods in relation to decisions of the MMO under conditions of the DMLs' section, in paragraphs 20.5.27-20.5.29:</p> <p>"We agree with the MMO on this point. The process set out in the Marine Licensing (Licence Application Appeals) Regulations 2011 does not cover appeals against decisions relating to conditions. Whilst it would be possible to amend those regulations under PA2008, the result would be to create a DML which would be different to other marine licences granted by the MMO. We recommend that the Applicant's alternative drafting in Articles 38(4) and 38(5) is not included in the DCO. (...) We have commented above that the scale and complexity of the matters to be approved under the DMLs is a strong indicator that those matters should be determined by the appropriate statutory body (the MMO). In our view an approach whereby matters of this magnitude would be deemed to be approved as a result of a time period being exceeded would be wholly inappropriate. Notwithstanding the exclusion of European sites, this approach would pose unacceptable risks to the marine environment and navigational safety.</p>	

Number	Topic	Relevant Representation	AUBP Response
		<p>We recommend that the Applicant's alternative drafting is not included in the DCO."</p> <p>There is no compelling evidence as to why the Applicant in the case of BAEF should be an exception to the well-established rules and treated differently to any other Marine Licence holder.</p>	
41	Environmental Statement	4.1. The MMO note that the Applicant has referenced past MMO responses and has provided updates regarding the actions they have taken to address these matters. The MMO welcomes this approach, however the MMO has not been able to review these in detail with our technical specialist due to the limited time provided. The MMO will revert in future responses.	Noted.
42	Environmental Statement	4.2. The MMO would like to note that any mitigation discussed in the ES must be secured through conditions in the DML. As noted above the MMO's five tests are that conditions must be: Necessary; Precise; Enforceable; Reasonable; Relate to the activity or development.	Noted.
43	Habitat Mitigation Area - Mitigation or compensation	4.3. The MMO defer to Natural England as the SNCB regarding the Habitats Regulation Assessment (HRA) and for impacts to any habitats or species, both terrestrial and marine. The MMO note that the Applicant has included a Habitat Mitigation Area within the application to 'mitigate' the loss of foraging area. It is the opinion of the MMO case team that this is not mitigation and should be viewed as a compensation. Compensatory measures if used must be proven to be effective and must be secured as part of the DCO. The MMO recommend direct engagement by the Applicant with Natural England as SNCB on these matters.	The HRA for the Facility has identified that there is no Adverse Effect on the Integrity (AEoI) on any National Network site. Additional information supporting this conclusion is being drafted for review by Natural England and others. Additional information will be submitted to the Examination to support the findings of the Habitats Regulations Assessment (document reference 6.4.18, APP-111).

Number	Topic	Relevant Representation	AUBP Response
44	Environmental Statement	4.4. The MMO wish to highlight that the Environment Agency are the lead authority for the Waste Framework Directive, Water Framework Directive and matters pertaining to flood risk. The MMO also refer to the Environment Agency for advice in relation to impacts to migratory fish species. It is the understanding of the MMO that Environmental Permits will be required for this scheme. The MMO advise early and direct engagement with the Environment Agency on these matters.	Noted.
45	Deemed Marine Licence	4.5. The MMO looks to Historic England re: heritage impacts and whether mitigation needs to be secured via the DML. Given the size, location, and the nature of the proposal the MMO seeks the views of navigation safety bodies and lighthouse authorities regarding impacts (including cumulative) for navigational matters. If any mitigation is required, then the MMO would look to secure this via the DML.	Noted.
46	Marine Policy Assessment	4.6. The MMO notes that there is no reference to the East Inshore Marine Plans in the Environmental Statement project description. The MMO advise that a Marine Plan policy assessment is undertaken for this project. The MMO welcomes engagement with on the applicant on this matter should they require any further advice.	Page 16 of Environmental Statement (ES) Chapter 3 - Policy and Legislative Context (document reference 6.2.3, APP-041)) describes the Marine Policy Statement and East Inshore Marine Plan policies and in which ES chapters these are relevant to. Full reference is made to the Marine Policy Statement and East Inshore Marine Plan within the Planning Statement (document reference 5.2, APP-031). Refer to Page 48 to Page 50 and Appendix 1 which sets out the relevant policy in full. Table 6.5 on Pages 50 to 51 refers to key policy themes and related Eastern Inshore Marine Plan policies. Relevant EIMP policies are then referenced in the analysis - Section 7 - Planning Assessment.

Number	Topic	Relevant Representation	AUBP Response
			Following consultation with the MMO an East Marine Plan Policy Checklist (document reference 9.19) has been submitted at Deadline 1 of the examination.
47	Environmental Statement	4.7. The MMO is aware that both Natural England and the Environment Agency have concerns regarding the evidence provided within the ES, particularly around the scale of assessment. The MMO understand that Natural England and the Environment Agency consider there is substantive reasoning to delay the start of examination until such time further assessment can be provided, with ample time to review this. The MMO support Natural England and the Environment Agency in this position as we are aware this is likely to have implications for the DCO/DML conditions and the requirement thereof.	Noted.
48	General	4.8. Further, the Applicant issued notice of S56 to the MMO via post to headquarter offices without electronic notification. Given the experience of the past year in which working from home has become the norm the MMO consider this an oversight on the part of the Applicant. In line with current Government advice the Marine Licensing team will continue to practice working from home and so the MMO request all future correspondence is issued to us electronically.	Noted.
49	General	4.9. As noted above this method of consultation has meant the MMO could not engage our scientific advisors for substantive comment. The MMO hopes to provide a fuller response in future.	Noted.
50	Environmental Statement	4.10. The MMO wish to take this opportunity to remind the Applicant of their responsibility to ensure that they are complying with legislation regarding protected species (e.g. the Wildlife and Countryside Act, 1981). Further guidance regarding protected species and wildlife licensing is available on the MMO's website, link	Noted.

Number	Topic	Relevant Representation	AUBP Response
		here: https://www.gov.uk/guidance/understandmarine-wildlife-licences-and-report-an-incident	
51	Environmental Statement	4.11. The MMO would like to note that any mitigation discussed in the ES must be secured as conditions in the DML.	Noted.
52	General	4.12. The MMO defer to Natural England as the Statutory Nature Conservation Body (SNCB) for all Nature Conservation related advice, both terrestrial and marine.	Noted.
53	Environmental Statement	4.13. The MMO note that our previous advice has been addressed within Chapter 17 'Marine and Coastal Ecology'. The MMO will review and provide further comment at a later date following consultation with our specialist advisors.	Noted.

Table 1-5 Lincolnshire Wildlife Trust (RR-011)

Number	Topic	Relevant Representation (comment)	AUBP Response
1	HRA	Environmental survey and data do not demonstrate 'no adverse effect'. Insufficient information is presented to demonstrate beyond reasonable scientific doubt that there will be no adverse effect on the Integrity of the interest features of The Wash SPA and Wash & North Norfolk Coast (W&NNC) SAC.	<p>Bird data collected at the Application site, and adjacent survey Area A and Area B (as mapped in Figure 17.8, Environmental Statement, Chapter 17, Figures 17.1-17.10 (document reference 6.2.17, APP-055)) covered one breeding season (April to June 2020) and one wintering season (October 2019-March 2020). Bird disturbance data at the mouth of the Haven included in the DCO application covered one wintering season (November 2019-March 2020). Since the DCO Application was originally in December 2020, additional survey data has been collected, in response to representations made. This data was collected during the breeding season (April-June 2021), wintering season (January-March 2021) and disturbance data at the Haven mouth and Application site (January-July 2021).</p> <p>Breeding bird data also covers the simultaneous spring wader migration season (April - June), and further surveys are planned</p>

Number	Topic	Relevant Representation (comment)	AUBP Response
			<p>to cover the autumn wader migration in 2021 (late summer months). The latest survey data results were circulated to the consultee group week commencing 2 August 2021, and they are included in the ornithology addendum to the ES/HRA (document reference 9.13).</p> <p>Following the additional field data collection, bird data now covers two breeding and wintering seasons. While no bird species are designated features of The Wash SPA as passage populations, the data will also cover two spring wader passage and one autumn wader passage seasons.</p> <p>The above data will be analysed in relation to the findings of the earlier work to provide additional evidence for potential impacts to features of the SPA.</p>
2	HRA	Worst-case scenarios for the designated interest features of The Wash SPA & W&NNC SAC. Worst Case Scenarios, or worst-case impacts, have not been defined for features within the HRA. This should include detrimental impacts and any possible compounding issues on features e.g. further decline in breeding redshank, further declines in breeding harbour seal and permanent loss of priority habitats.	Worst case scenarios are defined in relation to many of the impacts, where relevant, in the Environmental Statement (Chapter 17 Marine and Coastal Ecology, (document reference 6.2.17, APP-055)). However, to remove any doubt or ambiguity we will confirm the basis of all assessments in a consistent format to stakeholders and the basis for their derivation during examination. Where such scenarios have an impact on features, they are addressed within the impact assessment on that feature within ES Chapter 17 (document reference 6.2.17, APP-055), HRA (document reference 6.4.18, APP-111) or both documents.
3	Marine and Coastal Ecology/HRA	Impact to harbour seals is not adequately assessed: Piling - project specific information should be assessed.	As shown in the ES Chapter 17 (Marine and Coastal Ecology) (document reference 6.2.17, APP-055), paragraph 17.8.97 and Table 17-19, the piling was assessed based on worst-case assumptions for the piling works (e.g. for a larger pile diameter than will be used at the Proposed Development, and within a large body of water allowing for higher levels of noise propagation), using the latest thresholds for potential impacts to harbour seal (National Marine Fisheries Service, 2018. 2018

Number	Topic	Relevant Representation (comment)	AUBP Response
			<p>Revisions to: Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0), s.l.: National Oceanic and Atmospheric Administration], and therefore impacts are expected to be less than the assessments on harbour seal predict (Table 17-19 and 17-20).</p> <p>In addition, standard mitigation procedures (such as pre-piling watches, and soft-start and ramp-up procedures) would be in place for any piling undertaken during high-tide (piling in low tide is not expected to generate significant levels of underwater noise due to the limited potential for noise propagation in very shallow water) (as described in paragraph 17.8.117). Therefore, no further assessment work, with regards to potential piling impacts, is envisaged to be required. The mitigation measures will be captured as part of the Maine Mammal Mitigation Protocol, conditioned within the Deemed Marine Licence contained in schedule 9 to the draft DCO (document reference 2.1(1)).</p>
4	Marine and Coastal Ecology/HRA	Impact to harbour seals is not adequately assessed: Disturbance from vessels (noise, presence and haul out sites) - information has not been provided for sensitive periods of breeding, pupping and moulting.	<p>Condition 14 of the draft DML submitted at Deadline 1 (Schedule 9, of the Draft DCO (document reference 2.1(1)) sets out that a navigation management plan is required which must include details (inter alia) of “measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol”.</p> <p>The Outline Marine Mammal Mitigation Protocol (document reference 9.12) submitted at Deadline 1 states that safety, weather and tidal conditions permitting, vessel speed limits of 6 knots for all vessels travelling within The Haven and The Wash. Vessel movements to be incorporated in to recognised vessel routes.</p> <p>Information has been provided on the number of pups born in the most recent yearly count at the closest sites to the vessel</p>

Number	Topic	Relevant Representation (comment)	AUBP Response
			anchorage and corridor (see ES Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055), to provide context of these sites in relation to the wider area (paragraphs 17.8.135 - 17.8.138). However, the closest of these sites is 840m from the vessel areas, more than the disturbance distance recorded for harbour seal (of less than 600m (paragraph 17.8.134)). There would therefore be no potential for disturbance to pupping sites, or for fleeing into the water, due to the increased presence of vessels nearby.
5	Marine and Coastal Ecology/HRA	Impact to harbour seals is not adequately assessed: Population decline - recent evidence suggests a decline in population of harbour seals along the east coast. This should be investigated using up to date information, assessed and reported in the HRA. If a population is in decline, even small impacts could have significant effect on the designated feature.	<p>At the time of writing the ES, there was no evidence to suggest there was a decline in the harbour seal population within The Wash (Chapter 17 Appendix 17.1 Habitats Regulation Assessment, document reference 6.4.18, APP-111, paragraphs A17.6.91 - A17.6.93); (Chapter 17 Marine and Coastal Ecology, document reference 6.2.17, APP-055, paragraphs 17.6.86 & 17.6.87)</p> <p>The Applicant acknowledges that further evidence on the overall population status has become available since submission of the DCO application. All impacts to harbour seal have been re-assessed and included in the marine mammals ES/HRA addendum (document reference 9.14), based on the updated population estimate. However, it should be noted that it is not expected that there would be any risk to the harbour seal population due to the low level of activity (i.e. the only impact being an increase in vessels within The Wash), and adequate mitigation would be put in place to ensure that there was no risk to the already declining population (including vessel speed limits and observers on all vessels).</p>
6	Marine and Coastal Ecology/HRA	Impacts on The Wash SPA and Ramsar site - wintering redshank. LWT support concerns raised by RSPB and Natural England on the impacts of increased vessel movements during the operational phase at the facility	Please see above responses to detailed comments on SPA birds resulting from RSPB and NE comments. A mitigation proposal has been put forward for the redshank at the proposed development site. A package of measures was put forward for

Number	Topic	Relevant Representation (comment)	AUBP Response
		and at the mouth of The Haven on feeding and roosting redshank. No mitigation or compensation packages have been suggested to address impacts. This should be considered within the EIA.	habitat creation/restoration within the Outline Landscape and Ecology Mitigation Strategy (OLEMS) (document reference APP-123) for the areas which would be adequate for mitigation, net gain or without prejudice compensation to provide habitat for birds that are impacted by disturbance due to vessel movements. Following further discussions, this document is currently being updated and will be submitted for Deadline 2 of the Examination. A without prejudice Habitats Directive Derogation Case will also be submitted for Deadline 2 which will include compensation measures.
7	Estuarine Processes/ Marine and Coastal Ecology	Estuarine processes - The loss of benthic communities due to the loss of habitat is not accounted for.	This impact is covered within the ES in Chapter 17 (document reference 6.2.17, APP-055) commencing with paragraph 17.8.12: Loss of and/or change to estuarine habitats and associated species within the footprint of the wharf and dredging area. It is concluded that the species lost would be typical of the wider area and the area is small scale in context of The Haven as a whole.
8	Marine and Coastal Ecology/HRA	Habitat Loss - habitat loss and the wash caused by increased vessel passage and anchorage areas may change the dynamic of the mouth of the Witham into The Wash e.g. where sediment accumulates and settles. Further dredging may be required. This should be identified and any impacts compensated (or mitigated for).	Habitat loss due to changes in the hydrodynamics of the site was included in the ES Chapter 17 (document reference 6.2.17, APP-055) commencing with paragraph 17.8.150. The detail of the changes to hydrodynamic processes is within Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054) and how the changes could affect the habitats is within Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055). Chapter 16 concludes that all effects will be of negligible magnitude.
9	Marine and Coastal Ecology/HRA	Permanent loss of priority habitat (intertidal mudflat and saltmarsh) - LWT do not agree with the conclusion of minor adverse effect on intertidal mudflat and saltmarsh. Both are priority habitats of principal importance for the conservation of biodiversity. LWT also consider that the priority habitat within this part of The Haven is functionally linked to The Wash SPA habitat. Relying on	The loss of priority habitat has been discussed in the ES in Chapter 17 (document reference 6.2.17, APP-055): construction impacts (commencing with paragraph 17.8.12). The surveys undertaken for the Environment Agency (Jacobs, 2011 Boston Barrier Saltmarsh Surveys September 2011; Environment Agency 2014 Boston Barrier Tidal Project - Volume 2b: Ecology and Nature Conservation Technical Report, Bristol) of the narrow strip of saltmarsh and the reported evidence showed that the

Number	Topic	Relevant Representation (comment)	AUBP Response
		natural reestablishment of this habitat post construction is not adequate.	saltmarsh was in poor condition. Saltmarsh and mudflats are of biodiversity importance but the loss of such small areas (2.54ha comprising 1.0 ha of saltmarsh and 1.54 ha of mudflat), and the reported poor condition of the saltmarsh and typical habitat for the mudflats are not considered to be significant in context of the wider habitats in the surrounding area. They are not located within The Wash SPA or The Wash and North Norfolk Coast SAC but do provide habitat for SPA species and as such have been considered in the EIA in terms of how the loss of such habitat could affect such species. The mitigation recommended (as outlined in the Outline Landscape and Ecology Mitigation Strategy (OLEMS) (document reference 7.4, APP-123) at the proposed development site is expected to provide sufficient habitat in this area for the species that use the area that would be lost, and has reduced the impact on saltmarshes and associated species from moderate to minor. The mitigation proposed in the OLEMS (document reference 7.4, APP-123) and in the ES in Chapter 17 (document reference 6.2.17, APP-055) provide for habitat creation during construction through the re-use of the rocks that would be moved from the proposed development site and would as such provide the necessary roosting sites to replace the areas lost. The addition of shallow pools would provide additional foraging habitat if required to supplement the shallow pools already present in the saltmarsh adjacent to the proposed development site. Additional measures for habitat offset are being investigated and will be included in the updated OLEMS document to be submitted on Deadline 2.
10	Marine and Coastal Ecology/HRA	CEMP / Embedded mitigation – must be conditioned. Adaptive management Need to be considered as part of the condition.	The deemed marine licence (Schedule 9 Part 4 Requirement 16) within the DCO (document reference 2.1, APP-005) makes allowance for provision of a Marine Pollution Contingency Plan to be approved by the MMO.

Number	Topic	Relevant Representation (comment)	AUBP Response
			The marine pollution contingency plan must set out the undertaker's assessment of the likely risks which could arise as a result of a spill or collision during construction and maintenance of the authorised development and the methods and procedures the undertaker intends to put in place to address those risks.

Table 1-6 Black Sluice Internal Drainage Board (RR-004)

Number	Topic	Relevant Representation	AUBP Response
1	Surface Water and Drainage	The Black Sluice Internal Drainage Board (the Board) is an independent authority constituted under the Land Drainage Act 1930, with duties "to exercise a general supervision over all matters relating to the drainage of land within its district". The Board acts as a non-statutory consultee to Local Planning Authorities, but importantly the Board has its own statutory powers with respect to drainage which also determines how and if a development may proceed. The Board's current powers derive from the Land Drainage Act 1991. The Board also acts as an agent and non-statutory sub-consultee to the Lead Local Flood Authority (Lincolnshire County Council) for matters regarding flood risk, surface water drainage and Section 23 consenting.	Noted. The Applicant confirms that discussions have taken place with Black Sluice Internal Drainage Board (IDB) and an Outline Surface Water Drainage Strategy (document reference 9.4) has been provided to the Examination which confirms the location of surface water drainage from the Principal Application Site and adherence to current flow / discharge conditions. Discussion relating to Protective Provisions will also take place (if required by Black Sluice IDB) to ensure the Board are satisfied with the relevant arrangements.

Table 1-7 Maritime and Coastguard Agency (RR-015)

Number	Topic	Relevant Representation	AUBP Response
1	Navigation	The MCA has an interest in the works associated with the marine environment, and the potential impact on the safety of navigation, access to ports, harbours and marinas and any impact on our search and rescue obligations. We would like to be consulted on the establishment of any infrastructure or works in or over the marine environment, and any Harbour Orders providing statutory powers for the ongoing safe operation of the facility. For works required in or over the marine environment, a Marine Licence may be required under the Marine and Coastal Access Act 2009, at which time the MCA will be invited to comment on the licence application from the	Noted. To confirm, the Applicant is in consultation with the Port of Boston who are the statutory harbour authority for The Haven (and into the Wash).

Number	Topic	Relevant Representation	AUBP Response
		safety of navigation safety perspective. In addition, the MCA would point the developers in the direction of the Port Marine Safety Code (PMSC) and its Guide to Good Practice; they would need to liaise and consult with any relevant Statutory Harbour Authority to develop a robust Safety Management System (SMS) for the project under this code.	

Table 1-8 Neil Harris Consulting on behalf of Port of Boston (RR-016)

Number	Topic	Relevant Representation	AUBP Response
1	Navigation	As the Statutory Harbour Authority (SHA), the Port of Boston Ltd (the Port) has duties, powers and responsibilities for the Safety of Navigation within its Jurisdiction Area. The proposed BAEF facility includes a new wharf within the Port's jurisdiction, the use of which will significantly increase the number of commercial vessels using the river. The dredging, both capital and maintenance, the construction and operation of the Wharf, the lighting of the facility, the increase in vessel numbers all have the potential to impact on the safety of navigation to current and future river users. It is the Ports intention to work closely with the developer on matters relating to safety of navigation, but the Port may make direct submissions to the Examiner, as may be appropriate to its duties and responsibilities as the SHA.	The Applicant confirms that they are working closely with the Port of Boston on all relevant matters.

Table 1-9 Port of Boston (RR-017)

Number	Topic	Relevant Representation	AUBP Response
1	Navigation	As the Statutory Harbour Authority, the Port of Boston Ltd has duties, powers and responsibilities for the Safety of Navigation within its Jurisdiction Area. The proposed BAEF facility includes a wharf, the use of which will significantly increase the number of commercial vessels using the river. The dredging, both capital and maintenance, the construction and operation of the Wharf, the lighting of the facility, the increase in vessel numbers all have the potential to impact on the safety of navigation to current and future river users. It is the Ports intention to work closely with the developer on matters relating to safety of navigation.	The Applicant confirms that they are working closely with the Port of Boston on all relevant matters.

Table 1-10 Osborne Clarke on behalf of Western Power Distribution (RR-002)

Number	Topic	Relevant Representation	AUBP Response
1	Land Ownership	We act for Western Power Distribution (East Midlands) plc ('WPD') whose registered office is at Avonbank, Feeder road, Bristol, BS2 0TB. WPD is the licenced distribution network operator under Section 6 Electricity Act 1989 (EA1989) for the area in which the Order is proposed to have effect. Section 9 of the EA1989 places a duty on the electricity distributor to develop and maintain an efficient, co-ordinated and economical system of electricity distribution. The application includes land over which WPD holds assets that are subject to compulsory purchase powers. WPD needs to ensure that the powers being sought will not have a detrimental impact on WPD's electricity network including ensuring that the terms of the proposed protective provisions are acceptable. Please accept this as WPD's representation consisting of a holding objection to the application. The objection is made on the grounds that WPD will seek to agree protection of its assets with the undertaker. No formal agreement has yet been concluded and accordingly we are lodging this objection to protect WPD's position pending conclusion of an appropriate agreement. Once WPD are satisfied that its network is protected we will notify the Planning Inspectorate promptly and withdraw the objection.	The Applicant is committed to working with Western Power Distribution (WPD) to obtain a mutually satisfactory agreement to ensure WPD's assets have appropriate protection.

Table 1-11 Public Health England (RR-023)

Number	Topic	Relevant Representation	AUBP Response
1	Health/Air Quality	PHE welcomes the opportunity to comment on these proposals at this stage of the project: Air Quality the Applicant's Health Impact Assessment (HIA) provides general assurances regarding the potential significance of human exposure to dioxin emissions to air. However, the detailed air quality assessment makes no comment on the significance of predicted concentrations of dioxins and furans, and deposition of pollutants (both dioxins and other pollutants, such as metals) is not quantitatively assessed.	A relevant Human Health Risk Assessment (document reference 9.9) has been submitted into the examination at Deadline 1. This considers changes in the uptake of dioxins and furans and dioxin-like PCBs, and the effects of these substances in the food chain. The effect of abnormal operations is typically provided at the Environmental Permitting stage,

Number	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> Consider 1) screening of substance deposition (and, if required, further assessment of human intake) 2) a health risk assessment for human intake of dioxins and dioxin-like PCBs versus tolerable daily intakes. As these assessments may be required as part of the site's environmental permit application, comments should be sought from the Environment Agency. Noting some consultees' past responses regarding deposition, the Food Standards Agency may have a view on deposition of air pollutants to the food chain (in terms of agriculture, shellfish and so on) Similarly, assessments of the potential impacts of emissions to air should ideally address the potential (short-term) impacts associated with abnormal operations (e.g., start-up/shutdown and short-term failures of abatement technology) 	<p>however further information has been provided and submitted into the examination at Deadline 1 (see Appendix 14.6, document reference 9.10).</p>
2	Health/Air Quality	<p>The applicant proposes the use of Euro VI vehicles during construction to mitigate road traffic emissions.</p> <ul style="list-style-type: none"> Consider whether similar mitigation measures can be made for shipping during the construction and operational phases of the development to reduce public exposures to exhaust emissions (and any contribution to high background concentrations of nitrogen dioxide within Boston's Air Quality Management Areas). 	<p>The contribution of emissions from shipping was predicted to be relatively small. This is predominantly due to the fact that the vessels would not be required to run their auxiliary engines whilst at berth, and therefore emissions would only occur as vessels approach and leave the Facility and during manoeuvring. Given the separation distance between the Haven and the Air Quality Management Areas within Boston, there were no significant contributions at these receptors from vessel movements. As such, it is not considered that further mitigation measures are required. It is also the case that the North Sea is included within an Emissions Control Area (ECA), declared under the International Convention for the Prevention of Pollution from Ships (MARPOL), which imposes strict limits upon emissions of sulphur dioxide and nitrogen oxides from vessels.</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>The design of the Facility, and the use of vessels to import RDF, has resulted in significantly lower traffic generation than would otherwise be experienced if RDF were imported by road. As such, this has minimised effects on receptors in proximity to the road network, and particularly those within the Boston AQMAs which currently experience elevated pollutant concentrations.</p>
3	Health	<p>As a general point regarding the HIA, it is unclear to what extent pre-existing health outcomes (e.g., cardiovascular diseases, asthma and other pre-existing respiratory conditions) were accounted for when defining relevant population groups, because high level summaries are given and the prevalence of relevant health outcomes is not fully detailed.</p>	<p>The relevant groups in the assessment were identified based on the Lower Super Output Areas (LSOA) and proximity to the proposed facility; this local population was assumed to be potentially impacted and the selection was not based on pre-existing health outcomes. The details of this study group baseline health are provided in Appendix 22.1 Health Baseline Statistics (document reference 6.4.26, APP-119).</p>
4	Health/Air Quality	<p>Furthermore, it is unclear why the general population/vulnerable groups are considered of medium sensitivity for construction air quality effects (mentioning deprivation, health status and life stage) but not operational effects.</p>	<p>The existence of the two AQMAs was taken into consideration in the sensitivity assessment, as set out in Table 22-9 of Chapter 22 Health (document reference 6.2.22, APP-060). People living in those areas would potentially be greater affected during construction, as a result of higher construction traffic flows, than will be the case during operation. As they reside in locations of elevated air pollution, they were judged to have a greater sensitivity (in this respect) than those living elsewhere. The main potential impacts during the operation of the facility will affect</p>

Number	Topic	Relevant Representation	AUBP Response
			different areas outside the AQMAs, where existing background air pollutant concentrations are lower.
5	Health/Air Quality	<p>As people also work in affected areas, it may not be appropriate to base a lower sensitivity on a lower local prevalence of working from home. Overall, whilst residual effects on air quality may be considered 'non significant' in planning terms if air quality standards are met, there is no threshold for health effects related to nitrogen dioxide and particulate matter. Reducing public exposures to non-threshold pollutants below air quality standards has potential public health benefits. We support approaches which minimise or mitigate public exposure to non-threshold air pollutants and address inequalities (in exposure) and encourage their consideration during site design, operational management, and regulation.</p>	<p>In the derivation of the Government's health-based statutory air quality objectives, the former Expert Panel on Air Quality Standards, and the World Health Organisation in setting its air quality Guidelines, adopted an approach based on empirical (workplace) exposure data with factors introduced which accounted for a potential continuous exposure of a non-working population (the young and elderly) and those with pre-existing respiratory conditions. Whilst it is accepted that the objectives are not absolute dividing lines between a safe and an unsafe exposure, and cannot provide surety that each individual will not be affected by exposure below those objectives, they represent an appropriate benchmark for an assessment of impact on the local population. Added to this, the maximum residual air quality impacts are well below the relevant health-based air quality objectives, the differential is not marginal.</p>
6	Contaminated land	<p>Contaminated Land PHE notes that identification and mitigation of any issues associated with land contamination are dependent on future site investigations and sampling. The investigation is proposed to be a requirement in the Development Consent Order.</p> <ul style="list-style-type: none"> We recommend the local authority contaminated land officer is consulted on this future strategy (and any subsequent mitigation) 	<p>Consultation with the Local Authority Environmental Health Officer / Contaminated Land Officer is proposed and will be included within Requirement 9 of the Draft DCO (document reference 2.1, APP-005). A revised version of the draft DCO has been submitted at Deadline 1 (document reference 2.1(1)).</p>

Number	Topic	Relevant Representation	AUBP Response
7	Health	<p>Electromagnetic Fields (EMF) The proposal includes an electricity grid connection point and substation. PHE's scoping response recommended that the EIA consider the public health implications of EMF exposures arising from the development in relation to the ICNIRP exposure guidelines (for the full recommendation, refer to PHE's Scoping Response). Electromagnetic fields do not appear to have been considered.</p> <ul style="list-style-type: none"> We recommend public health implications of EMF exposures are addressed 	<p>All underground and overhead electricity lines and related infrastructure, including electrical substations, will be designed and operated in accordance with National Grid requirements and with regard to the reference levels stipulated by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). Useful information can be found on the Energy Networks Association website.</p>
8	Accidents	<p>Accidents related to operation of the proposed installation will be addressed as part of the site's environmental permit, which will include a fire prevention plan. This is needed as the current assessment of accidents focusses on external (eg, climate) hazards and, for fires, does not consider off-site impacts associated with products of combustion (smoke).</p> <ul style="list-style-type: none"> Establish whether the on-site fire prevention plan addresses risks associated with fires that could occur on ships transporting refuse-derived fuel or at berth. If not, additional measures may be needed to reduce fire risk and mitigate local impacts in the event of fires on vessels associated with the proposed facility 	<p>As discussed in Environmental Statement Chapter 24 Major Accidents and Risk Management (document reference 6.2.24, APP-062) a Fire Prevention Plan will be included alongside the Environmental Permit (EP). Discussions with the Environment Agency have commenced in relation to the EP.</p> <p>It seems unlikely that the inclusion of fires on vessels transporting RDF would fall within the remit of the EP, but rather would be a matter for the relevant harbour authority, the Port of Boston. Discussions on this point will be undertaken with the Environment Agency and Port of Boston.</p>

Table 1-12 Historic England (RR-027)

Number	Topic	Relevant Representation	AUBP Response
1	Cultural heritage	We have provided pre-application advice on this scheme both directly to the applicants and in the form of technical scientific support to the Local Government archaeological advisors, I bring these strands together in this representation.	The Applicant wishes to make no comment on this part of the representation.
2	Cultural heritage	Our advice is reproduced in the submitted Environmental Statement. The applicant has engaged positively with our advice and we broadly welcome the submitted Outline Written Scheme of Investigation (OWSI). The applicant was not however able to provide sight of the final version for comment prior to submission and as such our more detailed comments as follows may be of assistance. Some finessing of the OWSI remains desirable in particular around a more iterative approach to borehole sampling and analysis. This would support deposit modelling and archaeological resource characterisation through additional archaeologically directed sampling in an iterative response to the integration of the results of engineering led sampling into the developing deposit model.	A programme of geotechnical site investigations is planned post-consent which will include geoarchaeological objectives, as advised by a specialist geoarchaeological contractor and agreed in consultation with the Historic England science advisor. These objectives will be informed by a programme of targeted geoarchaeological investigation, currently planned to take place Q4 2021 (with results becoming available during the Examination). The Outline WSI (document reference 7.3(1)) has been updated and submitted at Deadline 1 of the examination to capture Historic England advice.
3	Cultural heritage	We welcome the recognition of the potential importance of prehistoric peat deposits and historic alluvium (paragraph 8.84), particularly with regards to the paleoenvironmental potential. We are also pleased to see a recognition that the magnitude of impact on these could be high (paragraph 8.8.6). With regards to the proposed mitigation measures on this (8.8.9) it is strongly recommended that a more proactive approach is taken than is currently set out in the OWSI. In the OWSI it currently states that: 1.5.4 Geoarchaeological analysis of any borehole cores taken during the pre-development and post-consent	

Number	Topic	Relevant Representation	AUBP Response
		<p>phase would add to the current knowledge of the past environment within the area. Geoarchaeological monitoring of any boreholes or ground investigation works would be undertaken, with cores taken for analysis off-site and the following data presented in an archive report.</p> <p>We strongly recommend that the opportunity is taken to ensure that an appropriate geoarchaeologist is involved at the borehole methodology design stage to ensure that appropriate techniques are used to ensure that useful data is recovered. There may be a need for the geoarchaeologist to undertake boreholes for purely geoarchaeological purposes. It should also be ensured that the geoarchaeologist has an opportunity to see the continuous sequences of deposits for themselves as the stratigraphic descriptions produced by geotechnical contractors may not be of appropriate quality for geoarchaeological purposes. Further details can be found in the Historic England guidance documents Geoarchaeology (2015) and Deposit Modelling and Archaeology (2020):</p> <ul style="list-style-type: none"> ■ [REDACTED] ■ [REDACTED] 	
4	Cultural heritage	<p>With regards to the impacts of piling we would recommend that consideration is given to the principles and procedures outlined in Historic England's 2019 guidance 'Piling and Archaeology: Guidance and Good Practice':</p>	<p>Noted. The good practice guidance and advice from this document note will inform the design process and archaeological mitigation strategy in the Outline Written Scheme of Investigation (WSI).</p>

Number	Topic	Relevant Representation	AUBP Response
		■ [REDACTED] [REDACTED]	
5	Cultural heritage	Reviewing the data gathered from the geoarchaeological investigations in the context of the procedures laid out in here will enable to impacts of piling on the archaeological remains to be better understood and greatly increase the chance of ensuring that a sustainable foundation scheme or suitable mitigation can be developed (neither of which are presently possible due to the lack of information).	
6	Cultural heritage	With regards to the impact on the Haven mudbanks we welcome the recognition of their potential significance and that the magnitude of impact on these could be high (8.8.13). Are there any geotechnical or other non-archaeological ground investigations planned for this area? If so, we would strongly encourage the involvement of a geoarchaeologist to help provide further data in advance of monitoring the main works.	Please refer to RR-027-2.
7	Cultural heritage	Any subsequent monitoring scheme should incorporate a clear, robust, and well-designed sampling strategy to ensure appropriate procedures are in place in the event that something is encountered (whether that be a small lens of deposit with paleoenvironmental potential or hulk). This should include any details of specialist samples that may need to be taken.	Please refer to RR-027-2. In addition, a commitment to the preparation and implementation of a Protocol for Archaeological Discoveries is included in the Outline WSI.

Table 1-13 Natural England (RR-021)

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
Appendix A Generic Issues						
1	Generic Issues	In our detailed comments we raise concerns about whether the impacts have been fully considered and as required worst case scenarios being presented and assessed. Therefore, we are concerned that the Applicant has not presented a comprehensive Environmental Statement (ES) where the required evidence is provided with impacts clearly set out and assessed at both an individual pressure and/or receptor level and at a wider ecosystem level with all the necessary cross-referencing. Without this required evidence ambiguity is created and others are relied on to piece it all together. Therefore, we do not currently agree with Worst Case Scenarios presented and conclusions drawn from these. In particular (but not exclusively) this concern relates to cumulative/in-combination assessments and/or in direct consequences of the proposal e.g. relocation of fishing boats, increased dredging.	N/A	Worst case scenarios are defined in relation to many of the impacts, where relevant, in the Environmental Statement (Chapter 17 Marine and Coastal Ecology, (document reference 6.2.17, APP-055)). However, to remove any doubt or ambiguity the basis of all assessments will be confirmed in a consistent format to stakeholders and the basis for their derivation during examination. Where such scenarios have an impact on features, they are addressed within the impact assessment on that feature within ES (Chapter 17, document reference 6.2.17, APP-055), HRA (document reference 6.4.18, APP-111) or both documents.	NE welcome the clarification on this point.	Noted.
2	Generic Issues	Natural England notes that key plans identified to provide the necessary comfort to ExA and SoS that the projects will not have a detrimental impact have either not been provided or where they have they are too high level to demonstrate that necessary actions will be taken to avoid, reduce and mitigate impacts to acceptable levels. As with other NSIPs we advise that the Applicant provides Outline plans as part of the consenting phase.	N/A	Outline supporting plans have been produced and provided using as much information as known at the time (an outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123) was produced to outline the mitigation works for the redshank roosting area and provide a proposed net gain approach (subject to further discussion)). The management measures were only discussed at a high level in this document as full details are not yet agreed or defined with RSPB and Natural England. These will be developed over the coming months to incorporate details of measures proposed to manage impacts. The updated management measures will be detailed further in an update to the Outline Landscape and Ecology Mitigation Strategy (OLEMS) which is anticipated to be available during the examination phase.	<p>We acknowledge that the Outline Landscape and Ecological Mitigation Strategy (OLEMS) provides broad details regarding the proposed mitigation/compensation area and works to enhance the Redshank roosting area. Further information is necessary regarding this area to ensure the works do not adversely affect the existing saltmarsh habitat; and that the proposed works are capable of increasing the carrying capacity for Redshank, considering its location near to the proposed wharf.</p> <p>Natural England advises that currently an adverse effect on integrity on The Wash SPA redshank population cannot be excluded beyond all reasonable scientific doubt. Therefore, if further evidence is presented and our concerns are not allayed, then our DAS advice remains unchanged, and this proposal is likely to be a fundamental requirement as part of an in principle compensatory package which must be submitted into examination as soon as possible to enable full consideration of the merits of the</p>	The HRA/ES addendum (document reference 9.13) submitted at Deadline 1 provides further data and analysis of data on the proposed measures, including discussion of the likelihood of the redshank populations using the habitats around the proposed development site being associated with the Wash SPA. It is not expected that the proposed works would adversely affect the existing saltmarsh.

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
					compensation packages. Natural England has compiled the attached list with a view to informing submission of appropriately well-developed compensatory measures into the Examination. It is Natural England's view that sufficient clarify on all these matters is needed prior to determination.	
3	Generic Issues	Conservation Objectives and Favourable Condition Status of designated sites and features Natural England notes that the assessment of pressures currently doesn't consider how the pressures may impact the conservation objectives for the site and the current condition of the features which would provide the necessary context to inform the significance of any impacts.	N/A	The conservation objectives for the SPA have now been made clearer with regard to potential impacts on the conservation objectives. This is provided in the ES and HRA Ornithology Addendum (document reference 9.13) submitted at Deadline 1.	N/A	N/A
4	Generic Issues	Missing documents Inclusion of proposed construction schedule for works along The Haven i.e. the wharf with key activities along with the key exclusion periods relating to birds and fish.	N/A	An Indicative Construction Programme (document reference 9.18) has been submitted at Deadline 1 of the examination.	N/A	N/A
5	Generic Issues	Missing documents A failure to assess and/or provide pollution contingency plan for oil, fuel oil and rubbish pollution that could be caused by an additional 580 large vessels per annum using The Haven.	N/A	Please refer to RR-024-32.	N/A	N/A
6	Generic Issues	Missing documents Lack of detail on water discharge from the application site to demonstrate that this will not affect water quality in The Haven.	N/A	Please refer to RR-024-30.	N/A	N/A
7	Generic Issues	Missing documents Consideration of impacts to The Wash and North Norfolk Coast SAC from anchorage in the Wash whilst waiting for appropriate tidal window to enter The Haven.	N/A	The Marine Mammals addendum to the ES and HRA (document reference 9.14) has been updated to include the assessment of risk to harbour seals (adults or pups) as a result of interactions with vessels within the anchorage area. The addendum also assesses the overall effect on integrity of The Wash and North Norfolk Coast SAC in relation to the conservation objectives for harbour seal.	N/A	N/A
8	Generic Issues	Missing documents No information to assess the effect that potential changes in fishing vessel activity to avoid the potential delays caused by the additional vessels turning could have on foraging and roosting birds	N/A	Please refer to RR-024-28.	N/A	N/A
9	Generic Issues	Missing documents An incomplete cumulative and in-combination assessment to assess the overall scale of	N/A	Please refer to RR-024-63.	N/A	N/A

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
		impact that could arise from the proposed facility				
10	Generic Issues	Missing documents Failure to provide more detail on the potential that the fishing fleet could relocate downstream of the facility should it be developed, as this would also have the potential to cause an adverse effect on integrity of The Wash SPA/Ramsar and exacerbate impacts arising from the facility development and increased vessel movements	N/A	Please refer to the response in RR-024-29.	N/A	N/A
11	Generic Issues	Missing documents In addition, as set out below further clarification is needed on the Worst-Case Scenario (WCS) for vessel numbers and operations as this will impact on all the receptors	N/A	Please refer to RR-024-1.	N/A	N/A
12	Generic Issues	Ship numbers – RDF delivery; mentions 10 ships per week = 520 ships per year? Is this the maximum figure? This is single journeys so a return trip of 1040 vessel movements? In addition, need to consider pilot boats (1 or 2 vessels per high tide).	N/A	Section 5.6.10 of Chapter 5 Project Description (document reference 6.2.5, APP-043) rounds up to 10 RDF vessels per week, but also notes the actual number which is 9.2 RDF deliveries per week which is approximately 480 ships per year (not including aggregate vessels). This figure is based on single journeys. ES Chapter 18 (Navigational Issues (document reference 6.2.18, APP-056) paragraph 18.7.61 states that approximately 480 vessels will import RDF per year and 100 vessels will export aggregate per year, equalling 580 vessel arrivals per year. In addition, in relation to pilot vessels please refer to RR-024-102.	N/A	N/A
13	Generic Issues	Ship numbers – following on from paragraph 5.6.10 – it notes 580 vessels per year or 12 ships per week: but 12 x 52 = 624? Is 580 the maximum number of vessels, can this be clarified?	N/A	Section 5.6.20 of Chapter 5 Project Description (document reference 6.2.5, APP-043) notes there could be 'up to 12 per week' this is because the actual number is 11.1 ships per week which totals approximately 580 ships per year.	N/A	N/A
14	Generic Issues	Disturbance to birds by vessel movement during construction – 89 vessels (178 return trips + pilot boats). Suggested numbers of 5 vessels per week (peak), typically 4 per month. This seems to be inconsistent with other sections of the ES. (Marine and Coastal Ecology (document reference APP-055) Paragraph 17.8.80)	N/A	Section 5.5.16 of Chapter 5 Project Description (document reference 6.2.5, APP-043) notes "It is anticipated that there will be approximately 89 shipments of raw materials during the construction period." This is also consistent with Chapter 18 Navigational Issues (document reference 6.2.18, APP-56) which states in Section 18.7.51 that "...it is anticipated that there will be approximately 89 shipments of raw materials to the wharf over the subsequent two-year period of the construction phase. The peak weekly vessel number will not exceed five vessels per week during the construction period."	N/A	N/A

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
				The Applicant requests confirmation of which chapters are inconsistent.		
15	Generic Issues	Increased vessel traffic/ movement – from c. 420 (based on 2019 figures) to c. 1000 vessels – which equates to 2000 vessel movements along with pilot boat movements. Again, this is inconsistent with other sections of the ES	N/A	As discussed in RR-021-13 the ES is based on 580 operational vessel movements per year, which is consistent with Chapter 17 Marine and Coastal Ecology (document ref 6.2.17, APP-056). In relation to pilot vessels please refer to RR-024-102.	N/A	N/A
16	Generic Issues	Increase in pilot boats to accompany the vessels. The pilot travel faster and cause increased boat wash – is there a speed limit for the pilot boats?	N/A	In relation to pilot vessels please refer to RR-024-102. There is a speed limit of 6 knots over The Haven.	N/A	N/A
Appendix B Offshore Ornithology						
17	Offshore Ornithology	Please be advised that bird data required for March to June 2021 has not yet been submitted. Natural England advises for birds, a minimum of two years site specific data is collected to allow for variation in bird use between years.' (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference APP-055) Paragraph 17.4.3)	This is being collected but NE need to see the analysis of this.	This data was circulated to Natural England week commencing 02 Aug 2021 having received the report from the ornithological surveyor ('Changes in Water Bird Behaviour [sic] Due to River Traffic at the Mouth of The Haven and Haven River, Boston, Lincolnshire January 2021 to July 2021'). Analysis of the data has been included in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted to the Examination for Deadline 1	Natural England thanks BAEP for early sight of the documentation. However, we will respond as part of the statutory process direct into examination.	Noted
18	Offshore Ornithology	Natural England queries why citation text and list SPA species is fully utilised as well as SSSI features. For example, no mention of key species i.e. breeding Redshank and littoral sediment, SM4-28 saltmarsh etc.	Natural England advises that clarification is provided on this point.	This will be reviewed in the documents but the Environmental Statement Chapter 17 (Marine and Coastal Ecology) (document reference 6.2.17, APP-055) and HRA (document reference 6.4.18, APP-111) has discussed species and habitats that are likely to be affected. Breeding birds were surveyed at the proposed development site and were not recorded during the breeding season. Breeding bird data is discussed in the ES (commencing with paragraph 17.6.70) and discusses the potential for use of the site by breeding redshank. Littoral sediment in the designated sites is not expected to be affected.	Natural England will be guided by the ExA as other NSIPs have been requested to submit the relevant site information.	Further information has been added to the ornithology addendum to the HRA/ ES (document reference 9.13) regarding SSSI species. SPA species have been checked within the ornithology addendum to the HRA/ ES and species added where necessary.
19	Offshore Ornithology	Natural England notes that Redshank are shown as absent in table between April and July. However, we advise that they should be shown as present as they breed on The Wash. Also, Ringed Plover is missing a month, and this should be checked to be correct.	Natural England requires further information to be provided.	Redshank is a designated SPA feature as a non-breeding species according to the SPA Citation (EC Directive 79/409 on the conservation of wild birds: Special Protection Area, The Wash (Norfolk & Lincolnshire)). Redshank are not designated as a breeding species as the size of the breeding population, although 'undoubtedly of national importance', had yet to be assessed. Survey results from the Application site for redshank show the species was present in one April survey and absent during surveys in May to July ('Breeding Bird Survey Monitoring at Proposed Site of Boston Alternative Energy Facility April - June 2021'). Disturbance surveys at the mouth of the Haven in these months show redshank were present in May and July but not	"Please be advised that breeding redshank are an notified feature of The Wash SSSI. Impacts on the feature do need to be considered further, even if outside the HRA."	implications for success of breeding redshank have been added to the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
				June ('Changes in Water Bird Behaviour [sic] Due to River Traffic at the Mouth of The Haven and Haven River, Boston, Lincolnshire, January 2021 to July 2021').		
20	Offshore Ornithology	Natural England acknowledges that monitoring by an ornithologist was undertaken for the EA Boston Haven embankment works for activities carried out during the autumn/spring passage and overwinter. Monitoring considered noise and visual disturbance and recorded species, numbers, and bird behaviour. A stop trigger (based on 1% of the cited SPA numbers) was used when works were noted to show disturbance. At that time a 500m monitoring zone was required. For this project a 250m zone has been suggested based on the data collected. We advise that this appears to be appropriate for BAEF considering the distance from the SPA and the reduced numbers of birds using the upper stretches of The Haven; but note data has shown numbers of Ruff and Redshank in Area A and B have exceeded the 1% threshold during monitoring so assurances that the buffer remain correct for these species is required.	Natural England requires demonstration that the proposed 250m buffer zone is fit for purpose for ruff and redshank.	Buffer zones for works to avoid and minimise disturbance to species are taken from Cutts et al (Cutts, N., Phelps, A. & Burdon, D., 2008. Construction and Waterfowl: Defining Sensitivity Response, Impacts and Guidance. Report to Humber INCA., s.l.: Institute of Estuarine and Coastal Studies, University of Hull.) which provides peer reviewed data on disturbance distances for waders.	Natural England advises that Cutts et al. may be appropriate for identifying generic distances where no better data exists, but disturbance and habituation are often subject to site specific variation. As it was confirmed at the meeting that some data had been collected as part of the bird surveys it would be appropriate to review behavioural response information to see how distances compare at this site and whether following Cutts et al is appropriate; precautionary; or not-precautionary enough.	Cutts et al is used as a data source to provide generic information. Site specific surveys are also used to provide site specific information on actual disturbance levels.
21	Offshore Ornithology	Natural England notes that within the Haven there are likely to be seven SPA species likely to be disturbed by increased boat traffic i.e. dark-bellied brent goose, shelduck, lapwing, dunlin, black-tailed godwit, redshank, and turnstone.	Natural England advises that impacts to these species should be avoided, reduced, and mitigated. Therefore, further consideration is required by the Applicant on how this will be achieved and secured within the DCO.	The work undertaken on the disturbance monitoring has shown that at present the majority of species have adjusted to disturbance in this area during roosting periods and have alternative roosts that they use which reduces the potential for impacts related to increasing the number of large vessels entering and leaving The Haven. Measures are being investigated to provide either net gain or without prejudice compensation for habitats/birds that could be affected, and these will be discussed with Consultees when details are available. Where there are likely significant effects as a result of the increase in vessel numbers then measures will be recommended to avoid, reduce or offset such effects. If following the additional surveys undertaken (results circulated to the consultees week commencing 2nd August 2021) indicate additional impacts, then additional measures will be proposed within the ornithology addendum to the HRA/ ES (document reference 9.13) to be submitted for the Examination for Deadline 1. In addition, a without prejudice derogation case is aimed to be submitted for Examination at Deadline 2.	Natural England thanks BAEP for early sight of the documentation. However, we will respond as part of the statutory process direct into examination.	Noted. Further analysis of the disturbance at the mouth of The Haven linking directly to the sites conservation objectives has been undertaken and reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted in Deadline 1.
22	Offshore Ornithology	Natural England is concerned that disturbance to roosts at the mouth of the Haven may affect 24 species including 8 at greater than 1% of site population	Natural England advises that impacts to these species should be avoided,	Please refer to responses in RR-021-20 and RR-021-21 above.	Please refer to responses in RR-021-20 and RR-021-21 above.	Please refer to responses in RR-021-20 and RR-021-21 above.

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
			reduced, and mitigated. Therefore, further consideration is required by the Applicant on how this will be achieved and secured within the DCO.			
23	Offshore Ornithology	<p>Natural England notes that the area in the Mouth of the Haven likely to be disturbed by the proposed works include:</p> <ul style="list-style-type: none"> golden plover and black-tailed godwit at over 20% of The Wash SPA total and over 2000 individuals; and lapwing 7.5% and 1100 individuals. Therefore, we consider this to be an important area of supporting habitat of The Wash SPA. Natural England advises that an Adverse effect on integrity can't be excluded beyond all reasonable scientific doubt. 	Natural England advises that impacts to these species should be avoided, reduced, and mitigated. Therefore, further consideration is required by the Applicant on how this will be achieved and secured within the DCO.	See response to RR-021-21 regarding disturbance above baseline levels and alternative roost sites. As has been identified within the HRA (document reference 6.4.18, APP-111) and ES chapter 17 (document reference 6.2.17, APP-055), additional disturbance could occur to golden plover and lapwing as they appear to remain at the site of initial disturbance and the work above on energy budgets is relevant to this. If a significant impact is concluded from the additional energy budgets required by these species then mitigation would be recommended.	Please be advised that if there are considered to be significant energy budget implications that cannot be avoided or reduced to acceptable levels this is likely to require 'compensation' not 'mitigation'.	Energy budgets (related to additional disturbance flights and daily energy usage) are discussed in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1. It is recognised that if there are significant adverse impacts that cannot be avoided or reduced to acceptable levels that this would require compensation. This does not appear to be the case based on the additional work undertaken at the Mouth of The Haven and the Application Site.
24	Offshore Ornithology	Natural England notes that it is recognised that birds are sensitive to boat disturbance.	Natural England would welcome further consideration of how this impact will be reduced to an acceptable level.	See response to RR-021-21 above relating to additional impacts above baseline levels which are being considered for this project.	Noted and Natural England will respond once the documents are submitted into examination.	Noted. Further analysis of the disturbance at the mouth of The Haven linking directly to the sites conservation objectives has been undertaken and reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1. Further work on disturbance at the proposed wharf site is included in the HRA/ ES addendum submitted at Deadline 1.
25	Offshore Ornithology	Natural England agrees that displaced birds of some species fly 125-800m to alternate roosts. However, it is not clear if the alternative roost/s can accommodate all individuals of all species. But we note that there is also no information on the quality of alternative roosts and if these	Natural England requests that further information is provided.	Data from the BTO WeBS survey sectors around The Haven mouth (within 800 m) provides evidence of the species and densities of waterbirds associated with alternative roosting areas in the area. This data was circulated in the week commencing 2 nd August 2021 to Natural England. It is also noted that for many years	Noted and Natural England will respond further once all the relevant documents are submitted into examination.	Further analysis of the disturbance at the mouth of The Haven linking directly to the conservation objectives has been undertaken and

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		are secondary and only used as a second choice when their preferred area is not available for whatever reason.		these alternative roosts will have been used for any displaced birds. It is considered a reasonable assumption, given that numbers have not reduced over the long term from these areas, that the roosts provide suitable habitat at carrying capacity for the number of birds using this area.		reported in the ES/HRA Ornithology addendum (document reference 9.13) submitted in Deadline 1.
26	Offshore Ornithology	Natural England notes that phasing of boats up the Haven is identified, but how traffic down the Haven will be managed is not discussed. Natural England is concerned that birds would be at risk of being repeatedly pushed around over each high tide cycle.	Natural England advises that this impact is further assessed.	Following the Applicant's investigation into measures which may be able to be identified to reduce the occurrence of disturbance, it has been confirmed that the Facility will have no control over phasing of vessel movements within the Haven, as this is under the control of the Port of Boston. However, a Navigational Management Plan (NMP) will be produced as secured by a condition in the deemed marine licence in Schedule 9 to the draft DCO (document reference 2.1(1)).	Natural England advises that this type of mitigation needs to be captured within the DCO/dML within either a requirement/condition, or within a plan that is clearly secured through condition with consultation with the SNCB in order to sign off the plan.	A Navigational Management Plan (NMP) will be produced as secured by a condition in the deemed marine licence in Schedule 9 to the draft DCO (document reference 2.1(1)).
27	Offshore Ornithology	Please be advised that most birds relocate on disturbance, but some species repeatedly return e.g. Lapwing and golden plover. Therefore, we believe that there is the potential for repeated disturbance impacts on same individuals. There is clear evidence that most birds left the area following boat passage up the channel and did not return except for Lapwing and Golden Plover that tried to return to site but were re-disturbed by subsequent vessel movements.	We advise that further assessment on changes to distribution are considered in the ES and HRA.	This is acknowledged in the ES (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.190) and the HRA (document reference 6.4.18, APP-111), which identify this occurrence and discusses the potential for ongoing disturbance of these two species and how this could affect their energy budgets.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A more detailed assessment is provided in the ornithology addendum to the HRA/ ES (document reference 9.13) with particular regard to the conservation objectives and also energy budgets for repeated disturbance events that could affect some species.
28	Offshore Ornithology	Natural England notes that it is recognised that some species abandon roosts after disturbance e.g. Oystercatcher; redshank; black-t godwit. But this is contradictory to the HRA wording.	We advise that further assessment of roost abandonment is considered in the ES and HRA.	This is acknowledged in the reports (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.186) that this occurs as part of the baseline situation, but it is also recognised that these species do relocate in the nearby area and do not appear to be disturbed on subsequent vessel movements. The wording in the HRA is being reviewed and any changes will be reflected in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted to the examination at Deadline 1.	Noted and Natural England will respond further once all the relevant documents are submitted into examination.	Noted
29	Offshore Ornithology	Natural England advises that, for species, which return to the roost it is likely to take more than 120 sec to pass by the roost from first disturbance to departure. Note this is equivalent to a flight of approx. 1.8km (based on 15m/s = 1800m per 120 secs (Hedenström, A. & Åkesson, S. (2017). (Flight speed adjustment by three wader species in relation to winds and flock size. Animal Behaviour, 134, 209-215.)).	Therefore, Natural England would like greater consideration of alternative good quality high tide roost sites, preferably closer than 1.8km from the current roost.	The flight times carry greater certainty than flight routes as they were directly measured by the field surveyor. A worst case flight time of 120 s, 30-100% higher than the typical flight times (60-90 s), has subsequently been used in calculations of energetic demand per disturbance flight, therefore the methodology has employed caution and should not impact on the relevance of resultant calculations.	Natural England thanks BAEP for this clarification. We advise that calculations that reflect the distance flown by the birds (time in flight x flight speed) are likely to be more informative with reference to energy budgets than straight line distances between take-off and landing points.	Further analysis of the disturbance at the mouth of The Haven and the Application Site linking directly to alternative roost locations and energy budgets has been undertaken and reported in the ornithology addendum to the HRA/ ES (document reference

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						9.13) submitted at Deadline 1.
30	Offshore Ornithology	Natural England notes that under calculation of energetic consequence of disturbance reference to Krist et al (2001) and Collop et al (2016) are seemingly missing.	Natural England request this is amended	Noted, the amendments to the ornithology addendum to the HRA/ ES (document reference 9.13) submitted on Deadline 1 have been made.	Natural England thanks BAEP for early sight of the documentation. However, we will respond as part of the statutory process direct into examination.	Noted, the amendments to the ornithology addendum to the HRA/ ES (document reference 9.13) submitted on Deadline 1 have been made.
31	Offshore Ornithology	Natural England is concerned in relation to energy lost per flush which is quantified for repeatedly disturbed golden plover and lapwing. Range 0.39-0.51%.	Natural England advises that further consideration is given to this matter and how the impacts will be reduced.	Further work is being undertaken on this to determine the potential for impact relating to the effect on energy budgets and the results will feature in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted to the Examination for Deadline 1.	Natural England thanks BAEP for early sight of the documentation. However, we will respond as part of the statutory process direct into examination.	Noted.
32	Offshore Ornithology	"Natural England is concerned that the daily loss of additional 2% energy input may be significant for species at the edge of their energy balance either as a default e.g. Black-tailed godwit (for which birds on the Wash have a negative daily energy budget in winter (Alves et al - Ecology, 94(1), 2013, pp. 11–17) or under certain conditions e.g. severe weather. Potential need for 2% increase in energy intake cannot be dismissed as insignificant or trivial."	We advise that consideration is given to mitigation measures that can be adopted when energy budgets are most depleted i.e. during the over wintering period.	In response to this specific point from Natural England (and the RSPB), further work is being undertaken to determine the potential for impact relating to this level of additional demand on energy budgets. The need for mitigation measures is also being investigated for extreme weather events. Results of both areas of work feature in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted to the Examination for Deadline 1.	Natural England thanks BAEP for early sight of the documentation. However, we will respond as part of the statutory process direct into examination.	Noted.
33	Offshore Ornithology	Natural England notes that the displacement of 6980 birds is argued as being beneficial as birds are not present to be repeatedly disturbed. However, this is contradictory to the conservation objectives for The Wash SPA and HRA expectation that distribution of features within the designated site should not be affected. Therefore, we advise that the conservation objectives for the site are being hindered and an adverse effect on integrity can be ruled out.	We advise that compensation measures will need to be considered as part of a derogations case.	This point is not argued as beneficial and is recognised as an impact. It is recognised as a baseline situation that has occurred for many years, prior to designation of the SPA. The occurrence of this and the reactions of the birds are therefore likely to have been happening for many years without obviously affecting the overall distribution for these species. The potential increase in number of vessels is the impact that is being considered. The birds appear to have habituated to disturbance by relocating to alternative roosting sites close by and this is expected to continue. Suitable compensation measures will be set out in the 'without prejudice' Habitats Directive Derogation case'.	Noted and Natural England will respond once the documents are submitted into examination.	Noted.
34	Offshore Ornithology	Whilst Natural England agrees that some level of habituation may currently be occurring, there is no evidence presented to support the argument that this will be the case from a significant more than doubling of vessel disturbance, especially if preferred supporting habitat is also lost.	We advise that impacts are avoided, reduced, and mitigated to acceptable levels and where that is not possible compensation measures must be provided.	The redistribution of birds to alternative roosting sites appears to happen on a regular basis and these alternative sites are providing suitable locations for these birds without an apparent change to distribution levels. There is no reason to believe that this would not be the case should there be an increase in disturbance levels.	Natural England's advice still stands.	Further work has been undertaken on this aspect and is included in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted in Deadline 1.

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35	Offshore Ornithology	Natural England is unaware of any supportive evidence to say that night-time vessel movement would be less disturbing.	Natural England advises that the Applicant to provides evidence to support position	Any available references will be provided in the ornithology addendum to the HRA/ ES (document reference 9.13) to the HRA to be submitted to the Examination for Deadline 1.	Noted and Natural England will respond once the documents are submitted into examination.	Noted.
36	Offshore Ornithology	Natural England requests confirmation from the Applicant that with the traffic increase the current 20% of days (equivalent 46 days/yr) that are quiet would be lost. Natural England also advises that clarity is also sought on the potential for further increases in disturbance during all high tides from vessels movements i.e. will the proposed works take the Haven to the maximum carrying capacity? How would potential increases in boat traffic over the lifetime of the project be taken into account?	Natural England advises that further information is provided on this matter.	This will be clarified in the documents. The number of days of disturbance will increase from approximately 80% (this percentage varies from year to year and further information has been provided in the ornithology addendum to the HRA/ ES (document reference 9.13)) to 100% and it is acknowledged that this is an increase, but it is expected that the same behavioural response would occur for the birds on these days. The potential for this to be a significant impact has been discussed in the HRA (document reference, 6.4.18, APP-111) commencing at paragraph 17.8.170) and will be reviewed further. There is anecdotal evidence from the Port of Boston that there have in the past been periods when vessel numbers were much higher although there is not reported details available (Port of Boston, pers. comm). Meeting minutes from the port will be included in the Statement of Common Ground for the Port submitted at Deadline 1.	Natural England's advice still stands.	Further information has been provided within the ornithology addendum to the HRA/ ES (document reference 9.13) relating to vessel numbers.
37	Offshore Ornithology	Natural England notes proposals to enhance saltmarsh for redshank. And agrees that capital works are appropriate, but mechanism to maintain the works permanently are not identified. Please be advised that works will require (1) annual management to prevent succession to poor quality (for redshank) saltmarsh; and (2) a mechanism to prevent access and associated disturbance from users of the nearby footpath. Furthermore, the proposed roost is likely to be subject to vessel disturbance which may compromise its functionality as an alternate roost.	Further consideration is required in relation to the suitability of any compensation measures.	It is agreed that ongoing maintenance will be necessary for this work. The maintenance of the works will be detailed further in the updated Outline Landscape and Ecological Mitigation Strategy (OLEMS) to be submitted at Deadline 2 of the examination. In relation to measures to prevent access and disturbance from the footpath, the footpath will not be any closer to the works area than previously when it has been used as a roosting site as such, it is not expected that there would be any additional disturbance.	Natural England advises that further consideration of this matter is still required.	Further consideration of this is included in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1. Additionally, further sites are being investigated for potential works if required and will be reported in the updated OLEMS submitted at Deadline 2.
38	Offshore Ornithology	Natural England notes that the Applicant proposes to create additional mudflat with extra 10% over area lost. However, whilst it can be reasonably expected to provide foraging habitat for redshank, the limitations for them utilising the area should also be noted. For example, the location is remote from the area of lost feeding and identified roost mitigation, so will require access to a roost area if it is to support function for redshank. We note that a site and detailed proposal are not available at the current time and therefore	Natural England requires further evidence on the suitability of any chosen location/s proposed to compensate for supporting habitat lost.	Although there is currently no requirement to deliver biodiversity net gain for any Nationally Significant Infrastructure Project (NSIP) there is a proposed strategy for supporting works that provide additional habitat that could be used by birds. The net gain was not intended to mitigate the loss for the birds at the proposed development site. This is mitigated for through the works at the Habitat Mitigation Area to move the rocks and increase foraging potential in the marshy area as described in the HRA (document reference 6.4.18, APP-111) and ES (document reference 6.2.17, APP-055) (as discussed above). The	Natural England queries if the Biodiversity calculation for intertidal habitats (mudflats and saltmarsh) been undertaken? Table 8.1 in the OLEMS provides the terrestrial Biodiversity Units - but does not include calculations for the coastal habitats; these values do not appear to be included in the overall net biodiversity unit change value of -69.39. Page 2 of the OELMS notes - an updated biodiversity unit calculation will be	The intertidal biodiversity net gain calculation for the baseline loss calculation has been included within the OLEMS document (document reference 7.4, APP-123) but was undertaken separately to the terrestrial calculation and is reported in Appendix One of the OLEMS document.

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		we would welcome this information as soon as possible. We advise that there is some evidence that recreated mudflats can be of good quality (Lucas, M., Lucas, M. & Mike, E. (2013). The value of wader foraging behaviour study to assess the success of restored intertidal areas. Estuarine, Coastal and Shelf Science, 131, 1-5.) which provides reassurance.		suitability of the habitat will be determined based on the existing mudflat condition as assessed using the net gain matrices which includes for assessment of condition. The net gain measures are proposed for additional land and are subject to ongoing discussion. The mitigation involves reusing the rocks that the redshank use for roosting within the adjacent site and creating scrapes to provide additional foraging area. The site is immediately adjacent to where the roosting rocks are currently found (having been placed here as part of previous works presumably to provide a coast protection function) and is not remote from the existing roosting area. The birds in this area use both areas.	<p>undertaken post DCO approval, using the most up-to-date information available at that time. Will the new metric be used? Defra Biodiversity Metric 3.0 recently realised - http://publications.naturalengland.org.uk/publication/6049804846366720 "Please provide further clarity on the impacts of the proposed mitigation works for Redshank on the saltmarsh habitat. For example there will be further loss (although limited) of saltmarsh habitat through the creation of scrapes.</p> <p>in addition, our main concern is in relation to the flattening the old sea bank as shown on Plate A1-3 Mitigation Measures proposed for the Habitat Mitigation Area. The old sea bank it is about 300m long running the front of the saltmarsh but before the mudflats. It is roughly 1.5m high (with the vegetation) and 2-2.5m wide. Removing this will create a lot of surplus material. It is not clear what the plan is for this material? But we would prefer that it is not spread over the rest of the saltmarsh as it will raise the saltmarsh height, encourage more Elytrigia atherica (Sea Couch). If it is taken away – how will this be done? Will this increase number of vehicle movements and time on the marsh? We would also prefer that the natural creeks that are present (including a larger one to the north beyond the planned mitigation works) is left unaffected so care will be needed if a 360 excavator is used so to prevent creek collapse/ and also material from bank does not fill in these low lying areas." Noted and Natural England will respond once the documents are submitted into examination. Natural England queries how this has been taken into consideration in proposals for BAEP.</p>	<p>Opportunities for net gain are still being investigated and will be added to an updated version of the OLEMS at Deadline 2. Further clarity will be provided in the updated OLEMS document. As saltmarsh ponds are a common feature of a saltmarsh it is not expected that their presence would be considered to be a loss of saltmarsh habitat. Their location would be carefully selected to avoid any particularly interesting vegetated areas. The works to enhance the saltmarsh would be carried out sensitively and with a view to ensuring that there was a net gain rather than an adverse effect, for example, sediment would not be spread onto the marsh vegetation. The updated OLEMS document will also include discussion of the potential flattening of the old remaining areas of sea bank. There is currently no discussion regarding creating mudflats, so this has not been taken into consideration at the current time. The loss of mudflats was not considered to be significant in the context of The Haven or The Wash.</p>
39	Outline Landscape and Ecological Mitigation	Natural England advises that there appears to be an omission of mudflat and saltmarsh from calculations, which need addressing given this is also supporting habitats/functionally linked land for SPA birds	NE requires this to be updated	The biodiversity net gain has considered the loss of habitats. This will be checked and updated in the Outline Landscape and Ecological Mitigation Strategy to be submitted to the examination.	See Comment B22 (Please note that where NE referred to a row number if this had changed we have added the comment number instead to ensure reference is possible)	The intertidal biodiversity net gain calculation for the baseline loss calculation has been included within the OLEMS document (document reference 7.4,

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	Strategy (OLEMS)				Note this is now RR-021-38.	APP-123) but was undertaken separately to the terrestrial calculation and is reported in Appendix One of the OLEMS document. Opportunities for net gain are still being investigated and will be added to an updated version of the OLEMS to be submitted at Deadline 2.
40	Outline Landscape and Ecological Mitigation Strategy (OLEMS)	Is saltmarsh being classified as intertidal here?	We advise that clarification is needed as linked to supporting habitat for intertidal foraging and roosting birds.	Saltmarsh is considered as intertidal in Appendix 1 of the Outline Landscape and Ecological Mitigation Strategy document (document reference 7.4, APP-123).	Noted and Natural England will respond once updated documents are submitted into examination.	Noted.
41	Outline Landscape and Ecological Mitigation Strategy (OLEMS)	Summary of proposals for roost compensation	We advise that proposals need amending to reflect the need for annual habitat management and the need to manage disturbance (both people and boats) if this is to work. Ownership of (any) shooting rights is important to know and not articulated.	Ongoing maintenance will be included as part of the management measures proposed within the updated Outline Landscape and Ecological Mitigation Strategy which will be submitted to the examination at Deadline 2. When the measures are discussed for management areas, shooting rights and other rights of way, etc. will be considered in terms of potential impacts.	Noted and Natural England will respond once updated documents are submitted into examination.	Noted.
42	Outline Landscape and Ecological Mitigation Strategy (OLEMS)	Mudflat compensation 'not negotiated yet'. We advise that there are no guarantees that the mudflat as a habitat will be suitable for foraging redshank; as not negotiated no certainty of delivery.	Natural England advises that further evidence/certainty of compensation success and what that success will look like and how it will be monitored to ensure success is required	The mitigation measures to provide foraging habitat for redshank are identified in the Outline Landscape and Ecological Mitigation Strategy Appendix 1 (document reference 7.4, APP-123). The potential for compensation is under discussion and compensatory measures will be identified for the 'without prejudice derogation case' which is aimed to be submitted for the examination at Deadline 2.	Natural England thanks BAEP for early sight of the documentation. However, we will respond as part of the statutory process direct into examination.	Noted.
43	Appendix A17.1 – Habitats Regulations Assessment	Natural England acknowledges that the Applicant has confirmed that birds in the Haven are disturbed by vessels. But does not recognise that this will apply to the 'mitigation' roost area. And again, clarity is need in relation to vessel trip numbers etc.	Natural England advises that a further assessment of disturbance impacts from vessels required.	The Habitat Mitigation Area has considered the additional disturbance in the HRA and ES in relation to the distance of the habitat measures from the edge of the wharf and how redshank are affected by disturbance using the bird mitigation toolkit. The works are planned for at least 250m distance from the wharf edge as discussed in paragraph 17.8.206 of the HRA (document reference 6.4.18, APP-111).	Natural England advice still stands In addition we advise that disturbance risk to mitigation/compensation area can arise from both the port itself and from vessel traffic in the Haven. Both will need to be considered further in resubmitted documents.	Further work has been undertaken on this aspect including survey work and assessment of energy budgets for disturbed birds and is included in the ornithology addendum to the HRA/ ES (document reference

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						9.13) submitted at Deadline 1.
44	Appendix A17.1 – Habitats Regulations Assessment	Natural England notes that the loss of feeding grounds for 14- 27 redshank has not been compensated for, and as a species that is site loyal in winter there is no evidence to support the assumption that they will relocate to adjacent areas. It is not clear if the Haven is at capacity or not for its redshank population. As a Functionally Linked Population this will have a bearing on the Wash population, although as a relatively small part of the wider population and relatively distant from the SPA. It may, or may not be, of low risk to integrity. Scheme should be aiming to compensate for this loss to mitigate impact on SPA.	Natural England advises that a compensation package is provided.	The mitigation measures proposed provide additional foraging areas as well as roosting areas to take account of the loss of intertidal feeding habitat. These foraging areas are provided through reinstatement of overgrown shallow ponds within the area adjacent to the proposed development location (the Habitat Mitigation Area) but situated far enough away to be outwith the prescribed disturbance levels as discussed above. It is considered that with these measures in place there would not be an adverse effect on integrity and thereby no requirement for compensation. However, a 'without prejudice' Habitats Directive Derogation Case is also being prepared which will include compensation measures where considered appropriate.	Noted and Natural England will respond once the documents are submitted into examination.	Recent analysis for the ornithology addendum to the HRA/ ES (document reference 9.13) has raised questions whether the redshank at the proposed wharf site are all part of the SPA assemblage. There is likely to be some mixing of populations however the extent of this is unknown. This is discussed further in the ES/HRA Ornithology Addendum submitted on Deadline 1.
45	Appendix A17.1 – Habitats Regulations Assessment	Natural England disagrees with the loss of foraging being dismissed as risk.	Please see above point.	See comment above in RR-021-44.	Noted and Natural England will respond once the documents are submitted into examination.	Noted.
46	Appendix A17.1 – Habitats Regulations Assessment	Natural England advises that the quality of saltmarsh as a biological community is not the issue for redshank – suitability as a roost is. This is more dependent on physical than botanical community aspects of the site. This will require active management and a monitoring regime that can feed into adaptive management. In the event that the disturbance caused by boats negates the value of the habitat enhancement.	Natural England advises that further consideration is required.	This is acknowledged and the mitigation proposed is designed to provide additional roosting areas (as described in paragraph 17.8.32 of the HRA (document reference 6.4.18, APP-111) and Appendix 1 of the Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123)). The redshank in this area seem to prefer roosting on the rocks in the transition between marsh and mudflat. As discussed above the Habitat Mitigation Area is located to be outwith the predicted zone for disturbance from the operational facility.	This remains an outstanding concern for Natural England.	Further work has been undertaken on this and is provided in the ornithology addendum to the HRA/ ES (document reference 9.13) along with consideration of energy budgets for redshank disturbance at the proposed wharf site.
47	Appendix A17.1 – Habitats Regulations Assessment	Natural England advises that the current description of proposed works to compensate for loss of habitat important to redshank is insufficient to have confidence that it will deliver the necessary compensation at the scale required.	As set out in other sections of our Relevant and Written Representation there needs to be greater detail in relation to the compensation package	Further detail will be provided in updated documents (ornithology addendum to the HRA/ ES (document reference 9.13)) to be submitted to the Examination for Deadline 1. Further work on the 'without prejudice Habitats Directive Derogation Case will cover potential compensation measures.	Natural England thanks BAEP for early sight of the documentation. However, we will respond as part of the statutory process direct into examination	Noted. In addition to the update to the OLEMS document that will be undertaken, further analysis of the disturbance at the proposed wharf site has been undertaken and reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted in Deadline 1.
48	Appendix A17.1 – Habitats	Natural England advises that species identified at risk as individual features, are not combined	Natural England advises that further evidence and	The potential for impact on individual species and the SPA assemblage has been considered in the HRA	Noted and Natural England will respond once the documents are submitted into examination	Further discussion of potential for the risk to the assemblage is included in

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	Regulations Assessment	to risk to assemblage features from these 8, plus those at A17.6.46.	assessment is required to support HRA statements.	(document reference 6.4.18, APP-111) and this will be reviewed to ensure it is clarified where necessary.		the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
49	Appendix A17.1 – Habitats Regulations Assessment	Natural England notes that the period of disturbance limited to 1-3.5 hrs around high tide, which has been characterised by the Applicant as minimising risk. However, Natural England disagrees. This period is when alternate sites will be most limited so the most critical for roosting birds.	Natural England advises that further evidence and assessment is required to support HRA statements.	The period of disturbance is restricted through the limitation of draft for the vessels entering and leaving The Haven. This does minimise the risk as large vessels will not be able to access The Haven at other times of the tidal cycle. This is when birds currently utilise the alternate roost sites as observed during the disturbance surveys undertaken at the mouth of The Haven (A. Bentley 2020 Changes in Waterbird Behaviour due to river traffic at the mouth of The Haven, Boston, Lincolnshire).	Natural England advice still stands.	Response still stands to this comment
50	Appendix A17.1 – Habitats Regulations Assessment	Natural England advises that the Applicants assumption that when redshank leave the roost, they are no longer disturbed is an unsupported assertion as there has been no monitoring of receiver roosts to understand disturbance risks.	Natural England advises that further evidence and assessment is required to support HRA statements.	The birds that were recorded as relocating in the disturbance area for the surveys at the mouth of the Haven (A. Bentley 2020 Changes in Waterbird Behaviour due to river traffic at the mouth of The Haven, Boston, Lincolnshire) were still within the count area and should there have been further disturbance during the same survey period they would have been recounted.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A fuller assessment has been undertaken on this issue and is reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
51	Appendix A17.1 – Habitats Regulations Assessment	Natural England advises that the Applicants assumption that when oystercatcher leave the roost, they are no longer disturbed is an unsupported assertion as there has been no monitoring of receiver roosts to understand disturbance risks.	Natural England advises that further evidence and assessment is required to support HRA statements.	See comment above in RR-021-50.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A fuller assessment has been undertaken on this issue and is reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
52	Appendix A17.1 – Habitats Regulations Assessment	Natural England advises that the Applicants assumption that when black-tailed godwit leave the roost they are no longer disturbed is an unsupported assertion as there has been no monitoring of receiver roosts to understand disturbance risks.	Natural England advises that further evidence and assessment is required to support HRA statements.	See comment above in RR-021-50.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A fuller assessment has been undertaken on this issue and is reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
53	Appendix A17.1 – Habitats Regulations Assessment	Natural England advises that the Applicants assumption that when shelduck leave the roost they are no longer disturbed is an unsupported assertion as there has been no monitoring of receiver roosts/adjacent to understand disturbance risks.	Natural England advises that further evidence and assessment is required to support HRA statements.	See comment above in RR-021-50.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A fuller assessment has been undertaken on this issue and is reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
54	Appendix A17.1 – Habitats Regulations	Natural England advises that the Applicants assumption that when oystercatcher leave the roost, they are no longer disturbed is an unsupported assertion as there has been no	N/A	See comment above in RR-021-50.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A fuller assessment has been undertaken on this issue and is reported in the ornithology addendum

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
	Assessment	monitoring of receiver roosts/adjacent to understand disturbance risks.				to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
55	Appendix A17.1 – Habitats Regulations Assessment	Natural England advises that the anticipated increase in energy expenditure of 2% per day characterised as trivial for lapwing and golden plover is an unsupported conclusion without supporting evidence that birds are easily able to compensate for the additional energy need.	N/A	See comment above in RR-021-50.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A fuller assessment has been undertaken on this issue and is reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
56	Appendix A17.1 – Habitats Regulations Assessment	Natural England advises that the anticipated increase in risk for black-tailed godwit characterised as trivial for lapwing and golden plover is an unsupported conclusion without evidence that birds are easily able to compensate for the additional energy need. Note that (Alves et al - Ecology, 94(1), 2013, pp. 11–17) identifies that black-tailed godwits on the Wash operate on a neutral or negative energy budget under baseline circumstances.	N/A	See comment above in RR-021-50.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A fuller assessment has been undertaken on this issue and is reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
57	Appendix A17.1 – Habitats Regulations Assessment	Natural England disagrees with the assertion made that displaced birds are subjected to no further disturbance at alternate, and presumably sub-optimal (as they have not been selected initially), roosts. Please be advised that no evidence from monitoring of receiver roosts has been provided so cannot assume that birds are able to occupy nearby alternates or that they are not subject to additional energy depletion as a consequence of relocation.	N/A	See comment above in RR-021-50.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A fuller assessment has been undertaken on this issue and is reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
58	Appendix A17.1 – Habitats Regulations Assessment	Natural England is concerned that the Applicant believes that there is no impact along Haven, when there has been no assessment and support evidence provided.	N/A	Additional evidence has been collated for the WeBS sectors around and along The Haven in the sectors that have been counted. The analysis of this data has been provided week commencing 2nd August 2021. This data will be considered in light of any impacts and discussed in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted to the Examination for Deadline 1.	Natural England thanks BAEP for early sight of the documentation. However, we will respond as part of the statutory process direct into examination.	Noted
59	Appendix A17.1 – Habitats Regulations Assessment	Natural England advises that increased disturbance by a minimum (depending on final agreed figures for vessel movements) of 20-25% because of move to daily boat traffic, including an increase of 34% of days in the key winter period is not insignificant and therefore should not be dismissed.	N/A	This issue has not been dismissed but has been looked at in detail within both the HRA (document reference 6.4.18, APP-111) and the ES (document reference 6.2.17, APP-055) with a view to the baseline situation and how birds respond to the existing levels of disturbance and how they could react to additional vessel movements.	Natural England advises that a fuller assessment is required than what is currently included in the ES and HRA.	A fuller assessment has been undertaken on this issue and is reported in the ornithology addendum to the HRA/ ES (document reference 9.13) submitted at Deadline 1.
Appendix C Intertidal and Marine Ecology						

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
60	Chapter 5 – Project Description	Natural England notes that dredging of wharf completed in 2 phases will generate 75,000m ³ of silt during 1st phase, and 150,000m ³ of silt during 2nd phase (total 225,000 m ³). However, it is not clear where this material will be taken? Will it be returned to the wider Wash? Answer may be explained in Chapter 17 (17.8.41) that material will be disposed of landward to minimise contamination of pollutants/ heavy metals, but material will be lost from The Wash and contradictory to the requirements for the Boston Barrage work. Note 17.8.97 – notes that dredging undertaken over 5 months; 2 months prior to wharf construction and 3 months following.	Natural England requires further clarity and information in relation to this.	<p>There will be no offshore disposal of dredged sediments from the construction phase; the dredged material will be reused within the proposed development as fill material. The Wash is a sheltered, low-energy environment in which tides are the main factor controlling sedimentary processes. This environment favours accretion making the area an important sedimentary sink. The present-day Wash has an area of about 600km² with about 40km² of fringing saltmarsh and a large area of intertidal flat. The sediments that supply these areas are largely of marine origin with relatively unimportant contributions from modern rivers including the Haven. The annual input of suspended marine sediment into The Wash has been estimated at around six million tonnes, which is one to four orders of magnitude higher than the total annual input from all the rivers draining into the Wash which has been estimated between 3,000 and 200,000 tonnes.</p> <p>Most of the sediment that will be removed from the Haven to complete the capital dredge will be relict Holocene sediment that is not part of the active sediment budget. This older sediment is currently 'locked-up' beneath a veneer of mobile silt that is part of the budget. Assuming an active layer of about 20cm, the volume of sediment potentially active in the system that would be extracted for the capital dredge is less than 10,000m³ (or 15,000 tonnes).</p> <p>Hence, the removal of sediment for the capital dredge will have little effect on the overall budget of the Wash system as a whole, because it is a very small component of the overall contribution of sediment to the system (i.e. the differential magnitude of marine versus riverine supply of silt to the Wash). Even if the entire 15,000 tonnes of mobile sediment would be deposited in the Wash, it is only 0.25% of the sediment that is supplied to the Wash from the North Sea on an annual basis.</p>	Natural England welcomes the additional information and agrees that as set out, the dredging associated with the Wharf creation is unlikely to have a significant impact on The Wash sediment budget. However, we query how this commitment to only use this amount of sediment and predominantly Holocene material will be documented to the ExA and secured.	The Deemed Marine Licence (DML) (Schedule 9 to the draft DCO (document reference 2.1, APP-005)) includes the volumes to be dredged as part of the capital dredge in paragraph 5. The use of predominantly Holocene material does not need to be specifically secured as that is the type of sediment that will be dredged in practice.
61	Chapter 5 – Project Description	Piling of the wharf will require 300 piles, piled to the depth of - 35 to -40m OD. Natural England requests confirmation what the piling method will be? And whether or not this will be undertaken at high tide/low tide or BOTH? Please be advised that if using a hammer technique then mitigation measures will be required for marine mammals if works are undertaken outside of low time.	Natural England requires information on what piling method is required, this is to ensure that that noise impacts to sensitive receptors has been adequately addressed.	As shown in Chapter 17 Marine and Coastal Ecology (document reference, 6.2.17 APP-055), paragraph 17.8.97 and Table 17-19, the piling was assessed based on worst-case assumptions for the piling works (e.g. for a larger pile diameter than will be used at the Proposed Development, and within a large body of water allowing for higher levels of noise propagation, and impact piling), using the latest thresholds for potential impacts to harbour seal (NMFS, 2018), and therefore impacts are expected to be less than the assessments on harbour seal predict (Table 17-19 and	Natural England notes that the condition in the DML referred to does include a range of mitigation for piling: Use of pile pads/shrouds at all times, soft start, MMO during high tide, timing to avoid periods of maximum abundance, details of the piling spread throughout the day and monitoring. Our only observation is the mention of avoiding periods of abundance is a bit open. We would therefore welcome	The DML (Schedule 9 to the draft DCO (document reference 2.1(1)) has been amended in the version submitted at Deadline 1 to read " to ensure they are undertaken during non-sensitive periods for overwintering birds (being May – September)."

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				17-20). In addition, standard mitigation procedures (such as pre-piling watches, and soft-start and ramp-up procedures) would be in place for any piling undertaken during high-tide (piling in low tide is not expected to generate significant levels of underwater noise due to the limited potential for noise propagation in very shallow water) (as described in paragraph 17.8.117). Mitigation measures will be secured in accordance with a condition of the Deemed Marine Licence (paragraph 14 of Schedule 9 of the draft DCO) (document reference 2.1, APP-005).	amending the condition to specify the periods when piling would be avoided.	
62	Chapter 5 – Project Description	Natural England requests details on slope protection extending over 10,000m ² ? Fig 5.2 sheet 3 shows concrete facing on the mattress protection under wharf and possibly big rocks (no key) for slope protection. Natural England is concerned about the potential scouring of the Habitat Mitigation Area and also to the north, and on opposite bank.	Natural England advises that the indirect impacts require further assessment.	During operation, the additional space for water created by the berthing areas would increase the tidal prism above the slope protection in the wharf. The effect of increasing the tidal prism locally would be to increase tidal current velocities downstream of the Facility, which may increase erosion pressure on the Habitat Mitigation Area and on the opposite bank. However, the increase in tidal prism at the wharf is less than 2% of the tidal prism of the entire Haven, and so increases in velocity and the knock-on changes in channel morphology would be minimal. It is accepted that changes immediately downstream of the wharf (including the Habitat Mitigation Area) would be greatest, but they would still be negligible. As discussed in Chapter 16 (Estuarine Processes) of the ES (document reference 6.2.16, APP-054) paragraph 16.7.16: "The scour protection across the sloping revetment, the slope protection to the north and south of the berthing area, and the campshed of the NAABSA berth would prevent erosion of the bed beneath the suspended deck, the sloping sides adjacent to the berthing areas and the berthing area, respectively. This means there would be very limited release of suspended sediment into the water column by scour around the piles or around the grounded vessels during operation."	Natural England concern was in relation to increased erosion of surrounding habitat from the placement of hard substrata in the location of the berth and the potential increase in suspended sediments. Natural England doesn't believe 2% change in the tidal prism is insignificant and therefore advises that further assessment is undertaken and evidence presented to demonstrate that the impacts would be negligible.	Once the hard substrate is installed and operational it is not expected to affect erosion elsewhere, because there is a disconnect of the flows interacting with it and the flows interacting with the opposite and adjacent banks. Flows over the hard area would not affect flows over the adjacent areas. The change in flows would be related to the change in tidal prism as explained in the original response, not the influence of the type of substrate across which they flow.
63	Chapter 5 – Project Description	Under the Habitat Mitigation Works within the Habitat Mitigation Area it mentions 4 shallow pools (max 15cm deep) created in the existing saltmarsh. Natural England is concerned that without maintenance these will quickly silt up. Therefore, we query what ongoing management will be needed to maintain these pools? Is the intention for these pools/ scrapes to remain unvegetated? Area of the 4 pools? Will the scrapes/ pools result in direct loss of further saltmarsh vegetation? Has this been calculated?	Natural England advises that this information is vital to assess the benefits of the proposed new area.	Maintenance will be discussed in the updated Outline Landscape and Ecological Mitigation Strategy document (to be submitted at Deadline 2) to ensure ongoing management of the Habitat Mitigation Area to ensure that it functions as required to mitigate the impact. There are some shallow pools and creeks together with some overgrown shallow pools within the vegetated areas in the saltmarsh. The scrapes are considered as part of a functioning saltmarsh system and are not considered to be removal of saltmarsh habitat just because there is some vegetation management.	LD - see Comment B22 Please note this is now RR-021-38.	No further comment

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64	Chapter 5 – Project Description	Natural England notes that works in the Habitat Mitigation Area will be undertaken outside the overwintering bird period; and queries if can this also include outside the breeding bird period to minimise impacts (disturbance and physical) on ground nesting birds. Works should ideally be undertaken in August/ early September.	Natural England requires further clarity and commitments on how impacts to breeding birds will be avoided, reduced, and mitigated.	The timing of such works will be considered to avoid impacts on birds. The seasonal restrictions obviously restrict timings but will be worked around as much as possible. These works are relatively simple to implement and are therefore short-term in nature (less than one week on-site) so avoidance of critical periods is very likely.	Natural England queries how this mitigation will be secured?	The mitigation will be secured by requirement 5 of Schedule 2 to the Draft DCO (document reference 2.1, APP-005).
65	Chapter 5 – Project Description	Natural England queries how frequently will dredging be required over the lifetime of the project?	Natural England advises that further information and supporting assessment is provided. Also, how will this be secured in the dML?	As referenced in Chapter 16 Estuarine Processes (paragraph 16.7.17) (document reference 6.2.16, APP-054) the worst case estimate of sedimentation is 0.5 m/year (50 cm/ year). At a sedimentation rate of 0.5m per annum this will result in dredging being required as a minimum every two years, and ideally on an annual basis. This will be confirmed through bathymetric surveys. Maintenance dredging is included within the dML (Para 5(l)(i) of Schedule 9 (DML) of the DCO authorises maintenance dredging) (document reference 2.1, APP-005).	Natural England notes that the condition referenced simply states that maintenance dredging is allowed. However, as currently drafted there are no limits on the dredging, volume or number of occurrences of dredging. Therefore, Natural England doesn't support this condition as written and requests that specific parameters are included.	It is anticipated that the annual volume of material from maintenance dredging of the berthing pocket would be approximately 8,000 m ³ / year. This is based on a predicted 0.5m accretion per year. Bathymetric surveys will be undertaken during the operation of the wharf to determine actual levels of accretion and the details of the maintenance dredging will need to be approved by the MMO under condition 12 of the draft DML (Schedule 9, of the Draft DCO (document reference 2.1, APP-005). The Applicant has not amended the draft DML to include a maximum volume of maintenance dredging or specify frequency as the inclusion of these details is not consistent with the approach to maintenance dredging on other DMLs.
66	Chapter 5 – Project Description	Natural England notes that silt and clay will be used in the Lightweight Aggregate (LWA) process, with the silt being sourced from dredging along The Haven. Natural England queries what volume of silt will be taken? How will the sediment load remain balanced? Noting that this will be lost from The Wash, when it is normally returned to a deposit site in the wider Wash.	NE requires further detail in relation to this operation. Please note that this is inconsistent with the Harbour Authorities dredging of the Haven where material is deposited in The Wash to ensure that it	It is acknowledged that material would be lost from the system as maintenance dredgings would be used within the facility. The volumes have been estimated at 8000m ³ per year as stated in RR-021-72. Please refer to answer provided in RR-021-60 relating to volumes of material. The estimated maintenance dredge volume is very small compared to the supply of sediment to the Wash from marine sources annually.	Natural England notes that row 85 for comment C1 (now RR-021-60) relates to the construction of the Wharf and not ongoing maintenance dredging at the berths and channel. This is ongoing and likely to include mobile silt material and therefore NE advises that this must be disposed of within the Wash.	As discussed in the original response in RR-021-60 for construction dredging, the removal of 8000m ³ (approximately 12,000 tonnes) of mobile mud each year for maintenance is very small compared to the annual 6 million tonnes of marine supply of the same type of sediment and therefore

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			remains within the system.			not considered to be significant.
67	Chapter 17 - Marine and Coastal Ecology	Natural England notes that under operation, change in vessel traffic on intertidal habitats (increased ship wash) it appears to include text on dredging, but limited information included. (Executive Summary pg 11)	Natural England requires further information on this.	<p>It is anticipated that the annual volume of material from maintenance dredging of the berthing pocket would be approximately 8,000 m³/ year. This is based on a predicted 0.5m accretion per year (para 16.7.17 of ES Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054) and it is anticipated that dredging one per year or every two years will be required. Bathymetric surveys will be undertaken during the operation of the wharf to determine actual levels of accretion and the details of the maintenance dredging will need to be approved by the MMO under condition 12 of the draft DML.</p> <p>In addition, cumulative effects associated with maintenance dredging are covered in Section 17.9 of Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055).</p>	N/A (The Applicant's response to this Relevant Representation has been updated since responding to Natural England prior to Deadline 1).	
68	Chapter 17 - Marine and Coastal Ecology	We note that saltmarsh loss due to construction of wharf and berth will be around 1ha (width is between 10-30m wide and about 400m long). Natural England understands that Biodiversity Net Gain off site at Freiston/ Frampton is being proposed, but this appears to be roosting/ feeding habitat with saline lagoon and shingle/ cockle banks rather than saltmarsh. Is there any intention of using the saltmarsh turves elsewhere? The creation of pools and scrapes in Habitat Mitigation Area will result in saltmarsh loss – this needs to be accounted for. (17.6.10 (17.8.17))	Natural England requires further discussion and information.	There is no plan to use the saltmarsh turves. This is a narrow strip of saltmarsh that is in poor condition (as discussed further in the response in RR-021-9) and it is not expected that there would be a location where such turves would be beneficial. There is potential for clearance of debris from saltmarsh areas as debris has been observed on nearby marsh areas.	Please note this is now RR-021-38.	Additional habitat offset and net gain measures are being investigated and will be discussed further in an updated version of Appendix 1 of the OLEMS document to be submitted at Deadline 2.
69	Chapter 17 - Marine and Coastal Ecology	Natural England disagree with classification of poor saltmarsh quality. Mentions several times poor quality saltmarsh due to limited extent, low diversity and poor zonation. Going on to note that only 18 plant species were recorded (previously 19 in 2014 and 17 in 2011) However, we advise that this number of species is high for saltmarsh on The Wash. The text also mentions main NVC communities of SM10 Transitional low-marsh vegetation with Puccinellia maritima, annual Salicornia species and Suaeda maritima, SM13 Puccinellia maritima salt-marsh community, and SM24 to north of project area (transect B2); and SM10 Transitional low- marsh vegetation with Puccinellia maritima, annual Salicornia species and Suaeda maritima,	Natural England requires further information and evidence to support conclusions.	The surveys of the marsh have been undertaken by the Environment Agency over a number of years (as discussed in the response in RR-021-9) and have provided the baseline for the saltmarsh condition and species present.	We undertook a saltmarsh survey on the 7th September 2021 to assess the vegetation present in both the Wharf Area and Habitat Mitigation Area. 5 quadrats were taken in the Wharf Area and 10 in the Habitat Mitigation Area. We agree that the vegetation is broadly as described in the Marine and Coastal Ecology Chapter with the following NVC types being present - SM11 Aster tripolium var. discoideus salt-marsh community; SM13a Puccinellia maritima salt-marsh community, sub-community with Puccinellia maritima dominant; SM13d Puccinellia maritima salt-marsh community, Plantago maritima-Armeria maritima sub-community; SM16c Festuca rubra salt-marsh community,	This will be considered for the updated version of Appendix 1 of the OLEMS document, the original of which provides a baseline net gain calculation. However, it is unclear what change has occurred to the saltmarsh from the Environment Agency's repeated condition assessment of poor condition.

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		<p>SM13 Puccinellia maritima salt-marsh community and SM16 Festuca rubra salt-marsh community SM16d Festuca rubra salt-marsh community, Leontodon autumnalis sub-community to the south (B1).</p> <p>Please be advised that the high-marsh NVC type SM16 Festuca rubra salt-marsh community has a very restricted distribution on The Wash. Condition surveys commissioned by NE of SSSI units 1-6; 12 and 17-19 in 2020 found only limited areas of Festuca rubra (Red Fescue) dominated swards. In addition, these NVC communities show that there is the expected zonation with pioneer/ low-marsh (SM10 Transitional low-marsh vegetation with Puccinellia maritima, annual Salicornia species and Suaeda maritima), low-mid marsh (SM13 Puccinellia maritima salt-marsh community and SM13. Puccinellia maritima salt-marsh community), and upper marsh (SM16 Festuca rubra salt-marsh community SM16d Festuca rubra salt-marsh community, Leontodon autumnalis sub-community and SM24). The description (17.6.10) notes improved grassland species, but the photos suggests neutral grassland with Daucus carota (Wild Carex xrotae) and Arrhenatherum elatius (False Oat-grass) typical of this location – this shows transitions to landward habitat.</p> <p>A botanical assessment (NVC-level with quadrats) of this area needs to be undertaken a suitable time of year (i.e. May to September) The information provided is not sufficient to make an assessment – especially as the data is used to calculate the Biodiversity Net Gain Units for saltmarsh -current based on a poor condition therefore scoring only 1 for condition – confirm whether used http://publications.naturalengland.org.uk/publication/5850908674228224 pages 26-27 for assessment. Need to see the actual copy of the calculations used to check whether the number of units set out in OLEMS is correct.</p> <p>The assessment should also consider Transect B8 (as shown on Plate 17-3) as this lies in Habitat Mitigation Area. (17.6.10 And OLEMS A1.5.3)</p>			<p>Festuca rubra-Glaux maritima sub-community and SM24 Elymus pycnanthus salt-marsh community. These vegetation types are typical of The Wash and are therefore no less important. Although the strip of SM16c (which is a more species-rich community type) in the wharf area is less common and only found at a limited number of locations in The Wash. Natural England also noted the presence of SM10, however access to the shoreline where the saltmarsh abuts the mudflats was limited.</p> <p>We would welcome the re-assessment of the condition of the saltmarsh to moderate value.</p>	

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
70	Chapter 17 - Marine and Coastal Ecology	In the embedded mitigation section it mentions underwater noise – when piling is undertaken at high tide additional mitigation will be applied (explained more clearly in HRA A17.6.106) including soft-start and ramp-up procedures and pre-piling watch for marine mammals, as this will reduce impacts to marine mammals and fish. Natural England advises that this mitigation will need to be secured in the DCO/dML (17.6.79).	NE requires evidence on how mitigation measures will be secured.	Information on where mitigation measures are secured is provided in the Register of Environmental Actions and Commitments (document reference 7.6(1)). Mitigation measures such as soft-start and ramp-up procedures, and pre-piling watch for marine mammals are provided within the Deemed Marine Licence Condition 14, Piling (Draft DCO Schedule 9, Part 4) (document reference 2.1, APP-005).	See comment C2. This is now RR-021-61.	See response to comment RR-021-61
71	Chapter 17 - Marine and Coastal Ecology	Natural England advises that recent monitoring of the Wash Harbour seals population has demonstrated that the numbers in the Wash has significantly declined along with the national population. Therefore, further impacts to this species should be avoided. Further information on this will become available over the examination of this project. Reference to Russel 2017 is now incorrect and we advise that a 5-10% further decline in the population would be an adverse effect on integrity. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.6.86)	Natural England advises that the HRA will need to take into account potential collision risk posed by the application which includes a 5-10% decline in the population.	At the time of writing, there was no evidence to suggest there was a decline in the harbour seal population within The Wash (Chapter 17 Appendix 17.1 Habitats Regulation Assessment (document reference, 6.4.18, APP-111), paragraphs A17.6.91 - A17.6.93; (Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055), paragraphs 17.6.86 & 17.6.87). However, it should be noted that it is not expected that there would be any risk to the harbour seal population due to the low level of activity (i.e. the only impact being an increase in vessels within The Wash), and adequate mitigations would be put in place to ensure that there was no risk to the already declining population (including vessel speed limits and observers on all vessels). Mitigation measures will be secured in accordance with the requirement for a Navigation Management Plan (paragraph 14 of Schedule 2 of the draft DCO (document reference 2.1, APP-005).	Natural England believes that based on the response the ES is providing contradictory assessments and therefore further clarity is required. Natural England advises that the proposed mitigation is unlikely to reduce the impacts to acceptable levels. In particular we remain concerned about Vessels waiting in anchorage areas for appropriate tidal windows to enter the Haven and the potential for seal pups in the near vicinity becoming entangled in propellers during this time. Consideration should therefore be given for there to be a requirement for guarded propeller ducts for all vessels associated with the project.	The ES/HRA marine mammal addendum (document reference 9.14) submitted at Deadline 1, updates the assessments in line with the most recent information on harbour seals. Further assessment will also be added to the ES/HRA Marine Mammal Addendum on risk to seals from vessels in anchorage area.
72	Chapter 17 - Marine and Coastal Ecology	Natural England notes that sediment rate across berthing area is calculated as length of berthing area x width x 0.5m/year. Ongoing dredging around the wharf will remove 400m x 40m x 0.5m = 8000m ³ per year of sediment removed from system and not returned to The Wash. This is in addition, to 24,000 tonnes of sediment dredged each year by Port of Boston. Presumably dredged material from Port of Boston will continue to be returned to The Wash and not used for LWA? (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.7)	Natural England requires clarification on this point.	The maintenance dredging for the proposed wharf area is for 8000m ³ per year. As discussed above in RR-021-60 the volumes for removal are very small in context of the material entering The Wash from marine sources.	Natural England advises that the limits of dredging should be secured in the dML, see comments on row 90 and 91 (now RR-021-65 and RR-021-66) on the dredging condition.	Cross refer to RR-021-65.
73	Chapter 17 - Marine and Coastal Ecology	Natural England notes that this section describes area under wharf as being mudflat but Fig 5.2 sheet 3 appears to show it as having mattress protection (what is this made off – one of the drawings says concrete). Also mentions that saltmarsh species may re-establish here under raised deck of wharf. However, we advise that saltmarsh habitat	Natural England advises that it would be good to agree what the likely habitat will be under the Wharf once clarification is provided on the	This would be coarse sediment laid as an area for boats to be berthed on the intertidal zone. The saltmarsh loss has been considered as permanent with respect to the biodiversity net gains. There is potential for some saltmarsh plants to grow in the upper tidal areas but agree it is limited by light conditions.	To clarify the area under the Wharf post installation is assessed as artificial hard substrata and not mudflat or saltmarsh? It remains unclear to how this has been taken into consideration in the assessments.	This area has been assessed as habitat loss in the assessment, both mudflat and saltmarsh, depending on what habitat is present.

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		requires high light levels, so we believe this is unlikely. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.13)	potential environmental changes will be because of the installation.			
74	Chapter 17 - Marine and Coastal Ecology	Please note that width given here is 30m (previous section – 17.8.7 says 40m). (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.14)	Natural England requires clarification.	Paragraph 17.8.7 states the dredged footprint of the berthing pocket is 40m wide. Paragraph 17.8.14 is referring to the width of the wharf.	N/A (The Applicant's response to this Relevant Representation has been updated since responding to Natural England prior to Deadline 1).	
75	Chapter 17 - Marine and Coastal Ecology	Natural England notes that the Applicant has determined a Saltmarsh loss = 1ha. However, we advise that separation between each NVC type is provided As currently unable to agree with the following until provided Mudflat loss = 1.54ha Total loss of intertidal = 2.54ha or 24,500m ² released Saltmarsh Extent and Zonation maps which include this section (available on gov.uk webpage). If above correct, loss in creating wharf/ berth = 5.5% of saltmarsh resource; 4.3% of mudflat resource. Note in A17.6.18 values of saltmarsh in Haven differ. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.17)	Natural England requires clarification on the WCS in relation to habitat loss as a result of the proposed works.	This will be checked throughout the documents to ensure that the correct values are used throughout. An errata document will be prepared for the Examination noting changes (which do not affect the outcome of assessments). These are worst case scenarios as it is expected that some saltmarsh will grow under the wharf area and that some mudflat will remain on the slopes under the wharf below any limit of saltmarsh growth.	Natural England notes that the final response sentence is contradictory to the responses provided at rows 99 and 100. Therefore, we advise that the WCS is reviewed and assessments updated accordingly.	The original comment still applies, values have been checked for ES/HRA Benthic Ecology, Fish and Habitats Addendum (document reference 9.15) submitted at Deadline 1.
76	Chapter 17 - Marine and Coastal Ecology	To mitigate loss of saltmarsh/ mudflat in Area A will enhance saltmarsh in Area B, but we advise that this is for birds rather than Priority saltmarsh habitat. See comments on OLEMS and BNG. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.23)	Natural England advises that need to ensure loss of priority saltmarsh habitat is fully mitigated such that there is overall ecological enhancement.	This is acknowledged. The Biodiversity Net Gain is to provide habitat for the loss of habitat at the proposed development site. It is recognised that the habitat may not be the same but it is anticipated that it will be wetland habitat.	Natural England remains concerned in relation to the loss of priority saltmarsh habitat and how this will be offset as any Net Gain should be to enhance that habitat and not just offset the impacts of the project.	Net gain measures will be discussed in the update to the OLEMS document to be submitted at Deadline 2. However, it should be noted that net gain is not as yet a statutory requirement and that net gain measures are being applied as good practice. Habitat offsets will be in place for significant impacts. Currently the saltmarsh loss is considered to be significant. Sites are being investigated for potential offsets.
77	Chapter 17 - Marine and Coastal Ecology	Natural England advises that full agreement should be confirmed from Crown Estate to secure mitigation below MHWS; and secure purchase for remaining area. Need to ensure long-term management (and its funding). Note 30-year management plan will be secured as	Natural England advises this is confirmed and agreed and secured within the DCO/dML.	The Applicant is currently discussing the acquisition of land/rights with the Crown Estate and is seeking to enter into an agreement with them. The Applicant expects an agreement to be concluded prior to the close of examination. The Crown Estate has already confirmed that with regards to the principle of the	Noted and Natural England will respond once details are submitted into examination.	Noted

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		set out in OLEMS. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.32)		scheme itself, the Crown Estate has no objections to the proposals contained within the scheme.		
78	Chapter 17 - Marine and Coastal Ecology	As permanent habitat loss will provide Biodiversity Net Gain, we advise at least 10% increase. However, no values given in Chapter – See comments on OLEMS and BNG. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.34)	Natural England needs this to be confirmed and agreed and secured within the DCO/dML.	Although BNG is not currently a legal requirement the applicant is committed to BNG and there is an aim to incorporate BNG for this project. This will be reported in the updated Outline Landscape and Ecological Mitigation Strategy which will be submitted to the examination.	Natural England notes that on Page 2 of the OELMS an updated biodiversity unit calculation will be undertaken post DCO approval, using the most up-to-date information available at that time. Will the new metric be used?	The baseline has already been calculated using the original version, but the new version will be used for the updated calculations.
79	Chapter 17 - Marine and Coastal Ecology	Natural England is concerned that smothering of saltmarsh vegetation in adjacent unaffected areas including Habitat Mitigation Area (downstream) has not been fully considered from release of sediment. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.39)	Natural England requires further assessment of this issue.	Sediment release is minimised through the dredge method and potential distribution of plumes was considered with regard to impacts. This is discussed in the ES in Chapter 17 (document reference 6.2.17, APP-055) commencing on Paragraph 17.8.38. It was concluded that sediment release would be highly localised and any settlement would occur within a few tens of metres along the axis of tidal flow.	It would be helpful if sediment plume distribution maps could be provided to demonstrate the areas likely to be impacted.	The sediment plume dispersion has not been modelled as the volumes released would be so small. A conceptual assessment was undertaken that estimated that the plume would contain measurable but modest suspended sediment concentrations. These are likely to be less than 100 mg/l close to the excavator reducing to less than tens of mg/l within a few 100 m of the excavator. These concentrations are much lower than the natural variability in The Haven (134 mg/l to 1,790 mg/l) and would be indistinguishable from background levels. The production of maps of distribution would not have any value because the plume would be rapidly dispersed within and be indistinguishable from the ambient concentrations in the water column. Also, the predicted deposition from the plume would be less than 1mm. This is not going to smother saltmarsh vegetation.
80	Chapter 17 - Marine	Natural England notes that generic noise data levels are quoted as being 110DB. However, is	Natural England requires further	The worst case situation has been assessed for piling activity with mitigation added for the worst case. This	Natural England advises that noise impacts should be minimised as much as possible.	Mitigation is added already to ensure that

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	and Coastal Ecology	there anything more specific to the method to be used? For the Boston Haven embankment works agreed screw piles/ helical piles would be used rather than hammered piles to minimise noise (and vibration). Fig 5. Sheet 1 notes 300 piles piled to a depth of -35 to -40m OD. Confirm how long piling is likely to take? (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.79)	information on methodology and timeframes and, where appropriate, set out how mitigation measures have been adopted.	has been detailed within Chapter 17 commencing in paragraph 17.8.109 of the ES (document reference 6.2.17, APP-055).		noise impacts are minimised as much as possible.
81	Chapter 17 - Marine and Coastal Ecology	Following on from 17.8.79. it is noted that wharf construction expected to take 18 months – with noisest activities undertaken during periods less sensitive to birds using the mudflats and saltmarsh i.e. piling will take place between May and September (a period of 5 months). Natural England queries if 5 months is sufficient time to undertake all the piling (300 piles)? Also, whilst this appropriate for birds it doesn't take into account impacts to Harbour seals when they are at their most vulnerable during the pupping and moulting period June - August (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.87)	Natural England requires further information to support application.	Piling at the Application site is not expected to cause a significant effect to harbour seals who are pupping or moulting, as there is no evidence to suggest that either pupping or moulting occurs within The Haven. However, harbour seals have been reported swimming within The Haven, and occasionally haul-out on the sandbanks along the edges of The Haven. Mitigations will be put in place to ensure there would be no potential for auditory injury to seals, including the use of soft-starts and ramp-up for any piling undertaken during high tides.	Natural England welcomes the provision of a construction programme to manage sensitive periods. Please note that for smaller piles it has been found that soft start procedures are not successful as max. hammer energy is often immediately achieved with no options to 'ramp up'. Better mitigation has been found to be from an ECoW observing 500m area 30 mins prior to commencement to ensure that no seals have entered the area.	The mitigations for marine mammals will include a piling pre-watch over an area of up to 500m (500m is not possible within The Haven due to the morphology of the River), following the standard JNCC guidelines for reducing injury to marine mammals from piling works. A fully JNCC accredited observer would undertake these mitigations. These mitigation measures are contained within the Marine Mammal Mitigation Protocol, which is conditioned within the Deemed Marine Licence contained in Schedule 9 to the draft DCO (document reference 2.1(1)).
82	Chapter 17 - Marine and Coastal Ecology	Natural England notes that the applicant proposes to have an observer on the vessel to mitigate for potential collisions. However, Natural England advises that due to the elevation of the vessel and need for not only 360 degree views but also directly adjacent to the vessel this is unlikely to provide the required mitigation for potential collisions. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraphs 17.8.127, 17.8.228)	Natural England advises further consideration of mitigation measures.	In addition to having an observer on-board, all vessels would be required to travel at no more than 4 knots when transiting through The Wash and The Haven. It is expected that the speed limit of all vessels would effectively reduce the potential for any harbour seal collision with a vessel.	It was NE's understanding during the call on the 19th August that the 4 knots speed may not be appropriate for the large vessels. In addition there is no evidence presented to demonstrate why 4 knots would be acceptable in reduce potential collision risk. Therefore, this remains an outstanding concern.	Following further consideration of the 4 knot speed limit for vessels, it has been identified that this would not be possible for all vessels due to minimum speed requirements for safety and manoeuvrability. Therefore, the vessel speed limit has been amended to be 6 knots in both The Wash and the Haven. This includes additional information on

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						the efficacy of the identified mitigation measures. These mitigation measures are contained in the Outline Marine Mammal Mitigation Protocol (MMMP) (document reference 9.12), with the final MMMP conditioned within the Deemed Marine Licence contained in Schedule 9 to the draft DCO (document reference 2.1(1)). The final MMMP must be substantially in accordance with the Outline MMMP.
83	Chapter 17 - Marine and Coastal Ecology	Natural England notes that there is mention of the anchor areas but no assessment of their use when waiting for available tidal window to enter the Haven. It is our understanding that depending on the vessel and timeframes the vessel will either maintain its position using multiple anchors or dynamic positioning. Both of these options potentially increase the potential for Harbour Seals to be injured and/or killed through entanglement with anchor chains or being dragged into unguarded propellers. This is especially the case for pups are more inquisitive and therefore have shown to interact with stationary vessels. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraphs 17.8.144, 17.6.222)	Natural England requires further consideration of mitigation measures including all Proposed Development vessels needing to have ducted propellers.	The vessels using the anchorage areas will use the same methods as currently used in this area. Use of anchor is more likely if the vessels would be present for a longer period of time, especially if within designated anchorage areas. Harbour seal, due to their small size, are not considered to be at high risk of entanglement in anchor chains. The Port of Boston will be consulted with regard to management measures for vessels using this area.	Natural England advises that currently the Boston anchorage area is not considered as a plan or project and therefore there is no HRA assessment of impacts on marine mammals. However, as vessels associated with an NSIP this is a primary consideration. Please see response to Row 97 (now RR-021-71).	The potential for impact has been included in the HRA/ES undertaken already and is included in the ES/HRA Marine Mammal Addendum (document reference 9.14) submitted on Deadline 1.
84	Chapter 17 - Marine and Coastal Ecology	Natural England queries where 10.46km ² for area of impact of BAEP came from to inform the Harbour seal assessment. When this figure is then used with outdated harbour seal numbers from 2017 there becomes increased uncertainty in the figures presented for collision risk. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.145)	Natural England advises that further clarity is provided in relation to the area of impact and also the figures presented for numbers of individuals potentially at risk. Especially collision risk figures being between 5-10% which is currently 1.7. – 3.3 seals per year. Please note that	The area of 10.46km ² is the total area of the Port of Boston Anchorage Area within The Wash, the Shipping Channel between the anchorage within The Wash and the Boston project area (as described in Chapter 17 Appendix 17.1 Habitats Regulation Assessment (document reference 6.4.18, APP-111), paragraph A17.6.114; and Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055), paragraph 17.8.126). This area is shown on Figure 17.6 (Chapter 17 Figures 17.1-17.10 (document reference 6.3.25, APP-055)). Updated assessments based on the updated harbour seal population have been incorporated into the ES/HRA Marine Mammal Addendum (document reference 9.14) submitted at Deadline 1.	Please see previous responses above in relation to the feasibility of the mitigation measures. Natural England will provide further advice once the documents are submitted into examination.	As noted above (RR-021-82), an Outline Marine Mammal Mitigation Protocol (MMMP) (document reference 9.12) has been prepared with the final MMMP conditioned within the Deemed Marine Licence contained in Schedule 9 to the draft DCO (document reference 2.1(1)). This Outline MMMP includes additional information on the efficacy

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			further clarity on the number of vessels will also need to inform any revised assessment. The significance of which will need to be compared to the most recent seal data for the Wash.			of the identified mitigation measures.
85	Chapter 5 – Project Description	Natural England notes that the vessel berth will be bedded with a layer of gravel/ chalk to prevent sediment release and further habitat damage. This area will therefore not recover to mudflats. It may be colonised by brown algae (fucoids), bryozoans and potentially ascidians, which we advise will be a change in habitat (possibility of invasive marine species establishing from boat hull). Natural England is also concerned about the potential habitat change and scouring of the riverbed in the surrounding areas as a result. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.152)	Natural England therefore advises consideration on how impacts from the placement of hard substrata in a soft sediment environment will potentially change the ecosystem and any potential lasting impacts.	The habitat in this area already includes areas of hard substrata in the form of rocks located in front of the saltmarsh. There are also extensive areas of hard structures associated with the Boston Barrier and the Port of Boston within The Haven. The introduction of hard substrate is not new to this area. It is not expected that the layer of hard substrate would encourage the colonisation of any species that are not already present within the localised area, attached to these existing hard habitats. Changes to erosion/accretion patterns due to the presence of the wharf and berthing areas is fully considered within ES Chapter 16 Estuarine Processes (document reference 6.2.16, APP-110) (paragraphs 16.7.39 to 16.7.45) and no effect is predicted to The Wash European marine Site and with negligible effects more locally.	N/A	N/A
86	Chapter 5 – Project Description	Natural England notes that the extent of vessel bed differs from earlier sizes of wharf, suggesting this will extend over 300m (3 ships long x 100m each). But we query how wide? (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.154)	Natural England advises that more detail on the design parameters is secured on the face of the DCO/dML.	The dimensions of the berthing pocket are set out in the draft DCO (Schedule 9 Deemed Marine Licence, Part 2 (5)) (document reference 2.1, APP-005). The length of the pocket is stated as 570m +/-5 %, and width as 110m +/- 5%.	N/A	N/A
87	Chapter 5 – Project Description	We advise that the increased vessel movements (17.8.155) are likely to increase erosion of mud and saltmarsh along the channel edge resulting in cliffed saltmarsh. This could occur from the mouth of the Haven i.e. at SSSI Unit 9, 10 all the way to the proposed site. The JNCCs Common Standards Monitoring guidance for saltmarsh used to assess saltmarsh condition notes [page 8]: Accreting and stable seaward marsh have an accretional ramp upon which pioneer and low marsh vegetation can become established. Erosional margins are characterised either by	Natural England is concerned about potential changes to coastal processes from the proposed works and advises that a more in-depth assessment is provided.	The evidence for a negligible effect due to ship wash on The Wash European Marine Site and Havenside Local Nature Reserve (i.e. from the mouth of The Haven to the application site) is presented in Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054), Paragraphs 16.7.46 to 16.7.58. As set out in RR-013-08 the annual effect of erosion by wind-waves (and tidal currents) would continue to significantly exceed the erosion caused by ship wash, and the increase in erosion from such ship wash is considered to be negligible.	N/A	N/A

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		<p>the presence of mud-mound topography or by marsh-edge cliffs fronted by toppled cliff blocks with live or dying vegetation; rotational slide; overhanging (cantilever) blocks.</p> <p>The photo shown in plate 17-5 (Erosion of the saltmarshes upstream of the location of the Principal Application Site) shows that the saltmarsh is already eroding with a cliffed marsh-edge. Similar cliffed and toppled cliff blocks of saltmarsh has been noted by the author to the south nearer the mouth of The Haven in SSSI units 9 and 10; which appears to be caused by vessel movements/ boat wash.</p> <p>Natural England agrees with the Applicant that existing ship wash is occurring in The Haven. Therefore, we advise that additional vessel movements by both pilot and cargo vessels will exasperate this issue. The Applicant states that annual net deposition of mud in intertidal areas will exceed short-term erosion of mud from vessel movements. However, it remains unclear what is meant by short term? Vessels will continue for duration of operational life of facility i.e. for at least 25-years). In addition, the majority of sediment is likely to be carried downstream into The Wash, with sediment only likely to be deposited on the areas of saltmarsh/ mudflat after a high tide. Both the Port of Boston and the project will undertake dredging of the channel to maintain navigation (est to be 24,000m³ + 8000m³) which will also be lost from the system. Natural England queries if this has been accounted for?</p> <p>Please be advised that there is evidence that links boat wake energy to elevated turbidity and shoreline erosion, particularly in narrow waterways (Ellis et al., 2002; Baldwin, 2008; Houser, 2010; Currin et al., 2017). Mostly examples from the USA and others e.g. Venice lagoon. Due to the vastly different nature of boat waves and wind waves, there is at present no widely accepted method for making fair comparisons between boat- and wind waves with regard to shoreline erosion potential. To compare the two for the purpose of the environmental statement is not based on any robust science. Given that ship wash is likely to over double as a result of increased</p>		<p>Given the very small predicted increases the Applicant considers that no additional quantitative work is required to underpin the conclusions set out in the ES.</p> <p>Please also see the responses set out in RR-013-08, RR013-11, RR013-19.</p>		

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		shipping I believe further consideration should be undertaken and its effect on the SSSI/SAC both in terms of resuspension and erosion. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.160)				
88	Chapter 5 – Project Description	Could appropriate mitigation be that the boat speed (knots) be reduced (currently 6 knots) and therefore reduce energy increase – from waves – at the mudflat/saltmarsh edge? See below figure 3b (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.160)	N/A	Vessel speed will be controlled by the Pilot on board each commercial vessel within the jurisdiction of the Port of Boston to maintain safety of navigation and within the speed limit within The Haven (i.e. 6 knots). As set out in RR-013-08 the annual effect of erosion by wind-waves (and tidal currents) would continue to significantly exceed the erosion caused by ship wash, and the increase in erosion from such ship wash is considered to be negligible. Please also see responses to RR013-11 and RR013-19.	N/A	N/A
89	Chapter 5 – Project Description	The single best predictor of the size of the wake that any given boat will produce is the speed at which the vessel is traveling (Sorenson 1973, Zabawa and Ostrom 1980, Fonseca and Malhotra m2012), although this relationship is not linear for planing hulls. When planning vessels are operating in displacement mode (such that the bow of the boat is fully supported by the water), wake size increases with speed. The maximum wake is produced at the point just before a vessel transitions to planning mode (this range of speeds is commonly referred to as transition mode). When speed is increased enough that the vessel is fully "on plane", wake sizes begin to decrease as less of the boat is in the water. This relationship between speed and wake size is illustrated in Figure 4. It is important to note that while all planning vessels will produce a curve with this same general pattern, the curve is slightly different for each boat and each set of operating conditions (Stumbo et al. 1999). (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.160)	N/A	Please see the response to RR021-89 above.	N/A	N/A
90	Chapter 5 – Project Description	Given the size of vessels in the haven I would suspect they never plane on the water, and rather sit somewhere on the steep initial curve of this graph below.	N/A	We would agree that the Facility vessels utilising The Haven would not plane of the water. Our response to the issue of increases vessel wake is set out in RR-013-08, RR013-11, RR013-19. The Applicant is of the	N/A	N/A

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		(Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.160)		opinion that increase in erosion from such ship wash (waves) is considered to be negligible.		
91	Chapter 5 – Project Description	<p>A similar issue was identified at Lymington on the Solent where mitigation was provided for new passenger ferries to the Isle of Wight. We would now consider this compensation rather than on-site mitigation, but we think it is a useful comparison. See the links below.</p> <p>██ ██ ██ ██ ██</p> <p>(Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.160)</p>	N/A	<p>The evidence for a negligible effect due to ship wash on The Wash European Marine Site and Havenside Local Nature Reserve is presented in Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054), Paragraphs 16.7.46 to 16.7.58. The annual effect of erosion by wind-waves (and tidal currents) would continue to significantly exceed the erosion caused by ship wash, and the increase in erosion from such ship wash is considered to be negligible. No mitigation or compensation is considered to be required.</p> <p>Further responses to impacts from vessel wake are provided in RR-013-08, RR-013-11, RR-013-19, and RR-021-87 to RR-021-91.</p>	N/A	N/A
92	Chapter 5 – Project Description	<p>We advise that the Applicant needs to consider the noise/ visual impact from the site to the proposed Habitat Mitigation Area particularly during construction (piling likely to be around 110dB) and during operation – what measures are in place to minimise/ avoid this? Paragraph mentions that Habitat Mitigation Area extends for 665m. [OLEMS paragraph 1.1.3 notes Habitat Mitigation Area lies 170m to south-east of site].</p> <p>Remembering the Habitat Mitigation Area is existing habitat being used by bird species/ supporting saltmarsh/ mudflat – rather than a new habitat creation and also that this area will be impacted by the proposals too.</p> <p>(Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.8.206 and Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123) paragraph 1.1.3)</p>	Natural England advises that further consideration needs to be given to impacts to other areas proposed as compensation.	Impacts relating to noise and visual impact were considered when identifying the location for the proposed Habitat Mitigation Area. The habitat mitigation measures were placed at a distance away from the works (both during construction and operation) to reduce any potential impacts to what is considered to be a reasonable level based on the understanding of the sensitivity of key species using this area. This was based on information set out in the Waterbird Disturbance and Mitigation Toolkit ██████████ ██ Following consideration of disturbance distances for appropriate species the mitigation works were proposed to be approximately 250m from the edge of the wharf. In addition, mitigation measures are applied during construction to ensure that the noisiest activities are restricted to avoid overwintering periods for birds.	N/A	N/A
93	Chapter 5 – Project Description	Natural England advises that the projects to be considered cumulatively/in-combination is not a full list. Taking into account projects in the full foraging range of interest features. For example, we would expect to see for MM consideration of Norfolk Vanguard, Boreas, G.	Natural England advises that the cumulative/in-combination assessment requires updates.	There was not predicted to be any likely cause for effect in the HRA (Appendix 17.1, document reference 6.4.18, APP-111) and Chapter 17 of the ES (document reference 6.2.17, APP-055) outside of the localised environment around the mouth of The Haven. Vessel numbers were so low, relative to the numbers using	N/A	N/A

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		Yarmouth Port, Lowestoft port and O&M for operation windfarms. (Environmental Statement Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055) Paragraph 17.9.13)		the main areas of The Wash that there were not considered to be any drivers for impact resulting from Offshore Wind Farms and Great Yarmouth and Lowestoft Ports which are at considerable distances from the application site and The Wash.		
94	7.4 Outline Landscape and Ecological Mitigation Strategy	Natural England welcomes biodiversity gains by retaining and enhancing existing scrub vegetation along Roman. (Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123) paragraph 10.1.1)	No further action	Noted.	N/A	N/A
95	7.4 Outline Landscape and Ecological Mitigation Strategy	Natural England welcomes the management plan covering a 30-year period. Further consideration will need to be given as to whether or not inclusion in the OLEM is sufficient to secure this. (Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123), paragraph 10.2.1)	Natural England advises that further consideration by interested parties is required, given that the OLEM is a terrestrial document in which the MMO is not normally consulted on.	It should be noted that Appendix 1 of the Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123) included intertidal habitat so this was not an entirely terrestrial document. The final LEMS is secured in Schedule 2 (Part 1, 5(2)) of the draft DCO. The Applicant is happy to discuss where the relevant requirement is secured.	N/A	N/A
96	7.4 Outline Landscape and Ecological Mitigation Strategy	Natural England queries if low-level grazing within the Habitat Mitigation Area been considered? Grazing rates based on the approach used for saltmarsh at RSPB Frampton provides opportunities for increasing saltmarsh diversity and maintaining sward condition. This includes low-level grazing after 1st June until 31st October at a stocking rate of <0.5LU/ha. By introducing stock in June after Redshank have laid eggs and those eggs have hatched minimises the risk of eggs being trampled. Removal of stock by November helps prevent excessive damage to saltmarsh vegetation through trampling, and poaching. Grazing could be agreed with a local grazier. (Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123), Appendix 1)	Natural England suggests further consideration of grazing to manage intertidal areas going forwards	Given the size of the habitat that would be available, it is unlikely that the Habitat Mitigation Area would be suitable for grazing. The updated Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123) will provide details of ongoing management of the Habitat Mitigation Area to maintain the sward condition necessary for use by birds for roosting.	N/A	N/A
97	7.4 Outline Landscape and Ecological Mitigation Strategy	Natural England notes that high level works included in Habitat Mitigation Area B include: <ul style="list-style-type: none"> Shallow pools will be created, and existing pools scraped. This will result in saltmarsh vegetation loss – need to calculate areas of pools both new and 	Natural England advises that the details of mitigation area need to be finalised and agreed, before we can support this	Further details for the Habitat Mitigation Area will be provided in the updated Outline Landscape and Ecological Mitigation Strategy (OLEMS) (document reference 7.4, APP-123) to be submitted to the examination: <ul style="list-style-type: none"> the saltmarsh pools are considered to be an integrated part of the saltmarsh habitat. Most 	N/A	N/A

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		<p>existing. This loss needs to be considered in the BNG calculation.</p> <ul style="list-style-type: none"> re-profiling of some of the low banks will be undertaken to provide clear lines of sight for redshank. What is the vegetation along the low banks? Need habitat data? The flattening and removal of the bank may result in increased frequency of inundation of the saltmarsh behind – change in species composition, zonation, or even a loss of saltmarsh to mudflat. The rocks at the edge of the saltmarsh help prevent erosion at the saltmarsh edge; the increase in rocks within the saltmarsh (moving those rocks from Area A the proposed wharf to Area B) will result in loss of saltmarsh habitat through their placement. This loss needs to be considered in the BNG calculation. Where will surplus sediment from the lowering of the bank, and scrapes/ pools be used – the OLEMS document mentions the material will be used/ retained on the marsh – for what purpose, what volume of material will be produced? <p>(Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123) Appendix 1, A1.2.2)</p>	<p>mitigation for saltmarsh habitat management. Please see other comments in relation to compensation for impacts to birds</p>	<p>saltmarsh habitats have pools within them which add diversity to the habitat.</p> <ul style="list-style-type: none"> The profiling of the banks will be discussed in more detail in the updated OLEMS. The saltmarsh in this area is already affected by the existing rocks placed along the front of the saltmarsh on the intertidal mudflats. There are also creeks and salt pans in the marsh which already allow inundation to the marsh. The height of the banks will be considered further with respect to the lowering to ensure no change to the existing marsh levels behind. The rocks will not be placed in the marsh but on the mudflats and this loss has already been accounted for. <p>Surplus sediment could either be retained within marsh or used within the Facility. If the sediment is left on the marsh it would be used to help create the required mitigation. Until detained design is completed precise volumes are unknown but any sediment not required for the marsh can be taken within the Facility as part of the construction if no contamination issues are identified and in line with any further requirements of the Environment Agency.</p>		
98	7.4 Outline Landscape and Ecological Mitigation Strategy	<p>Natural England advises that the vegetation survey of Habitat Mitigation Area (Area B) needs to be completed before mitigation activities listed in A1.2.2 are finalised. In addition, the habitat losses caused by the mitigation proposed need to be calculated to inform the BNG strategy. The vegetation survey also needs to cover the saltmarsh in Area A. In both areas the vegetation survey needs to include an NVC-level survey with quadrat sampling, collect data to determine the condition i.e. following the criteria set out in the Defra Biodiversity Metric 2.0: Technical Guidance for Intertidal Habitats. The survey should check for local species i.e. Artemisia maritima (Sea Wormwood) and also the known Schedule 8 plant Equisetum ramosissimum (Boston Horsetail).</p>	<p>Natural England advises that further assessment is required</p>	<p>Existing survey data undertaken for the Environment Agency has been used to inform the saltmarsh condition. It is acknowledged that Natural England have undertaken an additional survey and agreed, at the meeting on 23rd September 2021, to provide the survey results to inform further work.</p>	N/A	N/A

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		<p>Until this survey data is made available further discussions on the Habitat Mitigation Area and BNG strategy will be difficult.</p> <p>(Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123) Appendix 1, A1.2.7, and A1.4.2)</p>				
99	7.4 Outline Landscape and Ecological Mitigation Strategy	<p>See comments given previous (17.6.10-17.6.12) on saltmarsh condition.</p> <p>(Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123) paragraph A1.5.3)</p>	Natural England advises that further discussion and information needed	<p>The saltmarsh condition has been informed by surveys undertaken over a number of years for the Environment Agency. Further data provided by Natural England in their relevant representation, will be considered for further work on net gain measures.</p> <p>See response to RR-021-98 (above).</p>	N/A	N/A
100	7.4 Outline Landscape and Ecological Mitigation Strategy	Natural England would like to see breakdown of how the biodiversity units have been calculated. Also understood applicant wished to see a 10% net gain target for the site (paragraph 17.8.34). However, we advise that this needs to consider in calculations saltmarsh loss due to Habitat Mitigation Area and other factors such as erosion and increased nitrates.	Natural England advises that these calculations and details need to be shown and agreed, before Natural England can support.	The net gain calculations will be provided within the updated Outline Landscape and Ecological Mitigation Strategy (OLEMS) (document reference 7.4, APP-123) document to be submitted for Deadline 2. It should be noted that although net gain is being considered it is currently not a statutory requirement for Nationally Significant infrastructure projects (NSIPs).	N/A	N/A
101	7.4 Outline Landscape and Ecological Mitigation Strategy	<p>We disagree with 'poor' condition used for saltmarsh which gives a score of 1.</p> <p>Having looked over the criteria we believe an assessment of Moderate with a score of 2 is more appropriate. This would increase the Biodiversity Unit values of the Saltmarsh.</p> <p>With limited information on habitats the following assessment has been made. Area A appears to meet criteria 1,2,3, 6, 7,8, 9.</p> <ol style="list-style-type: none"> 1) Area A wharf is classified as saltmarsh, with recognisable NVC types given in (paragraphs 17.6.10- 17.6.12) as SM24, SM13a, SM10. Species typical of habitat appear present. 2) No species-list provided, but from those identifiable in the photos and mentioned in the text these appears to be all appropriate to the site; typical zonation with mudflats, pioneer, low-mid marsh, upper marsh and transitional veg on sea defence. 3) No details on sward height – but photos show varied sward structure. 4) Aerial photos suggest no creeks in Area A, there is a creek immediately to the south. Small areas of bare ground are 	Natural England advises that these calculations and details need to be shown and agreed, before Natural England can support.	The 'poor' condition used for saltmarsh was from the surveys undertaken for the Environment Agency over several years as discussed in ES Chapter 17 (Marine and Coastal Ecology (document reference 6.2.17, APP-055)). This condition status appears to have been accepted in the documents produced for the monitoring reports from these surveys. The updated net gain calculation will however consider the latest comments from Natural England. It should be noted that there is a considerable amount of debris on the saltmarsh in these areas which does not help the condition status.	N/A	N/A

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		<p>visible along with a pool to north. The EA saltmarsh zonation maps show a mosaic of veg types present.</p> <p>5) Rocks have been placed along channel edge of saltmarsh to prevent erosion from boat wash. To the landward edge a sea defence is present.</p> <p>6) The areas are non-intervention saltmarsh – it may have been grazed historically.</p> <p>7) No records of non-native or invasive species are present. Note <i>Spartina anglica</i> (Common Cord-grass) is not recorded – and is no longer considered non-native.</p> <p>8) No other negative indicators noted. Public access from PROW is likely. As not grazed trampling/ poaching is not applicable.</p> <p>9) No evidence from photos of algal matt in pioneer zone/ mudflats. Furoid seaweeds can be seen.</p> <p>10) As noted in point 5, sea defence restricts landward succession.</p> <p>11) None recorded – although local species are present nearby.</p>				
102	7.4 Outline Landscape and Ecological Mitigation Strategy	Natural England agrees that using either RSPB Freiston Shore/ Frampton Marshes for Biodiversity Net Gain is appropriate. But suggested habitats are not creating saltmarsh or mudflat.	Natural England advises that areas of saltmarsh and mudflat need to be created.	Areas of habitat for potential habitat offset and net gain are being considered outside of the RSPB reserves. These will be discussed further in the updated Outline Landscape and Ecological Mitigation Strategy (OLEMS) to be submitted at Deadline 2.	N/A	N/A
Appendix D Air Quality						
103	Air Quality	Whilst dust impacts during construction considered at Havenside LNR; what about on the area of saltmarsh being used for the Habitat Mitigation Area?	Natural England advises that all areas relevant to the proposals are thoroughly considered.	The construction phase dust assessment methodology is taken from Institute of Air Quality Management guidance and is used to determine the level of dust risk of a development and assign appropriate mitigation to ensure that impacts would not be significant. As such, the proposed mitigation measures for dust which would be implemented during construction would also provide appropriate protection to the Habitat Mitigation Area. These measures would be secured via the final Code of Construction Practice (CoCP) which will be based on the Outline CoCP (document reference 7.1, APP-120) which contains a section on dust management. Requirement 10 of the draft DCO (document reference 2.1, APP-005) ensures that construction of the Proposed Development may not comment until a final CoCP has been approved.	N/A	N/A

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104	Air Quality	As above, for Critical Loads/ Levels the ecological receptors considered statutory and non-statutory sites – but not Priority Habitats i.e. the saltmarsh adjacent to the site and part of the Habitat Mitigation Area.	As above (RR-021-103).	Impacts upon the Habitat Mitigation Area and other areas of saltmarsh within The Haven have been considered and are presented as Annex A to this Technical Note. This additional analysis showed that, whilst the Facility is predicted to lead to increases in pollutant concentrations and deposition above 1% of the respective Critical Loads and Levels within the Habitat Mitigation Area, the Critical Levels and Loads were not exceeded when taking into account in-combination contributions and background concentrations/deposition. As such, it is considered that significant impacts would not occur, as the thresholds above which the risk of harm to the habitats is increased (i.e., the Critical Loads and Levels) are not exceeded.	N/A	N/A
105	Air Quality	Natural England is aware that only one other project has been included in the in-combination assessment. We would welcome a further check that this remains the case with other interested parties. We advise that the search consider any present or confirmed future projects which would not be included in the background data and other sources and sectors?	Natural England advises that the assessment should explain the criteria applied to the search. Also, we would welcome confirmation from other interested parties that all sources have been included.	The in-combination assessment included both the Biomass UK No. 3 Ltd plant and a peaking power plant near to the Facility, although impacts associated with the peaking power plant were only considered at the Havenside LNR as this was the only designated site included within its air quality assessment. No further projects have been identified by stakeholders for consideration within the assessment. The search for in-combination projects was undertaken using Natural England's SSSI Impact Risk Zone criteria, which were applied to all designated sites considered in the assessment. Applications listed on the planning portals for Boston Borough Council, South Holland District Council and East Lindsey District Council were reviewed for projects which would have emissions of the type specified within the SSSI Impact Risk Zone criteria. Projects which carried out air quality assessments as part of the planning application were included within the in-combination assessment.	N/A	N/A
106	Air Quality	We note that the consultant has used the higher daily NO _x threshold of 200 ug/m ³ rather than 75 ug/m ³ . Whilst this higher threshold is considered in casework, a robust and evidenced argument must be made to show that the criteria are met i.e. SO ₂ and O ₃ below their respective CL _e . This assessment bases the justification on national and modelled data.	Natural England requests that local, finer resolution or monitoring data is used to underpin the justification. And reassurance provided that O ₃ and SO ₂ will at no point exceed the CL _e locally?	Further detailed evidence for the use of the 200 µg m ⁻³ Critical Level is provided as Annex B of this Technical Note. This further analysis showed that concentrations of SO ₂ and O ₃ are below their respective Critical Levels within the study area and therefore the use of the higher 24-hour NO _x Critical Level is considered to be appropriate in accordance with IAQM guidance.	N/A	N/A
107	Air Quality	We note that the construction phase of the assessment does not consider emissions from ammonia. This suggests that ammonia from vehicle and vessel emissions were not	Natural England requires more clarity and justification regarding the	As noted in Paragraph 14.4.35 of Chapter 14 Air Quality of the ES (document reference 6.2.14, APP-052), the only designated ecological site within 200 m of the road network is the South Forty Foot Drain Local	N/A	N/A

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		<p>considered. We query if the justification for this can be provided and the rationale as to why ammonia would not be a significant contributor? Especially given that nitrogen deposition exceeds the 1% threshold.</p>	<p>consideration of ammonia from vessels and vehicles and their contribution to nitrogen deposition. Especially in relation to why ammonia is not considered to be a significant contributor?</p>	<p>Wildlife Site (LWS); all other sites are located significantly further from the road network which would be utilised by construction or operational phase vehicles generated by the Facility. As such, it is not expected that any other designated sites would be affected by contributions of ammonia from road traffic.</p> <p>Paragraph 14.4.35 also notes that the number of project-generated vehicles was below the screening criteria during both the construction and operational phases; as such, impacts of emissions (including ammonia) from road traffic would not be significant. The total NOx and nitrogen contributions from traffic on the nearest road to the South Forty Foot Drain site were included within the total Predicted Environmental Concentration (PEC) values reported in Table 14-25 and Table 14-33 of Chapter 14 Air Quality of the ES (document reference 6.2.14, APP-052). The additional consideration of ammonia from this source would increase the total nitrogen deposition experienced at this location, however the area of the site within 200 m of the road is less than 1% of the total area of the LWS. Given that the Proposed Development would not give rise to a significant increase in ammonia emissions or associated nitrogen deposition, the impacts of ammonia from road traffic are not considered to be significant. With regard to ammonia from vessels, the principal source of emissions of ammonia would be from vessels utilising Selective Catalytic Reduction (SCR), which primarily uses injected ammonia to reduce NOx emissions. The International Maritime Organisation (IMO) has been introducing increasingly stringent emission standards on vessels under Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL). The North Sea is a designated Emission Control Area (ECA) and, as such, the most stringent Tier III NOx emission standards apply for all vessels constructed on or after 1st January 2021. The Tier III NOx emission standards impose a reduction in NOx of approximately 80% and 75% in comparison to Tier I and II standards respectively; in order to achieve this emission reduction, SCR is one of the techniques which may be used. However, as this emission reduction technique is only required for vessels constructed on or after 1st January 2021, it is unlikely that a significant proportion of vessels travelling along The Haven, or which would be utilised by the Facility, would be using SCR technology. Furthermore, for older vessels which are not required to use emission reduction technologies, the ammonia content within</p>		

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				liquid fuel is expected to be negligible. As such, any ammonia emitted from vessels would be expected to have a negligible effect on designated ecological sites.		
108	Air Quality	We support the consideration of an assessment on priority saltmarsh habitat. However, are there other sensitive habitats.	Natural England requires the applicant to provide recent survey data or evidence to support this decision to only consider saltmarsh. A footprint map confirming that only saltmarsh is present within the area of impact would be beneficial.	As noted in Section 14.4.61 and listed in Table 14-10 of Chapter 14 Air Quality of the ES (document reference 6.2.14, APP-052), the citations for the LWSs and LNR include other habitats. However, there were no suitably appropriate habitats listed within the APIS database to assign Critical Loads. Therefore, impacts in relation to Critical Loads were only considered within the saltmarsh habitat. If Natural England advises that certain Critical Loads would be appropriate for other habitats within the LWSs and LNR, the predicted impacts will be compared to these Critical Loads.	N/A	N/A
109	Air Quality	The assessment states that the minor adverse impact identified will be dealt with by monitoring. However, Natural England advises that this is not mitigating the adverse impact and does not negate the impact to sensitive features. What will monitoring be looking to identify? If a significant change occurs, what actions will be taken?	Natural England requests that the purpose and outcome of the monitoring be expanded to explain how this will mitigate an adverse impact to the designated features? A minor adverse impact is acknowledged, but no mitigation proposed.	The reference to monitoring was included in regard to the continuous emissions monitoring system, a statutory requirement of the Environmental Permit, which will be used at the Facility to ensure that emissions are within the regulatory limits. As such, the predicted impacts would not be of any greater significance than those predicted, as these emission limits must be met to ensure compliance with the Environmental Permit. Furthermore, data provided in the 2020 Tolvik report, which provides operating and compliance statistics on EfW plants throughout the UK, compares emissions from EfW plants with the emission limits, as shown in Plate 1. The conclusion of the assessment, as presented in Chapter 17 Marine and Coastal Ecology of the ES (document reference 6.2.17, APP-055), is that the predicted impacts would be of minor adverse significance, which is not considered to be significant in EIA terms. In addition to the fact that the actual emissions are expected to be lower than those assessed, mitigation measures were not considered to be required.	N/A	N/A
110	Air Quality	Natural England queries how precautionary are the emissions which have been calculated? Was this based on a worst-case scenario e.g. worst-case MET data for Daily NOx and maximum run-times? This would be useful if made clearer.	Natural England advises that it would be useful if these assumptions could be made clearer as it can influence the approach taken to the minor adverse impact i.e. if it's a highly conservative estimate.	Section A14.3 of Appendix 14.2 of the ES (document reference 6.4.15, APP-108) sets out how emissions from the proposed Facility were calculated. The assessment was undertaken using five years of meteorological data, and the reported results are the maxima of all annual datasets at the point of maximum impact within each site. The reported 24-hour concentrations are reported as 100th percentile (i.e., maximum) concentrations. The emissions from the Facility were also calculated based on NOx, SO2, hydrogen fluoride and ammonia being emitted at their respective limits, which is considered to be conservative as, during typical operating conditions,	N/A	N/A

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				emissions can be expected to be lower (see Plate 1). The reported results are therefore considered to be worst-case.		
111	Air Quality	Natural England notes that Table 14-30 presents values during operational phase for The Wash with in-combination contributions of all pollutants above 1% of the relevant annual mean Critical Loads/ Levels. Therefore, we query how impacts will be mitigated for?	Natural England advises that further clarity on how impacts to designated sites will be mitigated and any measures secured.	<p>The 1% threshold used in the assessment is a threshold of insignificance; impacts which are below 1% of a Critical Load or Level are considered to be within a natural range of fluctuation and effects are unlikely to be measurable or perceptible. Impacts above 1% of the Critical Load or Level are not necessarily significant impacts; they require further consideration in terms of the total Predicted Environmental Concentration (PEC) in relation to the Critical Load or Level (i.e., including background) and consideration of other factors such as habitat condition, response and sensitivity.</p> <p>The PEC values at all sites, for all parameters, were below the Critical Loads and Levels, with the exception of nitrogen deposition at the Havenside LNR, which was predicted to be at 101% of the most stringent Critical Load for saltmarsh. For all other parameters and sites, it is therefore expected that significant impacts would not occur as the total concentrations and deposition do not exceed the threshold above which the risk of harm to the habitats is increased (i.e., the Critical Loads and Levels), despite the magnitude of the contribution from the Facility.</p> <p>The Havenside LNR experiences the largest impact from the Facility due to its proximity, and this area also experiences higher background nitrogen deposition than The Wash, likely due to its location closer to the centre of Boston. However, as noted in the Applicant's response to RR-021-111 (paragraph D8) and as shown in Plate 1, it is expected that emissions of oxides of nitrogen and ammonia, which both contribute to nitrogen deposition, would be emitted at lower levels than the modelled emission limits. As such, it is expected that actual deposition within the Havenside LNR would be below the Critical Load.</p>	N/A	N/A
112	Air Quality	Natural England notes that all levels of pollutants exceeded for LNR and LWS. Therefore, we query what the effects of N deposition on the Habitat Mitigation Area will be? If based on similar values to Havenside LNR then PEC predicted to be marginally over the most stringent critical load range (20- 30 kg N ha-1 year-1).	Natural England advises that all areas relevant to the proposals are thoroughly considered.	The in-combination concentrations and deposition Process Contribution (PC) values exceeded the 1% threshold but as noted in response to RR-021-111 (D9), the PEC did not exceed the lower Critical Loads or Levels at the LNR or LWSs, with the exception of nutrient nitrogen at the Havenside LNR (the total deposition including background was 101% of the most stringent critical load value in the range (20 kgN ha-1 yr-1)). The PECs within the Habitat Mitigation Area also did not exceed the Critical Loads and Levels, as reported in Annex A.	N/A	N/A

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113	Air Quality	<p>Paragraph states - The Facility was not predicted to lead to any significant effects during its operation which would require mitigation measures. As the Facility would be required to operate under the conditions of its Environmental Permit, this is considered to be an adequate mechanism to ensure that significant impacts are not experienced.</p> <p>Natural England queries what mitigation is suggested for designated sites? Only mention monitoring of stacks.</p>	<p>Natural England advises that further clarity on how impacts to designated sites will be mitigated and any measures secured.</p>	<p>As noted in the Applicant's response to RR-021-109 (paragraph D7) and the quoted paragraph, as impacts were not considered to be significant in EIA terms, mitigation measures were not required. The continuous emissions monitoring at the Facility will ensure that impacts are no greater than predicted, and as shown in Plate 1, emissions from the Facility are expected to be significantly lower than those assessed based on emission limits. As such, no mitigation measures are considered to be required.</p>	N/A	N/A
114	Air Quality	<p>Operational impact – longer-term all pollutants exceed >1% relevant annual critical loads (based on APIS). Critical levels will be exceeded in The Wash and the Havenside LNR (as well as other LWS) as they are downwind of the site. Presumably also the saltmarsh in Area B – the Habitat Mitigation Area (not considered by assessment)?</p> <p>Need to look at recent evidence of impacts of N deposition on saltmarsh. Evidence shows it leads to increased vegetative growth with poor root development leading to die- back and potential erosion (Deegan et al. 2007, 2012) (Penk 2020).</p> <p>There are also impacts associated with nutrient enrichment through the spread and dominance of grass species. APIS notes the indication of exceedance as an increase late successional species, increase productivity, and increase in dominance of graminoids. This is particularly worrying in ungrazed saltmarshes on the east coast where <i>Elytrigia atherica</i> (Sea Couch) outcompetes other saltmarsh species in the upper marsh.</p> <p>Eutrophication can increase algal cover (mats) in the pioneer/ low-marsh smothering mudflat and pioneer marsh.</p> <p>As well as this impact on the physical loss of saltmarsh, excessive nutrients can also have an impact on the ability of saltmarsh to store carbon (Geoghegan et al (2018).</p> <p>Natural England therefore queries how the above potential changes to saltmarsh will be addressed. What mitigation measures could be</p>	<p>Natural England queries how the above potential changes to saltmarsh will be addressed and would wish to see details on what mitigation measures could be adopted.</p>	<p>As noted in the Applicant's response to RR-021-111 (paragraph D9), although the Facility was predicted to result in impacts greater than 1% of the Critical Loads and Levels, this does not mean that significant effects will occur. Within The Wash, the total nitrogen deposition PEC, including the contribution from the Facility, was predicted to be 63% of the most stringent Critical Load. As the Critical Load is not exceeded, significant changes in species composition within the saltmarsh is not anticipated, as Critical Loads are set at a level below which significant harmful effects have not been shown to occur. Furthermore, the additional in-combination contribution of the Facility plus other projects in the area was predicted to be 2.13% of the Critical Load, which is not considered to constitute excessive additional nutrient loading.</p> <p>As noted above, the contribution from the Facility predicted in the assessment at the Havenside LNR is considered to be conservative, as emissions of nitrogen oxides and ammonia would be much lower than the modelled emission limits. As such, significant impacts on saltmarsh are unlikely to occur.</p> <p>With regard to the referenced studies, as noted by CIEEM and on APIS, studies of saltmarsh sensitivity to nitrogen deposition typically use unrealistic nitrogen doses and input methods which would be significantly in excess of any nitrogen which would be deposited from the atmosphere. Furthermore, it is stated in paragraph 17.8.243 of Chapter 17 Marine and Coastal Ecology of the ES (document reference 6.2.17, APP-055) and noted on APIS that deposition of nitrogen is likely to be of low importance for saltmarsh systems as inputs are typically significantly lower than the large loadings of nutrients from river and tidal inputs, which is also expected to be the case in The Wash and The Haven.</p>	N/A	N/A

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		adopted? A change in vegetation to The Wash would affect SAC habitats; in addition, a change in vegetation with increased cover of <i>Elytrigia atherica</i> locally in the Habitat Mitigation Area would make it less suitable for wildfowl and waders. And therefore would not be considered effective compensation. Further management measures may be required such as grazing.		Given the above, it is not expected that The Wash or the Havenside LNR would experience increases in nitrogen loading of a sufficient magnitude which would give rise to changes in species composition or other such adverse impacts. In addition, airborne deposition is not expected to be such a significant contributor to total nitrogen loadings within the saltmarsh in comparison to other sources.		
Appendix E Terrestrial Ecology						
115	Chapter 5 – Project Description	Design of new footbridge along the Roman Bank (sea bank) ECP – the new footpath alignment will alter the route of the ECP further inland Natural England advises that full consultation would be required if the route were to be changed including an Appropriate Assessment.	Natural England recommends that the applicant continues to consult the English Coastal Path team on this issue and fully considers the implications of alterations to the route.	Ongoing consultation has been maintained with the Natural England contact for the England Coast Path. An appropriate staff member is included within the stakeholder group the Applicant has consulted with in relation to the Outline Public Right of Way Design Guide which will be submitted to the examination. All consultations have been helpful but further information has been requested from the Natural England Case Manager in relation to the requirements for Appropriate Assessment and await a response.	N/A	N/A
116	Chapter 5 – Project Description	Fig. 5.3 shows English Coast Path – which is being diverted inland away from the channel.	See above.	Noted. See response to RR-021-115 (above).	N/A	N/A
117	Chapter 12 – Terrestrial Ecology	Natural England confirms that we believe that the surveys appear adequate. We agree that the surveys show low numbers of common species – Soprano Pipistrelle & Common Pipistrelle. Whilst we agree that the area concerned is low quality scrub/grass areas within existing industrial units, there is no indication of the route of transects so it is unknown if any bats are crossing the river when foraging.	Natural England suggests that further right Bank transect may be required to assess this further.	Noted and figure(s) to show the walked transects for the bat surveys will be provided to Natural England.	N/A	N/A
118	Chapter 12 – Terrestrial Ecology	Natural England queries if materials are to arrive by river would this be only during daylight hours to minimise light pollution affecting bat behaviour? If not, then the light pollution sections need updating to include potential light pollution from vessels.	Natural England requires clarification to confirm if vessels will be transiting at night and if yes provide an updated assessment.	There may be some requirement to transit vessels in hours of darkness but this would be more likely in the winter months when daylight hours are shorter. However, bats will not be active during this winter season. Further clarification on this point will be made and if material arrival will be during hours when bats will be active the relevant assessment will be updated.	N/A	N/A
119	Chapter 12 – Terrestrial Ecology	Mitigation includes low pressure sodium lighting, locating lights away from areas used by bats. Ambient night-time levels to be maintained. Planting of new linear features around site boundary away from lighting. Bat enhancement features: bat boxes on retained trees. Additional planting incorporated into	Natural England would ideally need to see more detailed plans which show new additional planting, locations & numbers of bat boxes. In addition, consideration should be given to motion	Noted and further details would be provided as part of the final LEMS that would be updated and submitted for discharge of DCO requirement 5 (see the Draft DCO, document reference 2.1, APP-005).	N/A	N/A

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
		design that encourage bat foraging. All appropriate.	operated lighting rather than 24/7.			
120	6.4.11. Appendix 12.1 Extended Phase 1 Habitat Report	Natural England notes that it is stated that the Facility will result in areas of habitat being lost. The north-eastern extent of the Facility adjoins Coastal Saltmarsh and Mudflat Priority Habitat. The Facility will involve a localised loss of these habitats (0.99 ha and 1.54 ha respectively) to accommodate the proposed wharf facilities on The Haven for feedstock delivery. This loss of Priority Habitat would account for a very small proportion of the overall saltmarsh and mudflat habitat locally. However, Natural England advises that any loss would need to be addressed in the form of Biodiversity net gain and replacement areas.	Natural England disagrees with the Applicant about the scale of the impact and as set out in Appendix B further detail is required.	Detail on specific points is provided in the Applicant's response to Natural England's Appendix B above. Please refer to RR-011-9 for further details on the assessment of loss of priority habitats.	N/A	N/A
121	6.4.11. Appendix 12.1 Extended Phase 1 Habitat Report	The hedgerows and woodland habitats within the survey area provide suitable foraging and commuting habitat for bats. As the proposed facility will require the removal of these habitats, we advise that further surveys to understand their current usage by foraging/commuting bats will be required. In addition, mitigation measures will need to be considered during the construction and operational phases of the Facility to minimise impacts to local bat populations. We advise that these measures are provided in principle now to give the Examining Authority comfort that impacts to protected species can be mitigated for.	-	As presented in Chapter 12 Terrestrial Ecology ES Chapter (document reference 6.2.12, APP-050) a suite of monthly bat activity transect surveys were undertaken in 2019 and the key species recorded include common and soprano pipistrelles. Paragraph 12.7.22 acknowledges that there are potential impacts to commuting/foraging bats as a result of vegetation clearance, i.e. removal of hedgerows. A suite of embedded mitigation measures (paragraph 12.7.24) is committed to by the Applicant and includes but not limited to: the undertaking of pre-construction surveys, replanting of hedgerows lost during construction works and enhancement of retained hedgerows throughout increasing their species diversity or in-filling any gaps. It is concluded that through the implementation of these embedded mitigation measures there would be a temporary residual effect of moderate adverse significance, which would be reduced to minor adverse significance once the hedgerows have established (paragraph 12.7.25).	N/A	N/A
122	6.4.11. Appendix 12.1 Extended Phase 1 Habitat Report	We note that there are suitable habitats within the survey area for which reptiles could use. No further reptile survey will be required; however, mitigation measures will need to be considered during the construction and operational phases of the proposed facility to minimise impacts to local reptile populations. We advise that these measures are provided in principle now to give the Examining Authority comfort that impacts to protected species can be mitigated for.	Natural England advises that the Applicant must provide further detail on in principle mitigation measures which could be adopted to remove significant impact to protected species.	As presented in Paragraph 7.2.5 and 7.2.6 of the OLEMS (document reference 7.4, APP-123), the mitigation measures for reptiles are outlined, i.e. through the adherence to a reptile precautionary method of working. The key principles of the reptile precautionary method of working are provided in paragraph 7.2.6 of the OLEMS.	N/A	N/A
123	6.4.11. Appendix 12.1	The proposed facility will result in direct and indirect impacts to birds because of disturbance and habitat loss. Therefore,	Natural England advises that the Applicant must	Paragraph 7.2.7 of the OLEMS (document reference 7.4, APP-123) presents the mitigation measures that will be adopted should vegetation clearance not be	N/A	N/A

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
	Extended Phase 1 Habitat Report	mitigation measures will need to be considered during the construction and operational phases of development to minimise impacts to local bird populations.	provide further detail on in principle mitigation measures which could be adopted to remove significant impact to protected species.	possible (or fully) completed outside of the nesting bird season. Any additional and/or more species specific requirements for particular bird species will be subject to the species in question and as provided by the appointed ecologist post consent and pre-construction.		
124	6.4.11. Appendix 12.1 Extended Phase 1 Habitat Report	The grassland, scrub, trees, and woodland on site may support common species of terrestrial invertebrates. The tidal River Witham and mudflats may also provide suitable habitat for common species of aquatic invertebrates. No further surveys are required for invertebrate species, but mitigation measures are recommended during the construction and operational phases of the Facility to minimise impacts to invertebrate populations which is a key prey resource to Annex I birds.	Natural England will need to see how this will be provided and secured before we can be certain that impacts have been avoided, reduced, and mitigated to acceptable levels.	Noted - requirements for any mitigation measures for invertebrates will need to be cross checked with the marine/intertidal bird considerations and to ensure the long-term sustainability of their food source.	N/A	N/A
125	6.4.11. Appendix 12.1 Extended Phase 1 Habitat Report	Natural England notes that no evidence for the presence of badgers, otters or water voles was detected during the surveys in 2017 and 2018 - General Ecological Awareness is detailed in section A12.13 which will be followed.	Natural England advises that Preconstruction surveys would need to be carried out to verify presence or absence of these species.	As presented in Section 7.2 of the OLEMS (document reference 7.4, APP-123), the Applicant has committed to undertaking pre-construction surveys for those species where no evidence of them was noted during the surveys undertaken to date.	N/A	N/A
126		Emerging England Coast Path route that follows the coastal margins of The Wash to Skegness is affected by the Facility - Part of the route uses public rights of way that front The Haven through the Principal Application Site. These routes will be closed, and an alternative route will be provided via the existing Bost/14/11 public right of way.	NE requires clarification regarding the diversion of the England Coast Path. Any proposed changes would require a full consultation and Appropriate Assessment in its own right.	See response to RR-021-115 (above).	N/A	N/A
127	Chapter 19 Traffic and Transport	The England Coast Path team at Natural England has been consulted on the diversion routes. During the construction, the following footpath sections would be permanently closed: BOST/14/4, BOST/14/10 and BOST/14/5. The closure would also affect the England Coast Path route which follows these footpaths, as does Macmillan Way (which is a series of inter-connected footpaths). The diversion for these route closures would follow the route of an existing footpath, which follows the route of	Natural England requires clarification regarding the diversion of the England Coast Path. Any proposed changes would require a full consultation and Appropriate Assessment in its own right.	The permanent stopping up of footpaths is as described by Natural England in their relevant representation and as per ES Figure 5.2 (document reference i.e. permanent stopping up of with BOST/14/4, BOST/14/10 and BOST/14/5). Ongoing consultations which Natural England have been included on, confirm that the north-south connection across the Principal Development Site will be via BOST/14/11 and BOST/14/09. An Outline Design Guide for these footpaths linking in to BOST/14/7 (south) and BOST/14/2 and BOST/14/12 (north) is currently being compiled and will be submitted to the examination. This Public Right of Way configuration	N/A	N/A

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
		Roman Bank (also known as 'Sea Bank') along footpath sections BOST/14/11 and BOST/14/9.		will ensure connectivity and of the England Coast Path (once it is designated) via an approximate 2km diversion away from the bank of The Haven. The Applicant is currently awaiting further guidance from Natural England on the requirement for Appropriate Assessment.		
Appendix F DCO/dML						
128	Draft DCO	The MMO and LPA have overlapping responsibility for the intertidal habitat. The current drafted DCO appears to put the responsibility for the intertidal areas on the Local Planning Authority to discharge. While there are no issues with the MMO deferring to another regulator we will make the MMO aware of this to ensure that they are content with the approach given NE provided advice to both regulators.	Natural England advises further consultation with the MMO.	The Applicant has been in ongoing consultation with the MMO and it has not raised this as a particular issue.	N/A	N/A
129	Draft DCO	The project ES description considers the Local plans, but no reference is made to the Eastern Inshore Marine Plans. Given the project impacts below mean high water springs then there should be some reference to this relevant plan.	Natural England advises that the project should be considering all relevant plans and policies within those plans.	Chapter 3, Policy and Legislative Context of the ES (document reference 6.2.3, APP-041) at page 16 describes the Marine Policy Statement and East Inshore Marine Plan policies and in which ES chapters these are assessed. Full reference is made to the Marine Policy Statement and East Inshore Marine Plan within the Planning Statement (document reference 5.2, APP.-031) - refer to page 48 to page 50 and Appendix 1 which sets out the relevant policy in full. Table 6.5 on pages 50 to 51 makes reference to key policy themes and related Eastern Inshore Marine Plan policies. Relevant EIMP policies are then referenced in the analysis - Section 7 - Planning Assessment. In addition, at the request of the MMO an East Marine Plan Policy Checklist (document reference 9.19) has been submitted at Deadline 1 of the examination.	N/A	N/A
130	Draft DCO	Definition of commence includes conduction of environmental surveys. This may lead to conflict as conditions/requirements timing may be linked to commence. (Draft DCO document reference 2.1, APP-005, Part 1 Article 2 Interpretations)	Natural England advises further consideration.	There is an error in the definition of commence the word "than" has been inadvertently deleted and it should read ""commence" means beginning to carry out any material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or carried out for the purposes of the authorised development other than operations consisting of pre-construction ecological mitigation, environmental surveys and monitoring,...". This will enable environmental surveys to occur in advance of commencement of the authorised development. The draft DCO (document reference 2.1(1)) has been updated to correct this error.	N/A	N/A
131	Draft DCO	There is no definition of relevant statutory nature conservation body.	As a matter of consistency with other DCOs and to	Agreed, the draft DCO (document reference 2.1(1)) has been updated to reflect the requested amendments.	N/A	N/A

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
		(Draft DCO document reference 2.1, APP-005, Part 1 Article 2)	future proof the DCO against changes to Natural England's function, all references to Natural England within the DCO should be amended to the relevant statutory conservation body and a new definition of statutory nature conservation body should be added. Example wording from an OWF DCO: "statutory nature conservation body" means the appropriate nature conservation body as defined in regulation 5 of the 2017 Regulations;"			
132	Draft DCO	<p>Limits of deviation. Natural England has not seen an article securing limits of deviation before. Cross checking with OWF DCO's it does not appear to be included as an article but as an interpretation. The most concerning aspect is that the article allows extension of the project outside the limits of deviation as defined within the works plans, with approval of the LPA and secretary of state.</p> <p>The DCO explanatory memorandum makes it clear that they consider that they need this for flexibility. They also reference two made DCO's with similar provisions; National Grid (Kings Lynn B Power Station) Order 2013 and National Grid (North London Reinforcement Project) Order 2014. Those are both old orders, and we are unsure if any representations were raised on this issue. We have also checked King's Lynn and it does not include provision for extension beyond the limits of deviation. It is very close to the model provisions. North London DCO again is close to the model provisions but does include allowance to deviate to any extend downwards as may be necessary or convenient. Upwards a stick 3 m limit is given.</p>	<p>Given that an extension beyond this line could create additional impacts and that a refusal appears to be based on having materially different impacts. As a minimum, we advise that this article be amended to include consultation with the Relevant statutory nature conservation body.</p> <p>Natural England is seeking further legal and MMO advice on this article.</p> <p>Another point you may also wish to discuss with the MMO as this would apply to all works in</p>	<p>Articles providing for limits of deviation are common in terrestrial development consent orders, of which the considerable majority of this development is.</p> <p>Paragraph (1) confirms that the maximum limits of deviation set out in the paragraph do not apply where it is demonstrated to the Secretary of State's satisfaction (and the Secretary of State has certified accordingly following consultation with the relevant planning authority) that such deviation would not give rise to any materially new or materially different environmental effects in comparison with those reported in the Environmental Statement. The purpose of this provision is to provide the Applicant with a proportionate degree of flexibility when constructing the Project, reducing the risk that the Project as approved cannot later be implemented for unforeseen reasons but at the same time ensuring that any flexibility will not give rise to any materially new or materially different environmental effects. This is not an impermissible "tailpiece" provision as the limits of deviation referred to in this article and shown on the works plans have been taken into account in the preparation of the Environmental Statement and the potential impacts of a deviation within the permitted limits have been assessed. AUBP is only permitted to exceed the limits specified in this article if it can</p>	N/A	N/A

Number	Topic	Relevant Representation (comment)	Relevant Representation (recommendations)	AUBP Response	NE response from email 13 th September 2021	AUBP response to NE comments
		<p>The model provisions do include a limits of deviation article. However, this article does not allow for extension beyond the limits of deviation shown on the plans.</p> <p>It is important to note that the Applicant links the approval required to schedule 2 Part 2 for discharge. Which means an 8-week period and if no answer is given within the 8 weeks then an approval is assumed.</p> <p>We therefore question if that is appropriate for a potential extension beyond the worst-case scenario assessed.</p> <p>(Draft DCO document reference 2.1, APP-005, Part 2 Article 7)</p>	<p>the marine area as well and therefore could have implications on their DML.</p>	<p>demonstrate to the Secretary of State's satisfaction that no materially new or materially different environmental effects would arise. The wording of the exception in paragraph (1) of Article (7) is identical to article 6(2) of the M42 Junction 6 Development Consent Order 2020.</p> <p>The Applicant agrees to include the relevant statutory nature conservation body as a consultee.</p> <p>Paragraph (2) clarifies that the process set out in Part 2 of Schedule 2 to the Order, which applies in relation to applications to discharge any of the requirements in Part 1 of Schedule 2, will also apply to any application to the Secretary of State for certification under paragraph (1), as though it were an application for approval under the requirements. This ensures there is a clear, defined process in place for applications to the Secretary of State under this article. Paragraph (2) is identical to article 6(2) of the A19 Downhill Lane Junction Development Consent Order 2020.</p>		
133	Draft DCO	<p>The definition of arbitration within this DCO would allow for arbitration against both the MMO and the Secretary of State who both act as decision makers under this DCO. On several projects Natural England and the MMO have raised concerns over the inclusion of such arbitration articles. Those arguments were considered within the Hornsea 3, Thanet and Vanguard applications and the secretary of state determined that it was not appropriate for the Secretary of State or MMO to be subject to arbitration. Therefore, this article should be amended.</p> <p>(Draft DCO document reference 2.1, APP-005, Part 2 Article 50)</p>	<p>Natural England advises that this requirement is amended.</p> <p>Also, please refer the ExA and Applicant to the concerns raised on the Tilbury 2, Hornsea 3 and Vanguard projects and the determination that the BEIS SoS came to as precedent that these articles should be amended.</p>	<p>The Applicant does not intend to make similar arguments to the promoters in the windfarm projects listed and is of the view that Article 50 is not intended to apply to decisions of the Secretary of State or the MMO. For the avoidance of doubt, AUBP has added the following wording to article 50 of the draft DCO (document reference 2.1(1)):</p> <p>"For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration".</p>	N/A	N/A
134	Draft DCO	<p>This requirement is for the Code of Construction practice. There are a large swathe of environmental mitigation documents under this overarching plan. The condition as currently drafted does not secure consultation with Natural England on any documents. Does the outline plan itself secure consultation?</p> <p>(Draft DCO document reference 2.1, APP-005, Schedule 2 Part 1 Requirement 10)</p>	<p>Natural England requests to be a named as consultee on this requirement to ensure we get the chance to provide feedback to the LPA on the draft plans and their sufficiency.</p>	<p>AUPB agrees to amend Requirement 10 of Schedule 2 to the draft DCO (document reference 2.1, APP-005) to include consultation with Natural England. The following wording has been added: "following consultation with the relevant statutory nature conservation body to the extent that it relates to matters relevant to its function."</p>	N/A	N/A

1.3 Non-Statutory

Table 1-14 Roythornes Solicitors on behalf of The Boston and Fosdyke Fishing Society Limited (RR-010)

Number	Topic	Relevant Representation	AUBP Response
1	Navigational Issues	The scheme will cause an increase in shipping to the extent that it will result in a navigational hazard to our clients' multiple vessels as the ships will be transiting the river earlier in the tidal cycle where there will be less water and a narrower channel to work through.	The predicted increase in the number of commercial vessels using the Haven as a result of the Facility is discussed and assessed in Environmental Statement Chapter 18 Navigational Issues (document reference 6.2.18, APP-056) paras 18.7.60 to 18.7.79. The operation of the Facility will increase the number of vessels on The Haven, and it was identified in the ES that without mitigation this would have a major adverse effect on the fishers (paras 18.7.70 and 18.7.73). As a result of this a Navigation Management Plan (NMP) is proposed which will be produced in consultation with the fishers and the Port of Boston to ensure that safety on the Haven is maintained and there is no significant operational impact on the fishers. An initial meeting with the fishers and their legal representatives has occurred (6th July 2021 – minutes set out in the Statement of Common Ground with the Boston and Fosdyke Fishing Society) to initiate this process. The Port of Boston has a responsibility as the Statutory Harbour Authority (SHA) to ensure the navigational safety of all river users within the Harbour Limits, and therefore navigational safety on the Haven will be managed on a daily basis to ensure safety is maintained, as is the current situation. The Applicant is engaging with the Port of Boston as well as the fishers and a Navigation Risk Assessment is currently being progressed to evidence the issues and identify workable mitigation for the NMP more clearly. The NMP will be submitted to the Examination when complete.
2	Navigational Issues	All the ships journeying to the new facility will have to turn in the river at the dock turning circle, which will block the river to all other vessels during this process. The promoting authority allege that this	The majority of commercial vessels are currently turned in the Wet Dock. The Boston Barrier project's Navigation Impact Assessment stated that only 5% of turning operations occur in the turning circle. The Statutory Harbour Authority reported in

Number	Topic	Relevant Representation	AUBP Response
		<p>process takes up to 15 mins per ship, but our experienced clients who work in these waters constantly, advise that it takes much longer and with up to 3 ships turning on a tide cycle, this will block the river preventing our clients' vessels leaving or returning to port.</p>	<p>consultation that the 'swing hole' has not been used for the past 6-8 years. The Boston Barrier project required the widening of the turning circle to accommodate construction. The Port of Boston estimates that turning a vessel takes 10 to 15 minutes (based on previous experience of the Harbour Master as well as extensive simulations carried out with HR Wallingford for the Boston Barrier project) and noted fishing vessels may be able to pass at the start / end of the manoeuvre (in communication with the Pilot) It is acknowledged that this time may increase in adverse weather. On the majority of tides, two to three vessels associated with the Facility will need to be turned and discussions on turning of these vessels in the wet dock with the Port of Boston identify that the split of turning ships either within the dock or in the turning circle will be assessed as part of our Navigation Management Plan (NMP) with a preference to turn within the dock area, subject to an agreement with the Port itself. Ship movements can also be advertised to the fishers to ensure forward planning to minimise disruption. A Navigational Risk Assessment is currently being undertaken to investigate potential impacts and provide solutions which will be captured within the Navigation Management Plan, in consultation with the fishers and the Port of Boston. This work will include confirming turning times for commercial vessels plus any time taken to transit to/from the turning circle and thus reflect the wider context around vessel movements in this area of The Haven. It should also be noted that the Wet Dock will be closed for nine months while the dock entrance is widened, requiring all vessels to be turned in the river turning circle. Lessons learned from this will be used to provide practical measures within the NMP.</p>
3	Navigational Issues	<p>It is also asserted that ships arriving to port are to be turned on arrival unless it is not possible due to time or tidal constraints, and any ship not turned-on arrival will have to cross the flow of traffic. This is</p>	<p>The intention is to turn vessels whilst full of Refuse Derived Fuel (RDF) on arrival into The Haven whenever possible. ES Chapter 18 Navigational Issues (document reference 6.2.18, APP-056) paragraph 18.7.92 states that ideally vessels will be turned on</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>hugely concerning for its safety aspects as it will put a ship on the wrong side of the river, resulting in potentially hazardous conditions and accidents. For example, having a 3000-ton ship on the wrong side of the river when 26 fishing vessels are leaving to go to the fishing grounds, will see chaotic conditions result on a normal basis.</p>	<p>arrival to ensure they are facing in the direction of travel on departure.</p> <p>It may be required by the port that some vessels are berthed directly on arrival, depending on the requirements of other commercial vessels and sequencing of movements. The Port as the Statutory Harbour Authority has a responsibility for the safety of navigation on the Haven. The Port of Boston stated (meeting with the Port of Boston of 21st September 2021 - minutes supplied in Statement of Common Ground with the Port of Boston (document reference 8.4)) that AIS (Automatic Identification System) could alleviate this issue, noting that the majority of fishing vessels in the fleet do not transmit. It is envisaged that the Navigational Management Plan (NMP) will include communication requirements so these movements would be communicated to the fishers in advance of the tide to ensure full transparency of movements and forward planning of navigation on that tide. A Navigational Risk Assessment is currently being undertaken which will provide greater clarity on the potential impacts on the fisher's movements on the Haven which will be used to inform the principles of the NMP.</p>
4	Navigational Issues	<p>Finally, the mitigation proposed is that fishing vessels should work around the shipping movements and time their departures and when they leave the fishing grounds so as to avoid the ships. This is practically impossible and any delay leaving the port for our clients' fishing vessels will result in a lost days' work. The passage of our clients' vessels is worked around the sand banks and channels of the Wash and is time critical, as is arriving back at port.</p>	<p>It is noted that in the Statutory Harbour Authority's experience, fishing vessels leave after high water and very rarely before. With swinging of project vessels to occur in the hour before high-water it is likely that project vessels will have already been swung prior to fishing vessel departure (meeting with the Port of Boston of 21st September 2021 - minutes to be supplied in Statement of Common Ground with the Port of Boston). It is envisaged that the Navigational Management Plan (NMP) will contain communication requirements to ensure the commercial vessel movements for at least the next tide will be communicated to the fishers to allow any forward planning to be undertaken. Additional management measures will also be identified as part</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>of the Navigation Risk Assessment Process to allow movements to be planned as far as practicable. With the comparatively wider tidal window available for fishing vessel operations owing to greater depth restrictions on commercial vessels in combination with these measures, plus the potential to turn a proportion of Facility vessels in the wet dock it is considered that potential impacts to the fishers are mitigated. The findings of a Navigation Risk Assessment currently being undertaken will further identify other operational mitigation to assist in managing vessel movements in The Haven with specific regard to interaction with the fishers which will form the basis of the NMP.</p>
5	Navigational Issues	<p>The only sensible solution to mitigate would be to relocate the affected fishermen's quay down river of the new proposed energy plant; otherwise, the fishermen will find it impossible to continue a viable industry and will lose their livelihood and generational way of life.</p>	<p>The possibility of relocating the fishers downstream of the Application Site in The Haven has been investigated by the project team. The findings of the assessment will be presented to the fishers and made available to the Examination. In summary, the findings identify that the key risks any new wharf faces relate to those at a consenting level, making any application high risk, namely:</p> <ul style="list-style-type: none"> • The new wharf may not be associated development; • The new wharf does not form part of the current application and would likely require a material amendment to the DCO; • The new wharf will be in the vicinity of a number of protected areas, giving rise to habitat issues; The land required for the new wharf does not belong to AUBP and given the possible alternatives, compulsory acquisition powers are difficult to justify; and Were the new wharf promoted outside of the DCO, it would still face EIA, habitat and land issues. <p>The key environmental concern is likely to be the potential impacts on The Wash SPA, The Wash and North Norfolk Coast SAC and The Wash Ramsar site which all located between 100 and 900 m of the indicative wharf location. An appropriate</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>assessment would be required and knowledge of the views of Natural England and the Royal Society for the Protection of Birds (RSPB) would need to be sought. The consenting risk associated with ensuring compliance of the Habitats Regulations is considerable.</p> <p>Additionally, a high-level consenting risk also pertains due to non-compliance with the South-East Lincolnshire Local Plan as development would not be compatible with the 'countryside' designation in place at the location.</p>

Table 1-15 United Kingdom Without Incineration Network (RR-001)

Number	Topic	Relevant Representation	AUBP Response
1	Waste	<p>United Kingdom Without Incineration Network (UKWIN) will be submitting an objection to this proposal, calling for refusal of the application on several grounds including: lack of need for the proposed incineration capacity; the threat to recycling posed by this scheme; and the adverse climate change impacts associated with the direct emission of fossil CO₂. With respect to lack of need for the proposed capacity, UKWIN will provide evidence showing how Government policies, such as the December 2018 Resources and Waste Strategy, emphasise the importance of moving towards a more circular economy and of tackling plastics and food waste meaning these materials will not be available for incineration (thereby freeing up capacity at existing incinerators and undermining any justification put forward by the applicant for this proposed new capacity). UKWIN will also set out how the proposed capacity threatens the achievement of government recycling targets by competing for feedstock with recycling, composting and anaerobic digestion. Incineration is a barrier to the Circular Economy, destroying valuable materials and nutrients, thus removing them from the circular economy. Incineration is considered to be a 'leakage' from the circular economy. UKWIN will argue that money invested in incineration cannot then be invested in better collection, sorting, and treatment infrastructure, and that the presence of expensive infrastructure results in 'lock-in' into</p>	<p>The Applicant has provided information in the Fuel Availability and Waste Hierarchy Assessment report (document reference 5.8, APP-037). Additional UK data supporting the need for the proposed Facility in the context of current and future available waste which could be made available to the Facility is set out in the Addendum to Fuel Availability and Waste Hierarchy Assessment (including Waste Policy Review) (document reference 9.5) submitted at Deadline 1 of the examination.</p> <p>The Facility will provide an interim solution for the management of residual wastes diverting it from overseas export and landfill while the UK transitions into a more circular economy in the future. The potential impacts and benefits of the Proposed Facility related to carbon, and climate change are provided in Environmental Statement Chapter 21 (Climate Change) (document reference 6.2.21, APP-059).</p>

Number	Topic	Relevant Representation	AUBP Response
		incineration that reduces the financial incentives to reduce, re-use and recycle.	
2	Climate Change	UKWIN will also present evidence showing how the proposed incinerator would, if it were to become operational, exacerbate climate change by giving rise to unacceptable levels of greenhouse gas emissions. For every tonne of waste burned, typically more than one tonne of CO ₂ is released into the atmosphere, meaning energy from incineration has a higher carbon intensity than the conventional use of fossil fuels. By 2050 incinerators could be more than ten times the average carbon intensity of the electricity grid, making incineration a significant barrier to the long-term decarbonisation of the power supply and an obstacle to a low-carbon economy.	The Facility will utilise waste streams that would be sent to landfill or other EfW schemes. The use of RDF at the proposed Facility will result in lower greenhouse gas emissions than sending the waste to landfill, once the effect of providing electricity to the grid is accounted for, as presented in Chapter 21 of the Environmental Statement (document reference 6.2.21, APP-059). The assessment also accounts for the carbon capture units which will be implemented on two of the lines at the Facility. Further analysis since submission of the application has investigated greenhouse gas emissions from RDF waste processed at EfW sites compared to landfilling waste under a range of waste composition scenarios (document reference 9.6), this has been submitted at Deadline 1. Under almost all waste composition scenarios, except those with a high fossil carbon content of waste, greenhouse gas emissions are less from processing the RDF waste at EfW facilities compared to landfilling waste.

Table 1-16 Inland Waterways Association (RR-020)

Number	Topic	Relevant Representation	AUBP Response
1	Navigational Issues	The Inland Waterways Association represents ALL users of the inland waterways system of which the tidal River Witham is part. We will need to convince that the significant increase in shipping in the Wash and the Haven can be accommodated within maritime safety codes given the small tidal windows in the Wash and	The proposed scheme will increase the number of vessels on the Haven around high tide. This is not considered to have a significant impact on recreational users of The Haven or other commercial vessels, as presented in Environmental Statement Chapter 18 Navigational Issues (document reference 6.2.18, APP-056). A moderate

Number	Topic	Relevant Representation	AUBP Response
		the Haven. The Port of Boston are also projecting increased shipping into Boston following improvements to their wet dock. IWA will also argue for the new facility, if approved, to contribute to local community improvement projects connected with local waterways and waterways heritage. We are not opposed to the proposal in principle but feel that it should contribute to the wider wellbeing and health and welfare opportunities in Boston.	impact was predicted for the fishers which will be mitigated through the production of a Navigation Management Plan, informed by a navigational risk assessment, and produced in consultation with the fishers and the Port of Boston, which will ensure the safe navigation of all users on the Haven. The Facility will contribute to the economy of Boston widely as set out in Environmental Statement Chapter 20 (Socio-economics) (document reference 6.2.20, APP-058.)

Table 1-17 Royal Yachting Association (RR-025)

Number	Topic	Relevant Representation	AUBP Response
1	Navigational Issues	Consideration of potential impact of construction process, permanent structures, and operational movements on recreational sailing.	Recreational users of The Haven were fully considered within Environmental Statement Chapter 18 Navigational Issues (document reference 6.2.18, APP-56). No significant effects on recreational vessels were predicted.

1.4 Local Authorities

Table 1-18 Lincolnshire County Council (RR-014)

Number	Topic	Relevant Representation	AUBP Response
1	Waste/ Need	The application is being promoted as energy from waste facility and whilst it is asserted that the facility will be a form of energy recovery it will still involve approximately 1.2 million tonnes of additional waste recovery capacity being constructed in Lincolnshire.	Yes, this is correct.
2	Waste/ Need	The County Council will draw the Inspectors attention to its concern that no information has been provided on the need for this facility other than the assumption that there is a national need for additional recovery capacity to deal with RDF, but little detail is then provided to consider the impact on the objectives of the Lincolnshire Minerals and Waste Local Plan. What detail is provided	At its meeting of 26 July 2021 Lincolnshire County Council's Planning and Regulation Committee resolved to support the application for Development Consent and included an informative that they would like to see carbon capture if this is technically feasible. The Applicant has provided information in the Fuel Availability

Number	Topic	Relevant Representation	AUBP Response
		appears to be based on data from south-east England, but it is not clear about the composition of the RDF. For instance, what proportion of the RDF will be of materials that could be treated higher up the waste hierarchy and how much of the RDF will constitute biomass.	and Waste Hierarchy Assessment (document reference 5.8, APP-037) and the Addendum to Fuel Availability and Waste Hierarchy Assessment (document reference 9.5) submitted to the Examination at Deadline 1 provides additional UK data supporting the need for the Facility. The composition and carbon assessment are provided in Environmental Statement Chapter 21 (Climate Change) (document reference 6.2.21, APP-059).
3	Waste/ Need	The 2016 Minerals and Waste Local Plan sets out that there is only a modest need for additional capacity for energy recovery from waste and the latest Lincolnshire Waste Needs Assessment (June 2021) confirms that there is no requirement for additional energy recovery in Lincolnshire until at least 2045.	The capacity of the Proposed Facility has been designed to meet a UK need and is not reliant on local or regional sources of feedstock, as set out in the Project Description, Chapter 5 of the Environmental Statement (document reference 6.2.5, APP-043).
4	Waste/ Need	Policy W1 of the Minerals and Waste Local Plan sets out that the Site Locations document will identify locations for a range of facilities to meet the predicted capacity gaps. In the supporting text to this policy, table 10 converts the capacity gaps into the predicted requirements for new facilities. This envisaged a new energy recovery facility would be required for LACW and C&I waste with an annual capacity of 200,000 tonnes. The latest Authority Monitoring Report indicates such a facility is still needed although with a reduced annual capacity of around 100,000 tonnes. A new EfW facility of that size that deals only with imported waste would not necessarily undermine that policy as it could still help to achieve overall net self-sufficiency. In the case of this project, however, the capacity is of an order of magnitude greater – so is far bigger than what was planned. Furthermore, during the preparation of the LMWLP no need was identified for a major strategic site of this nature to deal with imported waste (either through	<p>As a Nationally Significant Infrastructure Project, the need for the Facility is established by NPS for Energy EN1 and Renewable Energy EN3. EN1 para 3.1.3 states 'The IPC should therefore assess all applications for development consent for the types of infrastructure ... on the basis that the Government has demonstrated that there is a need for these types of infrastructure.'</p> <p>With respect to the Lincolnshire Minerals and Waste Local Plan, the purpose of the Facility, a nationally significant infrastructure project is to contribute to meeting a national need for power generation infrastructure. Furthermore, the Facility will contribute to national waste management self-sufficiency. Whilst the Facility may contribute to meeting predicted waste management capacity gaps within Lincolnshire (as provided by Policy W1), this is not the purpose of the Facility, in that it is designed to contribute to meeting a national need.</p> <p>However, whilst the Facility is open in the future to accept baled</p>

Number	Topic	Relevant Representation	AUBP Response
		consultation on the draft plan or through the statutory Duty to Cooperate).	refuse derived fuel arising in Lincolnshire (subject to agreement and in compliance with the DCO), its fuel will foremostly be sourced from locations throughout the UK imported to site by ship.
5	Waste/ Need	The recently completed Lincolnshire Waste Needs Assessment has reassessed the waste management needs of the County and confirms no new facilities will be required for LACW/C&I waste, which negates the need altogether for a new facility. The proposal is inconsistent with the future requirements as set out in Policy W1 and therefore inconsistent with the plan and Policy SL3 of the Site Location document.	Paragraph 5.3 of the Lincolnshire Minerals and Waste Local Plan - Site Locations notes that 'Areas allocated in Policy SL3 as suitable for waste management facilities are not safeguarded solely for this use because they are likely to be suitable for a range of industrial or employment uses and therefore these alternative uses should not be prejudiced'. The Facility is an energy recovery facility which will use RDF as a fuel. The Facility, is a form of waste management development which is wholly consistent with the range of potential waste management development identified by the allocation of WA22-BO. In the light of the 2021 Lincolnshire Waste Needs Assessment which concludes that there is sufficient existing consented capacity to meet predicted waste management needs in the County until 2045, the development of allocated site WA22-BO for the proposed Facility would not displace any other waste management development / capacity anticipated by policy W1 or SL3. The LMWLP - Site Locations however acknowledges that other forms of development could take place on the site in any event as set out above.
6	Waste/ Need	The project will use an area of land identified for the provision of waste facilities to deal with Lincolnshire waste and this proposal is not promoting receiving any waste arising from Lincolnshire. RDF produced in Lincolnshire will need to be sent out of the County to be processed whilst the facility is drawing in RDF from other parts of the country conflicting with the "proximity principle" and therefore is also contrary to Policy DM2 Climate Change of the Minerals and Waste Local Plan.	The Proposed Facility will be available to process wastes generated in Lincolnshire, where appropriate transportation routes are put in place. RDF will be sourced from throughout the UK and transferred to the Proposed Facility as detailed in Chapter 5 Project Description of the Environmental Statement (document reference 6.2.5, APP-043).

Number	Topic	Relevant Representation	AUBP Response
7	Waste/ Need	<p>Finally Planning Practice Guidance (on-line) at ID: 28-006 describes the “proximity principle” by reference to Article 16 of the Waste Framework Directive which requires that waste should be disposed of or recovered “in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.” The Council submits that it has not been demonstrated that the project accords with the statutory requirement of Article 16.</p>	<p>The Facility would operate, predominantly in a merchant capacity, the obtaining of contracts to secure adequate fuel supplies would be a matter for commercial consideration. This accords with the findings of planning inspectors and secretaries of state in relation to examination of other large scale energy recovery similar proposals in relation to the source of fuel derived from waste in that contracts can realistically, only be concluded once the date on which the facility would be commissioned was certain.</p> <p>The decision of the Secretary of State regarding the 60 MW Lostock energy from waste generating station, confirmed that, for merchant facilities, where no contracts of waste have been obtained at the date of the application, the sourcing of fuel for the facility should be, as it is for existing fossil fuelled electricity generating stations, a matter of commercial judgment for the operator.</p> <p>The Inspector’s report on the Lostock* project concluded, in paragraph 18.4 that “the letting of contracts and hence the source of the waste, would be largely a commercial matter for the operators. This has been the view taken in recent decisions, which have not sought to constrain such processes.” The Inspector also noted that “the waste to be used as a fuel arises everywhere”.</p> <p>*Report to the Secretary of State for Energy and Climate Change by Elizabeth Hill BSc (Hons), BPhil, MRTPI, 5 March 2012 on an application by Tata Chemicals Europe Ltd and E. on Energy from Waste UK Ltd under s36 of the Electricity Act 1989 for a 60MW generating station at Lostock, Northwich, Cheshire</p>
8	Traffic and Transport	<p>The County Council as Local Highway Authority has been involved in a number of meetings with the developer pre-submission. The submitted highway</p>	<p>Noted.</p>

Number	Topic	Relevant Representation	AUBP Response
		details both faithfully record and update the pre-application discussions and meeting that have taken place.	
9	Traffic and Transport	As recorded within the submission, the single most beneficial aspect of this project, in transportation terms, is the intention to convey all the fuel, the vast majority of the residual, post-combustion waste and a large proportion of the bulk of the construction materials to and from the site by boat, rather than by road transport.	Noted.
10	Traffic and Transport	The principal 'product' from the process will of course leave the site along electricity supply cables. In those respects, the vehicle movements associated with the operation of the proposed facility would be likely to be considerably fewer than those of a B2 or B8 use on the same footprint within this allocated Employment site.	Noted.
11	Traffic and Transport	The initial plans for the construction phase have been refined and improved so that now the first part of the wharf is constructed at the beginning of the programme specifically to allow aggregate and reinforcement materials, to also be conveyed to the site by boat, and thereby further reduce road transport to probably less than that which would be required for the construction of an equivalent sized B2 or B8 commercial facility on the site.	Noted.
12	Traffic and Transport	The Transport Assessment element of the Environmental Statement examines the conventional road transportation impacts of the proposed development, both during the construction phase – which will be the most impactful – and the operational phase. It finds that the proposed development would not be expected to result in an unacceptable impact upon highway safety or a severe residual cumulative impact upon the capacity of the existing local highway network.	Noted.

Number	Topic	Relevant Representation	AUBP Response
		The Highway Authority concurs with that conclusion and do not consider that any off-site highway improvements would be required, through Planning Obligations, to make the proposal acceptable in planning terms.	
13	Traffic and Transport	The access into the Application Site would be formed onto what is a privately maintained road – the Public Highway ends at Nursery Road and at Bittern Way – so the details of that site access will be agreed with the owner of the private road, rather than with the Highway Authority.	Plate 5-3 presented within the Design and Access Statement (document reference 5.3, APP-032) shows that during construction of the Facility, access would be provided from Nursery Road and Marsh Lane. Section 5.4 of the Design and Access Statement (document reference 5.3, APP-032) also identifies that during the operational phase, access would be taken from the private Nursery Road / Callen Road. The Applicant agrees that access from Callen Road and Nursery Road would be via private roads and therefore the design of these accesses would not need to be agreed the highway authority. However, the proposed construction access from Marsh Lane would be from the public highway, therefore the design of this access would need to be agreed with the local highway authority. The requirement to agree the design of any new temporary means of access is captured within the draft DCO (document reference 2.1, APP-005) as Requirement 7.
14	Traffic and Transport	The site is within the Allocated Employment area of Riverside Industrial Estate which enjoys close proximity, and relatively good quality road connection, to the Principal Highway Network via the A16. However, the submission includes an Outline Construction Traffic Management Plan that seeks to mitigate, as much as is possible, the adverse impacts of the construction phase of the development on the highway network. This includes prohibiting the use of the A52 corridor through Boston for construction and delivery vehicles, a strategy for construction staff parking and a joint pre-commencement inspection of the local highway network with Highway Authority Officers and a commitment to	Noted.

Number	Topic	Relevant Representation	AUBP Response
15	Surface water and flood risk	<p>repair any highway damage that occurs as a direct consequence of the construction process.</p> <p>In terms of surface water flood risk, a detailed surface water drainage strategy for both the construction phase and the operation of the proposed facility has yet to be prepared, so this detail would need to be covered by a suitably worded requirement.</p>	<p>The draft DCO (document reference 2.1, APP-005) contains requirement 8 which provides that "(1) no part of the authorised development may commence until for that part a surface water drainage strategy has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency, lead local flood authority and relevant internal drainage board on matters related to their function. (2) The strategy submitted for approval must be substantially in accordance with the information set out in the flood risk assessment."</p> <p>A commitment to produce detailed drainage strategies for the construction and operational phases is included in Table 3.7, Section 13.7 of Chapter 13 Surface Water, Flood Risk and Drainage (document reference 6.2.13, APP-051).</p> <p>A construction stage Surface Water Drainage Strategy will be developed prior to construction and implemented to minimise water within the construction areas and ensure ongoing drainage of surrounding land. This is secured as part of the Code of Construction Practice approved under Requirement 10. The site drainage system will comprise a sealed surface water drainage system where water enters the excavations during construction from surface runoff or groundwater seepage and is then pumped via settling tanks, sediment basins or mobile treatment facilities to remove sediment, before being discharged into local ditches or drains via temporary interceptor drains in order to prevent increases in fine sediment supply to the watercourses. Changes in surface water runoff as a result of the increase in impermeable area from the development will be attenuated and discharged at a controlled</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>rate, equivalent to the greenfield runoff rate, which will be agreed through consultation with Black Sluice Inland Drainage Board and Environment Agency.</p> <p>Operational drainage is managed through a Surface Water Drainage Strategy. Requirement 8 has been amended in the version of the draft DCO submitted at Deadline 1 (document reference 2.1(1)) to include reference to an Outline Surface Water Drainage Strategy (document reference 9.4), also submitted at Deadline 1. Requirement 8 requires that the final Surface Water Drainage Strategy submitted for approval is substantially in accordance with the Outline Strategy.</p>
16	Traffic and Transport	In transportation terms, this is massively reliant on the facility being fed by a sea-borne fuel supply and that the Highway Authority would not be supportive of an operation of the scale proposed if, for example, the cost of transportation of feedstock by boat should become prohibitively costly and a switch to road-borne transportation of feedstock was to be proposed in order to keep the facility running. The local highway network here would simply not be suitable for that scenario and therefore it is necessary to ensure that there is no possibility of this taking place using a suitably worded requirement or Planning Obligation.	The Applicant has added a new requirement to the latest version of the draft DCO (document reference 2.1(1)) submitted at Deadline 1, which restricts the delivery of waste to Work No. 1A by road save in the event of a wharf outage or in circumstances where, following consultation by the undertaker with the relevant highway authority, the relevant planning authority is satisfied that such delivery of waste by road would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement. The new Requirement includes the obligation to prepare an Operational Traffic Management Plan, which will include an operational worker travel plan that includes measures to encourage the use of sustainable modes of transport by employees; measures to manage the routing and number of heavy commercial vehicles during operation; and measures to manage the routing and number of heavy commercial vehicles in the event of a wharf outage.
17	Socio-economics	4.2.8 (P24) states "PROW appear infrequently used" however unsure of when this survey was undertaken. Recent pandemic related recreational and health-based access walking has significantly increased usage of	No survey of Public Rights of Way (PRoW) was undertaken to inform the Environmental Impact Assessment (EIA). We agree that PRoW usage will have altered due to the covid pandemic and the Environment Agency works in proximity to the

Number	Topic	Relevant Representation	AUBP Response
		many paths across the country and is widely recognised. This is especially likely to be the case in urban and urban-fringe locations such as the proposal area. The relevant paths have been closed for some time by the Environment Agency to enable the barrage construction and bank raising works and so usage was likely to be considerably less than in normal times.	proposed Facility along the banks of The Haven. Both of these issues preclude any survey from showing a normalised baseline case. Information on the infrequent use of the PRoW has been gained from discussion with the landowner (pers com.) and this, aligned with the lack of nearby housing in the area gives us confidence that this is the correct interpretation of the baseline. The use of the PRoW as part of the Macmillan Way and proposed route for the future England Coast Path is noted.
18	Socio-economics / Planning	There is a net loss of approximately 1 km of public rights of way across the scheme with no indication of any specific mitigation to offset this loss. It is suggested that it may be a prudent opportunity to undertake improving the rights of way from London Road to Lealand Way (Boston PF14/1 and 14/2) for them to be created as cycleway /footway and appropriately surfaced to provide safer commuting access to the Industrial Estate and recreation purposes which could be secured by an appropriately worded requirement or Planning Obligation.	The Applicant is currently undertaking an Outline Public Right of Way (PRoW) Design Guide to help inform any improvements to Bost/14/9 & Bost/14/11. This work is being undertaken in consultation with Lincolnshire County Council, Boston Borough Council and Natural England and will be submitted to the Examination at Deadline 2. The draft section 106 agreement with Lincolnshire County Council and Boston Borough Council will include provisions in relation to public rights of way.
19	Socio-economics	Clearly there will be needed to appropriately programme the temporary closure orders and subsequently required extensions for the works proposed that will affect the old sea bank including the installation of a temporary footbridge to keep walkers away from construction traffic.	The draft DCO (document reference 2.1, APP-005) contains Article 13 which controls the temporary closure, alteration, diversion, and restriction of use of streets. Schedule 5 to the draft DCO sets out which footpaths will be temporarily closed.
20	Waste/ Need	Lincolnshire County Council as the Waste Disposal Authority has a statutory duty to seek provision for dealing with domestic waste disposal arisings in Lincolnshire. Although the proposal offers greater disposal capacity it is unlikely that this will be made available to LCC, this is not required by LCC and nor does the authority expect	The Applicant recognises that Lincolnshire County Council (LCC) has a statutory duty as the Waste Disposal Authority. LCC may not currently need to utilise the proposed facility in line with its long-term contracts, however this need may change during the operational period of the Proposed Facility. The Applicant is open to discussing the future potential to receive feedstock from the Facility from local sources (e.g., Boston

Number	Topic	Relevant Representation	AUBP Response
		there to be a need for this beyond current arrangements and long-term contracts. Also, it does not appear that the residual waste material deposited at the Boston Waste Transfer Station will meet the specification of RDF that is set out in the application documents. The acceptance of such residual waste would conflict with the waste hierarchy measures the applicant is putting in place to ensure unsuitable materials are not brought to the facility. Consequently, it is concluded that the project will not be able to receive waste from the Boston Waste Transfer Station and therefore no weight can be given to this option.	Waste Transfer Station) and will explore such opportunities with LCC as required.
21	Waste/ Need	Around 180,000 tonnes of this domestic waste are handled and converted to energy through the energy from waste plant at North Hykeham and the County Council only expects the amount of waste being taken to North Hykeham to fall in the future once mandatory food waste collections are introduced from 2024. Therefore, additional waste capacity is not required or expected in the medium to long-term.	The Applicant is not relying on wastes currently being disposed of at the North Hykeham EfW plant, and recognises that changes to the local waste collection systems may lead to reduced need at the County level in the long-term. The proposed Facility will source waste from throughout the UK as detailed in the Fuel Availability and Waste Hierarchy Assessment (document reference 5.8, APP-037) and Addendum to this report setting out further data submitted to the Examination at Deadline 1 (document reference 9.5).
22	Carbon emissions	The main concern about this application is around the carbon emissions produced from the burning of Refuse Derived Fuel and the impact of this on the ability to reach the Net Zero Carbon target by 2050. If this plant is developed it will significantly impact on Lincolnshire's ability to reach a net zero carbon status by 2050.	Chapter 21 of the Environmental Statement (Climate Change) (document reference 6.2.21, APP-059) presents the greenhouse gas assessment for the Facility. The significance criteria for the assessment utilised the latest UK Carbon Budgets to determine if the Facility would affect the UK's ability to meet its emission reduction obligations. The implementation of the Facility was not predicted to increase greenhouse gas (GHG) emissions compared to the other current waste management options considered in the greenhouse gas assessment, and the emission contribution from the operation of the Facility was not considered to be a significant increase in terms of national emissions. The effect of operational GHG

Number	Topic	Relevant Representation	AUBP Response
			<p>emissions from the Facility was therefore determined to be not significant.</p> <p>There are no regional Carbon Budgets established for the UK, and there are likely to be geographical and sectorial variances as part of the wider UK target to meet its emission reduction targets. Therefore, the greenhouse gas impact for the Facility needs to account for the wider UK and waste sector when evaluating its impact.</p>
23	Carbon emissions	<p>The Committee on Climate Change report on the 6th Carbon Budget in 2020 concluded that "the growth in EfW plants could see the waste sector's emissions rise if they continue to be built without the option of Carbon Capture and Storage."</p> <p>This proposal is for exactly that - an EfW plant with no Carbon Capture and Storage.</p>	<p>The Facility does include CO₂ recovery plants which initially will be implemented on two of the lines at the Facility. The CO₂ Recovery plants will capture 5,000 kg CO₂ per hour, a total of 80,000 tonnes per year, as described in Chapter 21 of the Environmental Statement (Climate Change) (document reference 6.2.21, APP-059).</p> <p>Further consideration will be given to adding further CO₂ recovery capacity once further studies into the potential market has been carried out.</p>

Number	Topic	Relevant Representation	AUBP Response
24	Carbon emissions	Although the application presents the combustion of RDF as a renewable energy source – the fact is that carbon dioxide will be produced from the burning of RDF and it will be emitted to the atmosphere and will therefore contribute towards climate change.	RDF is referred to in EN-3, which serves the purpose of defining the policy for renewable energy in the UK. Chapter 21 of the Environmental Statement (Climate Change) (document reference 6.2.21, APP-059) includes a greenhouse gas assessment, which considered different waste treatment scenarios, including landfilling waste in the UK. The Facility does not result in an increase in greenhouse emissions when the effect of provision of energy to the UK grid (i.e., displacement of fossil fuel sources) is accounted for. This is further supported by additional analysis in the document 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios' (document reference 9.6), submitted as part of Deadline 1 of the Examination, which determines emissions for EfW Facilities and landfilled gas under a range of waste composition scenarios.

Number	Topic	Relevant Representation	AUBP Response
25	Carbon emissions	A study for Zero Waste Scotland in 2020, (“The climate change impact of burning municipal waste in Scotland”, October 2020) found that burning residual municipal waste in Energy from Waste plants in Scotland in 2018 had an average carbon intensity of 509 gCO ₂ /kWh. This rate is nearly twice as high as the carbon intensity of the UK marginal electricity grid average, which was 270 gCO ₂ /kWh in 2018. Since 2018 the carbon intensity of the electricity grid has fallen again, and the 2020 figure was just 181 grams of CO ₂ per kilowatt-hour. This carbon intensity rate will continue falling in the coming years as the amount of renewable energy increases and the Hinckley Point nuclear plant comes online.	Chapter 21 of the Environmental Statement (document reference 6.2.21, APP-059) presents the greenhouse gas assessment for the Facility. The assessment considered greenhouse emissions from existing waste treatment scenarios, and the application does not result in an increase in GHG emissions when the effect of provision of energy to the UK grid (i.e., displacement of fossil fuel sources) is accounted for. EfW facilities are accounted for in the Committee for Climate Change’s Net Zero pathways (document reference - The Sixth Carbon Budget, Waste), with significant Carbon Capture and Storage (CSS) provision from 2030 onwards.
26	Carbon emissions	Therefore, it is highly likely that the electricity produced from the proposed plant will be a high carbon option and will have a carbon intensity well above the national electricity grid.	The greenhouse gas assessment presented in Chapter 21 of the Environmental Statement (document reference 6.2.21, APP-059) and further analysis in document ‘Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios’ (document reference 9.6), submitted as part of Deadline 1 of the Examination, shows that emissions are lower when processed at the Facility compared to other existing waste treatment routes including landfilling waste, and transferring it overseas to be processed in similar

Number	Topic	Relevant Representation	AUBP Response
			facilities. The assessment therefore uses the UK Carbon Budgets to contextualise emissions from the Facility, rather than focusing specifically on the energy sector.
27	Carbon emissions / CHP	The Zero Waste Scotland report concludes that "Energy from Waste carbon intensities would remain above the grid average even if the plants were converted to Combined Heat and Power systems, demonstrating that EfW can no longer be considered a low carbon technology in the UK."	This is an information point only, not a representation. RDF is referred to in EN-3, which serves the purpose of defining the policy for renewable energy in the UK.
28	Carbon emissions / CHP	It should be noted that while the proposed plant will have the capability of providing waste heat (Combined Heat and Power) there are no plans for it to do so as there are no sites nearby that have a high enough heat demand to connect to a heat network and unlikely that any recipient for this heat will be available in the foreseeable future. Therefore, the waste heat will be vented to the atmosphere.	A Combined Heat and Power (CHP) Assessment has been submitted with the DCO application (document reference 5.7, APP-036). In line with CHP guidance developers need to demonstrate Best Available Technology (BAT) for several criteria, including energy efficiency. Whilst no immediate opportunities for off-site use of heat have been identified a detailed CHP-R Guidance assessment of the Facility will be carried out as part of the Environmental Permit application. This will include the establishment of any opportunities to supply heat. Paragraph 21 of Schedule 2 of the draft DCO (document reference 2.1, APP-005) sets out the requirement to submit to the relevant planning authority for its approval a report ("the CHP review") updating the combined heat and power assessment within 12 months of full commissioning. The report must (inter alia) consider whether opportunities reasonably exist for the export of heat, include a list of actions (if any) that the undertaker is reasonably required to take (without material additional cost to the undertaker) to increase the potential for the export of heat which must be undertaken. The CHP review must be undertaken every five years. The Applicant is committed to working with others to utilise heat from the Facility as set out in the draft DCO.
29	Carbon emissions	One of the main environmental drivers for choosing Energy from Waste facilities over landfill disposal is that	The impacts of waste composition have been considered further in document 'Further Greenhouse Gas Emissions

Number	Topic	Relevant Representation	AUBP Response
		<p>EfW plants have lower emissions of greenhouse gases. However, the Zero Waste Scotland report compared the carbon impacts of sending one tonne of residual municipal waste to either EfW or landfill. It found that average EfW impacts were 15% lower than landfill in 2018. However, changes in waste composition mean that EfW impacts are expected to rise. Small changes in the waste composition could push EfW impacts above landfill, leading to unnecessary climate change emissions.</p>	<p>Analysis and Consideration of Waste Composition Scenarios' (document reference 9.6), submitted as part of Deadline 1 of the Examination, whereby greenhouse gas predictions were predicted from EfW plants and landfill disposal for a number of waste compositions based on the overall carbon content and the proposition of fossil carbon in the waste. For almost all scenarios greenhouse gas emissions are lower when waste is processed in EfW plants compared to landfill (see Table 7 of document 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios', document reference 9.6). Only when the carbon content of the waste is 30%, and when 60% of that carbon is from fossil sources are greenhouse gas emissions predicted to be larger, which is considered to be an unlikely waste composition compared to current waste streams (see Section 2.2 of 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios' document reference 9.6).</p> <p>Furthermore, there is an absence of landfill waste options in the local context. Further analysis in document Comparative Analysis of Greenhouse Gas Emissions from Road and Marine Vessel Transport Option to the Site (document reference 9.7), submitted as part of Deadline 1 of the Examination, has compared greenhouse gas emissions from transporting the waste via road to marine vessel, the latter of which is a commitment adopted by the project. The analysis shows that transporting the RDF waste to the Facility by vessel releases 50% less greenhouse gas emissions, assuming the waste is supplied equally from 12 ports situated around the UK. The emission benefits are greater from ports relatively close to the site and on the east coast of the UK, which is likely to be the main sources of RDF waste to the Facility.</p>

Number	Topic	Relevant Representation	AUBP Response
30	Carbon emissions	In terms of waste composition, the study found that if the proportion of plastic in residual municipal waste increases from 15% to 17%, greenhouse emissions per tonne for incinerators rises to the same level as landfill. There are likely to be extensive changes in the household waste composition as the government is planning to mandate local councils to separately collect food waste from 2024. This will significantly reduce the amount of organic matter in the refuse derived fuel produced in the UK. As a result, the proportion of plastic in the RDF will be higher meaning that Energy from Waste plants are likely to become the worst environmental option for disposing of municipal waste.	<p>The impacts of waste composition have been considered further in document 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios' (document reference 9.6), submitted as part of Deadline 1 of the Examination, whereby greenhouse gas predictions were predicted from EfW plants and landfill disposal for a number of waste compositions based on the overall carbon content and the proposition of fossil carbon in the waste. For almost all scenarios greenhouse gas emissions are lower when waste is processed in EfW plants compared to landfill (see Table 7 of document 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios', document reference 9.6). Only when the carbon content of the waste is 30%, and when 60% of that carbon is from fossil sources are greenhouse gas emissions predicted to be larger, which is considered to be an unlikely waste composition compared to current waste streams (see Section 2.2 of document 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios', document reference 9.6).</p> <p>The Applicant has arranged for some analysis to be carried out of likely changes to waste compositions in the future. Although compositional impacts are only just starting to be modelling by experts in the sector, it is considered likely that the rise in calorific value of waste from separate food waste collections will be offset to some extent by a reduction in plastic content, driven by a decrease in consumption and an increase in recycling. Therefore, the proportion of plastic in RDF is not guaranteed to be higher as suggested in the Relevant Representation.</p>
31	Carbon emissions	A report for Tolvik Consulting in 2019 " UK Energy from Waste Statistics – 2019" highlighted that there is currently limited consistency in the way in which the	An additional methodology to calculate greenhouse gas emissions from Energy from Waste Facilities and landfilled waste was undertaken (see document 'Further Greenhouse

Number	Topic	Relevant Representation	AUBP Response
		carbon impact of EfW is calculated both in the UK and Europe. Whilst it is acknowledged that setting the basis for calculation is potentially complex, it appears that analysis is currently being used more as an exercise to promote a particular project or theme, rather than as a robust assessment of environmental performance.	Gas Emissions Analysis and Consideration of Waste Composition Scenarios', document reference 9.6), submitted as part of Deadline 1 of the Examination, to determine if the conclusions of Chapter 21 of the Environmental Statement (document reference 6.2.21, APP-059)) remained valid. This additional analysis was also undertaken in the context of considering the impact of changes to the waste composition as described previously. The additional analysis supported the outcome of Chapter 21 of the Environmental Statement (document reference 6.2.21, APP-059), which states it is "likely that GHG emissions from the Facility would be lower or similar when compared to landfilled waste streams".
32	Carbon emissions	The overall issue with carbon dioxide emissions is that there does not appear to be any basis to claim that the proposed RDF facility will have any benefit in terms of reducing carbon emissions. In fact, it is likely to become the worst environmental option for dealing with residual municipal waste.	The greenhouse gas assessment presented in Chapter 21 of the Environmental Statement (document reference 6.2.21, APP-059) and further analysis in document 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios' (document reference 9.6), submitted as part of Deadline 1 of the Examination, shows that emissions are lower when processed at the Facility compared to other existing waste disposal routes. This analysis has also accounted for differing waste composition scenarios, and the provision of electricity from EfW facilities and the processing of landfill gas.
33	Carbon emissions	One way of reducing the carbon emissions from industrial processes is to use a carbon capture and storage system. These types of system have been talked about for many years but producing a commercial system that can capture and store carbon economically has proved to be problematic. There are planned to be large scale carbon capture systems around the Humber Estuary and on Teesside. These are large scale facilities that have a density of heavy industry nearby and government financial support. It is unlikely that there will	Two EfW lines include modular proven Carbon Capture plant from a leading Carbon Capture and Storage (CCS) specialist international supplier. Each system treats 25% of the Energy from Waste line flow and extracts approx. 5Tc.hr of CO ₂ per line. This is condensed and scrubbed and liquified for temporary storage on site awaiting collection and onward supply to the market food sector. The recent rise in gas costs and the subsequent shortage of CO ₂ has demonstrated the need for CO ₂ for the market food

Number	Topic	Relevant Representation	AUBP Response
		be the density of heavy industry around Boston to justify a carbon capture system. As a result, it is likely that the carbon emissions from the plant will be emitted into the atmosphere.	sector, whether for modified packaging for salads, stunning gas for abattoirs, through to the fizz in soft drinks or beers. Further consideration will be given to adding further CO ₂ recovery capacity once further studies into the potential market has been carried out.
34	Carbon emissions	The Sixth Carbon Budget Report from the Climate Change Committee specifically states that carbon emission reduction targets from the waste sector will not be met if EfW plants are built without carbon capture and storage systems.	This representation is inconsistent with the National Planning Statement. The Committee on Climate Change refers to Carbon Capture and Storage (CCS) being added to Energy from Waste facilities from 2030 onwards. Additionally, the Facility does include CO ₂ recovery plants which initially will be implemented on two of the lines at the Facility. 'It is proposed that the CO ₂ Recovery plants will capture up to 5,000 kg CO ₂ per hour, a total of ~80,000 tonnes per year'.
35	Carbon emissions	The application describes the plant as generating renewable energy. The application states "The Facility is an EfW plant that would generate approximately 102 MWe (gross) of renewable energy". However, a report from the Government department DEFRA ("Energy from waste - A guide to the debate", February 2014) states that "Energy from residual waste is only partially renewable due to the presence of fossil based carbon in the waste, and only the energy contribution from the biogenic portion is counted towards renewable energy targets and only this element is eligible for renewable financial incentives". As a result only the biogenic proportion of the waste can be counted as contributing to renewable energy targets. Plus, as established above the organic/biogenic content of UK produced RDF is likely to fall considerably when separate collections for food waste are introduced in 2024 and that the plant will be burning RDF comprising	RDF is referred to in EN-3, which serves the purpose of defining the policy for renewable energy in the UK. The waste supplier for the Facility has carried out some analysis of likely changes to waste compositions in the future. Although compositional impacts are only just starting to be modelling by experts in the sector, it is considered likely that the rise in calorific value of waste from separate food waste collections will be offset to some extent by a reduction in plastic content, driven by a decrease in consumption and an increase in recycling. Greenhouse gas emissions from a range of waste compositions (in terms of carbon contents and the biogenic / fossil carbon ratio) were considered in document 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios' (document reference: 9.6), submitted as part of Deadline 1 of the Examination. The outcomes of this analysis show that for the majority of waste compositions, greenhouse

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		contaminated material from materials recycling facilities. It seems disingenuous to state that the plant is producing renewable energy.	gas emissions will be less from processing RDF in Energy from Waste facilities compared to landfilled waste.
36	Carbon emissions / CHP	One way of reducing the environmental impact of EfW systems is to use the waste heat from the process in an energy network. Adding an energy network/combined heat and power system to the EfW plant reduces the carbon intensity significantly. However, as noted above this reduction in carbon intensity is not below the UK average for marginal grid electricity.	<p>The potential for waste heat from the process is being considered by the Applicant. Please refer to the response at RR-014-28.</p> <p>As noted above, the greenhouse gas assessment presented in Chapter 21 of the Environmental Statement (document reference 6.2.21, APP-059) has accounted for greenhouse gas emissions in the national context, and not just the energy sector. As the Facility was predicted to result in a reduction of emissions compared to existing waste disposal routes, the outcome of the assessment was considered to be not significant.</p>
37	Carbon emissions / CHP	<p>The proposed plant would have the capability of feeding a CHP system but the application notes that "based on the low heat demand in the surrounding area and taking into account the distance and sparse nature of heat users resulting in technical and commercial challenges for proposed routes, the Facility will be designed as CHP ready and will not be developed as a CHP scheme until such loads become available that running with CHP is considered economically feasible".</p> <p>Therefore, this option of significantly reducing the environmental impact of the EfW facility by using a heat network has been lost.</p>	Please refer to the response at RR-014-28.
38	Carbon emissions / CHP	Experience from other EfW plants shows that once a facility has been constructed without a heat network connection it is very unlikely to have one installed at a later date. It would be much cheaper to install the necessary pipework connections during the initial	

Number	Topic	Relevant Representation	AUBP Response
		construction of the plant. This is illustrated by the Council's EfW plant at North Hykeham which when becoming operational in 2012 had a similar arrangement. Despite extensive attempts to find a recipient for this heat to date nothing suitable has been found and unlikely any opportunity to use this heat will be identified during the lifetime of the plant. So, whilst this is a possibility the likelihood of such a user being identified is so low that very little if any weight should be attached to this commitment.	
39	Carbon emissions	Over the last decade there have been significantly falls in the carbon intensity of electricity, but many other parts of the economy have only made limited progress in making the carbon reductions necessary to tackle climate change. In order to meet the 2050 zero carbon targets, the government is increasingly likely to introduce financial measures to encourage businesses to reduce their environmental impacts.	Noted - The Applicant is aware of the potential future introduction of measures affecting the waste management industry.
40	Carbon emissions	Potential financial drivers include carbon taxes and an incineration tax. The 2018 Waste Strategy for England suggested that "Should wider policies not deliver the Government's waste ambitions in the long-term, we will consider the introduction of a tax on the incineration of waste. Incineration currently plays a significant role in waste management in the UK, and the Government expects this to continue. However, Budget 2018 set out the Government's long-term ambition to maximise the amount of waste sent to recycling instead of incineration and landfill."	Noted - The Applicant is aware of the potential future introduction of measures affecting the waste management industry.
41	Marine ecology	The construction of the facility will require the loss of habitat areas alongside the River Witham/Boston Haven. Although the scheme includes an option to enhance existing habitat areas there will still be the loss of an	Noted. Opportunities are being sought for additional Biodiversity net Gain (BNG) and creation of additional wetland habitats to support flora and fauna species that would be lost.

Number	Topic	Relevant Representation	AUBP Response
		important wetland site. It is welcomed that the principle of biodiversity net gain is being used.	
42	Ecology / Lighting	There are also concerns that the site will have an on-going impact on wildlife as it is planned to have 24-hour operation and will be floodlit during hours of darkness.	The Applicant has committed to a suite of embedded mitigation measures which are presented in the Outline Landscape and Ecological Mitigation Strategy (document reference 7.4, APP-123), including but not limited to all lighting requirements will be designed in line with the BCT Bats and Lighting in the UK guidance (2018). This will include the use of directional lighting during construction and operation. Furthermore, dark corridors (i.e., linear habitat that was recorded during the bat surveys as being the most utilised areas by foraging/commuting bats) will remain in place during the construction and operational phase.
43	Draft DCO	The plan is for the RDF to be brought to the site by ship from elsewhere in the UK. If the RDF is produced in the UK there will be the possibility that it could be brought in by road transport in exceptional circumstances. There needs to be a firm commitment that the RDF can only be brought to site by ship.	The Applicant has added a new requirement to the latest version of the draft DCO (document reference 2.1(1)) submitted at Deadline 1, which restricts the delivery of waste to Work No. 1A by road save in the event of a wharf outage or in circumstances where, following consultation by the undertaker with the relevant highway authority, the relevant planning authority is satisfied that such delivery of waste by road would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement. The new Requirement includes the obligation to prepare an Operational Traffic Management Plan, which will include an operational worker travel plan that includes measures to encourage the use of sustainable modes of transport by employees; measures to manage the routing and number of heavy commercial vehicles during operation; and measures to manage the routing and number of heavy commercial vehicles in the event of a wharf outage.
44	Cultural Heritage	Following the Council's response in 2019, geophysical survey of specific areas covering 12.7ha of the 26.8ha site has been undertaken which identified areas of potential interest, the conclusion of which states	We are in agreement that a reasonable, appropriate, and fit for purpose mitigation strategy is essential, to be developed in consultation with the Lincolnshire County Council's Historic Environment Team, the archaeological advisor to Boston

Number	Topic	Relevant Representation	AUBP Response
		<p>"the survey results present a complicated coastal landscape with evidence of recent and past management and reclamation in the form of drains and ground consolidation. The tidal flat deposits have created a noisy magnetic environment which may be masking more subtle archaeological features, but there are hints of anthropogenic activity in the form of enclosure and possible burning, which may relate to salt production. There is also evidence for the survival of a palaeolandscape of channels and creeks or sand bars below the tidal flats." (Magnitude Geophysical Survey Report, p16)</p> <p>It would be expected that the geophysical survey be followed by a programme of trial trenching including those parts of the site not covered by the survey. These results are required to provide an evidence base sufficient to produce a reasonable, appropriate and fit for purpose mitigation strategy to deal with the archaeological impacts of the development. Given the nature of the site this should also include detailed provision for dealing with the paleoenvironmental remains.</p>	<p>Borough Council and the Historic England science advisor. Following a cultural heritage meeting with stakeholders (09/08/2021) it has been agreed to bring forward a programme of targeted geoarchaeological investigation (currently planned for Q4 2021) to further inform our understanding of sub-surface deposits and the potential for buried archaeological and paleoenvironmental remains. The results of this work will guide the approach to, and programme for, wider geoarchaeological monitoring and assessment in conjunction with planned geotechnical site investigations, intrusive evaluation, and the development of the subsequent mitigation strategy, to be agreed with heritage stakeholders and progressed post-consent.</p>
45	Cultural Heritage	<p>However, the supporting documents refer to post consent measures, such as "Proposed mitigation measures are mostly related to the construction phase and consist of archaeological evaluation and monitoring works to ensure any potential archaeological remains are preserved by record." (Chapter 8 Cultural Heritage, v).</p> <p>There is no basis to justify this as an appropriate level of archaeological mitigation and this is not in accordance with NPPF or EIA regulations as laid out below.</p>	<p>Following the cultural heritage meeting with stakeholders (09/08/2021) it has been agreed to bring forward a programme of targeted geoarchaeological investigation (currently planned for Q4 2021) to further inform our understanding of sub-surface deposits and the potential for buried archaeological and paleoenvironmental remains.</p>

Number	Topic	Relevant Representation	AUBP Response
46	Cultural Heritage	The Outline Written Scheme of Investigation specifically states that "With the exception of the geophysical survey carried out in August 2020 the delivery of the archaeological mitigation and further investigations will be undertaken post-consent. This approach has been consulted on with the cultural heritage stakeholders" (1.1.17) This is not the case; the Council's Historic Environment Team have not been consulted and would not support such an approach as it is contrary to both the NPPF and EIA regulations. The archaeological advisor to Boston Borough Council, was consulted by telephone regarding the desk-based assessment and, after providing initial advice, has not seen any further information.	A draft Outline WSI was submitted to Lincolnshire County Council (LCC), Boston Borough Council's (BBC's) archaeological advisor and Historic England in advance of a meeting held at LCC's offices on 4th October 2019 where the approach was discussed. It was agreed at the meeting that field evaluation in the form of a geophysical survey would be taken forward prior to submission of the DCO application. Amendments to the Written Scheme of Investigation (WSI) were also discussed to take account of the results of the geophysical survey. At this time there was a pause to the project, and it wasn't until August 2020 that the geophysical survey was undertaken by Magnitude Surveys. Following completion of the survey and analysis the Magnitude technical report was sent to the heritage stakeholders (Geophysical Survey Report Appendix 8.2, document reference 6.4.4, APP-097) (16th November 2020). Due to the impending submission of the application, the Applicant suggested that a pre-examination meeting following submission would be prudent although no convenient dates were determined at this time. The updated WSI was forwarded to the heritage stakeholders on 12th December. Subsequently, the initial DCO application was withdrawn on 27th December. Following resubmission on 23rd March and receipt of the relevant representations from LCC and BCC consultation has now resumed formally as part of the examination process and Statement of Common Ground discussions, commencing with the cultural heritage meeting with stakeholders on 09/08/2021.
47	Cultural Heritage	This site has not been subject to evaluation and the site-specific archaeological potential has not been determined, therefore there is currently insufficient information to allow for an informed planning recommendation to be made.	The site has been subject to field evaluation via the means of the geophysical survey and, following the cultural heritage meeting with stakeholders (09/08/2021) it has been agreed to bring forward a programme of targeted geoarchaeological investigation (currently planned for Q4 2021) to further inform

Number	Topic	Relevant Representation	AUBP Response
			our understanding of sub-surface deposits and the potential for buried archaeological and paleoenvironmental remains.
48	Cultural Heritage	<p>Given this the comments regarding the Cultural Heritage made on the 17th of July 2019 still stand:</p> <p>"The desk-based assessment (Appendix 8.1) assesses the potential as low to moderate, but no site-specific intrusive field evaluation has been undertaken to inform such a statement. Without evaluation there is no evidence base of information sufficient to inform the identification of significant deposits or to ascertain their extent.</p> <p>The proposed mitigation (A8-1-13) deals only with currently known archaeology and offers very limited and reactive mitigation measures – which include evaluation only "If areas of archaeological interest are identified during the monitoring and assessment of geotechnical works." This is entirely inappropriate and insufficient.</p>	<p>The site has been subject to field evaluation via the means of the geophysical survey and, following a cultural heritage meeting with stakeholders (09/08/2021) it has been agreed to bring forward a programme of targeted geoarchaeological investigation (currently planned for Q4 2021) to further inform our understanding of sub-surface deposits and the potential for buried archaeological and paleoenvironmental remains.</p>
49	Cultural Heritage	<p>It is expected the Environmental Statement (ES) to contain sufficient information on the archaeological potential to inform a reasonable evaluation strategy to identify the depth, extent and significance of the archaeological deposits which will be impacted by the development. The results of these are required in order to inform mitigation in a meaningful way to produce a fit for purpose strategy which will identify what measures are to be taken to minimise the impact of the proposal on archaeological remains.</p>	<p>The site has been subject to field evaluation via the means of the geophysical survey (Appendix 8.2, document reference 6.4.4, APP-097) and, following a cultural heritage meeting with stakeholders (09/08/2021) it has been agreed to bring forward a programme of targeted geoarchaeological investigation (currently planned for Q4 2021) to further inform our understanding of sub-surface deposits and the potential for buried archaeological and paleoenvironmental remains. The results of this work will guide the approach to, and programme for, wider geoarchaeological monitoring and assessment in conjunction with planned geotechnical site investigations, intrusive evaluation, and the development of the subsequent mitigation strategy, to be agreed with heritage stakeholders and progressed post-consent.</p>
50	Cultural Heritage	<p>As it stands the supporting documents are not in accordance with the requirements of the NPPF or EIA</p>	<p>Although intrusive evaluation has not yet been carried out, a field evaluation has been progressed in the form of the</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>Regulations.</p> <p>The National Planning Policy Framework states that 'Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation' (para 189).</p> <p>The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 states the "The EIA must identify, describe and assess in an appropriate manner...the direct and indirect significant impacts of the proposed development on...material assets, cultural heritage and the landscape" (Regulation 5 (2d)).</p>	<p>geophysical survey (Environmental Statement Appendix 8.2 (Geophysical Survey Report), document reference 6.4.4, APP-097). Both historic boreholes and the results of trial trenching in the adjacent Biomass UK No. 3 Ltd site demonstrate the presence of between 5 to 11 m of alluvium across the site. In this respect, the placement of trial trenches needs to be carefully planned in order to target features based on all available information to provide the best chance of providing information on potential buried archaeology, rather than just revealing the alluvium. As a comparison, the trial trenching in the Biomass UK No. 3 Ltd site did not reveal any archaeological features. Given the nature of the potential features seen in the geophysical survey (paleochannel, possible earthwork and agricultural/natural drainage channels as well as made ground and modern services) there is significant benefit in ground truthing, and, following consultation with the heritage stakeholders, it has been agreed that targeted geoarchaeological investigation will be brought forward, currently planned for Q4 2021. This will be followed by further geoarchaeological monitoring and assessment integrated with planned ground investigations, post-consent, which would then inform the scope for trial trenching. This would, in turn, inform the mitigation requirements (i.e., excavation, watching briefs). This iterative approach to developing the mitigation strategy is set out in the Outline WSI (document reference 7.3, APP-122) and has been clarified in consultation with the heritage stakeholders via a meeting (09/08/2021) and subsequent email and telephone communications.</p>
51	Cultural Heritage	The ES should include a reasonable and appropriate level of evaluation to allow sufficient understanding of the archaeological potential which will be impacted by the proposal in order to allow for an informed planning	The site has been subject to field evaluation via the means of a geophysical survey (see Environmental Statement Appendix 8.2 (Geophysical Survey Report), document reference 6.4.4, APP-097) and, following a cultural heritage meeting with stakeholders (09/08/2021) it has been agreed to bring forward

Number	Topic	Relevant Representation	AUBP Response
		recommendation to be made which is not currently the case.	a programme of targeted geoarchaeological investigation (currently planned for Q4 2021) to further inform our understanding of sub-surface deposits and the potential for buried archaeological and paleoenvironmental remains.

Table 1-19 Boston Borough Council (RR-019)

Number	Topic	Relevant Representation	AUBP Response
1	Consultation	We have been engaged with the Applicants team over a significant period of time now and have responded to the previous consultations within which we have identified a number of issues which are relevant to the Council. The Inspector may wish to review our stage 3 and 4 responses as areas of comment previously.	Noted and agreed. The Consultation Report (document reference 5.1, APP-022) sets out the pre-DCO application consultations undertaken.
2	General	<p>Boston Borough Council is broadly supportive of the proposals for a variety of reasons including but not limited to:</p> <ul style="list-style-type: none"> • The proposed use would lead to employment within an area allocated for Employment development in the Local Plan. • The proposal would bring significant investment, and create opportunities for improvement in economic conditions, skills, employment and create a lasting legacy for the town. • The proposals would see waste products converted to energy, meeting local targets and supporting the national requirement for renewables. Other bi-products would also be captured or reused for other purposes. • The use of the River during construction and operation would prevent issues relating to highway use and in-direct impacts such as air quality. 	The Applicant notes and welcomes the support from Boston Borough Council for the proposed Facility.

Number	Topic	Relevant Representation	AUBP Response
3	General	<p>Boston Borough Council does however believe there are a series of issues which require further detail, clarification, analysis or discussion, these include but are not limited to:</p> <ul style="list-style-type: none"> • Archaeology and Heritage • Environmental considerations including landscape, dust, climate change, and Biodiversity • Highways and Sustainable Transport • Public Rights of Way, Recreation and Tourism • Futureproofing – including management of waste and use of bi-products • Community impact and maximising opportunities to create a positive legacy for the town • Socio-economic benefits 	<p>The Applicant Notes these issues and continues to engage with Boston Borough Council. Specific responses to these issues are provided within this document.</p>
4	Draft DCO	<p>We have also provided initial comments on the draft DCO, and its schedules, and have suggested some initial changes. We appreciate that the DCO may need to evolve throughout the DCO process as the Applicant seeks to respond to any issues raised.</p>	<p>Noted - detailed responses are provided in other, more specific responses.</p>
5	Consultation	<p>We remain committed to engaging with the process and will seek to work proactively with the Applicants to seek agreement on as many matters as possible during the next stages of the process. We hope therefore we can agree Statements of Common Ground and Local Impact Reports which will address these areas of focus.</p>	<p>The Applicant is also committed to engaging with Boston Borough Council to resolve as many issues as possible (noting that this stakeholder supports the proposals) and a draft Statement of Common Ground (SoCG) with Boston Borough Council will be submitted to the Examination at Deadline 1.</p>
6	General	<p>There will no doubt be other issues which arise throughout the examination processes, including feedback from other relevant statutory and non-statutory bodies, as well as partner organisations and local stakeholders. The Council reserves the right to amend its position or comments following analysis of such comments.</p>	<p>Noted.</p>
7	Consultation	<p>As a general position statement, the Council remains broadly supportive of the development, and believes that it can have a</p>	<p>Noted.</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>significant positive impact for the town, subject to any adverse impacts being appropriately eliminated or mitigated. We therefore remain committed to engaging with the NSIP process and would seek to work proactively with the Inspector, with the Applicants, and wider partners / stakeholders in connection with this project.</p>	
8	General	<p>The Borough Council support the principle of the BAEF because:</p> <ul style="list-style-type: none"> • The proposed site and the proposed use are supported by the development plan; Lincolnshire Minerals and Waste LP and the South East Lincolnshire LP. • The proposal treats waste that remains after the recyclable content is removed from the waste stream so that it is not placed into landfill. This prevents methane gas production, which is a more harmful Green House Gas than CO2. • The process extracts some CO2 content from the emitted gas for use in industry – particularly at food grade. • The ash remaining after the combustion process is processed into light weight aggregate using a mix of imported clay and dredged material from the Haven. The dredged material aids sustainability by being a local material. • Any recyclable metal content in the ash will be processed through outlets on the industrial estate. • The facility will export 80mw for 8000 hours per year. This is 640Gwh/year and achieves the Borough's Government target for 15% of all sources of energy from renewable sources and 30% of electricity from renewable sources. • The facility is CHP ready so that providing heat to suitable premises is an option for the future. • Materials will be mostly transported by ship. This will reduce the number of HGVs on the highway as a result of 	<p>Noted. The Applicant welcomes the support of Boston Borough Council in relation to this application.</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>the proposal (construction and operation) and benefit CO2 emissions and local air quality. The routing network will minimise impact on the AQMA's in Boston. The concrete batching plant also helps this issue by avoiding concrete lorries travelling to the site.</p> <ul style="list-style-type: none"> The proposals create conditions for significant investment, thus improving economic conditions both directly and indirectly and having the opportunity to create significant improvement in skills and employment locally. The proposals also have the potential to attract similar proposals and be a catalyst for further investment and diversification. 	
9	Cultural Heritage	The Environmental Statement makes a detailed assessment of the area providing an understanding of the impact of the proposals on the setting of a number of listed buildings. The ES acknowledges minor adverse impacts across a number of heritage assets, but what is not clear is how they will be mitigated, if at all.	Embedded mitigation, including noise reduction, consideration of colour palette for outer cladding and the design of onsite lighting is proposed (ES Chapter 8 Cultural Heritage (document reference 6.2.8, APP-046) paragraphs 8.7.5 to 8.7.7). This would be refined in consultation with key stakeholders as part of the final design.
10	Cultural Heritage	We note for archaeology as an example, the potential for major and moderate adverse impacts, but the mitigation measure relates solely to evaluation and recording. We believe that further mitigation could be secured in the form of interpretation, education, and promotion of understanding of the historic importance of the area and use of the river. This could link to other themes such as tourism and PRow. We request further consideration on the expansion of the planned mitigation measures.	Opportunities for public dissemination of data, such as information boards for Roman Bank have been proposed as part of proposed mitigation measures (e.g., ES Chapter 8 Cultural Heritage, (document reference 6.2.8, APP-046) paragraphs 8.8.82 and 8.8.88). Opportunities to expand these proposals were discussed with heritage stakeholders at the cultural heritage meeting on 09/08/2021 and will be determined and progressed post-consent. The draft s.106 agreement with Boston Borough Council and Lincolnshire County Council is still under discussion. The draft contains various commitments from AUBP in relation to a scheme of

Number	Topic	Relevant Representation	AUBP Response
			interpretation. This agreement will be submitted to the Examination in due course.
11	Cultural Heritage	<p>Also, it should be noted that the approach towards Boston along the Haven is a gateway in the historic town of Boston. The general appreciation and understanding of this experience are not addressed in any great detail. Any continued experience of the area should try to be as sympathetic to the historic environment as possible. Mitigation measures could be concerned with improving the appreciation of the historic environment and the movement through the site. This can be potentially enhanced in a number of ways;</p> <ul style="list-style-type: none"> • Ensuring there is adequate interpretation throughout the public access. • Ensuring the footpath is as open and inviting as possible, with positive green infrastructure. Incorporating traditional and sympathetic surface and boundary treatments. • Mature landscaping at ground level. • Interpretation concerning the BAEF and how it is contributing to development of the town. • Public art concerning any proposed archaeological finds/historic research in the area. 	<p>The draft s.106 agreement with Boston Borough Council and Lincolnshire County Council is still under discussion. The draft contains various commitments from AUBP in relation to a scheme of interpretation. This agreement will be submitted to the Examination in due course. An Outline Public Rights of Way (PRoW) Design Guide is being compiled in consultation with Lincolnshire County Council, Boston Borough Council and Natural England to fully inform improvements to the PRoW which will serve as the permanent north-south connection through the proposed development site. This will be submitted to the Examination at Deadline 2.</p>
12	Cultural Heritage	<p>All of these aspects should have more detailing submitted to ensure the public access in particular is not value-engineered. The public experience of the site should ensure that the detrimental impacts on the heritage assets lead to a valuable visitor experience, even if passing through the site, which will lead to an increased understanding of the historic environment and the connection between the site, the River, and the wider town.</p>	<p>Please see response to RR-19-10 and RR-19-11 above.</p>
13	Cultural Heritage / Landscape	<p>There are some residual concerns regarding the prominence of the facility (in particular the stacks) within views of St Botolphs (the Stump) which is the prominent local landmark and of historic importance. Limited analysis has also been</p>	<p>Representative viewpoint analysis indicates that the presence of the tower, as a local visual landmark, is significantly compromised by a combination of features that are often seen high in the skyline in conjunction with</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>undertaken on views from the Stump and its viewing areas. We believe more can and should be done to mitigate any impacts arising on this important local asset.</p>	<p>the Stump; these include tall electricity pylons, disparate, mixed development, industrial features, port side cranes and stands of tall conifers. In views towards the Stump from the south and south east, the tower is not perceived as a 'significant' landmark. In that context, the proposed facility will not cause significant further harm to the prominence of the Stump (see ES Chapter 8 Cultural Heritage, (document reference 6.2.8, APP-046) paragraphs 8.9.8 and 8.9.9).</p> <p>Representative viewpoints used in the Land scape and Visual Impact Assessment (LVIA) were agreed with Lincolnshire County Council and these did not include the requirement for a view from St Botolph's Church. Initial reference to site photographs and online imagery indicates that in the view south from the tower, the proposed facility would be visible, with stacks seen clearly above the horizon. The facility would be seen in context of existing industrial units, very tall electricity pylons at the Haven crossing, silos, and cranes at the Port of Boston. The existing view is expansive, across an extensive, flat landscape that includes numerous and varied features seen in the near, middle, and far distance. The facility would not be overly intrusive in context of the wider, varied scene. Predicted effects, whilst adverse, would be minor and not significant in terms of EIA.</p> <p>We do not consider that proposed embedded mitigation measures and landscape planting measures can be improved upon in relation to the Stump. Upper sections of proposed tall facility stacks and built structures cannot be screened and will remain visible in the long term.</p>

Number	Topic	Relevant Representation	AUBP Response
14	Ecology	Net Gain is only sought in connection with the Saltmarsh and Mudflats habitats and the bird species that use them and not terrestrial habitats or the marine environment. NPPF and SE Lincs Plan seek to secure overall net gain – more can therefore be done.	<p>The Applicant has undertaken a baseline and post development calculation of Biodiversity Net Gain (BNG) which is presented in the Outline Landscape and Ecology Mitigation Strategy (OLEMS) (document reference 7.4, APP-123).</p> <p>BNG opportunities have been identified (and captured within the calculations to date) for onshore terrestrial receptors such as but not limited to hedgerow improvements, creation of new hedgerows, landscape planting etc.</p> <p>As presented in the OLEMS, the proposed habitat and biodiversity measures demonstrate a -36.80% total net unit change for habitats units (primarily associated with the loss of arable land) and a +57.27% net change for the hedgerows. The Applicant is continuing to explore other off-site BNG opportunities with Boston BC with an update of the OLEMS to be submitted to the Examination if changes are made to the proposals.</p>
15	Ecology	The recent news announcement that an amendment to Environment Bill will mean new NSIPs will need to provide a net gain in biodiversity and habitat (Government commits to 'nature-positive' future in response to Dasgupta review - GOV.UK (www.gov.uk)), there is an opportunity to be an exemplar site. Net gain calculation should include this loss of other terrestrial habitat to ensure it truly is a net gain.	<p>We note the current non-statutory basis for Biodiversity Net Gain (BNG) with respect to Nationally Significant Infrastructure Projects (NSIPs). The Applicant has undertaken a baseline and post development calculation of Biodiversity Net Gain (BNG) which is presented in the Outline Landscape and Ecology Mitigation Strategy (OLEMS) (document reference 7.4, APP-123). The Applicant has undertaken a baseline and post development calculation of BNG which is presented in the OLEMS. The Applicant is continuing to explore other off-site BNG opportunities with Boston BC with an update of the OLEMS to be submitted to the Examination if changes are made to the proposals.</p>

Number	Topic	Relevant Representation	AUBP Response
16	Ecology	Net gain as currently proposed is not achieved through the habitat mitigation area only and instead will require currently un-agreed contributions to RSPB sites at Frampton Marsh and Freiston Shore. These opportunities should continue to be explored.	Biodiversity Net Gain opportunities are still being investigated but are now required outside of the RSPB reserves. It is recognised that biodiversity net gain is not as yet a legal requirement and as such is not compulsory for this project. However, the Applicant has committed to undertake biodiversity net gain as good practice. Discussions are ongoing with Boston Borough Council over potential opportunities for habitat creation/enhancement.
17	Ecology	Given the range of habitats impacted, consideration should also be given to further on-site biodiversity improvements and enhancement of other local sites for terrestrial or marine species e.g., Woodland sites (Boston woods trust), nearby Local Wildlife Sites, Wildlife Trust sites Borough Council operated sites such as Witham Way Country Park, or in collaboration with the Eastern IFCA. All of which could be secured by way of conditions or S106. Any additional off-site landscaping should be designed to achieve both biodiversity and carbon/pollution reduction aims.	Please see the response to RR-019-14 noting that the Applicant is continuing to explore other off-site BNG opportunities with Boston BC with an update of the OLEMS to be submitted to the Examination if changes are made to the proposals.
18	Design	We suggest consideration is given to the integration of green roofs and similar features within the proposed infrastructure. Such design inclusions have potential to achieve more biodiversity net gain on site and further reduce surface water flow rates from the roofs. Owing to greater building mass they may have a noise benefit.	Initial consideration was given to Solar Photo-Voltaics (PV) on roofs over 200 sq. m. However, solar PV and green roofs are not compatible due to shading. The Applicant see solar PV as a more beneficial way of adding to our green credentials and reduced carbon targets - in line with UK policy both in the short , medium, and longer terms post 2050.
19	Marine Ecology	We have no specific concerns regarding impact on marine and coastal ecology provided Natural England and RSPB are satisfied that the proposed mitigation to address the moderate adverse impacts identified in Construction Impact 3 is suitable.	Noted and work is underway to provide additional habitat and identify opportunities for biodiversity net gain, whilst also appreciating the importance of The Haven as a waterway for vessel movements.

Number	Topic	Relevant Representation	AUBP Response
		We would however state that the Council do recognise the historic and continued importance of the River as a working river which is important to the local economy and the wider region. Therefore, a balance needs to be struck. We would support the Applicants working with the RSPB to support off-site enhancements of their two local sites which are of importance not only for ecology, but also tourism and visitors and general recreation.	
20	Project Description	Appropriate measures must be in place to ensure that any loose material during construction and operation (such as that from broken bails or loose from transport) does not enter the river or local wildlife sites. Commitments should be provided in the form of management plans or similar to address any issues arising promptly and comprehensively.	With regard to the management of construction waste Section 6 of the Outline Code of Construction Practice (document reference 7.1, APP-120) a Site Waste Management Plan will be prepared which describes measures to manage waste across the construction areas in accordance with a waste hierarchy and that management includes operating a duty of care. A Code of Construction Practice is committed to in paragraph 10 of Schedule 2 of the draft DCO (document reference 2.1, APP-005), and that such a plan should be substantially in accordance with the Outline Code of Construction Practice. The Applicant is fully aware of the potential for litter to result from operations. The highest risk for litter release relates to the unloading of the Refuse Derived Fuel (RDF) bales from the vessels at the wharf. Please see our response to RR-013-12. The Applicant fully expects litter reduction and management will be covered by the Environmental Permit. It is noted that this has not been confirmed in any discussion with the Environment Agency to date.
21	Landscaping	Existing hedgerows will be removed as part of the scheme. Significant planting is proposed on the Nursery Road frontage and to the south of the site on raised earth banks. We consider these should be planted as part of the site clearance/preparation work, i.e., brought forward in the	The Applicant will seek to implement the construction of earth bunds and establish mitigation planting at the earliest practicable opportunity in the development programme.

Number	Topic	Relevant Representation	AUBP Response
		development programme. This will provide replacement habitat sooner and provide earlier screening of the facility as well as help reduce dust from earth remaining on site.	
22	Landscaping	New planting is inspected monthly but inspecting existing landscaping for vandalism and fly tipping is annually. We do not consider this is frequent enough and should be at least quarterly.	The Applicant has amended the Outline Landscape and Ecological Management Strategy (document reference 7.4, APP-123) to include monthly inspection of vandalism and fly tipping, this will be submitted at Deadline 2 of the Examination. These inspections will coincide with other, on-site management prescription activities.
23	Landscaping	The landscaping proposed is described in the OLEMS could be adjusted to provide enhanced carbon and particulate removal. For example, could include area of coniferous (yew) planting. Consideration should also be given to avoiding tree species that produce Biogenic Volatile Organic Compounds (BVOCs) such as ozone in the presence of NOx. Could avoid or reduce ratio of Populus, Salix, Quercus and Pinus species and could add in species such as Common Alder. See Designing vegetation barriers for urban air pollution abatement: a practical review for appropriate plant species selection npj Climate and Atmospheric Science (nature.com) & Development and Application of an Urban Tree Air Quality Score for Photochemical Pollution Episodes Using the Birmingham, United Kingdom, Area as a Case Study Environmental Science & Technology (acs.org)	Landscape proposals include tree, shrub and grassland species that are UK native species and indigenous to the area. As such, selected species provide appropriate, potential enhancement of local biodiversity and enhancement of existing landscape character. Species lists are included in the Outline Landscape and Ecological Management Strategy (OLEMS) (document reference 7.4, APP-123). The Applicant will agree the final planting within the final LEMS.
24	Air Quality	Dust impacts are assessed as 'low'. However, a neighbouring company, DCI, is particularly susceptible to dust in its manufacturing process and so it is considered as part of the DCO Schedule 2 'Code of Construction Practice 10(3)(d)' dust monitoring should take place at boundary locations to ensure the dust management controls are being effective and to provide quantifiable evidence in the event of complaints, along with a suite of measures to address any concerns.	This matter was discussed further during the Air Quality Topic meeting between AUBP and RHDHV representatives and personnel from the Environment Agency, Boston Borough Council and Public Health England on 7th September 2021. AUBP resolved to contact the company to determine specific concerns. These will then be addressed in the Dust Management Plan (part of the Outline Code of Construction Practice (document reference 7.1, APP-120)) and suitable

Number	Topic	Relevant Representation	AUBP Response
			measures implemented and monitored during the construction phase. The company will be contacted during the Examination Period to discuss the requirements with regard to dust mitigation and monitoring.
25	Traffic and Transport	We note and recognize the change within the scheme to reduce highway impacts by bringing material in by river. This is a positive change and does address one of our previous concerns. It remains an ambition of the Council to secure improved access arrangements to the Marsh Lane industrial estate and immediate area surrounding as this would be to the benefit of the many existing businesses and residents within this area, as well as aiding wider transportation issues and backing up which occurs on the A16.	ES Chapter 19 (Traffic and Transport) (document reference 6.2.19, APP-057) identifies that during the construction and operational phases, residual traffic and transport effects would not be significant. It is therefore considered that the provision of improved access arrangement to the Marsh Lane industrial estate would not be necessary or proportionate to the Facility's impacts.
26	Traffic and Transport	However, we would request that consideration be given to whether measures are required to ensure that in-direct impacts do not arise, particularly through the construction phase. For example, diversion of traffic using the existing estate on to lesser/minor roads which are not suitable such as: Low Road, Tytton Lane East, Wyberton Low Road, Slippery Gowt lane etc. Therefore, we request consideration of monitoring of all routes into/out of the area, with a plan to rectify/address any impacts arising. We also consider that monitoring of the impact upon the Spirit of Endeavour Roundabout is required. This will give assurance to existing users of the industrial estate, but also the immediate community, that they will not be adversely affected by the development in terms of highway impacts – particularly congestion. You may wish to note that the County Council is proposing a bid to the Levelling Up fund, in connection with improvements to the A16 and the aforementioned roundabout due to the strategic importance of this route for the agri-food sector.	<p>ES Chapter 19 (Traffic and Transport) (document reference 6.2.19, APP-057) includes detailed assessment of impacts of the Facility's construction traffic upon driver delay. The assessment identifies that with the exception of the junction 4 (Roundabout junction A16 Spalding Road and John Adams Way / A52) all junctions will operate with spare capacity and delays would not be significant. Whilst junction 4 is assessed to be operating over capacity, mitigation measures are proposed within the Outline Construction Traffic Management Plan (OCTMP) (document reference 7.2, APP-121) to ensure residual impacts would not be significant. It is concluded therefore, that as residual delays are assessed to not be significant, the Facility's construction traffic would not induce motorists to reassign to other "lesser/minor roads".</p> <p>With specific regards to the 'Spirit of Endeavour Roundabout', ES Chapter 19 (Traffic and Transport)</p>

Number	Topic	Relevant Representation	AUBP Response
			includes a detailed assessment of impacts of the Facility's construction traffic upon the junction (referred to as junction 1). The assessment identifies that the Facility's construction traffic would not result in significant impact upon capacity or delays. The OCTMP, secured as Requirement 12 of the draft DCO (document reference 2.1, APP-005) includes a commitment to monitoring of HGV and personnel vehicle movements. This commitment will ensure that the assessed peak vehicle movements are not exceeded and as such the significance of driver delay impacts would be no greater than those assessed within the ES.
27	Traffic and Transport	We would also question whether there is scope to rectify historic issues relating to the private road(s) included within the scheme area, to bring them up to an adoptable standard so that they may become part of the adopted highway network. At the very least the private highway section on Nursery Road should be provided with footways and surface conditions addressed.	To bring the private roads up to adoptable standard would be a significant legal and engineering undertaking which would be disproportionate to the assessed Facility impacts. It is noted that in the baseline situation private roads are being utilised to serve industrial uses (including Auto Breakers, Householder Waste, Biomass etc.) with significant delivery and workforce demand.
28	Traffic and Transport	We consider the proposal can be a catalyst for a bus route through the industrial estate. The documentation states 63% of employees travel to work in single occupancy vehicle and there will be 125 permanent workers. It also describes local deprivation and the impact of poor air quality on health. Deprived persons will (if they own a car) drive the oldest, cheapest, and most polluting vehicles and thereby impact other road users and terraced housing residents, who do not benefit from distance away from the highway that less deprived persons living in better quality dwellings may achieve. We would encourage the Applicants to work with the Highway Authority and local operators to discuss what can be achieved, and the Borough Council would be happy to facilitate such discussions.	Chapter 19 (Traffic and Transport) (document reference 6.2.19, APP-057) contains a review of sustainable transport options (public transport, walking and cycling) and concludes that there are good opportunities for personnel and visitors based in nearby settlements to travel by sustainable modes of transport. Notwithstanding, the Applicant would be willing to involved in discussions (facilitated by Boston Borough Council) with local bus operators to understand the potential for a bus route through the industrial estate.

Number	Topic	Relevant Representation	AUBP Response
29	Waste / Project Description	The Borough's household waste stream, along with some or all of two neighbouring council's household waste streams, are transported to a similar facility in Lincoln. It is sensible for the transport costs and environmental impact of this journey to be avoided by the waste been processed in the BAEF instead, about 53,000 (unsorted) tonnes. There are both Household Waste and general transfer facilities within the existing estate in close proximity of the scheme. We request the LDO contains measures to require reasonable consideration and use of reasonable endeavours to facilitate the use of localized residual waste as part of the feedstock, particularly where that feedstock could be provided from within the Industrial Estate without material effect (e.g., no increase in wider vehicle movements). The current proposals seem to 'close the door' on this by virtue of the specification of waste. We consider that it would be possible to future proof the LDO to allow facilities for localized waste to be sorted, baled, and wrapped to provide a fuel of the required calorific value. This should not be ruled out by virtue of the current DCO proposals or lack of contractual commitments between the Applicant and the Waste Authority (LCC).	The Applicant recognises the proximity of potential, locally available feedstock for the Facility. The Applicant is exploring a provision relating to 'local feedstock' as part of the discussions for a section 106 agreement.
30	Waste / Project Description	We request the LDO contains measures to require reasonable consideration and use of reasonable endeavours to facilitate the use of localized residual waste as part of the feedstock, particularly where that feedstock could be provided from within the Industrial Estate without material effect (e.g., no increase in wider vehicle movements). The current proposals seem to 'close the door' on this by virtue of the specification of waste. We consider that it would be possible to future proof the LDO to allow facilities for localized waste to be sorted, baled, and wrapped to provide a fuel of the required calorific value. This should not be ruled out by virtue of the current DCO proposals	The Applicant recognises the proximity of potential, locally available feedstock for the Facility. The Applicant is exploring a provision relating to 'local feedstock' as part of the discussions for a section 106 agreement.

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		or lack of contractual commitments between the Applicant and the Waste Authority (LCC).	
31	Communication	Establishment of a 'hub' within the core of the town during construction. Whilst we recognize there are proposals for on-site education facilities, we would encourage the establishment of a 'hub' within the town centre during the construction. This would lead to better connections with the community, providing a prominent and accessible base from which people can find out information, and raise any issues of concern. Having this within the town centre is also likely to result in improved 'buy-in' and understanding from the community. Further, if this could be expanded to include office accommodation for example, there is potential for other beneficial outcomes such as increased spend within the town centre and support of local businesses. This is considered preferential to the hub being tucked away on an industrial estate where the community would be unlikely to visit.	AUBP will appoint an Engineering, Procurement and Construction (EPC) contractor following the granting of the DCO. The EPC contractor may utilise space within Boston town centre which could be used as a hub for those interested in the Facility. Included in the draft Heads of Terms for the Section 106 agreement is a provision that AUBP will use reasonable endeavours to discuss the use of a town centre location with the EPC contractor.
32	Landscaping	Clearly this development, as a result of its scale and form, will result in significant landscape and visual change. We note the embedded mitigation measures, but there is limited scope for other measures to reduce the impact of the structures themselves which are led by the technology proposed. We would request consideration given to other forms of mitigation in the form of interpretation, education, and promotion of understanding of the historic importance of the area and use of the river. This could link to other themes such as tourism and PRoW.	The Applicant is currently preparing an Outline Public Rights of Way Design Guide for the proposed upgrade and improvement of access along existing public rights of way (Bost/14/9 & Bost/14/11), located within and in proximity to the Order Limit, which will be submitted to the examination at deadline 2. Proposed measures will include the provision of interpretation features (for example signage and illustrated interpretation boards) and such interpretation will include historical aspects. The Applicant will develop these proposals in consultation with Lincolnshire County Council, Boston Borough Council and Natural England.
33	Landscaping	Within the ES, we would query why view 7 is minor moderate and view 8 is moderate major. We would suggest that both should be moderate major adverse. The facility and new wharf arrangements will result in significant visual, and amenity	The Applicant does not agree that the significance of effect from representative View 7 and View 8 are the same. The reference to View 7 'minor moderate' and View 8 'moderate major' adverse relates to construction

Number	Topic	Relevant Representation	AUBP Response
		<p>change for users of the opposite bank. Similar comments are raised in respect of those other views where moderate adverse effects have been identified.</p>	<p>stage effects (Refer to the Representative Viewpoints tables that provide a full summary of baseline and predicted visual effects (document reference 6.4.6, APP-099). The variation in the significance of effect between View 7 and View 8 is based upon the proximity of the view locations to the site and the predicted prominence of construction related activity. View 8 is in closer proximity to the site than View 7 and will obtain open, close range views to construction of the riverside wharf and other activity within the site. Construction stage effects from View 7 are reduced in comparison, due to the overall distance to site (lessening the prominence of construction activity in the wider view) and the shielding effect of the raised landfill site landform and intervening Biomass UK No 3 Ltd development. (paragraph 9.8.41 of Chapter 9 of the ES, document reference 6.2.9, APP-047).</p> <p>The LVIA bases visual effects upon a wide range of factors. The predicted magnitude of change in a view is influenced by the existing character of the view, features within in it (that may detract from the scene) and intervening features that may inhibit the view or help screen certain proposed features. The Applicant considers the effects described in the LVIA representative viewpoint tables to be fair and balanced.</p>
34	Landscaping	<p>As such, we would continue to encourage the developer to seek to maximize off-site opportunities for mitigation.</p>	<p>The Applicant does not intend to implement off-site landscape planting mitigation measures. Proposed off-site measures will include the upgrade and improvement of access along existing public rights of way to the north and east of the Order Limit (please also refer above to RR-019-032).</p>

Number	Topic	Relevant Representation	AUBP Response
35	Project Description	We request clarity that the local connection and supply of 640Gwh per year to the local grid will improve local capacity issues. It may be that further study is required in relation to this, as well as the introduction of measures to improve local capacity in the future as a benefit from the development.	<p>The Facility's connection will deliver 640GWh/yr to National Grid distribution within the UK, which includes local, county, region, and National offtakes. This is a benefit to the areas previously mentioned. At present the Applicant does not have any specific offtake agreements negotiated as part of the Funding guarantees but they reserve the right to set these up with potential funders on the basis of supporting local industries to reduce carbon emissions. At the moment the Applicant is in discussions with one of the Tier 1 power companies on this matter. In the last year figures are available for (2019), according to ENAppSys, the UK imports of electricity rose to a record high of 21.4 TWh mainly from Belgium, Netherlands, and France. Levels of Interconnectors supply are forecast to grow from Ireland, Norway, and Denmark.</p> <p>National Grid have a mandate to transmit and supply power across the Network as well as locally. Local use with less transmission miles has less carbon losses than if power is used at distant locations. On that basis the Facility will supply locally in to the 'system', and the Developer has no control or input into the new arising power offtakes. However, the status of power supply of the UK is a nett importer of power currently via Interconnectors. This new facility will go some way to balancing the overall UK power situation towards neutrality.</p>
36	Socio-economics	<p>Public Right of Way.</p> <p>We raise significant concerns that this element has been under assessed and not properly understood.</p>	The Applicant has continued to engage with Lincolnshire County Council (as the Highways Authority responsible for Public Rights of Way (PRoW)), Boston Borough Council and Natural England with regard to PROWs. In recognition of the need to ensure that the PRoW network is as user friendly as possible following the permanent

Number	Topic	Relevant Representation	AUBP Response
			stopping up of PRow an Outline Design Guide for the proposed upgrade and improvement of access along existing public rights of way (Bost/14/9 & Bost/14/11), located within and in proximity to the Order Limit is being compiled. This document will be submitted to the Examination at Deadline 2.
37	Socio-economics	We question whether the PRow permanent closures have been underplayed and whether sufficient mitigation has been presented. During the period of analysis, parts of the route have been closed due to other works. Furthermore, there are questions regarding the quality of the alternative routes proposed and the overall amenity of them and whether they are sufficient. This runs through a number of elements of our response, and we feel further evaluation of this is required.	The provision of improvements to Bost/14/9 & Bost/14/11 have been discussed with Boston BC, Lincolnshire CC and Natural England in outline and the Outline Public Right of Way (PRow) Design Guide will take on board the views of the specialist staff within these organisations. There is a consensus that providing improvements to these PRow is acceptable in principle (noting that stakeholders have not seen the design guide to date). Please also see RR-019-36.
38	Socio-economics	To expand on this the riverside footpath, it is intended to close has an open character suited to recreation. It is wide enough to allow vehicles upon it. The diversion route along another existing footpath that runs through the industrial estate on Roman Bank has a much more enclosed character with metal palisade fencing on some sections less than 2m apart. In addition, there are gradient issues, and the route does not feel accessible or secure, let alone of a good standard of amenity to encourage recreation and walkers associated with tourism. We feel the loss of the riverside walk is a significant issue.	Consultation on the Outline Public Right of Way (PRow) Design Guide has covered these points. These issues are recognised and the outline guide will provide a response to ensure that proposed improvements are acceptable to Boston Borough Council, Lincolnshire County Council and Natural England as far as possible.
39	Socio-economics	We would like to see an option appraisal to establish why other ways of maintaining a riverside walk are not achievable or have been ruled out. We consider options such as bridging structures could be utilised which would create features of interest and would enable a connection along the riverside to be maintained.	An options appraisal has not been undertaken as further bridging of the proposed Facility would not be possible due to safety and operational reasons.


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40	Socio-economics	The documentation refers to moving the palisade fencing apart and this is very necessary. The DCO boundary does not fully include Roman Bank although the land registry shows the land to the east i.e., next to the wharf, appears to be under the same ownership as the wharf land, as is some of the land to the west of Roman Bank. Therefore, if it is feasible to modify the DCO boundary and if the silt excavated from the river to form the wharf is not suitable for use as part of the on-site construction works, instead of hauling it away it might be used to increase the width of this bank to make it more suitable. The same could apply to inert waste and surplus soil produced during the construction.	The proposed Order Limit is as per the Application. The Outline Public Rights of Way Design Guide (to be submitted at deadline 2) will consider movement of fences, modification of the Roman Bank (taking full account of its historical value) amongst other potential improvements. Sediment dredged during construction is anticipated to be used as backfill for the wharf and would not be available for use elsewhere. Utilisation of spoil arisings on site will be considered with The Principal Application Site requiring 0.5 m of surface material to be removed and replaced with 0.8 m of surcharge.
41	Socio-economics	Landscaping the repositioned palisade fencing to soften the impact of them and the surrounding industry is required, but a more open character to feel safe and welcoming is essential, given it will be the coastal footpath and Macmillan Way. The current narrow enclosed character of the footpath could discourage use and impact health outcomes.	Safety and openness will form considerations included within the Outline Public Rights of Way Design Guide currently being compiled in consultation with Lincolnshire County Council, Boston Borough Council and Natural England, to be provided to the Examination at deadline 2.
42	Socio-economics	Overall, we feel this needs a focused piece of reassessment work, and appropriate mitigation to be proposed. If physical measures cannot be achieved, then off-site mitigation and or contributions should be proposed. This can link with other themes within this response.	Please see RR-019-40 above.
43	Air Quality	Statutory Regulations. The Borough Council seeks comfort from the examination the emissions will be stringently regulated and not exceed required national standards, and as far as possible, seek to be better than those standards.	Noted. The Facility will be required to operate in accordance with an Environmental Permit, issued by the Environment Agency following a rigorous technical review of technology and operational factors, and will be required to meet stringent limits on pollutant emissions. As such, the Facility would be adequately regulated when operating. For the purposes of providing a conservative assessment, it was assumed that the Facility would be operating at the permitted emission

Number	Topic	Relevant Representation	AUBP Response
			limits; however, in reality it is expected that emissions of all pollutants would be lower than the limits.
44	Marine ecology	Also, the examination confirms that the Borough Council's responsibilities as a Relevant Authority for the Wash are achieved by the mitigation measures protecting the features of interest for which it was designated; and for other species, its duty under Section 40 of the Natural Environment and Rural communities Act is properly discharged.	Noted.
45	Socio-economics	Socio-Economic impacts: We welcome the significant level of direct investment that would come from this development and appreciate that this could have an even greater level of in-direct benefit arising. This is particularly important due to the low-wage, and relatively low-skilled nature of local employment. Thus, there is significant potential for upskilling and improvement in economic outlook. The scheme will also undoubtedly raise the profile of the town.	A range of indirect employment opportunities will be created during the construction and operational stages and these are estimated at paragraphs 20.7.17 and 20.7.55 of the ES Chapter 20 (Socio-economics) (document reference 6.2.20, APP-058). Opportunities will be across a variety of occupations, including higher skilled roles. The Facility's ultimate aspiration is to increase the proportion of workers drawn from the local area over the course of the operational stage. To help facilitate this, discussions with Boston College are ongoing regarding the potential to support apprenticeship positions, including (but not limited to) roles such as: mechanical engineering; electrical engineering; instrument/control technicians; pipework fabrication/installation; plant maintenance; and health & safety.
46	Socio-economics	The investment in the development and operational aspects of the Boston Alternative Energy Facility will undoubtedly contribute to the economic success of the borough with increased opportunities for local businesses, the development of new green jobs and a net contribution to the local economy through spend in retail and hospitality.	The effect of investment on local businesses/supply chains is considered at paragraphs 20.7.15 and 20.7.54 of the ES Chapter 20 Socio-Economics chapter (document reference 6.2.20, APP-058). With respect to the wider contribution to the local economy, paragraphs 20.7.27, 20.7.43, 20.7.59 and 20.7.76 consider the potential uplift in demand for visitor accommodation and

Number	Topic	Relevant Representation	AUBP Response
			tourism attractions. It is also true that the development proposals are likely to increase expenditure in the local retail and hospitality sectors. This will be driven by attracting workers (and their family/friends) from outside the area into Boston and by increasing the disposable income of local residents (by providing new or high paid employment opportunities). The potential increase in expenditure has not been quantified with the ES.
47	Socio-economics / Section 106	We note the significant number of jobs are beneficial impacts. We support the development on this basis as it has potential to bring a significant number of jobs, of a range of skill-levels to the town. We do however request that there is a need for clear, and unequivocal commitments to upskilling, education, and commitments to local labour and supply chains.	A range of indirect employment opportunities will be created during the construction and operational stages and these are estimated in ES Chapter 20 Socio-Economics (document reference 6.2.20, APP-058). Opportunities will be across a variety of roles/occupations, including higher skilled roles. Discussions with Boston College are ongoing regarding the potential to support apprenticeship positions and discussions with Boston Borough Council are also ongoing regarding the ability to attract business to the area due to the provision of the Facility. The draft DCO includes Requirement 16 that requires the submission and approval of a “plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction and employment opportunities during operation of the authorised development”. AUBP are happy to discuss whether this would be more appropriate to be included as part of the draft Section 106 agreement.
48	Socio-economics / Section 106	Supported by Boston College and their modern engineering facilities, there could be a massive opportunity to deliver and inspire apprenticeships with routes into engineering and conduction roles throughout the BAEF supply chain, the build process and continued on through the life of the facility.	The draft DCO (document reference 2.1, APP-005) includes Requirement 16 that requires the submission and approval of a “plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction and

Number	Topic	Relevant Representation	AUBP Response
		Working closely with DWP, the project also has the opportunity to support local people looking to retrain or upskill providing a long-term opportunity to create industry specific businesses within green and renewable technologies. There is a need to secure long term legacy impacts – such as improvement in skills – covering a wide spectrum of areas (for example engineering, climate change, power etc). We would encourage dialogue with schools, colleges, and universities to maximize this and monitor it.	employment opportunities during operation of the authorised development”. AUBP are happy to discuss whether this would be more appropriate to be included as part of the draft Section 106 agreement.
49	Socio-economics	A direct economic benefit will be the high grade biproducts that the BAEF will produce and where inward investment activity would be centred. A 1/3 of the biproducts will have significant benefit to the food sector creating opportunities to exploit the proximity to source when targeting businesses that utilise or as added value in their production process These types of industries clearly align with the emerging ‘Food Valley’ concept across south east Lincolnshire. We understand that following dialogue with local businesses, there would be significant interest in utilising any CO2 produced provided it is of food grade.	<p>There are two main by-products of this Facility, lightweight aggregates (LWA) and also food grade Carbon Dioxide.</p> <p>LWA is an established low carbon product used in construction requiring less carbon to transport, less carbon for steel reinforcement due to weight, and lower virgin aggregates for use in concrete pours. Many large projects actually target the use of these products in their scoring models. LWA are non-leaching and are better long-term storage than landfilling of the ash streams, which are normally leaching disposal routes. The LWA granules are useful replacements for natural aggregates, do not attract quarry tax, are transportable in bulk and have a lower bulk density compared to natural aggregates. They have well developed markets in UK, Europe and internationally, could be exported as well if there was a downturn in UK construction markets.</p> <p>Captured Carbon Dioxide is stored on site as food grade CO₂ in pressurised liquid form. The DCO describes two systems only that each capture 25% of each stacks emissions or 2 x 5.0 Te/hr.</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>These can be used to support the UK food industry sector via agricultural use, modified atmosphere packaging of food via the market offtakes, and in the animal stunning sector. Agriculture should gain yield increases of 20-40% via smart greenhouses, horticulture increased yields and lengthened seasons via smart greenhouses and lower resource utilisation via vertical and urban farming routes. The Applicant therefore agrees that local agricultural and construction sectors would benefit and they are very open to supporting such businesses.</p>
50	Socio-economics	<p>We would query the extent of tourism impact assessment and the limited scope (only consider 0.5mile, why?) Why not 2 miles given the number of assets? (20.7.42). We feel this may have been underplayed. We also consider that measures should be put in place to establish and monitor the exact implications on the tourism sector during construction (for example monitoring of bed-space availability).</p>	<p>It should be noted that the assessment of tourism effects is not based upon a 0.5-mile radius. The analysis takes account of tourism assets and natural assets up to 10 miles from the site (see Plate 20.8 of ES Chapter 20 Socio-Economics (document reference 6.2.20, APP-058)). Reference to 0.5 miles at Paragraph 20.7.42 of the ES is simply to acknowledge that there are no assets located within this initial distance ring. As a general rule, the impact of development on tourism/natural assets would be expected to reduce as the distance between the two increases. As such, the fact that no assets are located within 0.5 miles is a relevant consideration. It is not the only consideration, however, with the assessment also having regard to: the industrial allocation of the site and surrounding uses, which mean that the proposals will not alter the character of the immediately surrounding area; and the fact that the majority of assets located within the 2mile distance ring are physically separated from the application site by the river.</p> <p>The focus of the analysis is more on the overall tourism appeal of the area, rather than the availability of</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>bedspaces. Paragraphs 20.7.27 and 20.7.59 of the ES (document reference 6.2.20, APP-058) do, however, give some consideration to the increased demand for visitor accommodation. This is assessed as being not more than 72 bedspaces during construction (and less than this during operation). The Greater Lincolnshire LEP Hotel Fact File 2018/19 indicates that there were 6 hotels in Boston, with a total of 220 rooms, in 2019. Planning consent was in place for a further 2 hotels (a 56 bed Travelodge at Quadrant and a 33-bed hotel at Waterfall Plaza). This would take the provision to 309 rooms, excluding guesthouses and B&Bs. Demand for a maximum 72 bedrooms would therefore correspond to 23% of the total hotel bed stock, although clearly this could be significantly lower once guesthouses and B&Bs are factored into the local supply. Given that monthly average occupancy rates in serviced accommodation at the UK level have not exceeded 63% over the period from June 2017 (see graph - source:  seems likely that the local supply will be capable of accommodating most of this demand. The Applicant has requested more localised occupancy data during discussions with Boston Council's Museum, Events and Venue Officer, but was advised that this is not included within the STEAM data held by the authority.</p> <p>STEAM data provided by Boston Council's Museum, Events and Venue Officer indicates that the supply of 'serviced accommodation' in Boston is in the order of 539 bedrooms (across 25 establishments). Non-serviced accommodation accounts for another 2,110 bedrooms,</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>including 208 in self-catering accommodation (with the remainder in caravans, chalets, campsite, and youth hostels).</p> <p>The Applicant does not recognise the need to monitor the impacts on tourism during construction.</p>
51	Socio-economics	<p>We would query why the loss of PRoW is considered minor and suggest this should be upgraded. We would query whether further mitigation can be provided as per earlier comments. As we have set out earlier in our reply in relation to the PRoW. There is also limited consideration of recreation and use of riverbanks (both sides) which are important assets which have seen increased use since Covid-19, despite restrictions in place as a result of works being undertaken by the EA. These will be affected significantly. We believe there is a need for further mitigation.</p>	<p>The Applicant recognises the need to ensure that the Public Rights of Way (PRoW) network continues to provide for a north-south linkage along the western side of The Haven and has continued to engage with Lincolnshire County Council (as the Highways Authority responsible for Public Rights of Way (PRoW)), Boston Borough Council and Natural England with regard to PROWs. In recognition of the need to ensure that the PRoW network is as user friendly as possible following the permanent stopping up of PRoW an Outline Design Guide for the proposed upgrade and improvement of access along existing public rights of way (Bost/14/9 & Bost/14/11), located within and in proximity to the Order Limit is being compiled. This document will be submitted to the Examination at Deadline 2. We consider that this work constitutes the required level of attention to this matter.</p>
52	Socio-economics	<p>We would also question whether the Applicants can give commitments in respect of preferential procurement approaches to support local businesses in more generic areas, for example catering, and to seek to actively promote the development and engage with local businesses to ensure in-direct spend is maximized on a local basis.</p>	<p>The Facility will use reasonable efforts to engage with suppliers who are local, where there can reasonably be a local element e.g., catering, and any other area which is not a required specialism, to have a reasonable, economic benefit to the local area. This will be driven by the Facility via the selected Engineering, Procurement and Construction (EPC) contractor and agreed Procurement Principles and Documentation as per other major NSIP projects. Such would be subject to compliance with domestic and international law.</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>The Considerate Constructors Scheme will be utilised during the construction phase of the project. This scheme has many supporting elements for the local community facets e.g. trade contacts, engagement with the community etc. The Developer has an affinity for the local area and is driving engagements at a local level in the project with all areas of trade from cranes, concrete, and local labour where applicable price, skills and the programme allows without adverse effect, but based on reasonable efforts.</p>
53	Project Description	<p>The commitment to ongoing study in relation to Combined Heat and Power study is welcomed; we believe similar commitments pertaining to the following areas would be of benefit:</p> <ul style="list-style-type: none"> - Opportunities for battery storage - Provision of wider network connections/capacity to facilitate other forms of renewable energy production - CO2 use maximization – this must be food grade as a minimum 	<p>The power export connection is sized for up to 102 MW export, at present the Applicant expects to export at least 80MW. In the detailed design stages the Applicant will be looking to minimise the on-site consumed load to drive up the exported power. However whatever savings are made will be exported continuously to the National Grid (NG). There will be a small amount of batteries associated with the solar PV panels to provide light across the site during the hours of darkness.</p> <p>The Operator will export at least 640 GWh/yr of power to the National Grid, and if substantial improvements are made this will rise above 640 GWh/yr of power exported, but this will not go to battery storage as this will be a negative effect and is not included in the DCO. These could come as Continuous Improvement Works (CIW) e.g., improved efficiency gains of 1% across the EfW lines improving overall power generated to $102/0.99 = (103-102) \text{ MWh} \times 8000 \text{ hours/yr} = 8\text{GWh/yr}$ additional export power to National Grid - as an example of CIW only.</p>

Number	Topic	Relevant Representation	AUBP Response
			Included in the draft Heads of Terms for the section 106 agreement is a commitment from the Applicant to use reasonable endeavours to consider opportunities to incorporate or facilitate Battery Storage Infrastructure within or alongside the Project, subject to conditions and to use reasonable endeavours to consider opportunities regarding the maximisation of CO ₂ by companies within Lincolnshire, subject to conditions.
54	Socio-economics	From discussions with businesses locally and looking to invest the above areas, the development has potential to unlock significant investment opportunities. Clearly these opportunities cannot be predicted at this stage, but reasonable measures should be in place to maximize them arising from the development. We have seen recent local examples where the introduction of new strategic uses has resulted in a desire for co-location opportunities, and the above would fit with this principle. The Borough Council, as a result of the Towns Fund, are also in dialogue with national and international investors who are looking at opportunities to bring new investment (particularly within the energy, and agri-tech sectors) to the town and this part of Lincolnshire and who have already shown an interest in co-locating or seeking to integrate with the BAEF proposals. Therefore, we believe this should create confidence in the need to ensure that the development includes scope for expansion, facilitation, or co-location opportunities such as through the provision of additional power capacity / connection arrangements.	<p>The Applicant is generally supportive of this as a principle but does not want to exceed their responsibilities and encroach on other areas of responsibility. The Applicant has already met with several officers of local authorities at Lincolnshire County Council and Boston Borough Council to align more closely to use reasonable efforts to maximise the benefits to the community in the widest sense.</p> <p>The Applicant hopes to leave a positive legacy within the community, be it skills growth, improved direct and indirect employment, other indirect benefits as well especially in industries which are synergy with the Facility, e.g. those with synergies for CCU and CCS for food and associated sectors.</p> <p>The Applicant has further meetings arranged with council officers in the coming months.</p>
55	Carbon Capture	Based on the above. The plant only captures CO ₂ from two of the exhaust flues. Why only two? This represents only a small amount of the CO ₂ produced by the plant. 80,000 tonnes would be captured but operational GHG emissions is equivalent to 623,996 tonnes annually	As set out in paragraph 5.6.99 of ES Chapter 5 (Project Description) (document reference 6.2.5, APP-043), "the Facility will include the connection of the flue-gas system from the two outer thermal treatment plant lines to carbon dioxide (CO ₂) recovery plants". Each recovery

Number	Topic	Relevant Representation	AUBP Response
			<p>plant captures 25% of the CO₂ emissions to the stack. Incorporation of this level of carbon capture is based on available technology, interest from the market, and spatial limitations. Additional carbon recovery units can be added in future and an Improvement Plan will be required as part of the Environmental Permit, so as technologies advance and should further offtakes come forward and contracts agreed & signed further carbon recovery will be incorporated. Thus, the Environmental Statement is conservative regarding carbon capture, in line with reasonable worst case which should be adopted in Environmental Impact Assessment (EIA).</p>
56	Climate Change	<p>Calculations for the level of carbon used during construction exclude embedded carbon within the materials, in part on the basis that they are integral, unavoidable one-off sources of carbon. While it is unlikely that the inclusion of materials would substantially alter the ability of the UK to meet its 4th Carbon Budget the calculations provided excluding this indicate CO₂ emissions during construction would amount for 1.4% of current level of emissions in the Boston Borough Council area. BBC would encourage the inclusion of materials within that cost as that has the potential to significantly increase that percentage. Theme 2 of BBC's Environment Policy seeks to work collaboratively to support the wider Borough in taking action to address the climate and environment emergency and work with local businesses to support the development of a low carbon economy.</p>	<p>Paragraph 21.4.70 of ES Chapter 21 Climate Change (document reference 6.2.21, APP-059) states that "embodied GHG emissions within construction materials will be minimised as far as practicable. This will be achieved by reducing quantities of materials required during construction through efficient design and use of materials with a lower embodied GHG intensity where possible." Although the volume and type of materials to be used during construction remains unknown, the Applicant will seek to ensure that materials with a low GHG footprint will be adopted where practical and minimise emissions to ensure that there is no significant increase in emissions within the Boston Borough Council region.</p>
57	Climate Change	<p>The figures used in the Chapter 21 of the Environmental Statement are frequently referenced as being 'conservative' levels of emissions and this may underestimate emissions and does not align with the worst-case scenarios adopted and mitigated for elsewhere within the ES.</p>	<p>This point with regard to the use of a conservative assessment in the greenhouse gas assessment in Chapter 21 of the Environmental Statement (document reference 6.2.21, APP-059) is a misinterpretation. The</p>

Number	Topic	Relevant Representation	AUBP Response
			term conservative should be interpreted as 'more likely to be an overestimation than an underestimation'.
58	Ecology	The facility provides a reduction in GHG's only when accounting for the emissions saved from not using facilities that derive energy from fossil fuels. Given this net reduction is not local some provision of local off-site carbon reduction methods, such as off-site tree planting would be beneficial or salt marsh management: Boston Woods Trust, roadside planting, Saltmarsh management as part of RSPB net gain discussions – the proposals for a Community Benefit Fund as suggested should not be considered as sufficient to address all such mitigation but should be considered as in addition to them.	ES Chapter 21 Climate Change (document reference 6.2.21, APP-059) presents the greenhouse gas assessment for the Facility. As the Facility will be using RDF waste from around the UK and generating electricity which will be used in a national context, the boundary for the greenhouse gas assessment needs to account for the UK as a whole, rather than individual regions. The significance criteria for the assessment used the UK Carbon Budgets, in the absence of regional budgets as part of the UK's pathway to net zero.
59	Socio-economics	Therefore, we consider the net CO ₂ eq emissions of 147,278 tonnes should be monetised and a Community Benefit Fund established. This can then be used to support mitigation and enhancement throughout the Borough on a long-term basis, securing the legacy implications of the development. This will also help ameliorate the climate change risks of drought, flooding and temperature through extra shading, water management and avoiding, as well as capturing, CO ₂ emissions. There may be alternative ways of monetizing an appropriate contribution from the development, and we would be open to discussions with the Applicant on what model(s) may be appropriate. However, the principle we believe should be established as a fundamental element of the scheme.	The Applicant has considered the request for a Community benefit Fund. At present, AUBP is confident that the mitigation measures as set out in the Environmental Statement are adequate to reduce the adverse environmental effects to acceptable levels. In respect of certain other matters which the Council considers could be included within the remit of the Community Fund, AUBP is confident that most, if not all, of such matters can be responded to by the provision of specific Section 106 planning obligations or DCO requirements. Discussions in relation to the scope of the proposed s106 planning obligations are ongoing.
60	Socio-economics	We believe such a fund could have significant local impact. It could be accessed by various community organizations for funding for small scale renewable energy / climate change projects and biodiversity net gain schemes within the Borough	

Number	Topic	Relevant Representation	AUBP Response
		<p>as an example. We would also wish to discuss the potential for a pooled arrangement to be considered to enable the Borough Council to promote and contribute to strategic infrastructure – e.g., provision of highway improvements to improve access to the Industrial Estate, or provision of additional power infrastructure to support climate change initiatives.</p> <p>We would welcome detailed discussions on such a fund, how it could operate, and the opportunities arising.</p>	
61	Socio-economics	<p>We would like to maintain an active dialogue with the Applicants in order to ensure that mitigation and beneficial outcomes are maximized and long-lasting, particularly given the legacy that this development can have.</p>	<p>The Applicant is committed to ongoing dialogue with Boston Borough Council.</p>
62	Noise	<p>We will need to agree prior to works commencing a noise/vibration management plan. Continuous noise monitoring locations will need to be agreed.</p>	<p>A Construction Noise and Vibration Monitoring and Management Plan will be prepared (and submitted at deadline 2) which describes measures to minimise noise and vibration impacts on sensitive receptors and comply with relevant legislation, requirements, standards, and best practice relating to construction noise. This plan will be based on the information set out in Section 8 of the Outline Code of Construction Practice (document reference 7.1, APP-120). The plan will detail noise and vibration baseline conditions and assessments and describe mitigation to minimise adverse impacts which will be followed for construction activities. The plan will also specify the procedures to be followed in the event of a noise or vibration environmental incident, alongside any monitoring or reporting which may be required.</p>
63	Waste	<p>In addition, we must ensure that the development includes appropriate measures to ensure that the RDF (and its loading, unloading, holding etc) does not result in waste entering the local environment around the site including the river.</p> <p>Knowledge of similar facilities indicates that this can become a</p>	<p>The Applicant is fully aware of the potential for litter to result from operations. Once the Refuse Derived Fuel (RDF) has been unloaded from the delivery vessels the bales containing the RDF will be under cover whilst on site, being transported to the bale shredding plant by</p>

Number	Topic	Relevant Representation	AUBP Response
		<p>detrimental impact. Given this facility is located in a semi-natural environment alongside the river, we require commitments to be embedded in to the DCO to ensure that appropriate monitoring, management, and rectification practices would be in place to ensure that in the realistic operation scenario such issues are addressed.</p>	<p>covered conveyor. The highest risk for litter release relates to the unloading of the RDF bales from the vessels at the wharf. All bales would be inspected in situ on the vessel prior being unloaded, and any damaged bales would not be accepted into the Facility. This non-acceptance will be managed through contractual conditions with the vessel operators/owners and by Operational Procedures. Three levels of physical litter barriers will be provided:</p> <ol style="list-style-type: none"> 1) Any RDF that escapes from bales that split whilst being removed by crane from the vessel will be captured by underslung sheeting designed to slope either back into the vessel or to the wharf (depending on tidal state). Additionally, any RDF on the wharf will be subject to an operational procedure to immediately clear the area. 2) Nets will be provided on the down-wind side of vessels to catch any airborne litter. 3) Local floating flexible barriers will be provided in the water in case of any litter floating on the river surface. These can be temporarily removed should a vessel be departing or arriving. The Applicant fully expects litter reduction and management will be covered by the Environmental Permit. It is noted that this has not been confirmed in any discussion with the Environment Agency to date.
64	General	<p>In terms of legacy, we want this to leave a positive mark on the town and whilst this can be achieved through a variety of ways, we would request consideration be given to the following as examples: Establishment of schemes to support:</p>	<p>The Applicant has considered the request for a Community Benefit Fund. At present, AUBP is confident that the mitigation measures as set out in the Environmental Statement are adequate to reduce the adverse environmental effects to acceptable levels. In respect of certain other matters which the Council</p>

Number	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> • Tourism promotion and use of the areas on both sides of the riverbank, as well as working with other partners such as the RSPB at Frampton. • Public Rights of Way mitigation and enhancement, including consideration of ways to promote use. • Tree Planting / Biodiversity – schemes that may be established to support the provision of additional tree planting and biodiversity enhancements within the Borough and which contribute to various agendas, including climate change. • Promotion of renewable energy use within the town – whether the development could be a leading example of EV use (i.e. use of EV vehicles associated with the development) and or contribute to the provision and improvement of EV car charging facilities within the town, and the general active promotion of EV. • Promotion of sustainable transport measures and connectivity for workers who may be residing within the town. This could include a series of hard and soft measures and should cover both during and post construction. Due regard should be given to the delivery of a bus-route to serve the development and the estate and this may have wider benefits for the immediate industrial estate and could be done in conjunction with existing businesses – engagement with the highway authority, businesses, and bus operators is encouraged. • Business and community engagement – a scheme to support business and community engagement with the project during construction and operation to establish links and maximize opportunities 	<p>considers could be included within the remit of the Community Fund, AUBP is confident that most, if not all, of such matters can be responded to by the provision of specific Section 106 planning obligations or DCO requirements. Discussions in relation to the scope of the proposed s106 planning obligations are ongoing.</p>
65	Monitoring	Monitoring of impacts and outputs – We would welcome the Applicant considering aligning with a strategic partner (such as University of Lincoln) during the delivery and initial operation	

Number	Topic	Relevant Representation	AUBP Response
		stages to monitor impacts and outputs aligned to the DCO and its evidence basic. This would then form the basis of a suite of publicly available indicators which would hopefully show the benefits arising from the development, and which can be utilized to inform future consideration of applications and policies. For example, monitoring of the effects in terms of hotel-bed space availability during the construction phase, would provide useful data on the impact on the tourism sector and general economy of the area.	
66	General	The above is not an exhaustive list, and we remain committed to discussions regarding them and other ways positive legacy outcomes from the development can be achieved.	The Applicant continues to engage positively with Boston Borough Council on a range of matters and welcomes and appreciates the support the local authority has stated for the project. There is a commitment to carry on working with Boston Borough Council to agree any future legacy and ensure that mitigation is incorporated (e.g., improvements to local Public Rights of Way).
67	Draft DCO	Part 4 Supplementary Powers. 23 (Tree Work) – We would encourage wording to be inserted to ensure all necessary works are undertaken in accordance with BS5837 standards, and that in the event trees are required to be felled or removed, appropriate mitigation planting should be provided.	The Applicant considers these matters are better addressed as part of the Landscape and Ecological Mitigation Strategy required under Requirement 5 of the draft DCO (document reference 2.1, APP-005). An Outline Landscape and Ecological Mitigation Plan (document reference 7.4, APP-123) was submitted with the application which details the proposed procedures in relation to site clearance and proposed planting. The Illustrative Landscape Plans (document reference 4.4, APP-014) show the locations of proposed planting.
68	Draft DCO	Schedule 1 What provisions are made for necessary “off-site” works? How would these be secured. No reference to a S106 should one be required.	The Applicant requests that Boston Borough Council please provides details of what off-site works the Council is referring to. A draft section 106 agreement is currently under discussion with Boston Borough Council and Lincolnshire County Council, which is independent of the requirements in the draft DCO.

Number	Topic	Relevant Representation	AUBP Response
69	Draft DCO	Schedule 2 Part 1 Requirements 2 – Could we include notification of the Council, say 1 month, of intention to start on site?	The draft DCO (document reference 2.1, APP-005) has been amended to include a requirement in Schedule 2 to give the relevant planning authority 1 months' notice in advance of the commencement of works.
70	Draft DCO	Schedule 2 Part 1 Requirements 16 – Community Benefits – <ul style="list-style-type: none"> • Could this be more specific, i.e., min 14% of local labour/sourcing where possible? • Could more detail be provided on training opportunities – not just construction, but post operation and management, include linked disciplines not just engineering, for example climate change and ecology? See comments later in this response. • Commitments to work with bodies such as Lincoln University post commissioning to ensure benefits are realized and quantified? See comments later in this response. 	The Applicant considers these matters would be more appropriately addressed as part of any agreement made directly with Boston Borough Council.
71	Draft DCO	Schedule 2 Part 1 Requirements 18 – Should details on source(s) of material be included?	Paragraph (2)(a) of Requirement 18 of the draft DCO (document reference 2.1, APP-005) already provides that the waste hierarchy scheme must provide details of "the type of information that must be collected and retained on the sources of the residual waste after recyclable and reusable waste has been removed;".
72	Draft DCO	Schedule 2, Part 2 Requirements We are concerned about the procedure for this and the deemed consent element. As a minimum the time periods should be extended to 12 weeks, and that requests for information can be made at any time. Also, can only specify that consultation is undertaken within a set period (10 days),	The eight-week timeframe and processes for requesting further information in Part 2 of Schedule 2 to the draft DCO (document reference 2.1, APP-005) is consistent with the procedure in a number of recently made DCOs including the Wheelabrator Kemsley K3 Generating Station Order 2021, the Lake Lothing (Lowestoft) Third

Number	Topic	Relevant Representation	AUBP Response
		<p>as we cannot force a consultee to respond. We would prefer this to be agreed through a Planning Performance Agreement (PPA) approach which the Applicant should be required to enter in to with the Council.</p> <p>Overall, suggest this is reworked to include: Entering in to a PPA with the Council to cover pre-app engagement on Requirements; and allow the ability for the Council to recover its reasonable costs associated with the processing and discharge of the requirements; including establishment of the timetable and process for the discharge.</p>	<p>Crossing Order 2020 and the Immingham Open Cycle Gas Turbine Order 2020. The deeming of approval in paragraph 26(2) of Part 2 of Schedule 2 to the draft DCO is also consistent with the wording included in a number of recently made DCOs including the Lake Lothing (Lowestoft) Third Crossing Order 2020, the Immingham Open Cycle Gas Turbine Order 2020, the Great Yarmouth Third River Crossing Development Consent Order 2020, and the Riverside Energy Park Order 2020.</p> <p>The procedure is also generally consistent with that provided for in Appendix 1 to the Planning Inspectorate's Advice Note Fifteen: Drafting Development Consent Orders.</p> <p>The Applicant is willing to amend Part 2 of Schedule 2 to the draft DCO to including the following in relation to fees, which is consistent with that included in the Immingham Open Cycle Gas Turbine Order 2020 and Appendix 1 to the Planning Inspectorate's Advice Note Fifteen:</p> <p>"Fees X.—(1) Where an application is made to the relevant planning authority for written consent, agreement or approval in respect of a requirement, the fee prescribed under regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (as may be amended or replaced from time to time) is to apply and must be paid to the relevant planning authority for each application. (2) Any fee paid under this Schedule must be refunded to</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>the undertaker within four weeks of— (a) the application being rejected as invalidly made; or (b) the relevant planning authority failing to determine the application within the decision period as determined under paragraph 26(1), unless within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application."</p> <p>The Applicant notes that LCC has requested that the definition of relevant planning authority be amended to "relevant planning authority' means the planning authority for the area in which the land to which the provisions of this Order apply is situated". The Applicant has agreed to make this amendment. This is the definition used in the Wheelabrator Kemsley K3 Generating Station Order 2021. Therefore, the discharging authority will be that determined under the provisions of the Town and Country Planning Act 1990.</p>
73	Draft DCO	<p>The Borough Council's Additional Requirements to be included in the DCO:</p> <ul style="list-style-type: none"> • Public Right of Way – Detailed scheme for works to improve the PRow including measures such as boundaries, detailed design for the footbridge, footpath width, planting, surfacing, signage, vegetation management, interpretation, management for a set period. • Materials to be included within detailed design of all buildings • Similar to Combined Heat and Power, could we include something to cover: 	<p>In relation to the public right of way, it is considered that improvements could be addressed through a section 106 agreement with Boston Borough Council and Lincolnshire County Council. As noted in the Applicant's submission at Procedural Deadline A (PDA-002), it intends to submit an Outline Public Right of Way Design Guide at Deadline 2, which will provide further assessment of the mitigation for the affected public right of way.</p> <p>In terms of materials to be included within the detailed design of buildings, Requirement 3 of Schedule 2 to the draft DCO (document reference 2.1, APP-005)</p>

Number	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> – Opportunities for battery storage – Provision of wider network connections/capacity to facilitate other forms of renewable energy production – CO2 maximisation 	<p>addresses detailed design.</p> <p>In relation to opportunities for battery storage, the provision of wider network connections/capacity to facilitate other forms of renewable energy production, and CO₂ maximisation these matters are outside of the scope of the application and are not considered appropriate to be included in the DCO. The Applicant is in discussion with Boston Borough Council and Lincolnshire County Council in relation to a draft s106 agreement which may include provision of reasonable endeavours to consider opportunities relating to battery storage and CO₂. The issue of wider network connections is a matter for National Grid.</p>
74	Project Description	<p>Opportunities to take local feedstock material to be continually examined. Particularly where that material could be transferred from within the existing industrial estate (i.e., no increase in external lorry movements) - (see comments in this response). We are supportive of flexibility being incorporated within the DCO to allow new buildings and structures (to be within agreed limits) to be included, subject to details being provided, which would support the above.</p>	<p>The Applicant recognises the proximity of potential, locally available feedstock for the Facility. The Applicant is exploring a provision relating to 'local feedstock' as part of the discussions for a section 106 agreement.</p>

1.5 Additional Relevant Representations

Table 1-20 Members of the Public (RR-003, RR-005, RR-006, RR-007, RR-009, RR-012, RR-022 and RR-026)

Number	Topic	Relevant Representation	AUBP Response
1	Traffic and Transport	<p>Transport/traffic This is the only positive thing I can agree with, by using ships it would reduce number of lorries and traffic congestion.</p>	<p>Noted.</p>
2	Noise	<p>I object and am concerned about the application for points below Noise as I live nearby on a large</p>	<p>The Applicant confirms that the proposed facility will operate in accordance with an Environmental Permit. Conditions on this</p>

Number	Topic	Relevant Representation	AUBP Response
		residential estate concerned about 24/7 continuous running affecting my quality of life.	<p>permit will including the control of noise emissions during operation of the Facility to reduce potential noise impacts.</p> <p>Environmental Statement Chapter 10.7 (Noise and Vibration) (document reference 6.2.10, APP-048) provides an impact assessment on potential noise effects during both construction and operation in accordance with the British Standards and latest guidance. Mitigation measures are provided, where applicable, to reduce noise levels to an acceptable level and reduce the potential for noise disturbance at nearby residential premises. Residual impacts after mitigation show no significant impacts.</p>
3	Air Quality	<p>The original PEIR report was based on guesstimates and now at last minute the technology has changed from gasification to incineration, a backward step. I am worried about small PM emissions as there is no way to stop all pollution. Appears no commercially available equipment to continuously monitor emissions. Other incinerators have exceeded the limits without public knowledge. The people of Boston are not aware of how far the pollution will travel viewing similar plumes, and it will affect the local fertile growing land.</p>	<p>The air quality assessment within ES Chapter 14 (document reference 6.2.14, APP-052) was based on data supplied by the technology providers. The Facility will be required to operate in accordance with an Environmental Permit, issued by the Environment Agency, and will be required to meet stringent limits on pollutant emissions. These limits are set for the protection of human health and the environment and include limits on fine particulates. Whilst there will be some emission of fine particulates, these impacts were assessed and were not found to have a significant impact in relation to ambient Air Quality Objectives at any of the assessed locations. Emissions from the Facility, including fine particulates, will be continuously monitored using a Continuous Emissions Monitoring System which will be a statutory requirement of the Environmental Permit; these systems are implemented on all plants of this nature and will monitor emissions from the Facility's stacks in real time to ensure that the emission limits are not exceeded. The Energy from Waste Statistics 2020 (Tolvik, 2021) report, which provides statistics on UK energy from waste plants, provides information on the compliance of plants in the UK with emission limit values. Figure 28 of Chapter 14 of the report</p>

Number	Topic	Relevant Representation	AUBP Response
			shows that continuously and periodically monitored emissions of all pollutants were significantly below their emission limit values. Contour plots were provided as Figures 14.6 to 14.15 of the ES (document reference 6.3.22, APP-088) which show the predicted plume coverage at ground level. Impacts upon cropland will be assessed as part of a Human Health Risk Assessment which will be submitted into the examination.
4	LVIA / Air Quality	Wildlife impacts S51 advice 7/9/20. Moving the wharf upstream away from my residential area would bring it closer to designated areas on the wash. I feel people should have at least equal value to habitats. There are some screening conifers approx. 10m high, but the chimneys are 70m so pollution will go over them, and other closer residents don't have screening.	<p>Potential views towards the Facility from residential properties to the east of the Principal Application Site are effectively screened by intervening landform and vegetation features (Paragraph 9.6.55 of Chapter 9 of the ES, document reference 6.2.9, APP-047). The proposed wharf is appropriately located in an industrial setting; predominantly within the Riverside Industrial Estate.</p> <p>ES Chapter 10 (Noise and Vibration) (document reference 6.2.10, APP-048) provides an impact assessment on potential noise effects during both construction and operation in accordance with the British Standards and latest guidance. Mitigation measures are provided, where applicable, to reduce noise levels to an acceptable level and reduce the potential for noise disturbance at nearby residential premises.</p> <p>Regarding air quality, the stack heights will be 80 m to increase dispersion and minimise the ground-level contribution of pollutants from the Facility. A full air quality assessment was undertaken at both human and ecological receptors, as presented in Chapter 14 of the ES (document reference 6.2.14(1)) and impacts on air quality were shown to be not significant.</p>
5	Climate Change / Project Need	Climate change Incineration results in high levels of greenhouse gas emissions when our government wants a reduction. Company claim	ES Chapter 21 Climate Change (document reference 6.2.21, APP-059) presents the greenhouse gas assessment for the Facility. The Facility will not result in the release of 1 million

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		<p>can only capture 20% CO₂, so maybe 1 million tons off CO₂ released. Overcapacity As we get nearer to reaching recycling targets will be less residual waste to burn. This is a 25-year project for 1 million tons a year. It is estimated by 2030 10 million tons of waste available, but currently we have 16 million tons capacity. So, no need for anymore. Recycling Concerned everything is now being burnt.</p> <p>The dirty truth, one third of recycling is sent straight to incinerators. If only used genuine residual waste it would free up more than half of current capacity requiring no new incinerators. Our local council are encouraging and enforcing more recycling.</p>	<p>tonnes of CO₂ per year. Using conservative assumptions, the 'net effect' of the Facility, after the provision of electricity to the grid has been accounted for, is the release of approximately 386,000 tonnes of CO₂ per year.</p> <p>However, wider context is needed which is described in Chapter 21, as the Facility will use waste that would be sent to landfill or used in other Energy from Waste (EfW) facilities. This ES chapter and further analysis presented in 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios' (document reference 9.6), submitted at Deadline 1 of the Examination, highlights that processing Refuse Derived Fuel (RDF) in EfW facilities results in less greenhouse gas emissions when compared to the landfill disposal route.</p> <p>With regard to comparing emissions from other EfW facilities, further analysis included in 'Comparative Analysis of Greenhouse Gas Emissions from Road and Marine Vessel Transport Options to the Site' (document reference 9.7), submitted at Deadline 1 of the Examination, shows that the commitment of the project to deliver all of the RDF to the Facility via marine vessel rather than road has a beneficial effect in terms of greenhouse gas emissions. Therefore, greenhouse gas emissions from waste disposal may be less than if the RDF waste was transferred by road to another EfW facility.</p> <p>Furthermore, the need for the Proposed Development is listed in ES Chapter 2 Project Need (document reference 6.2.2, APP-040). This includes context for the requirement for the Facility as new power generating infrastructure, and within the waste management sector. Analysis by Tolvik Consulting (2018), is</p>

Number	Topic	Relevant Representation	AUBP Response
			produced in Table 2-1 of Chapter 2 which shows that 'Total Available Residual Waste' in the UK based on a 'Central Scenario' of recycling rate targets, are estimated to be 3.18 Mt in 2025, which highlights that there is a need for such material to be managed.
6	Project Need	The proposed plant is too large for a small town like Boston. Intended 1.2 million tons from 12 ports will make it one of the largest in UK. We already have the Boston Biomass plant in close situ for 130,000 tons. Burnt for profit at expense of residents' health.	The Applicant is providing a Facility that meets a UK need, as set out in the Fuel Availability and Waste Hierarchy Assessment (document reference 5.8, APP-037) which will be supported by an Addendum to this report which will be submitted to the Examination at Deadline 1 (document reference 9.5). The Boston Biomass plant is a separate commercial facility as noted in ES Chapter 5 - Project Description (document reference 6.2.5, APP-043). The Proposed Facility will be permitted in line with current regulatory standards that are enforced by the Environment Agency and will meet all emission requirements during the construction and operational phases to prevent any impacts on human health.
7	Air Quality (odour and dust) and Noise	Odour Stated that bunker will be under negative pressure, but numerous similar plants have had breaches and complaints. Construction Am concerned will be subject to 4 years of construction issues particularly noise and dust.	<p>The Facility will be required to operate in accordance with an Environmental Permit, which will include conditions relating to the control of odour and noise.</p> <p>As part of the Permit Conditions, an Odour Management Plan will be required for the facility, which will determine how odour emissions are contained, controlled, and abated, such the nuisance odours will not arise in the area surrounding the Facility. Measures to minimise dust emissions during construction were recommended in Section 14.8 of the ES Chapter 14 (Air Quality) (document reference 6.2.14, APP-052), and incorporated into the Outline Code of Construction Practice (CoCP) (document reference 7.1, APP-120) which will be used to inform the final CoCP and implemented during</p>

Number	Topic	Relevant Representation	AUBP Response
			<p>construction. This will include monitoring of dust emissions where appropriate. Dust from construction can be effectively minimised and controlled by using good practice working methods, and therefore it is not expected that significant impacts would occur.</p> <p>An assessment on construction noise impacts is provided in Environmental Statement Chapter 10.7 (Noise and Vibration) (document reference 6.2.10, APP-048) in accordance with the British Standards and latest guidance. Mitigation measures are provided, where applicable, to reduce construction noise levels to an acceptable level and reduce the potential for noise disturbance.</p>
8	House Prices	Am concerned if goes ahead will result in a reduction in the areas property value. I have attended all the consultation events, and the main concerns of feedback have been air pollution, noise pollution and odour which I feel will still be issues for my quality of life.	<p>The effect of modern Energy from Waste (EfW) developments was assessed in 2013 by the Centre for Energy and Resource Technology, Cranfield University. The work considered a sample of operational EfW facilities in the UK, acquiring and analysing house price data within a 5km radius of each site (broken down into 5 zones ranging from 0km to 5km). For each facility, local house price data, normalised against the local house price index, was compared in two time periods (before and after the facility became operational) across each of the five zones. The research concluded that: "In all cases analysed no significant negative effect was observed on property prices at any distance within 5km from a modern operational incinerator. This indicated that the perceived negative effect of the thermal processing of waste on local property values in negligible."</p> <p>Source: 'Assessing the perception and reality of arguments against thermal waste treatment plants in terms of property prices', Phillips, Longhurst and Wagland (2013)</p>
9	House Prices	I am also concerned about the effect this will have on house prices and the ability to sell your house as people will not want to move into an area where contamination and odour is a problem as is already seen with the waste facility in Pinchbeck.	
10	Traffic and Transport	For those living nearby, it will also add extra traffic and devalue their houses.	
11	Socio-economics	I am concerned that the project will bring more low skilled migrant workers to an area already overwhelmed.	

Number	Topic	Relevant Representation	AUBP Response
12	Air Quality	The emissions and odour from the factory will not only increase greenhouse gases but will also pollute the air over an area of the country that grows the bulk of the nation's vegetables and flowers and so will contaminate the ground.	Odour is a human olfactory response to one, or a complex mixture of, chemical species in the air; odour would therefore not be expected to affect crops or vegetation. However, the control measures which will be employed at the Facility to mitigate odorous emissions are detailed in Paragraph 14.7.61 of ES Chapter 14 Air Quality (document reference 6.2.14, APP-052). Impacts of pollutants emitted by the Facility and their uptake into soils, watercourses and the food chain will be considered in a Human Health Risk Assessment, which has been submitted into the examination at Deadline 1. A detailed impact assessment of greenhouse gas emissions generated by the Facility was undertaken and is provided in ES Chapter 21 Climate Change (document reference 6.2.21, APP-059).
13	Air Quality	I have serious concerns that this will increase pollution around the Boston area.	A comprehensive air quality assessment was undertaken, as presented in ES Chapter 14 Air Quality of the ES (document reference 6.2.14, APP-052), which considered increases in pollutant emissions from all sources associated with the Facility (stacks, road traffic and vessel movements) on human health and ecological sites. The assessment concluded that the Facility would not give rise to significant impacts on air quality or odour.
14	Health/Air Quality	In addition, we do not know what the possible health consequences of burning this waste will be. As far as I can see it will release tiny particles into the air which could be detrimental to our health.	The Facility will utilise proven technology which is used in a number of other plants in the UK and Europe which operate without harmful impacts upon health. The Facility will be required to operate in accordance with an Environmental Permit, issued by the Environment Agency, and will be required to meet stringent limits on pollutant emissions. These limits are set for the protection of human health and the environment and include limits on fine particulates. Whilst there will be some emission of fine particulates, these impacts were assessed and were found to not have a significant impact in relation to ambient Air Quality Objectives at all assessed locations - see

Number	Topic	Relevant Representation	AUBP Response
			ES Chapter 14 (Air Quality) (document reference 6.2.14, APP-052).
15	Air Quality	Also, I have serious concerns over the smells that will emit and will hit parts of the town dependant on the wind direction.	The Facility will utilise proven technology which is used in a number of other plants in the UK and Europe which operate without harmful impacts upon health. The Facility will be required to operate in accordance with an Environmental Permit, which will include conditions relating to the control of odour. As part of the Permit Conditions, an Odour Management Plan will be required for the facility, which will determine how odour emissions are contained, controlled, and abated, such the nuisance odours will not arise in the area surrounding the Facility. However, it is considered that the control measures implemented at the Facility to prevent odour emissions (including RDF bales being wrapped in plastic, enclosed conveyor systems, an enclosed shredding building with air extracted to the thermal treatment process and fast-acting roller shutter doors) will be sufficiently effective to prevent odours outside the DCO Order Limits.
16	Project Need	I am totally against putting a plant here to take such large amounts of waste.	The Facility will be predominantly built on land allocated for waste management development including Energy Recovery (WA22-BO) within the South-East Lincolnshire Local Plan (see Planning Statement (document reference 5.2, APP-031). The Facility is designed to help manage a national need for waste management in the UK and the Environmental Statement includes full assessment of likely significant effects including impacts on people such as noise, traffic and transport, air quality and landscape and visual effects.
17	Traffic and Transport	This could be a good idea for the area as long as it does not increase traffic. It would need all deliveries to the new Power Station to be made by boats. I believe that an increase in traffic would be very bad for Boston.	The project utilises vessels as the means to deliver Refuse Derived Fuel (RDF) and export the lightweight aggregate product from the Facility. This is a change from the Preliminary Environmental Impact Report (PEIR) which considered the utilisation of road transport more heavily. This change since

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			the PEIR has reduced the traffic on the roads to a level where no likely significant effects are forecast (see ES Chapter 19 (Traffic and Transport) (document reference 6.2.19, APP-057).
18	Air Quality/Noise	We would also need guarantees that odour and noise pollution standards are adhered to. Also, a thorough investigation into possible health risks to the public. It is after all home to a possible 70,000 residents.	<p>The Facility will be required to operate in accordance with an Environmental Permit, granted and regulated by the Environment Agency, which will include conditions relating to the control of odour and noise.</p> <p>As part of the Permit Conditions, an Odour Management Plan will be required for the facility, which will determine how odour emissions are contained, controlled, and abated, such the nuisance odours will not arise in the area surrounding the Facility. Impacts on human health arising from airborne pollution concentrations were considered in ES Chapter 14 Air Quality (document reference 6.2.14, APP-052) and were found not to be significant. A Human Health Risk Assessment has been submitted into the examination at Deadline 1, which will consider effects associated with emissions from the Facility and uptake into the food chain.</p> <p>An assessment on construction noise impacts is provided in ES Chapter 10.7 Noise and Vibration (document reference 6.2.10, APP-048) in accordance with the British Standards and latest guidance. Mitigation measures are provided, where applicable, to reduce construction noise levels to an acceptable level and reduce the potential for noise disturbance at residential premises.</p>
19	Project Quality Need/Air	We want to object to the planning for the EFW facility in Boston. We do not want the small town of Boston to become the dumping ground for the whole of the UK waste. We also value our good air quality and understand a considerable amount of toxins are produced (at a time when we should	The Facility would be required to operate in accordance with stringent emission limits which are derived based on achieving a high level of protection for human health. Emissions from the Facility were assessed at these limits and the contribution of the Facility to ground-level pollutant concentrations, including particles and metals, was predicted. Impacts were compared to

Number	Topic	Relevant Representation	AUBP Response
		<p>be cutting down on emissions) in the process. Surely this facility would be better in a more remote setting rather than on the proposed site. We live about 3 miles from this site and the prevailing wind can bring these toxic contaminants our way. My brother-in-law lives not a mile from the proposed site and has [Redacted] and any deterioration in air quality would be detrimental to his health. I am sure there will be heavy metals and other materials which contain toxic elements in the waste which would either remain in the waste ash and potentially get into the atmosphere or be directly given off in fumes, this does not just affect the immediate area and can also get into the food chain via consumption of animal product and crops in this area and this is a large agricultural area responsible for growing most of the country's vegetables. Any particulates released can cause a variety of respiratory and cardiovascular effects and heavy metal contamination can cause a variety of neonatal abnormalities and cancers. Furthermore, even if a facility is supposed to follow stringent guidelines does not mean it will always do so. This is a relatively new technology in the UK however there is evidence of health problems emerging in China where it has been used for longer. (health impact of Thermal treatment facilities- Prof Wong Tze Wai school of public health university of Hong Kong) Whilst I appreciate, we cannot go on using landfill we cannot just lurch from one bad method of waste management to another.</p>	<p>health-based standards and were found to be insignificant. The Facility would utilise a Continuous Emissions Monitoring System to ensure that these limits are not exceeded. The impact of emissions from the Facility on the food chain will be considered in a Human Health Risk Assessment which will be submitted into the examination.</p>

Number	Topic	Relevant Representation	AUBP Response
20	Alternatives/Air Quality/ Accidents Major	My concerns for this proposal are: 1. The level of performance promised will not be met. 2. There are relatively few sites in the UK running at this capacity. 3. The number of such projects in the UK that have received planning permission but are not currently functioning. 4. The regulation of emissions from the twin exhaust stacks. 5. Although private finance is being sought, difficulties down the line may incur public finance assistance. 6. The building of a potentially explosive establishment on the outskirts of Boston, which has an expanding population. 7. Has sufficient Health and Safety modelling been produced to predict the extent of the blast effect to the surrounding area, in the event of catastrophic explosion. 8. How will the build-up of potentially explosive condensates, such as Tar, be monitored and eliminated. 9. The commitment to install the wharf first, ensuring building materials are not delivered by the narrow surrounding road network.	The Facility will require an Environmental Permit to operate, issued by the Environment Agency, which will require the Facility to meet stringent limits on pollutant emissions which are set for the protection of human health and the environment. The emissions from the Facility will be monitored using a Continuous Emissions Monitoring System to ensure that the emissions are met, and the system will adjust the pollution abatement equipment for some pollutants in real time to respond to changes in pollutant levels from the thermal process. The air quality assessment presented within ES Chapter 14 Air Quality (document reference 6.2.14, APP-052) was based upon these emission limits and impacts were predicted not to be significant.
21	Waste/Air Quality	The facility will not be allowed to process hazard waste which householders inadvertently or deliberately put in their waste bins. However, it will be physically impossible to screen it all out meaning it will be incinerated in the facility, resulting in dangerous pollutants being emitted from the stacks. This is not an isolated area where some pollution tolerance is justifiable, but an historic town in the centre of one of the largest produce growing areas of the country.	All wastes shall be processed prior to the baling of the Refuse Derived Fuel (RDF). Detailed air quality modelling has been undertaken as part of the impact assessment process which has informed the required height of the stacks to allow appropriate dispersion of emissions as detailed in Chapter 14 Air Quality of the ES (document reference 6.2.14, APP-052). The Facility will require an Environmental Permit to operate, issued by the Environment Agency, which will require the Facility to meet stringent limits on pollutant emissions which are set for the protection of human health and the environment. The emissions from the Facility will be monitored using a Continuous Emissions Monitoring System, which is a statutory requirement of the Environmental Permit, to ensure that the

Number	Topic	Relevant Representation	AUBP Response
			emissions are met, and the system will adjust the pollution abatement equipment for some pollutants in real time to respond to changes in pollutant levels from the thermal process. As such, irrespective of the types of wastes which are processed, the Facility would meet the required emission limits. The air quality assessment presented within Chapter 14 of the ES (document reference 6.2.14, APP-052) was based upon these emission limits and impacts were predicted not to be significant.
22	Project Description / Air Quality	<p>Pier report – My concerns.</p> <ul style="list-style-type: none"> • Original was for Gasification Facility not Thermal Incineration. • Report based on best guesses and estimates not actual data. 	<p>The Preliminary Environmental Information Report (PEIR) considered gasification technology; however, the gasification technology provider divested its business. No alternative gasification technology provider was found that was capable of delivering the required power output. Therefore, the Applicant changed the technology to conventional combustion-based thermal treatment Energy from Waste, which has several reference plants across the UK and the world. The Environmental Statement was drafted based on the conventional thermal treatment technology and all assessments were updated.</p> <p>The air quality assessment was based on data supplied by the technology providers. These parameters will be confirmed during the application process for the Environmental Permit which is required before the Facility can operate. The Environmental Permit would be issued by the Environment Agency and will require the Facility to meet stringent limits on pollutant emissions which are set for the protection of human health and the environment. The air quality assessment presented within Chapter 14 Air Quality of the ES (document reference 6.2.14, APP-052) was based upon these emission limits and impacts were predicted not to be significant.</p>
23	Air Quality	Emissions – My concerns.	The emission limits which the Facility will be required to comply with include limits on fine particulates and dioxins. Whilst there

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		<ul style="list-style-type: none"> Dioxins (PM10 & PM2.5) gases hazardous to health are emitted from stacks in a mixture of gases continuously. Dioxins can't be separated out and measures accurately. Monitoring technology equipment to measure just dioxins emitting from the BAEF stacks has to be created. 	<p>will be some emission of fine particulates, these impacts were assessed and were not found to have a significant impact in relation to ambient Air Quality Objectives at any of the assessed locations set out in ES Chapter 14 Air Quality (document reference 6.2.14, APP-052) Tables 14.20 and 14.21 and Tables 14.28 and 14.29. Emissions from the Facility will be continuously monitored using a Continuous Emissions Monitoring System, a statutory requirement of the Environmental Permit; these systems are implemented on all plants of this nature and will monitor emissions from the Facility stacks in real time. The Energy from Waste Statistics 2020 (Tolvik, 2021) report, provides information on the compliance of plants with the emission limit values. Figure 28 of the report shows that continuously and periodically monitored emissions of all pollutants were significantly below their emission limit values. Further consideration of the impacts of dioxins emitted from the Facility has been provided in a Human Health Risk Assessment which has been submitted into the examination at Deadline 1.</p>
24	General	<p>BAEF's working lifespan and decommissioning – My concerns.</p> <ul style="list-style-type: none"> Long term legal accountability, responsibility and enforcement must be in place in case of incidents and accidents occurring IRO air, odour pollution, noise violations and leakages into the Wash Estuary, over BAEF lifespan. Changes into Contractors allowed to operate the site may lead to complacency IRO compliance to legal obligations and safety practices. Future Bostonians shouldn't have to pay for the decommissioning of a Private enterprise, run for profit. 	<p>The proposed facility will be required to operate in accordance with an Environmental Permit, issued by the Environment Agency. Conditions on this permit will including the control measures on air, odour, and noise emissions. Compliance with the conditions will be regulated by the Environment Agency throughout the operational lifetime of the project.</p> <p>Decommissioning of the Facility will be privately funded as per the other stages of the project. Within the draft DCO (document reference 2.1, APP-005) there is a requirement (Requirement 22) for a decommissioning scheme to be submitted and approved by the relevant planning authority and in consultation with the Environment Agency.</p>

Number	Topic	Relevant Representation	AUBP Response
		<ul style="list-style-type: none"> Nor should they be left living with a potentially toxic monstrosity endangering their health and well-being. 	
25	Project Need	<p>National overcapacity of Thermal Incinerators – concerns.</p> <ul style="list-style-type: none"> Boston basin place on Haven Bank a new and as yet unused bio-mass incinerator – why do we need another. BAEF burns all types of waste – no need for recycling. Greenhouse gases compromise national climate change aims to become carbon neutral asap. BAEF's capacity is so vast IRO burning waste that it will require to take waste nationally to keep it operating. 	<p>The existing Boston Biomass Facility is a separate development to the Proposed Facility as noted in ES Chapter 5, Project Description (document reference 6.2.5, APP-043). The Proposed Facility will meet a UK need and will process wastes residues that have had the recyclables already removed, generate energy from the material rather than sending the wastes to landfill that contribute large quantities of methane a powerful greenhouse gas into the global atmosphere. The capacity of the Proposed Facility recognises the UK need, as set out in the Fuel Availability and Waste Hierarchy Assessment (document reference 5.8, APP-037) and supporting Addendum to this report setting out further data submitted to the Examination at Deadline 1 (document reference 9.5).</p>