

REPORT

Boston Alternative Energy Facility

Navigation Summary

Client: Alternative Use Boston Projects Ltd

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Note / Memo

**HaskoningDHV UK Ltd.
Industry & Buildings**

To: National Infrastructure Planning
From: Alternative Use Boston Projects Limited
Date: 24 March 2022
Our reference: PB6934-RHD-ZZ-XX-NT-Z-4115
Reference: 9.97
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Approved by: Paul Salmon

Subject: Boston Alternative Energy Facility: Deadline 9 – Navigation Summary

1 Overview

- 1.1.1 A number of documents have been submitted to the Examination on navigational matters for the Boston Alternative Energy Facility (the Facility) by the Applicant and other Interested Parties (notably, the Boston and Fosdyke Fishing Society (BFFS) and the Port of Boston (PoB)). This document summarises the Applicant's position in relation to such matters and draws together the key information from the individual submissions to provide a closing submission on navigational matters.
- 1.1.2 The potential construction and operational impacts on navigation of all users affected by the Facility (notably, impacts within The Haven as a confined water space) was assessed and the findings presented in Environmental Statement Chapter 18 Navigational Matters (APP-056). Impacts to commercial and recreational vessels were determined to not be of significance and manageable by the PoB. Residual impacts to the fishing fleet (represented by the BFFS) were however identified and mitigation through the implementation of a Navigation Management Plan (NMP) was identified.
- 1.1.3 The PoB is the Statutory Harbour Authority (SHA) for The Haven and out to the harbour limits within The Wash and can therefore be considered a key Interested Party. In recognition of this the Applicant has sought the PoB's views on the ability to safely and efficiently manage the additional traffic that would arise as a result of the construction and operation of the Facility. Furthermore, the Applicant has ensured that key submissions align with the PoB's views in order to ensure that proposals are accurate, valid and benefit from the PoB's inputs before issue.
- 1.1.4 As the SHA, the PoB is required to comply with the Port Marine Safety Code (PMSC) to ensure that marine operations are managed, and the necessary obligations are followed. The PMSC was produced by the Department of Transport (DfT) and Maritime and Coastguard Agency (MCA) in 2000, with the latest update published in 2016 (DfT/MCA, 2016) sets out statutory requirements for United Kingdom (UK) harbour authorities. Under the PMSC the PoB is required to have a Marine Safety Management System in place to ensure that all risks are controlled. The Applicant has worked closely with the PoB to determine the timing and content of a draft Navigation Risk Assessment (NRA) and a Navigation Management Plan (NMP), two key documents which, when considered with the Pilotage Statement (REP6-036) submitted identifies

a clear and compelling case that navigational matters for all users of the Haven can be appropriately managed.

- 1.1.5 As a result, the PoB has, from the submission of the first Statement of Common Ground (SOCG) submitted at Deadline 1 (REP1-037), stated that the additional vessels required for the operation of the Facility can be managed and safety maintained on the Haven:

“The Port notes that the Facility operations have the potential to impact the safety of navigation to current and future river users, but that the development of a Navigation Management Plan (prepared by the Applicant and approved by the Harbour Authority), that is supported by a Navigational Risk Assessment (NRA), will ensure that the safety of navigation can be maintained for all Haven stakeholders.”

- 1.1.6 The BFFS is the only party which has sought to question the ability of the PoB to manage navigation within their jurisdiction in accordance with the above statement (including its SHA obligations), objecting to the Facility on the grounds that the increase in operational vessel traffic would have a *“considerable and significantly detrimental impact [...] upon the working fishermen”* (RR-010). Throughout the Examination the Applicant has provided evidence that demonstrates that the safety and navigational efficiency on the Haven can be maintained and that mechanisms will be put in place to ensure management measures are established post-consent to achieve this, as agreed with the PoB.

- 1.1.7 It should be noted that other users of The Haven, including recreational and commercial users, have not expressed a concern regarding the increase in vessel movements and navigational safety.

2 Relevant documents

- 2.1.1 A list of the documents submitted to the Examination in relation to navigation are provided in **Table 2-1** below.

Table 2-1 Navigation-related documents submitted during the Examination

Document reference	Author	Title
APP-056	Applicant	Environmental Statement Chapter 18: Navigational Issues
APP-092	Applicant	Environmental Statement Chapter 18: Figures 18.1-18.3
RR-010	BFFS	Relevant representation
RR-015	Maritime and Coastguard Agency	Relevant representation
RR-016	Neil Harris Consulting on behalf of Port of Boston	Relevant representation
RR-017	Port of Boston	Relevant representation
RR-020	Inland Waterways Association	Relevant representation

Document reference	Author	Title
RR-025	Royal Yachting Association	Relevant representation
AS-003	Applicant	Additional submission accepted at the discretion of the Examining Authority. Applicant's comments on the Deadline 7 submissions from The Boston and Fosdyke Fishing Society Limited (BFFS) - Marico Report
AS-004	BFFS	Additional submission, accepted at the discretion of the Examining Authority. Cover letter and Report: Independent Review of the Boston Alternative Energy Facility Navigation Risk Assessment
REP1-035	Applicant	Comments on Relevant Representations
REP1-037 REP2-003 REP6-012	Applicant	SOCG with Port of Boston
REP1-036	BFFS	BFFS notification of wish to make oral representation at an ISH
REP2-005	Applicant	SOCG with BFFS
REP2-008	Applicant	Comments on Examining Authorities' First Written Questions (Q10)
REP2-010 REP6-022	Applicant	draft Navigation Risk Assessment
REP2-028	Applicant	Navigational features and fishing wharves on the Haven
REP5-004	Applicant	Applicant's responses to the Examining Authority's Second Written Questions
REP6-030	Applicant	Comments on Interested Parties Responses to the Examining Authority's Second Written Questions
REP6-033	Applicant	Technical Note for Navigation Management and Ornithology
REP6-037	Applicant	Port of Boston Pilotage Statement
REP7-007	Applicant	The Applicant's Responses to the Examining Authority's Third Written Questions
REP7-012 REP8-011	Applicant	Navigation Management Plan Template
REP7-025	Maritime and Coastguard Agency	Deadline 7 Submission - Comments on The Examining Authority's third Written Questions

Document reference	Author	Title
REP7-030	Port of Boston	Deadline 7 Submission - Responses to Third Written Questions
REP7-033	BFFS	Responses to Third Written Questions
REP7-034	BFFS	Deadline 7 submission
REP8-014	Applicant	Comments on Interested Parties Responses to the Examining Authority's Third Written Questions
Submitted at deadline 9	Applicant	Response to Marico Review of the Navigation Risk Assessment

3 Views of Interested Parties

3.1 Port of Boston (PoB)

3.1.1 As set out in Section 1 the PoB is the SHA for The Haven and out to the harbour limits within The Wash and is required to ensure that marine operations are managed, and the necessary obligations are followed under the PMSC.

3.1.2 The PoB has been heavily involved in commenting on and responding to navigational issues due to their role as the SHA. Agreement with the PoB on the development of the draft NRA and NMP Template have sought to ensure that the outline mitigation measures reduce navigational risks to an acceptable level in line with the 'As Low as Reasonably Practicable' (ALARP) principle and to put in place a process for ensuring the final documents are fit for purpose, comprehensive and practicable.

3.1.3 The Applicant is confident that the PoB has been supplied with the information necessary both before and during the Examination in order to arrive at their considered view on the proposals which are summarised in paragraph 9.2 of the Pilotage Statement (REP6-036). The PoB is, in summary, "*confident this [the increase in vessel traffic] can be managed in a safe and efficient manner with little adverse effect on the fishing fleet or other river traffic*

3.2 Marine Management Organisation (MMO)

3.2.1 The MMO, as required in condition 14 of the Deemed Marine Licence, at Schedule 9 (Deemed Marine Licence) to the draft DCO, are required to approve the final NMP before any licenced works commence.

3.2.2 As stated in its Deadline 8 submission (REP8-020):

3.2.3 "*The MMO has reviewed the Navigation Management Plan Template and has no comments to make at this time. The MMO will review the completed navigation management plan when it is submitted to us post-consent, following consultation with the harbour authority, the relevant statutory nature conservation body and the Environment Agency.*"

- 3.2.4 Additionally they state in the Statement of Common Ground with the Applicant (REP1-039) that, “*The MMO defers to navigation safety bodies and lighthouse authorities regarding impacts for navigational matters.*”

3.3 Maritime and Coastguard Agency (MCA)

- 3.3.1 As stated in the Maritime and Coastguard Agency’s submission at Deadline 7 (REP7-025), as the Facility is within the jurisdiction of the PoB, the PoB, as the Statutory Harbour Authority, is responsible for maintaining the safety of navigation.

- 3.3.2 As such, the MCA stated they have “*no concerns to raise at this time with regards to the ‘Navigational Issues’ document, or the NRA, on the understanding that the Port of Boston are consulted on the acceptability of the assessment.*” The MCA also confirms that they would be ‘*happy to continue to be consulted on the NRAs although would defer to the Port of Boston with regards to its acceptability*’.

3.4 Eastern Inshore Fisheries and Conservation Authority (EIFCA)

- 3.4.1 The EIFCA have requested that the NRA should be cognisant of the East Inshore and Offshore Marine Plan insofar as impacts from development on fishing activity or on access to fishing grounds should be avoided, minimised or mitigated.
- 3.4.2 The Applicant can confirm that the purpose of the NMP will be to ensure measures are in place to effectively and safely manage vessel movements on the Haven.

3.5 Inland Waterways Association (IWA)

- 3.5.1 The IWA submitted a relevant representation (RR-020). A meeting was held with the local representative on the 10th February 2022 during which the Applicant provided additional information on the proposed development. No concerns relating to the Facility were raised and it is noted that the IWA has not submitted any further representation to the Examination.

3.6 Royal Yachting Association (RYA)

- 3.6.1 The RYA submitted a relevant representation (RR-025) requesting consideration of potential impact of construction process, permanent structures and operational movements on recreational sailing. Chapter 18 of the Environmental Statement in respect of Navigational Issues (APP-056) considers recreational navigation on the Haven and assesses the potential impacts to these users during the construction and operation of the Facility. Significant effects on recreational users are not predicted. As set out in the NMP template (REP8-011), the draft NRA will be updated to include consideration of all users and will form the basis of the NMP post-consent, as secured by the DCO (see **Section 5**).

4 BFFS concerns

- 4.1.1 The BFFS submitted a Relevant Representation to the Examination (RR-010). We understand that the BFFS’s concerns are that the increase in vessels on the Haven associated with the BAEF

will have the following impacts:

- Navigational hazard through vessels transiting the river earlier in the tidal cycle;
- Vessels using the swinging hole will block the river;
- Vessels crossing the path of oncoming traffic; and
- Delays would lead to a lost day's work.

4.1.2 It should be noted that the BFFS has not provided any evidence to substantiate these claims and, as acknowledged by the PoB Harbour Master in his letter included in BFFS's Deadline 7 submission (REP7-034), the BFFS has not clearly stated in any correspondence with the PoB the reasons why it considers safety cannot be maintained in the river.

4.1.3 The Applicant's response to the BFFS's concerns, as detailed in our submissions during the Examination, are summarised in **Section 5** below.

4.1.4 The Applicant has corresponded with the BFFS' representatives a number of times, offering meetings to inform the Preliminary Environmental Impact Report (PEIR) and ES. More recently meetings were held on the 6 July 2021 and 29 September 2021 (latterly, to help inform the draft NRA). The BFFS's legal representatives declined the opportunity to meet the Applicant to discuss the draft NRA in November 2021. No meetings have been held since that date, while the Applicant remains open to meeting to discuss any BFFS concerns, BFFS do not seem open to such discussions.

4.2 Applicant's response

4.3 Overview

4.3.1 The Applicant has taken the BFFS' concerns seriously throughout the planning stages of the project. Where concerns have been raised further work has been commissioned (e.g. provision of the draft NRA in response to comments from the BFFS that the impact assessment was not based on sufficient evidence). This draft NRA focusses on the potential impacts of the operation of the Facility on the fishing fleet's movements and a specialist company (Anatec Ltd.) were commissioned to undertake this exercise on behalf of the Applicant.

4.3.2 On the 29 September 2021, a meeting was held with BFFS to inform the scope of the draft NRA (minutes are provided in Appendix A of the Statement of Common Ground with BFFS (REP2-005)). At this meeting the fishermen were provided the opportunity to provide data and further information on their fishing movements. However, this was not forthcoming.

4.3.3 The draft NRA is considered to complement, and build upon, the conclusions of the Navigation ES Chapter 18 (APP-056). The draft NRA was submitted to the Examination at Deadline 2 (REP2-010) and has since been updated with minor amendments at Deadline 6 (REP6-022, document ref 9.27(1)).

4.3.4 To aid the Examining Authority a response to each of the BFFS's concerns is set out in the sections below, drawing on the ES Chapter 18 (APP-056), the draft NRA (REP6-022) and additional submissions identified in **Table 2-1** and referenced in the sections below.

4.4 Navigational hazard through vessels transiting the river earlier in the tidal cycle

- 4.4.1 As stated in the Navigation ES Chapter 18 (para. 18.6.13, APP-056) due to the tidal nature of The Haven, commercial vessel movements are restricted to approximately one to two hours before high tide, to 1.5 hours after high tide, giving a maximum tidal window for vessel movements of approximately 3.5 hours around high tide. This is also clearly demonstrated in Figure 9.1 of the draft NRA (REP6-022, document ref 9.27(1)) which illustrates Automatic Identification System (AIS) data transmissions from commercial vessels during June 2019. This is further supported by the PoB in their response to the Examining Authorities Third Written Questions (REP7-030) where they state that *“It is also worth emphasising that the tidal window for commercial cargo vessels navigating in the river is not expected to change due to the prevailing tidal restrictions on the draught of large ships”*.
- 4.4.2 The additional vessels required during the operation of the Facility will therefore have to operate within this strict tidal window and as such a navigational hazard to fishing vessels from commercial vessels transiting the river earlier in the tidal cycle does not exist.

4.5 Vessels using the swinging hole will block the river

- 4.5.1 As identified within Chapter 18 of the ES (APP-056) vessels will need to be turned before they are able to leave The Haven, so they are oriented in the right direction. The PoB will determine whether vessels will be turned on arrival, or directly before departure based on overall vessel management and movements required within the port. The PoB has two options for undertaking this operation. Vessels can be turned within the Wet Dock, outside of the operational Haven, or within the in-river swinging hole which is within the navigable channel of the Haven (Figure 18.1 of the ES (APP-092)).
- 4.5.2 Extensive navigational simulation modelling (by HR Wallingford) was commissioned by the Environment Agency, in conjunction with the PoB, to inform the Environment Agency’s now operational Boston Barrier scheme. The simulations were conducted by the Harbour Master and Pilots and it was recorded that it takes 12-15 minutes for a vessel to be turned in the in-river swinging hole (also stated by the PoB in REP7-030). This is further evidenced in the data collected and presented in Section 9.3 of the draft NRA (REP6-022). Automatic Identification System (AIS) data from commercial vessels was interrogated to confirm the length of time required to turn a vessel in the in-river swinging hole. The data confirms that turning one vessel takes less than 15 minutes to complete.
- 4.5.3 The PoB have indicated that vessels can be temporarily held at riverside quays or within the Wet Dock for short periods to allow fishing vessels to pass before a turn is initiated. In their Pilotage Statement (document reference 9.73) the PoB states:

“The Port has no preference as to turning (swinging) on arrival or departure, or whether in the wet dock or river. It is expected that some short delays to commercial shipping might occur from time to time to permit the transit of fishing vessels prior to swinging in the river, and at other times (from time to time) some short delays might occur to fishing vessels or other traffic, whilst a ship is swung in the river. Improvements to the LPS [Boston Port Control] and closer liaison with the fishing fleet is expected to mitigate these impacts.”

- 4.5.4 It is currently common practice that commercial cargo ships and BFFS discuss on VHF any out

of the ordinary manoeuvres and the PoB would seek both a continuation and increase in this practice. As part of the mitigation recommendations within the draft NRA measures are suggested to improve the vessel management capability of the port. For example, currently the fishing fleet do not operate AIS on their vessels. The draft NRA recognises the benefit of the wider use of AIS for fishing vessels and would seek to encourage uptake on a voluntary basis. This would help inform PoB and pilot's decisions and advice to vessel masters regarding vessel movements (e.g., letting a "backlog" of fishing vessels pass prior to undertaking a turn).

- 4.5.5 Overall, with appropriate communication and vessel monitoring within The Haven (defined within the NMP) delays to vessels on the Haven as a result of turning vessels in-river will be minimised such that **significant delays to either commercial or fishing vessels are unlikely to occur during the construction and operation of the Facility.**
- 4.5.6 It should also be noted that the approach set out here is supported by the independent review of the draft NRA undertaken by Marico Marine (AS-004) which states "*more interaction with PoB Port Control will be required*".
- 4.5.7 As referenced in the Applicant's response to Relevant Representations (REP1-035, Table 1-14), and Section 9.2 of the draft NRA (REP6-022), as part of the Boston Barrier scheme the entrance to the Wet Dock will be widened. This will require the closure of the Wet Dock for 14 to 16 months (scheduled for 2022/2023) and while this work is undertaken all commercial vessels will be turned in the in-river swinging hole. Lessons learned from this will be used to provide practical measures within the NMP. It should also be noted that the Applicant is not aware of any BFFS objection to this activity as part of the Boston Barrier application¹.

4.6 Vessels crossing the path of oncoming traffic

- 4.6.1 The International Regulations for Preventing Collisions at Sea (COLREGS)², (IMO, 1972/77) prescribes to all vessels (e.g. commercial vessels, fishing vessels) responsibilities with regards to safe navigation. Rule 9 details navigation within Narrow Channels (such as that within The Haven) including keeping to starboard as well as navigation with regards to crossing other vessels, overtaking and navigating around a bend (including necessary sound signals if deemed appropriate (9f)). Rule 9b requires that '*A vessel of less than 20 metres in length or a sailing vessel shall not impede the passage of a vessel which can safely navigate only within a narrow channel or fairway*'.
- 4.6.2 Accordingly, an arriving vessel manoeuvring onto the BAEF wharf would have to ensure they do not impede a vessel constrained by the water depths and as with previous passing scenarios the vessel pilot/Master would agree a safe option given the time taken to undertake the manoeuvre and the presence of other vessels in the vicinity. Any outbound vessels will also be aware of the inward BAEF vessels approach well in advance of meeting³ and they would discuss plans to undertake the berthing manoeuvre (this is based on the current custom and practice at the port).

¹ https://consult.environment-agency.gov.uk/engagement/bostonbarriertwoa/supporting_documents/A5.%20Consultation%20Report%20Final.pdf

² Merchant Shipping Notice 1781 (MCA,2004)

³ The Standing Notice to Mariners requires all vessels to monitor VHF Channel 12 and report movements to PoB. As per COLREGS (IMO, 1977/72) there are regulations in place that dictate vessel movements within narrow channels including those involving crossing vessels and deals with responsibilities in adverse weather conditions.

- 4.6.3 As stated in the draft NRA (REP6-022) regardless of whether a vessel is or is not carrying a pilot all vessels are required by the PoB Standing Notice to Mariners to listen on VHF Channel 12 and any crossing, passing or overtaking (alongside COLREGS regulations and requirements) would be (as normal procedure within narrow channels) discussed (using standard marine terminology) between the two vessels to prevent the risk of collision and interaction.
- 4.6.4 With these measures in place, and secured within the NMP, the movement of vessels associated with the BAEF will not cause any significant impact on other river users (including other commercial vessels, fishing vessels and recreational craft. The PoB agrees that this would be the case.

4.7 Delays would lead to a lost day's work

- 4.7.1 There is no evidence before the examination to suggest that delays caused by the Project will result in a lost day's work for members of BFFS. The evidence provided within the draft NRA (REP6-022) and summarised here shows that **a delay to BFFS movements during the operation of the Haven is unlikely**. As stated by the PoB in their comment on Interested Parties' responses to the Examining Authorities Third Written Questions (REP6-030) the PoB is content that the additional vessels arriving at the BAEF wharf can be safely managed and can co-exist with the fishermen's current practices. It is the PoB's opinion that discussions between BFFS and Port Control (or the on-board pilot) would allow a window of 10 to 15 minutes in which commercial cargo vessels could be swung unhindered and without causing a significant delay to other river traffic including BFFS.

4.8 Provision of Additional Mitigation

- 4.8.1 The BFFS suggested that a new wharf could be provided down-stream of the proposed Facility in order to avoid interactions with vessels using the swinging hole. The Applicant's strong view is that sufficient mitigation is identified in the Environmental Statement. The Applicant believes that provision of a new wharf as mitigation would potentially cause an Adverse Effect on the Integrity (AEoI) on The Wash Special Protection Area (SPA) and Ramsar site, and The Wash and North Norfolk Coast Special Area of Conservation (SAC), and would not comply with the sustainable development needs of the area and, ultimately is unnecessary given that the NMP would address safety concerns with considerably fewer environmental impacts.

4.9 Summary

- 4.9.1 In summary, the Applicant is confident that the BAEF will not cause any significant impact on other river users (including Port of Boston vessels, fishing vessels and others), and that, where practicable, measures for mitigating impact will be introduced or reinforced through the NMP. This is supported by statements made by the PoB within documents they have submitted to this Examination.
- 4.9.2 BFFS's concerns have been and will continue to be listened to. Their concerns may be incorporated into the further development of the final NRA and NMP, post-consent.

5 The NRA

- 5.1.1 As discussed above, a draft NRA was submitted to the Examination at Deadline 2 (REP2-010) and has since been updated at Deadline 6 (REP6-022). This draft NRA focussed on the specific question of the BAEF vessel transits and turns, and what, if any, impact this may have on the BFFS fleet. A meeting was held on the 29 September 2021 between the Applicant, Anatec and BFFS to inform the draft NRA. **The draft NRA concluded that all effects on BFFS were tolerable with mitigation and ALARP.**
- 5.1.2 Following submission of the draft NRA the Applicant has requested a meeting with the BFFS to discuss the findings of the draft NRA and discuss a revision to the SOCG where items may be able to be resolved. However, their representatives responded that due to time, resources and cost it would not be possible to meet. As a result, no meetings have been held with BFFS since Anatec's meeting with them on the 29 September 2021.
- 5.1.3 As set out in the NMP Template (Section 1.4, REP8-011) the draft NRA will be further developed and this will include consideration of all users of The Haven, including other commercial vessels, the pilot cutters and recreational users. This final NRA will be a live document and amended, as considered necessary by the Applicant and the PoB, to account for changes in the construction or operational activities at the Facility, or indeed any wider changes in The Haven which may affect navigational risk.

5.2 The BFFS' (Marico Marine) review

- 5.2.1 The Applicant was informed by the PoB in January 2022 that BFFS had commissioned Marico Marine to undertake an independent review of the draft NRA. This was submitted very late in the Examination process after the deadline for Deadline 7 but accepted by the Examining Authority (AS-004), four months after the first submission of the draft NRA.
- 5.2.2 Anatec Ltd. (on behalf of the Applicant) has provided a response to Marico Marine's review of the draft NRA and this response has been submitted to the Examination at Deadline 9. To aid the Examining Authority, in summary, the majority of Marico Marine's comments on the draft NRA relate to four topics:
- The scope of the document relating solely to BFFS. This is acknowledged by Anatec in the introduction of the draft NRA. In addition, it is stated in the NMP template (REP8-011) that the draft NRA will be further developed to include consideration of all users of The Haven, including other commercial vessels, the pilot cutters and recreational users.
 - The limited extent of the PoB pilotage district assessed within the draft NRA. As above, it is acknowledged in the introduction of the draft NRA that the scope is limited to assessing the potential impacts to the BFFS. A full assessment of potential impacts to navigation was undertaken within Chapter 18 of the ES (APP-056) and the draft NRA notes that "*relevant impacts have already been assessed within the ES (BAEF, 2020), and as such this NRA is designed to support in informing the examination process, as opposed to re-assessing impacts*".
 - Data sources used to inform fishing activity on the Haven. It is acknowledged within the draft NRA that quantitative data for the movements of the fishing fleet were limited due to the limited availability of AIS data and data (albeit non-verified) held by BFFS not being made available to Anatec for the draft NRA.

- The requirement for an effective management strategy. This comment agrees with the findings of the draft NRA (REP6-022). Under the PMSC, responsibility for the NMP documentation would lie with PoB. The Applicant has committed to working in conjunction with PoB to produce the NMP (REP8-011) and the PoB have agreed to this approach.

5.2.3 In short, the review undertaken by Marico Marine has not identified deficiencies within the draft NRA that would undermine the conclusions made, nor has the review commented on any items that are not already acknowledged within the draft NRA itself, or that the Applicant has already identified itself and sought to clarify and certify within the NMP template (REP8-011).

6 The NMP

6.1.1 The requirement for the NMP is contained within condition 14 of the Deemed Marine Licence, within Schedule 9 (Deemed Marine Licence) to the Draft Development Consent Order. Condition 14 requires that the NMP must be:

- Written in consultation with the PoB, the statutory nature conservation bodies and the Environment Agency;
- Informed by the final NRA; and
- Approved by the MMO before commencing licenced activities.

6.1.2 The NMP may be updated, in conjunction with the PoB (which will retain an approving role), the statutory nature conservation bodies and the Environment Agency, and each version must be submitted to, and approved by, the MMO.

6.1.3 It should be noted from the above, that through direct reference in the DCO the NMP Template will become an approved (certified) document and must be complied with as part of the development and operation of the Facility.

6.1.4 A set out in Section 1.4 of the NMP template (REP8-011) the NMP will be produced in conjunction with the PoB in a structured and consultative manner following the generation of appropriately detailed designs for the marine aspects of the facility (notably the wharf) and selection of a principal contractor for the construction phase. The extensive consultation process and provision for the adaptive management of the NMP is also set out within the NMP template (Sections 1.4 and 5.3 of the NMP template, respectively)

7 Vessel speed

7.1.1 It has been identified that there have been some instances within documents submitted by the Applicant as part of this Examination that reference to vessels speeds on the Haven have incorrectly referred to a speed restriction of 6 knots.

7.1.2 The management of speed on the Haven falls to the PoB as SHA. They do not enforce a speed limit for vessels on the Haven but instead rely on the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS) safe speed. In the case of large shipping, safe speed is set by the onboard pilot and is based on the prevailing circumstances, conditions and proximity of other vessels.

7.1.3 Discussions with the PoB have identified that they would not agree to a speed limit within The

Haven that compromised vessel safety and the existing situation with regard to safe speed needs to be maintained to ensure vessel safety.

- 7.1.4 The Applicant has updated the Marine Mammal Monitoring Protocol (document reference 9.12(2), REP7-003) already to take account of the PoB's requirement on vessel speed and is reviewing all other application documents to ensure consistency on this matter. A number of application documents will be re-submitted at Deadline 9 to correct any further instances where a speed limit is referred to. It should be noted that the changes do not affect any assessments presented in the Environmental Statement or other supporting documents.

8 Compensation

- 8.1.1 Given the fact that the impact on BFFS can be mitigated, as per the details set out in the draft NRA, the Applicant does not consider it appropriate to offer any additional compensation. Nor is the Applicant required to pay any compensation to them. However, the Applicant has as a gesture of goodwill, agreed to pay the BFFS's legal fees (those that do not relate to direct opposition to the proposals) as requested by the BFFS' legal representatives.

9 Closing remarks

- 9.1.1 In conclusion, it is the Applicant's considered opinion that the evidence supplied in relation to navigation within the ES and throughout this Examination is comprehensive and sufficient, and clearly shows that navigational safety throughout the lifetime of the Facility will be maintained. This is supported by the evidence submitted by the PoB who have stated throughout the Examination that, with the implementation of an NMP that is supported by an NRA, the safety of navigation can be maintained for all Haven users.
- 9.1.2 The process to ensure relevant tasks are carried out has been defined within the NMP template, which is a DCO certified document, which will ensure the draft NRA is further developed to include consideration of all users and management measures are put in place within the NMP to ensure safety of navigation is maintained. This will be achieved through a consultative process to include all interested parties, with approval of the final NRA by both the PoB and the MMO.
- 9.1.3 The BFFS have not clearly stated the extent or reasons why they consider safety cannot be maintained, and their claims are unevicenced. No other Interested Party apart from the BFFS has expressed any view that navigational safety or efficiency within the Haven will be significantly affected as a result of the construction or operation of the BAEF. BFFS are not the only users of The Haven and unlike PoB, BFFS are not in control of or experienced in matters of navigational safety and associated management. In the view of the Applicant, their views should not be set against the other key Interested Parties, notably the SHA who carry considerable influence and knowledge in this matter and are best placed to weigh all the evidence to ensure all users of The Haven are managed appropriately and safely. In addition, the review of the draft NRA undertaken by Marico Marine (on behalf of the BFFS) did not identify any item of concern within the draft NRA that will not be attended to in the finalisation of the document.
- 9.1.4 As a closing statement the Applicant refers the Examiner to the Pilotage Statement produced and submitted to the Examination by the PoB (REP6-036). The Pilotage Statement provides confidence and certainty that navigational safety on the Haven will be maintained on the Haven

and concludes with this remark from the Harbour Master (who has over 20 years' experience of piloting vessels in the Haven):

“The introduction of an additional 580 ships from our current number of 450 / 460 is a large increase and worthy of looking closely at how this will affect the daily movement of river traffic, but as similar numbers have been experienced in the past, the Harbour Authority are confident this can be managed in a safe and efficient manner with little adverse effect on the fishing fleet or other river traffic.”