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MMO Reference: DCO/2019/00006
Planning Inspectorate Reference: EN010095
Identification Number: 20028136

11 November 2021

Dear Sir or Madam,

Planning Act 2008 – Application by Alternative Use Boston Projects, for an Order Granting Development Consent for the Boston Alternative Energy Facility

Deadline 2 Submission

On 20 April 2021, the Marine Management Organisation (MMO) received notice under Section 55 of the Planning Act 2008 (PA 2008) that the Planning Inspectorate (PINS) had accepted an application made by Alternative Use Boston Projects Limited (Applicant) for determination of a development consent order (DCO) for the construction, maintenance, and operation of the proposed Boston Alternative Energy Facility (BAEF) (DCO Application) (MMO ref: DCO/2019/00006; PINS ref: EN010095).

Alternative Use Boston Projects Limited (The Applicant) seeks authorisation for the construction, operation and maintenance of an 'Energy from Waste' (EfW) plant which will have a generating capacity of approximately 102 megawatts electric (MWe) delivering 80 MWe to the National Grid, including an electrical connection, a new site access, and other associated development (together the Proposed Development) on land at or near Riverside Industrial Estate, Bittern Road, Boston, Lincolnshire (Application Site).

The MMO received a Rule 8 letter on 14 October 2021. In response to this letter, the MMO submits the following:

- 1. Comments on Written Representations (WRs)**
- 2. Responses to the Examining Authority's first round of written questions**
- 3. Notification of wish to have future correspondence electronically**

This written response is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours faithfully





Katherine Blakey
Marine Licensing Case Officer



Copies to:
Christie Powell (MMO) – Case Manager
Joseph Wilson (MMO) – Senior Case Manager:



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1. Comments on The Applicants Written Representations

Draft Development Consent Order (Tracked) - REP1-002 and Schedule of changes to the Draft Development Consent Order - REP1-033

- 1.1. The MMO acknowledges the changes made to the Deemed Marine Licence (DML), and the planned changes for the Development Consent Order (DCO), in response to our Relevant Representation submitted. Further requested changes were submitted by the MMO at Deadline 1. The MMO understand that the Applicant intends to submit an updated DCO at Deadline 3. The MMO defer further substantial comments on the changes until after review of the Deadline 3 submission.
- 1.2. The MMO note provision 12 (previously 13) states the requirement for a methods statement and programme of works to be submitted prior to commencement of activities. The MMO requests that further information is stipulated here. The programme of works should include:
 - A planned timetable for each activity as outlined in paragraphs 4 and 5
 - Timings for mobilization of plant, and for deliveries by sea
 - A plan for notifying the MMO of the commencement and cessation of activities and phases of activities
 - A plan for notifying the MMO of changes to the programme
- 1.3. The MMO highlight that the method statement submitted must be detailed, and include locations of the activity undertaken, and must be implemented as approved by the MMO.
- 1.4. The MMO notes that the submission of a Construction Environmental Management Plan (CEMP), and bathymetric surveys are required under Part 4 of the DML. These documents will need to be secured through conditions. Suggested wording is provided below:

CEMP

- *No licensed activities are to be carried out until 4 weeks after a construction environmental management plan has been supplied for approval to the MMO, Natural England and the Environment Agency in accordance with paragraph XX of Schedule XX (requirements).*
- *The construction environmental management plan must include the following details—*
 - (a) the detailed construction methodology to be employed by the licence holder in carrying out the construction activity;*
 - (b) a chemical risk assessment;*
 - (c) a waste management and disposal plan*
 - (d) the detailed methodology for the excavation and subsequent management of any dredged material removed;*
 - (e) provision that no excavated materials are to be disposed of at sea or in other waters otherwise than in accordance with a marine licence; and*
 - (f) a programme of works including timings and durations, method of delivery of*

material to site and plant to be used during the works.

- *The licence holder must not commence the construction activity until the MMO has approved in writing the submitted construction method statement.*
- *The construction activity must be carried out in accordance with the approved construction environmental management plan, unless otherwise agreed in writing by the MMO.*
- *Before commencing any licensed activities, the licence holder must consult the harbour master on the contents of the construction environmental management plan in relation to those elements of the maintenance dredging licensed under paragraph XX that may affect those parties' interests.*
- *The licence holder must have regard to any consultation responses received from the harbour master*

Bathymetric surveys

- *Pre and post dredge bathymetrical surveys must be undertaken for each dredge campaign, and a report containing the survey results submitted to the MMO within 4 weeks of completion of each dredge campaign.*
- *The pre-dredge bathymetrical survey must be undertaken within a 3 month period prior to each dredging campaign, and the post-dredge bathymetrical survey must be undertaken as soon as reasonably practicable and in any event within 1 week of completion of each dredging campaign.*
- *The report containing the survey results must include—*
 - (a) An interpretation of the difference between the pre and post dredge survey results and a volume calculation.*
 - (b) The survey results on a chart showing the licensed dredge area and dredge depth.*

Sampling requirements

1.5. The MMO are currently considering what the suggested sampling requirements should be going forward, due to the disposal to land aspect of the project. These will be confirmed by Deadline 3.

Statement of Commonality – REP1- 016

1.6. The MMO have reviewed the statements of common ground for other relevant bodies and maintains a watching brief on how these will be updated.

Outline Marine Mammal Mitigation Protocol - REP1-025

1.7. The MMO notes in Section 3.1.1, mitigation will be undertaken for piling works conducted three hours either side of high water. This mitigation would include a pre-piling watch for marine mammals within three hours of high water, following the

standard JNCC protocol for minimising the risk of injury to marine mammals from piling noise; and soft start and ramp up activities for piling activities undertaken within three hours of high water. Paragraph 2.1.5 states the following: *“Due to the water levels at the Facility during low water (or within three hours of low water), noise levels are not expected to propagate at distance from the sound source. Therefore, there is not expected to be any significant levels of noise for piling undertaken during low water, and the mitigation measures as provided within this Outline MMMP are only required for piling during periods of deeper water or high water (or within three hours of high water)”*.

- 1.8. The MMO agree that low water levels will limit noise propagation, however it is recommended that soft start / ramp up should be undertaken for all piling taking place within the water, unless piling is undertaken in the dry. If piling is undertaken in the complete dry, then soft start procedures will not be necessary.
- 1.9. To reduce impacts from vessel noise, observers (non-dedicated marine mammal observers) will monitor for marine mammals and vessels will be required to follow a strict speed limit of 6 knots or less when within The Wash or The Haven.
- 1.10. The MMO expect to see the below mitigation, proposed by the Applicant, secured within conditions on the DML:
 - Piling (which will be from June to September) would only take place during the daytime, with a restriction of between 8am and 8pm. Piling is likely to be continuous but not simultaneous. This will reduce the risk of impact on species that migrate at night such as the European eel, and river lamprey.
 - Avoidance of key fish migration periods for dredging activities; dredging will not take place during the migration periods for either juvenile smelt or sea trout, or adult smelt migration periods (from March to June).
 - Piling mitigation such as soft start and ramp up procedures for piling at high tide; such measures may help to reduce the total number of dangerous exposures in terms of auditory injury.
 - Piling at low tide unless otherwise impossible. – This mitigation would not be enforceable as it stands, ‘low tide’ is not specific enough and ‘unless otherwise impossible’ is open to interpretation. Therefore the MMO recommend the Applicant should suggest alternative wording here. An example of this is ‘Piling will be undertaken within a 2 hour window either side of low tide, unless otherwise agreed by the MMO.
- 1.11. The MMO recommend that soft start / ramp up should be undertaken for all piling taking place within the water, unless piling is undertaken in the dry. This is 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. If piling is undertaken in the complete dry, then soft start procedures will not be necessary.

Addendum to Environmental Statement Chapter 17 and Appendix 17.1 - Marine Mammals - REP1-027

- 1.12. The MMO note that section 4.2 of REP1-027 considers the impacts of underwater noise on Harbour Seal due to an increase in vessel presence during construction and operation. Para 4.2.2 states that “...it is highly unlikely that underwater noise from vessels could result in disturbance to the entire area at any one time. Any disturbance is likely to be limited to the immediate vicinity around the actual vessel (for example, less than 10 m) at any one time” but there is no evidence presented to support this statement.
- 1.13. The MMO note the low-frequency sounds produced by dredging overlap with the hearing range of marine mammal species, which may pose a risk for auditory masking and behavioural effects (McQueen et al., 2019). Further information is provided in points 1.35 – 1.37 of this response.

Chapter 17 Marine and Coastal Ecology and Appendix 17.1 - Habitats Regulations Assessment - Ornithology Addendum

- 1.14. The MMO have reviewed this document and maintain a watching brief on the response. The MMO defer to NE for ornithological issues.

Addendum to Chapter 17 and Appendix 17.1 - Benthic Ecology, Fish and Habitats - REP1-028

- 1.15. The MMO note in relation to the request to revise Table 16-7 migratory periods for river lamprey (adults and juveniles) and sea trout (adults and juvenile) a new table with updated migratory times for fish species has been provided. The MMO consider that the new information accurately reflects the available information on diadromous fish migration periods near the application site.
- 1.16. The MMO note in relation to the request for clarification on the highlighted seasons in Table 16-7 for herring sprat, cod and whiting, that new information has been added to the table legend in order to support the highlighted seasons for herring sprat, cod and whiting. The MMO would like to note however, that there were a number of black sections covering the text. It would be appreciated if the Applicant could clarify whether these are irrelevant and were not intended to be included in the submitted document, or if they could be resubmitted with the black lines omitted.
- 1.17. In relation to previous concerns over lighting impacts during operation (24 hours a day) on fish species, the MMO now note that the dredging and piling activities are limited to construction hours and therefore will not be occurring at night times. The MMO consider that, providing artificial lighting over the water column will not be required during construction works, there are no further concerns on potential impacts from lighting to cause disturbance to fish.
- 1.18. The MMO initially noted that assessment was needed of potential impacts arising from the construction and operation of the proposed development on commercial fisheries. The MMO notes the Applicant’s response that the shellfish beds in The Wash are not in the direct or indirect impact area for construction activities

through either suspended sediment or deposition of sediment and therefore no pathway for impact exists. The MMO defer to the relevant Inshore Fisheries and Conservation Authorities (IFCA) to provide further comments if required.

- 1.19. The underwater noise assessment originally presented was not directly comparable with the location of the proposed development, and concerns were raised regarding the potential for an acoustic 'barrier' to occur during migratory seasons for the key sensitive fish species. As such, the MMO requested further information on the timing and duration of the proposed works, the piling methods and clarification on whether simultaneous piling would need to be undertaken.
- 1.20. The MMO note that further information has been provided in order to inform an assessment of the potential for a barrier to fish migration as a result of underwater noise from both piling and dredging activities. In relation to the fish migration and timing of the proposed working activities conclusions, generally, there is a high likelihood for potential impacts on fish receptors to occur as a result of increased suspended sediment concentrations, and poor water quality from dredging works and underwater noise from piling causing an acoustic 'barrier' to fish movement, impeding travel/migration during the time the works are undertaken.
- 1.21. However, the MMO agrees that, due to the mitigation measures proposed (i.e., piling works undertaken from June to September exclusively and dredging work not to be undertaken from March to June), the migration patterns of the key sensitive species at this location (i.e., avoiding dredging at night will allow eels, sea trout and lamprey to migrate upstream and downstream during hours of darkness), impacts to fish receptors are going to be minor.
- 1.22. Nonetheless, should the Applicant be able to get piling works completed, the MMO would recommend the works to start in July, to avoid smelt end migratory season. In this regard, the MMO recommend the following restrictions to be secured within the Deemed Marine Licence:

Dredging works will be avoided between March and June (inclusive). Piling works to be undertaken from July to September. All works below the water line (dredging and piling) will only take place in daytime (avoiding hours of darkness).

Reason: to reduce impacts of noise and vibration and suspended sediment concentrations on these months are considered the most sensitive in terms of spawning and migratory activity (e.g., to protect smelt during their upstream migration to their spawning grounds).

Piling activities:

- 1.23. The MMO understand that water depths at the BAEF site will be relatively shallow (-3.4 to -3.8 m OD). The piles to be installed at BAEF will be smaller than those installed at the Port of Cromarty Firth, and the hammer energy is also anticipated to be much lower.
- 1.24. However, the MMO have some reservations with the piling parameters and impact ranges presented for the Cromarty Firth assessment in Table 4-2. It is not clear where or how the source levels for piling have been derived. The source

levels presented¹ are much lower than expected. For example, for impact piling and a 500 kJ hammer energy, we would expect a single strike SEL source level of around 208 dB re 1 $\mu\text{Pa}^2\text{s}$ (rather than 192.8 dB re 1 $\mu\text{Pa}^2\text{s}$ in Table 4-2). As a result, larger impact ranges than those presented in Table 4-2 are expected for mortality and recoverable injury in fish species.

- 1.25. The MMO obtained advice from our technical advisors in the Centre for Environment, Fisheries and Aquaculture (Cefas) based on their in-house model for the same scenario of 500 kJ, and one hour of piling and a stationary receptor. For shallower water (~ 5m depth), expected impact ranges are up to 100 m from the source for mortality, and up to 200 m for recoverable injury, for fish with swim bladders involved in hearing, and not involved in hearing. Mortality and recoverable injury impact ranges for fish with no swim bladder are restricted to tens of metres.
- 1.26. There is also no consideration of Temporary Threshold Shift (TTS) for impulsive sources in Table 4-2. The MMO can expect TTS ranges of up to 1 km for all fish species (based on a 500 kJ hammer energy and one hour piling scenario), and potential behavioural effects (i.e. disturbance) at greater distances.
- 1.27. In paragraph 4.1.1 - the Addendum states that sheet piles would take up to five minutes each to install, while tubular piles would take up to 15 minutes. The MMO note that there is a discrepancy in Table 4-1 which states that sheet piles would take 15 minutes, and tubular piles would take 5 minutes to install.
- 1.28. The Cromarty Firth assessment assumes only 1 hour of piling. As noted above, at **BAEF**, a piling time of 5 minutes per sheet pile is anticipated, and 15 minutes per tubular pile. However, more than one pile is expected to be installed on a given day. Paragraph 4.1.3 states that *“a number of piling rigs would be on site at any one time, allowing for the next pile to be placed in readiness for piling, while the previous pile is installed. It is likely that there would be continuous piling, as there would be sufficient rigs on site to allow for changeover times to occur while other piles are installed..... A maximum of 96 sheet piles could therefore be installed in any one day, and a maximum of 48 tubular piles”*. For clarity, this should be *“a maximum of 96 sheet piles could be installed in any one day, **or** a maximum of 48 tubular piles”*. Nevertheless, this would equate to a total of **8 hours** (for sheet piling) or **12 hours** (for tubular piles) of continuous piling in any given day. The assessment should therefore be based on the worst-case scenario; and this is the total noise exposure in a 24-hour period (i.e. the maximum number of piles in a given day).
- 1.29. The MMO do not have confidence in the source levels and subsequent predictions presented in Table 4-2 for Cromarty Firth (they appear to be lower than expected for a hammer energy of 500 kJ).
- 1.30. Considering the piling parameters for BAEF, specifically a much lower hammer energy of 25 kJ, then the predictions presented in Table 4-2 for impact piling are

¹ The following source levels are presented in Table 4-2 of the Addendum to Chapter 17 and Appendix 17.1:

- For impact piling of 2 m cylindrical piles and a hammer energy of 500 kJ, the source levels are 217.7 dB re 1 μPa (SPL_{peak}) @ 1 m, and 192.8 dB re 1 $\mu\text{Pa}^2\text{s}$ (single strike sound exposure level (SEL)) @ 1 m.
- For impact piling of sheet piles and 120 kJ hammer energy, the source levels are 207.5 dB re 1 μPa (SPL_{peak}) @ 1 m and 182.6 dB re 1 $\mu\text{Pa}^2\text{s}$ (SELs) @ 1 m.

more within the order of magnitude expected expect for such a scenario. The worst-case ranges presented are: 100 m for recoverable injury (for fish with swim bladders involved in hearing and not involved in hearing), and 50 m for mortality and potential mortal injury for fish with swim bladder involved in hearing.

- 1.31. For the installation of a single pile (equivalent of up to 15 minutes exposure time), small impact ranges (< 20 m from the source) can be expected for mortality and recoverable injury for all species. TTS may be expected beyond 100 m from the source for all species. When considering the worst-case scenario of installing up to 48 tubular piles (equivalent to an exposure time of 12 hours), the MMO expect recoverable injury up to 100 m, and mortality tens of metres for fish with swim bladder involved in hearing and not involved in hearing. For fish with no swim bladder, effects are restricted to < 20 m. TTS may be expected up to a few hundred metres (i.e. 500 m) from the source for all species.
- 1.32. Based on the predicted ranges and given that the Haven is only 100 m wide at the Facility at high tide, and 40 m at low tide, there is a potential risk of impact on migratory species. Paragraph 4.1.12 and 4.1.13 recognises that for eels, sea trout and smelt, there is the potential for a barrier to migration but due to the low impact ranges for sheet piling, there would still be areas within the Haven that would not be impacted by noise, allowing eels and sea trout to travel past the Facility whilst sheet piling was occurring. Given that only mortality and recoverable injury have been considered, the MMO do not necessarily agree with this conclusion. As noted above, TTS and behavioural effects can be expected at greater distances. The MMO do agree that restricting piling to daytime hours will reduce the risk of a barrier effect for species that migrate at night, such as the European eel.
- 1.33. Tubular piling will also overlap with the migration periods of juvenile eel, river lamprey and sea trout. As above, the MMO agree that restricting piling to daytime hours will reduce the risk of a barrier effect for species that tend to migrate at night, such as the European eel and river lamprey.

Dredging activities:

- 1.34. The MMO notes that within paragraph 4.1.19 - the Addendum concludes that backhoe dredging will be undertaken at the BAEF. The exact timing of dredging activities is not yet known; once details have been finalised then this information should be provided.
- 1.35. However, the MMO note dredging will not take place during the migration periods for either juvenile smelt or sea trout, or adult smelt migration periods (from March to June). In addition, dredging would only take place during the daytime and therefore will not likely coincide with either eel or river lamprey migration.
- 1.36. Although there are many uncertainties regarding the effects of dredging noise on marine wildlife, the literature suggests that dredging noise is unlikely to cause direct mortality or instantaneous injury. However, the (predominantly) low-frequency sounds produced by dredging overlap with the hearing range of many fish and marine mammal species, which may pose a risk for temporary threshold

shifts, auditory masking, and behavioural effects (McQueen *et al.*, 2019²), as well as increased stress-related cortisol levels in fish species (Wenger *et al.*, 2017³). Furthermore, it is important to note that the biological significance of such responses is largely unknown.

Boston Alternative Energy Facility Examination Technical Note: Updated Piling Noise Assessment - - REP1-029

1.37. The MMO have reviewed this submission and believe the advice provided above (points 1.7 – 1.36 of this document) covers the outstanding issues on piling noise and associated impacts.

Wharf Construction Outline Methodology - REP1-030 and Indicative Construction Programme - REP1-031

1.38. The MMO defer comment on the suitability of the proposed flood defence to the Environment Agency (EA).

1.39. The MMO highlight that further detail of the wharf construction methods should be included within the DML, or, as per point 1.2. of this response, that the submission of a detailed methods statement, and updated programme of works should be conditioned and the works be undertaken in line with this.

1.40. The MMO highlight in section 2.6 of REP1-030 ,that it should be mentioned that the dredgings which are not suitable for reuse within the project will be taken to an onshore disposal site.

East Marine Plan Policy Checklist - REP1-032

1.41. The MMO have reviewed the submitted Marine Plan Assessment and have no substantive comments to make at this time.

Comments on Relevant Representations (RRs) - REP1-035

1.42. The MMO required further information at Deadline 1 regarding the capital and maintenance dredge and disposal methods, alongside expected quantities, to be entered into the examination. The MMO note that the Applicant has now confirmed 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 0.5 m accretion per year.

1.43. The MMO also note the Applicant has stated that 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

² McQueen, A.D., Suedel, B.C. and Wilkens, J.L. (2019). Review of the Adverse Biological Effects of Dredging – induced Underwater Sounds. WEDA Journal of Dredging, Vol. 17, No. 1.

³ Wenger, A. S., Harvey, E., Wilson, S., Rawson, C., Newman, S. J., Clarke, D., ... Evans, R. D. (2017). A critical analysis of the direct effects of dredging on fish. Fish and Fisheries. 2017;18:967–985. <https://doi.org/10.1111/faf.12218>

by the MMO under condition 12 of the draft DML. Please see point 1.4. of this response for expected requirements for bathymetric surveys.

- 1.44. The Applicant has confirmed that 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. and that maintenance dredging of the berthing pocket will be carried out by crane from land. The MMO are satisfied that this information covers concerns laid out in our Deadline 1 submission (REP1-056) section 4.34.

The MMO note in number 22 of the MMO responses, the Applicant states that it would not be possible for all vessels to travel at 4 knots maximum (as requested by the MMO) due to minimum speed requirements for safety and manoeuvrability. The MMO note in Natural England's (NE) Deadline 1 response (REP1-057) that 4 knots was previously agreed between the Applicant and NE, the MMO await further comment on this prior to considering the matter further.

- 1.45. The MMO note in number 24 of the MMO responses, that the Applicant does not consider a decommissioning plan is necessary as the wharf will be retained in situ indefinitely as it will form the necessary flood defenses. The MMO concur with this view.
- 1.46. The MMO note in number 26 and 28 of the MMO responses, that wording within Part 5 of the DML, paragraph 27 (previously 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. The Applicant concludes that this provides a level of flexibility in regard to timeframes. The MMO note that the 13-week timescale referred to here is taken from a key performance indicator the MMO have for issuing 90% of all standard Marine Licences. The MMO are currently considering the appropriateness of this timescale and will provide further comment following receipt of the updated DML at Deadline 3.
- 1.47. For comment 20, the MMO acknowledge that the dredge timing restriction would be contained within the mitigation measures submitted as part of the details of licensed activities, however the MMO suggest for clarity this is also included as a condition within the DML.

2. Responses to Other Written Representations

Environment Agency Deadline 1 Submission - Written Representations (WRs) - REP1-051

- 2.1. The MMO has reviewed and supports the EA's Deadline 1 submission and notes their comments. The MMO will maintain a watching brief on future EA submissions and will again provide comment in future where necessary.

Natural England Deadline 1 Submission – REP1-057

- 2.2. The MMO note within NE's Deadline 1 submission (Appendix B - Offshore Ornithology, Part 10) that the Applicant informed NE that if measures are available that could be implemented to reduce the occurrences of disturbance in

relation to how traffic down the Haven will be managed, they will be incorporated into the addendum to the Habitats Regulations Assessment (HRA) and secured through an appropriate mechanism in the DCO. NE advised the Applicant that this mitigation needs to be captured within the DCO/DML. The MMO await further information to be provided, including suggested condition wording.

- 2.3. The MMO note within NE's Deadline 1 submission (Appendix C - Intertidal & Marine Ecology, Part 2) that NE have considered that the mention of avoiding periods of abundance is open. NE would therefore welcome amending the condition to specify the periods when piling would be avoided. The MMO concur with this view and request the Applicant to state specific timing periods where piling would be avoided.
- 2.4. The MMO note within NE's Deadline 1 submission (Appendix C - Intertidal & Marine Ecology, Part 6) that at current, there are no limits on the dredging, volume, or number of occurrences of dredging within dML (Para 5(l)(l) of Schedule 9 (DML)). The MMO also note that NE does not support this condition as written and that they request specific parameters to be included. As the MMO now have further information on the dredging within the project, we will continue discussions with the Applicant to ensure the dredging condition includes more specific detail.
- 2.5. The MMO note within NE's Deadline 1 submission (Appendix C - Intertidal & Marine Ecology, Part 7) that NE have advised that material dredged during maintenance should be disposed of within the Wash. At current, it is the MMO's understanding that no material will be disposed of to sea or in the marine area. If this is to change, the MMO will need to be notified as impacts have currently been assessed with the assumption that all dredged material is to be disposed to land.
- 2.6. The MMO note within NE's Deadline 1 submission (Appendix F - DCO/dML, Part 1) that NE note the MMO and LPA's 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. The Applicant seems to have noted that while there are no issues with the MMO deferring to another regulator they will make the MMO aware of this to ensure that they are content with the approach given NE provided advice to both regulators.
- 2.7. The MMO supports, and defers, to NE's expert opinion as Statutory Nature Conservation Body regarding the impacts to international designated sites and the HRA for the project.

3. Responses to the ExA's Written Questions

3.1 The MMO have submitted our responses to the ExA's Written Questions in Table 1 below.

Table 1: MMO Responses to the ExA's Written Questions (ExQ1)

<p>Q10.0.3 Navigation/fishing issues</p>	<p>The Port of Boston The MMO</p>	<p>Do the Port of Boston and The MMO have any comments on the wording in the dDCO Schedule 2 Requirement (R)14 'Navigation Management Plan'?</p>	<p>The MMO currently has no comments on the wording in the dDCO Schedule 2 Requirement (R)14 'Navigation Management Plan'. The MMO have requested that this requirement is moved to section 5 of the DML, and to be included as a condition. This ensures the enforcement of the plan falls within the MMO's powers and allows the MMO to undertake any relevant consultation on the document.</p>
<p>Q10.0.6 Navigation/fishing issues</p>	<p>The MMO The Applicant</p>	<p>Is the MMO satisfied that the Proposed Development complies with the provisions and requirements of the UK Marine Policy Statement and East Marine Plan with regard to impacts of increase in shipping activity due to the Proposed Development, in particular East Marine Plan Policy PS3?</p>	<p>The MMO has reviewed the East Marine Plan Policy Checklist submitted by the Applicant for Deadline 1 (Examination Library reference REP1-032).</p> <p>The MMO considers that the proposed development complies with the provisions and requirements of the UK Marine Policy Statement and East Marine Plan with regard to impacts of increase in shipping activity due to the Proposed Development. The provision of a Navigational Risk Assessment by the Applicant at Deadline 2 will aid in ensuring that navigational safety is maintained on The Haven. As stated above, this will be secured by a condition on the DML in Schedule 9 to the draft DCO.</p> <p>The MMO reserves the right to provide further comment on the East Marine Plan checklist provided by the Applicant.</p>

<p>Q15.0.2 Water Environment</p>	<p>The Applicant/The MMO</p>	<p>Please provide details of proposals for dredging and maintaining the berthing pocket that forms part of the Proposed Development including sampling of the dredged product.</p>	<p>The MMO defer to the Applicant to provide comment on the dredging and maintenance of the berthing pocket, including sampling of the dredged product.</p> <p>The MMO note that details of dredging activities have been included within the Wharf Construction Outline Methodology - REP1-030 and the Applicants Responses to Relevant Representations - REP1-035. The submission of a detailed dredging method statement prior to commencement has now been included within section 5 of the DML.</p> <p>The MMO submitted information about the sampling undertaken for the project at deadline 1. Sampling may be required throughout the lifetime of the project, and the MMO will provide suggested condition wording for this at following deadlines.</p>
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4. Notification of wish to have future correspondence electronically

4.1. The MMO wishes to receive all future correspondence electronically. Please note, the MMO case officer for this project for all subsequent deadlines will be Emma Shore. Please can all correspondence be sent to the following: -

- Joseph Wilson, Marine Licensing Senior Case Manager -
[REDACTED]
- Christie Powell, Marine Licensing Case Manager -
[REDACTED]
- Emma Shore, Marine Licensing Case Officer –
[REDACTED]