

Natural England considers that the Applicant has provided insufficient evidence and is not yet satisfied that that the following issues have been addressed; Internationally designated sites • Potential loss of functionally linked land (FLL) for SPA / Ramsar birds. • Potential noise disturbance during construction to FLL for SPA / Ramsar birds. • Operational impacts to FLL for SPA / Ramsar birds. • Potential air quality impacts from construction traffic. • In-combination impacts Nationally designated sites • Overlapping internationally designated site impacts for the relevant SSSIs. • Potential air quality impacts from construction traffic. We have uploaded a full written representations response letter addressing the above points, and will also email this to: HeliosRenewableEnergy@planninginspectorate.gov.uk.

Date: 13 January 2025
Our ref: 496522
Your ref: EN010140

The Planning Inspectorate
Major Applications & Plans
Temple Quay House
Temple Quay
Bristol
BS1 6PN

HeliosRenewableEnergy@planninginspectorate.gov.uk

BY EMAIL ONLY

Dear Inspector,

NSIP Reference Name / Code: EN010140

Title: Natural England's Written Representations in respect of Helios Renewable Energy Project (EN010140), promoted by Enso Green Holdings D Limited.

Examining Authority's submission Deadline 2 with a date of 13 January 2025.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

For any further advice on this consultation please contact the case officer Laura Tyndall and copy to consultations@naturalengland.org.uk.

Yours faithfully,

Laura Tyndall
Higher Officer
Yorkshire and Northern Lincolnshire Area Team



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Natural England's Written Representations

PART I: Summary and conclusions of Natural England's advice.

PART II: Natural England's detailed advice (starting on page 8)

PART III: Natural England's detailed comments on the Development Consent Order (DCO) (page 18)

Summary of Natural England's Advice

Natural England considers that the applicant has either provided insufficient evidence, or updated documentation is still required, and is not yet satisfied that the following issues have been addressed:

- **Internationally designated sites**
 - Potential loss of functionally linked land (FLL) for SPA / Ramsar birds.
 - Potential noise disturbance during construction to FLL for SPA / Ramsar birds.
 - Operational impacts to FLL for SPA / Ramsar birds.
 - Potential air quality impacts from construction traffic.
 - In-combination impacts.

- **Nationally designated sites**
 - Overlapping internationally designated site impacts for the relevant SSSIs.
 - Potential air quality impacts from construction traffic.

Part I: Summary and conclusions of Natural England's advice

1.1 Natural England's advice in these Written Representations is based on information submitted by Enso Green Holdings D Limited (*'the Applicant'*) in support of its application for a Development Consent Order (*'DCO'*) in relation to Helios Renewable Energy Project (*'the project'*).

1.2 Part I of these Written Representations provides a summary and overall conclusions of Natural England's advice. This advice identifies whether any progress in resolving issues has been made since submission of our Relevant Representations [RR-268]. Our comments are set out against the following sub-headings which represent our key areas of remit as follows:

- International designated sites
- Nationally designated sites
- Soils and best and most versatile agricultural land

For our advice in relation to protected species and Biodiversity Net Gain (BNG), please refer to our Written Representations response.

Our comments are flagged as red, amber or green:

- **Red** are those where there are fundamental concerns which it may not be possible to overcome in their current form
- **Amber** are those where further information is required to determine the effects of the project and allow the Examining Authority to properly undertake its task and or advise that further information is required on mitigation/compensation proposals in order to provide a sufficient degree of confidence as to their efficacy.
- **Yellow** are those where Natural England does not agree with the Applicant's position or approach. We would ideally like this to be addressed but are satisfied that for this particular project it is unlikely to make a material difference to our advice or the outcome of the decision-making process. However, we reserve the right to revise our opinion should further evidence be presented. It should be noted by interested parties that whilst these issues/comments are not raised as significant concerns in this instance, it should not be understood or inferred that Natural England would be of the same view in other cases or circumstances.
- **Green** are those which have been successfully resolved (subject always to the appropriate requirements being adequately secured)
- **Grey** are notes for Examiners and/or competent authority.

1.3 Part II of these Written Representations updates, and where necessary, augments Part II of RR-268. It expands upon the detail of all the significant issues ('amber' issues) which, in our view remain outstanding and includes our advice on pathways to their resolution where possible. Natural England advises that the matters indicated as 'amber' below will require continued consideration by the Examining Authority during the Examination. Part II also shows 'green' issues which have been agreed since RR-268 (subject always to the appropriate requirements being secured adequately). It also contains any issues marked as 'yellow' (please refer to 1.2 above for full definition).

1.4 Part III of these Written Representations details Natural England's current position on the draft Development Consent Order (DCO).

- 1.5 Please note that any issues that were already rated as 'green' or 'yellow' issues in RR-268 are not included in Part II, Table 1 of this letter, however, they are summarised in Part I.
- 1.6 Following RR-268, Natural England (NE) received minimal engagement from the Applicant in terms of working towards the resolution of issues raised. However, in November 2024, the Applicant produced a draft Statement of Common Ground (SoCG) (which has also been uploaded to the Planning Inspectorate portal; reference **PDA-004**) and we will be in discussion with them going forward with a view to progressing the SoCG. The Applicant has also confirmed they wish to discuss the updated Habitats Regulations Assessment that will be submitted at Deadline 2. We welcome the engagement now received from the Applicant.
- 1.7 Alongside the draft SoCG, we also acknowledge that the Applicant has submitted a document entitled '*The Applicant's Response to Relevant Representations*' [**REP1-004**] at Deadline 1, which sets out comments for each of the key issues raised in RR-268. Where applicable, we have updated Table 1, Part II to acknowledge any additional detail included in this document.

2. Internationally designated sites

2.1 Natural England's position regarding internationally designated sites has not changed following the submission of our Relevant Representations [RR-268] response based on the documents currently submitted to the Planning Inspectorate.

2.2 Our position regarding impacts on internationally designated sites is summarised below. Further detail on our reasoning for this is given against each impact pathway within Part II.

2.3 Natural England is not yet satisfied for 'amber' issues identified in the text below that it can be ascertained beyond reasonable scientific doubt that the project would not have an adverse effect on the integrity of the following internationally designated sites.

- Humber Estuary Special Protection Area (SPA)
- Humber Estuary Ramsar
- Lower Derwent Valley Special Protection Area (SPA)
- Lower Derwent Valley Ramsar

2.4 Further information is required to assess the following impact pathways for the above designated sites:

- Potential loss of functionally linked land (FLL) for the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar (construction and operation) ('amber') [**NE1**]
- Noise and visual disturbance during construction to FLL for the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar (construction) ('amber') [**NE2**]
- Operational impacts to FLL for the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar (construction) ('amber') [**NE3**]
- Potential air quality impacts from construction traffic on international designated sites (construction) ('amber') [**NE4**]
- In-combination impacts on international designated sites (construction and operation) ('amber') [**NE8**]

2.5 Natural England is satisfied that is satisfied that 'green', 'yellow' and 'grey' issues are unlikely to result in adverse effects on the integrity (AEol) of the above designated sites, subject always to the appropriate mitigation / compensation as outlined in the application documents being secured adequately. Please find a summary of each 'green', 'yellow' or 'grey' issue below, and refer to RR-068 for further details (except for NE9 which is included for reference in Part II, Table 1):

- Potential impacts (other than air quality) on River Derwent SAC, Lower Derwent Valley SAC and Humber Estuary SAC (construction and operation) ('yellow') **[NE5]**
- Potential impacts on Skipwith Common SAC and Thorne Moors SAC (construction and operation) ('green') **[NE6]**
- Impacts on the Thorne and Hatfield Moors SPA breeding nightjar feature (construction and operation) ('green') **[NE7]**
- General advice on the Habitats Regulations Assessment (sHRA) produced for the project (construction and operation) ('grey') **[NE9]**

3. Nationally designated sites

3.1 Natural England's position regarding nationally designated sites has not changed since submission of our Relevant Representations [RR-268] response based on the documents currently submitted to the Planning Inspectorate.

3.2 On the basis of the information submitted in relation to these sites, Natural England is not yet satisfied that the project is not likely to damage features of interest of the following nationally designated sites.

- Humber Estuary SSSI
- Derwent Ings SSSI
- Melbourne and Thornton Ings SSSI
- Brighton Meadows SSSI
- Eskamhorn Meadows SSSI

3.3 We note that the Humber Estuary SSSI, Derwent Ings SSSI, Melbourne and Thornton Ings SSSI and Brighton Meadows SSSI nationally designated site features that are affected by this proposal are broadly the same as the internationally designated site features. Please refer to the points in the 'Internationally designated sites' section above for all 'amber' issues, that also apply to these SSSIs **[NE11] [NE12]**.

Further information is required to assess the following impact pathways for the above designated sites:

- Potential air quality impacts from construction traffic on nationally designated sites (construction) ('amber') **[NE10]**
- Potential impacts on the interest features of Eskamhorn Meadows SSSI ('amber') **[NE13]**

3.4 Natural England is satisfied that 'green' and 'yellow' issues are unlikely to result in adverse effects on the integrity (AEol) of the above designated sites, subject always to the appropriate mitigation / compensation as outlined in the application documents being secured adequately. Please find a summary of each 'green' or 'yellow' issue below, and refer to RR-068 for further details:

- Impacts on the breeding nightjar feature of both Thorne, Crowle & Goole Moors SSSI and Hatfield Moors SSSI ('green') **[NE14]**
- Impacts on the interest features of River Derwent SSSI ('yellow') **[NE15]**

4. Soils and best and most versatile agricultural land

Natural England's position regarding soils and best and most versatile agricultural land (BMV) is summarised below. Further detail on our reasoning for this is given in Part II:

- We welcome that the Soil Management Plan is to be secured in the DCO ('green') **[NE17]**.

5. Natural England's overall conclusions

Natural England's advice is that there are a number of matters which have not yet been resolved that must be addressed by Enso Green Holdings D Ltd. and the Examining Authority during the Examination and consenting process before development consent can be granted, as summarised above and outlined in further detail in Part II below.

Some of these matters are important enough to mean that if they are not satisfactorily addressed it would not be lawful to permit the project due to its impacts on SAC, SPA, Ramsar and SSSI interests. The specific concerns in relation to each are detailed in Part II.

Natural England’s Written Representations

Part II: Natural England’s detailed advice

Part II of these Representations updates and where necessary augments Part II of the Relevant Representations [RR-268]. It expands upon the detail of all the significant issues (‘amber’ issues) which, in our view remain outstanding and includes our advice on pathways to their resolution where possible. Please note that any issues that were already rated as ‘green’ or ‘yellow’ issues in RR-268 are not included in Table 1 but are summarised in Part I above.

Natural England will continue engaging with the applicant to seek to resolve these concerns throughout the examination. Natural England advises that the matters indicated as ‘amber’ will require consideration by the Examining Authority during the examination.

Natural England’s Written Representations, Part II, Table 1

NE key issue ref	Topic	Issue summary. (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment.	Natural England comment on the mechanism for securing mitigation / compensation measures in the DCO.	Risk (Red/ Amber/Green)
NE1.1	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA 	Potential loss of functionally linked land (FLL) for the relevant qualifying bird features of the listed SPA / Ramsar sites.	We welcome the submission of Appendix B as part of the Applicant’s Deadline 1 submission ‘ <i>The Applicant’s Responses to Relevant Representations</i> ’ [REP1-004] and the draft Statement of Common Ground [PDA-004]. Please refer to NE1.2 and NE1.3 below for our comments on the additional information provided, and the outstanding key points. We advise that at present this issue remains ‘amber’.	N/a – Further information required. Please refer to NE1.2 and NE1.3 for details of further assessment/	‘Amber’

	<ul style="list-style-type: none"> Humber Estuary Ramsar Lower Derwent Valley SPA Lower Derwent Valley Ramsar 	<p><i>Comments on the conclusions of the HRA (hereafter 'the HRA') [APP-151]</i></p> <p>(C) and (O)</p>		information required.	
NE1.2	<p>International designated sites</p> <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar Lower Derwent Valley SPA Lower Derwent 	<p>Potential loss of functionally linked land (FLL) for the relevant qualifying bird features of the listed SPA / Ramsar sites.</p> <p><i>Comments on additional information provided in REP1-004 and PDA-004 in response to NE comments on APP-145 in RR-068.</i></p> <p>(C) and (O)</p>	<p>We note and welcome that REP1-004 and PDA-004 include statements in sections NE01.1 - NE01.3 around further information to be provided at future deadlines. We will update our advice when this information is provided. In summary, this is due to include:</p> <ul style="list-style-type: none"> Updates to the desk study. Consultation with local bird groups/other organisations that may hold relevant information. Use of the BTO's WeBS data to examine collected survey data again peak counts for the estuary as a whole/ for the most relevant sectors. Provision of the transect routes. Explanation regarding the data collection and varied coverage. Clarification on the peak count of lapwings and how this is calculated. Further justification on the nocturnal survey approach. 	N/a – Further information required.	'Amber'

	Valley Ramsar				
NE1.3	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar • Lower Derwent Valley SPA • Lower Derwent Valley Ramsar 	<p>Potential loss of functionally linked land (FLL) for the relevant qualifying bird features of the listed SPA / Ramsar sites.</p> <p><i>Comments on additional information provided in REP1-004 and PDA-004 in response to NE comments on the HRA [APP-151] in RR-068</i></p> <p>(C) and (O)</p>	<p>We welcome that the Applicant will set out the additional information requested under NE1.2 in the HRA, as detailed in REP1-004 (Table 2.16; NE-01.3)</p> <p>We note that Appendix B in REP1-004 and PDS-004 is referred to for comments relating to the criteria for determination of FLL. We welcome that these matters will also to be considered in an updated HRA and that the Applicant is engaging on these points.</p> <p>In relation to the comments provided by the Applicant in Appendix B, we consider our key comments to be as follows:</p> <ol style="list-style-type: none"> 1. The approach in the Natural England 2021 North West of England study NECR361 that used 0.5% of the GB population or 1000 individuals to determine significance of functionally linked land was deemed suitable at a regional-scale and we do not consider this appropriate at development site level. We have advised previously in this case, and in similar cases across the Yorkshire and northern Lincolnshire region, that assessment here should relate the survey results to the relevant designated site populations (i.e., the Humber Estuary SPA/Ramsar and Lower Derwent Valley SPA/Ramsar in this case). 	N/a – Further information required.	'Amber'

			<p>2. In relation to assessing the results against the designated site populations above, as previously advised, the 1% approach can be used as a rule of thumb to help determine whether a site comprises functionally linked land. However, as advised in other similar cases, the 1% approach should be combined with other assessment such as how birds are using the project site in each season, and site characteristics such as habitat type in the years of survey. For example, this could include any cropping regimes that may impact its suitability to support SPA birds (see point 5 below for more detail).</p> <p>3. We welcome the clarifications around usage of the site by golden plover, shelduck, mallard and oystercatcher during the surveys conducted. We acknowledge that these represent low numbers, however, we cannot make a complete assessment of these figures until the pending information outlined above in NE1.2 is provided.</p> <p>4. In relation to lapwing numbers, it is stated that <i>“During the 2021/22 season, over the 12 field surveys, numbers ranged from 0 to 211 birds, with an average count of 55.”</i> We note that the Applicant has applied a different approach to waterbird assemblage species, however, we would advise that the 1% rule of thumb (and other supporting assessment as detailed above in point 2) is also applied to waterbird assemblage species. We have provided this advice for other similar</p>		
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			<p>projects in the Yorkshire and northern Lincolnshire region. If the 1% rule of thumb is applied to the lapwing peak of 211, this would represent 1.38% of the 21/22 WeBS count and 1.32% of the 22/23 WeBS count for the Humber Estuary SPA. This also represents 3.4% of the 22/23 WeBS count for Lower Derwent Ings (Lower Derwent Valley SPA/Ramsar). However, as in point 3 above, we cannot make a complete assessment of these figures until the pending information outlined above in NE1.2 is provided. The source of the 211 peak count should also be clarified in the additional assessment as this does not appear to align with the survey results; therefore, it is unclear if this represents a total across multiple survey days.</p> <p>5. In relation to cropping regime, we have previously advised that information on crop cover at the time of the bird surveys should be provided alongside the survey results. We noted that Appendix 8.2 now includes some of this information in Table 3.14. We advise that the HRA should consider this information in informing the assessment. This can include the typical cropping pattern of the site, based on historic and future cropping data, and indicate how frequently different crops are present during the wintering and passage periods (e.g. '5 in 10 years'). In particular, the assessment should indicate how frequently short crop or bare ground (suitable for wading birds) and other crops such as winter wheat (suitable for geese) are present, to inform how the site functions as feeding or</p>		
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			roosting areas for different SPA bird species. The inclusion of this information will help inform whether the single year of surveys undertaken is representative of the annual habitat type, and the feeding potential of the site.		
NE2	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar • Lower Derwent Valley SPA • Lower Derwent Valley Ramsar 	Noise and visual disturbance during construction to potential FLL for the relevant qualifying bird features of the listed SPA / Ramsar sites. (C)	<p>We note and welcome that REP1-004 and PDA-004 state in NE-02 that further assessment of construction noise and disturbance along grid corridor to field 339 will be carried out. We will update our advice when this information is provided.</p> <p>As stated in RR-068, we still consider that indirect disturbance impacts could be possible, depending on the outcome of the further assessment around FLL pending above in NE1.2 and NE1.3. Depending on the outcome of this, this could include other areas other than field 339, and further assessment would then be required of impacts on these areas.</p> <p>We continue to advise that any further noise/visual disturbance assessment could incorporate information already provided, such as discussion of screening already present around the development site. We would also continue to advise that any additional required noise assessment should provide predicted noise levels during construction; and be compared to the background levels present.</p>	N/a – Further information required.	'Amber'

<p>NE3</p>	<p>International designated sites</p> <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar • Lower Derwent Valley SPA • Lower Derwent Valley Ramsar 	<p>Operational impacts (visual disturbance) to any adjacent FLL for the relevant qualifying bird features of the listed SPA / Ramsar sites. (O)</p>	<p>We note and welcome that REP1-004 and PDA-004 state in NE-03 includes a statement that further glint and glare justification will be provided at a future deadline. We will update our advice when this information is provided.</p>	<p><u>N/a</u> – Further information required.</p>	<p>‘Amber’</p>
<p>NE4</p>	<p>International designated sites All relevant international designated sites</p>	<p>Potential air quality impacts from construction traffic on international designated sites. (C)</p>	<p>We note the Applicant’s position in REP1-004, and PDA-004 (NE-04), that the air quality assessment information will be provided in an updated HRA at a future deadline. We will advise further after submission of this information.</p>	<p><u>N/a</u>: Further Information Required.</p>	<p>‘Amber’</p>

NE8	International designated sites In-combination impacts on all relevant international designated sites	Potential in-combination impacts on international designated sites. (C) and (O)	<p>We note and welcome that the Applicant states in NE-08 of REP1-004 and PDA-004 that an updated cumulative assessment with consideration of East Yorkshire Solar Farm and will be provided at a future deadline. We will advise further after submission of this information.</p> <p>We also continue to advise (as in RR-068) that for all internationally designated sites for which impacts have been screened out alone, there has been no subsequent assessment of potential in-combination impacts at the screening stage in Table 8.12 of Chapter 8 of the ES (please also refer to note NE9 in relation to how information has been presented between the ES and the HRA). We would advise this is provided.</p>	N/a: Further information required.	'Amber'
NE9	International designated sites All relevant international designated sites	General advice on the Habitats Regulations Assessment produced for the project (C) and (O)	<p>We note that the HRA focuses predominantly on screening for impacts on the Lower Derwent Valley SPA/Ramsar and the Humber Estuary SPA/Ramsar and draws on detail from Table 8.12 in Chapter 8 of the ES for other internationally designated sites.</p> <p>We note however, that the HRA does not provide the detail around why LSE can be ruled out for the listed sites. We note that there is some detail present in Table 8.12 of Chapter 8 of the ES, and we would advise that any relevant detail from this table is included in the final HRA, so that all information used to inform the HRA is in one location.</p>	N/a: Note to the ExA on methodology.	'Grey'

NE10	Nationally designated sites All relevant nationally designated sites	Potential air quality impacts from construction traffic on nationally designated sites. (C)	We note the Applicant's position in REP1-004, and PDA-004 (NE-10), that the air quality assessment information will be provided at a future deadline. We will advise further after submission of this information.	N/a: Further information required.	'Amber'
NE11	Nationally designated sites Humber Estuary SSSI	Impacts on the interest features of the Humber Estuary SSSI	As stated in RR-068, our advice regarding Humber Estuary SSSI broadly coincides with advice set out above for Humber Estuary SPA/Ramsar. We noted however that the SSSI is designated for additional features, and that potential impacts on these features should also be considered in the relevant assessment and appropriate justification provided where impacts are ruled out. We note that the Applicant states in NE-11 of REP1-004 and PDA-004 that further consideration will be provided, however, this states that this will be for the SPA/Ramsar site and not the SSSI. We would advise clarification is provided around whether the features of the SSSI are due to be assessed also.	N/a: Further Information Required	'Amber'
NE12	Nationally designated sites Derwent Ings SSSI Melbourne & Thornton Ings SSSI	Impacts on the interest features of Derwent Ings SSSI, Melbourne & Thornton Ings SSSI, and Brighton Meadows SSSI	As stated in RR-068, our advice regarding Derwent Ings SSSI, Melbourne & Thornton Ings SSSI, and Brighton Meadows SSSI broadly coincides with advice set out above for Lower Derwent Valley SPA/Ramsar. We noted however that these SSSI's are designated for additional features, and that potential impacts on these features should also be considered in the relevant assessment and appropriate justification provided where impacts are ruled out.	N/a: Further Information Required	'Amber'

	Breighton Meadows SSSI		We note and welcome that the Applicant states in NE-12 of REP1-004 and PDA-004 that further consideration will be provided around Derwent Ings, Melbourne & Thornton Ings and Breighton Meadows SSSIs at a future deadline. We will advise further after submission of this information.		
NE13	Nationally designated sites Eskamhorn Meadows SSSI	Potential impacts on the interest features of Eskamhorn Meadows SSSI	We note the Applicant's position in REP1-004, and PDA-004 (NE-13), that the air quality assessment information will be provided at a future deadline. We will advise further after submission of this information.	N/a: Further Information Required	'Amber'
NE17	Best and Most Versatile Agricultural Land	Soils and BMV Agricultural Land	Based on the additional clarifications provided in REP1-004 and PDA-004, we have no further comments to make in relation to soils and BMV agricultural land.	The final Soil Management Plan (SMP) must be secured in the DCO.	'Green'

Natural England’s Written Representations

PART III: Natural England’s detailed comments on the Development Consent Order (DCO) and associated documents.

Part III of these Representations provides Natural England’s detailed comments on the Development Consent Order and detailed comments on issues not addressed in the DCO.

PART III, Table 2

Page(s)	DCO or omission ref	Natural England’s comments	Risk (Red/Amber/Green)
N/a	General comment	Please note that depending on the outcome of the ‘amber’ issues in Table 1 as the Examination progresses, Natural England may have further comments to make on the draft DCO that are not currently included here.	‘Amber’
39	Schedule 2, Part 1, Requirement 8	Natural England consider this an essential requirement. We agree the comments we previously made in regard to the Soil Management Plan are now resolved.	‘Green’
38 - 40	Schedule 2, Part 1, Requirements 4, 7, 5, 10	It is noted in PDA-004 that <i>“Measures to prevent impacts to protected species will be implemented through the CEMP, OEMP, DEMP and LEMP, which are secured via DCO requirements 4, 7, 5 and 10 respectively, as set out in the dDCO [AS-007].”</i> We can confirm we have no further comments in relation to this.	‘Green’

