



# Marine Management Organisation

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(Email only)

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

1 March 2022

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 7 Submission**

On 20 April 2021, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Alternative Use Boston Projects Limited (the “Applicant”) for determination of a development consent order for the construction, maintenance and operation of the proposed Boston Alternative Energy Facility (BAEF) (the “DCO Application”) (MMO ref: DCO/2019/00006; PINS ref: EN010095).

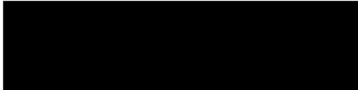
The Applicant seeks authorisation for the construction, operation and maintenance of an ‘Energy from Waste’ (EfW) plant which will have a generating capacity of approximately 102 megawatts electric (MWe) delivering 80 MWe to the National Grid, including an electrical connection, a new site access, and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

This document comprises the MMO comments in respect of the DCO Application submitted in response to Deadline 6, including responses to the Rule 17 letter dated 19 November 2021.

- 1. Responses to Third Written Questions**
- 2. Comments on revised draft DCO**
- 3. Comments to any information submitted by the Applicant or Interested Parties at Deadline 6**
- 4. Notification of wish to have future correspondence electronically**

This written representation 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




Emma Shore  
Marine Licensing Case Officer



Copies to:

Christie Powell (MMO) – Case Manager: 

Joseph Wilson (MMO) – Senior Case Manager:  


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## 1. Comments to Third Written Questions

- 1.1. Q3.3.0.019 The MMO has reviewed the applicant's response regarding a maximum vessel speed limit and are content to take steer from the Port of Boston as Harbour Authority.

## 2. Comments on revised draft DCO

- 2.1. Due to the short notice of the change in date of Deadline 7 (from 15 March 2022 to 1 March 2022), the MMO is unable to provide a detailed response on the draft DCO for Deadline 7. The MMO is committed to making progress during this examination and believes, rather than preparing a detailed response that may not resolve all issues, it is more efficient to use this time to bring outstanding matters to resolve.

- 2.2. The MMO notes that Part 1, 2. (1)(b) states the local office for the works as the Beverly office. The MMO has since checked this and the coastal office which would be responsible for the BAEF would be the Lowestoft office. The address and contact details for this office are as such:

- Lowestoft office, Pakefield Road, Lowestoft, Suffolk, NR33 0HT ; Email: [lowestoft@marinemanagement.org.uk](mailto:lowestoft@marinemanagement.org.uk); Phone: 01502 573 149.

- 2.3. The MMO has reiterated to the Applicant that the wording around a sampling condition was submitted at Deadline 3. This wording is yet to be included within the DML, and current wording of the Condition 12.(2)(c)(ii) is not sufficient to cover the requirements of sampling for the MMO. The MMO and the Applicant have agreed on the following wording for the sampling condition and updated wording for the relevant part of the Construction Environmental Management Plan (CEMP) condition:

### CEMP

- *(c) the detailed methodology for the excavation and subsequent management of any dredged material removed in the construction and maintenance of the berthing pocket including—*
  - (i) the volume of material to be dredged;*
  - (ii) sediment sample analysis results, which must not exceed three years in age and which must be completed by a laboratory validated by the MMO and undertaken in accordance with the sample plan approved under condition 25;*
  - (iii) where contamination is identified by the sediment sample analysis results, a monitoring and action plan to address in the potential release of contaminants from dredged material into the watercourse*
  - (iv) provision that dredging activities must only be undertaken from 1 July to 28 February inclusive and the details on the timing of dredging activities throughout those months*
  - (v) provision that no dredged materials are to be disposed of at sea or in other waters otherwise than in accordance with a marine licence;*

## *Sediment Sampling*

- 1.—(1) *The undertaker must submit a sample plan request in writing to the MMO for written approval of a sample plan in accordance with the procedure in Part 4, following consultation with the Environment Agency.*
- (2) *The sample plan request must be made—*
  - (a) *for capital dredging; at least six months prior to the commencement of any capital dredging; or*
  - (b) *for maintenance dredging, at least six months prior to the end of every third year from the date of the previous sediment sample analysis.*
- (3) *The sample plan request must include details of—*
  - (a) *the volume of material to be dredged;*
  - (b) *the location of the area to be dredged;*
  - (c) *details of the material type proposed for dredging;*
  - (d) *the type and dredging methodology (including whether it is a capital or maintenance dredge, depth of material to be dredged and proposed programme for the dredging activities); and*
  - (e) *the location and depth of any supporting samples.*
- (4) *Unless otherwise agreed by the MMO, the undertaker must undertake the sampling in accordance with the approved sample plan.*
- (5) *For capital dredging, the undertaker must submit sediment sample analysis results as part of the CEMP in accordance with condition 12 and the undertaker must not undertake the dredging activities until the MMO has approved the CEMP.*
- (6) *For maintenance dredging, the undertaker must submit sediment sample analysis results completed by a laboratory validated by the MMO at least 6 weeks prior to undertaking any maintenance dredging and the undertaker must not undertake any dredging until the MMO has approved the sediment sample analysis results.*

2.4. The MMO notes that the Landscape and Ecological Mitigation Strategy (LEMS) submission currently included within the DCO, will also cover work to be undertaken below Mean High Water Springs (MHWS). For works below MHWS, submission of a LEMS must also be made to the MMO for approval. The Applicant has submitted the below wording of a condition for approval. The MMO agrees with this and notes that the Applicant has stated that submission of the document should be made 13 weeks prior to works being undertaken. While the MMO agrees with the condition wording, the MMO does not agree with the inclusion of a 13-week timeframe for response from ourselves being included within the DML.

- —(1) *The undertaker must submit a landscape and ecological mitigation strategy to the MMO for approval in accordance with the procedure in Part 4, following consultation with Boston Borough Council, the Environment Agency, the relevant statutory nature conservation body, Lincolnshire Wildlife Trust and the Royal Society for the Protection of Birds, at least 13 weeks prior to the commencement of any of licensed activity.*

- *The MMO's approval of the landscape and ecological mitigation strategy is restricted to the parts of that strategy that relate to any licensable marine activities, with the remainder approved by the relevant planning authority under requirement 6 of Schedule 2 (requirements).*
- *The landscape and ecological mitigation strategy submitted for approval under sub-paragraph (1) must be substantially in accordance with the outline landscape and ecological landscape mitigation strategy.*
- *The landscape and ecological mitigation strategy approved under sub-paragraph (1) must include details of—*
  - *mitigation measures required to protect protected habitats and species, non-statutory designated sites and other habitats and species of principal importance during the construction of the authorised development;*
  - *mitigation measures required to protect protected habitats and species, non-statutory designated sites and other habitats and species of principal importance during the operation of the authorised development;*
  - *the results of the Defra biodiversity off-setting metric together with the off-setting value required, the nature of such off-setting and evidence that the off-setting value provides for the required biodiversity compensation, risk factors (including temporal lag) and long term management and monitoring;*
  - *the site or sites on which the compensation off-setting required pursuant to (c) will be provided together with evidence demonstrating that the site or sites has/have been chosen in accordance with the prioritisation set out in the outline landscape and ecological mitigation strategy;*
  - *certified copies of the completed legal agreements securing the site or sites identified in (d) to enable enactment of the biodiversity off-setting scheme and the biodiversity off-setting management and monitoring plan as approved in the landscape and ecological mitigation strategy; and*
  - *any hard and soft landscaping to be incorporated within Work No. 4 including location, number, species, size of any planting and the management and maintenance regime for such landscaping.*
- *The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted landscape and ecological mitigation strategy.*
- *Unless otherwise agreed by the MMO, the landscape and ecological mitigation strategy must be implemented as approved by the MMO.*

2.5. The MMO is aiming to submit further comments on the draft DCO at Deadline 8 on 15 March 2022.

### **3. Comments on any information submitted by the Applicant or Interested Parties at Deadline 6**

#### **Deadline 6 Submission – Statements of Common Ground – REP6-004 – REP6-0019**

- 3.1. The MMO has reviewed the Statements of Common Ground (SoCG) for other relevant bodies and has no comments to make. The MMO will maintain a watching brief on how these will be updated.

#### **Deadline 6 Submission – 9.12(1) Outline Marine Mammal Mitigation Protocol (Clean) – REP6-020**

- 3.2. The MMO has reviewed the updated Outline Marine Mammal Mitigation Protocol (MMMP) and has no comments to make. The MMO thanks the Applicant for the inclusion of a condition stating the final MMMP will be submitted to the MMO for approval post-consent.

#### **Deadline 6 Submission – 9.27(1) Navigation Risk Assessment (Clean) – REP6-022**

- 3.3. As detailed in Schedule 9 of the draft DCO, the DML, the MMO will provide further comments on the Navigation Risk Assessment (NRA) once submitted for approval pre-construction.
- 3.4. The MMO will wait for the submission of the NRA post-consent and will maintain a watching brief on any comments provided by the Port of Boston.

#### **Marine Management Organisation Deadline 6 submission – REP6-037**

- 3.5. The MMO has been in discussions with the Applicant regarding our Deadline 6 submission via email. The points raised have been summarised below.
- 3.6. Regarding point 2.4, if all of the measures related to ornithological mitigation are included within the Outline Landscape and Ecological Mitigation Strategy (OLEMS) then the MMO is content for this to be submitted in place of a distinct ornithological mitigation and monitoring plan. However, if the OLEMS covers work below mean high water springs (MHWS) then the final OLEMS will need to be approved by the MMO and therefore there must be further submission of it through the DML.
- 3.7. Regarding point 2.5, the MMO is satisfied that the construction windows for dredging and piling are secured through conditions on the DML.
- 3.8. Regarding point 2.6, the MMO will confirm our position on limits of deviation in further deadlines. However, if plans are to undertake works as listed then we agree that limits of deviation may not be needed.
- 3.9. The MMO requests that Condition 13(2)(c) of the DML is re-worded to state that the acceptable piling period is '*between 1<sup>st</sup> June and 30<sup>th</sup> September inclusive*'.

- 3.10. The text under Requirement 12 regarding construction hours should be added and secured within the DML.
- 3.11. Regarding Condition 12(2)(c)(iii), the MMO requests that this is re-worded instead to *“dredging will only be undertaken from 1<sup>st</sup> July to the 28<sup>th</sup> February inclusive”*.
- 3.12. The MMO is content in principle with the approach set out by the Applicant regarding submission of the Marine Mammal Mitigation Protocol (MMMP), but wanted to clarify a few points regarding piling:
- 3.12.1. The Applicant stated *“This [soft start] procedure is only required where there has been no piling for the preceding 10 minutes (i.e. if piling continues at a new location within 10 minutes of a pile being installed, as is expected, then this soft-start and ramp-up protocol would not be required)”*. It is unlikely to be the case, but the ‘new location’ should not be such that piling there will expose some areas (to noise) that were not previously exposed to significant noise.
- 3.12.2. The MMO appreciates that a full soft start may not be possible, given the anticipated short duration of piling (and likely relatively low hammer energies). If soft start is proving difficult then it may be possible for BAEF to start with a slow strike rate before ramping up to full strike rate.

### **The Boston and Fosdyke Fishing Society Limited**

- 3.13. The MMO has received comments directly from the fishing fleet within Boston. They wish to raise concerns regarding the shipping leaving the new proposed Wharf early in the tidal cycle. There is concern around the level of water within the river channel at this time, the width and depth of the river channel, and how this will impact the wake caused by large ships passing through. They are concerned about the danger this presents to smaller vessels trying to use the area, and the damage this may cause to the riverbanks and beds. With the lack of depth there is concern around the scouring effect to the riverbed, and the plumes of sediment reaching the shellfish beds at the river mouth. They would also like to know if BAEF are taking water from the river for the plant, and if so, how do they intend to flush the pipe work out. Will this involve the use of chemical cleaners being released back into the river?
- 3.14. The MMO recommends the Applicant directly liaises with the fishing society to address these concerns.

## **4. Notification of wish to have future correspondence electronically**

- 4.1. The MMO wishes to receive all future correspondence electronically. 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]