



The Planning Inspectorate

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By email

Morag Thomson

Your Ref:

Our Ref: TR030002

Date: 6 November 2014

Dear Ms Thomson

Further to our meeting on 4 November 2014, please find attached to this letter the Planning Inspectorate's comments on the core draft documents for the York Potash Harbour Facilities Order project.

- Annex 1** – Draft Consultation Report
- Annex 2** – Draft DCO and Book of Reference
- Annex 3** – Draft Land Plans and Work Plans
- Annex 4** – Draft HRA Report

These comments are without prejudice to any decision made under section 55 of the Planning Act 2008 (as amended) or by the Secretary of State on any submitted application.

The attached comments are in addition to those made orally at the meeting of 4 November, a draft note of which will be provided by the end of this week.

Yours sincerely

Tom Carpen

Tom Carpen
Infrastructure Planning Lead

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

Annex 1: Draft Consultation Report

Although it is noted that the consultation report and other submitted documents are working drafts, the applicant is encouraged to undertake a final and thorough proof read of all documents, particularly checking for punctuation and typographical errors.

In addition, the applicant is encouraged to ensure that all application documents provide consistent cross referencing when referring to other application documents.

We note that the draft consultation report remains partially complete, with certain appendices and sections of the main Consultation Report still outstanding.

Report Structure

Overall, the structure of the main report body is presented in a clear manner.

The majority of the work on the draft documents has been undertaken using the hard copies provided to PINS by YPL. There has been some difficulty in navigating the documents; as appendices are filed out of order and on occasion printed backwards. It is therefore recommended that a thorough 'sense' check is completed for all submitted hard copy documents in the final submission. It would also be extremely useful for navigation if the final hard copies of the consultation report (and indeed all other reports) include labelled and tabbed divider sheets between appendices.

Compliance Table

In reviewing the draft Consultation Report, we have prepared a compliance table in order to consider the report against statutory and non-statutory guidance. The comments are made without any prejudice to any future decision made under S55 of the Planning Act 2008 (as amended). We include a copy of this for your information and ease of reference: -

Compliance Table :

Legislation, Advice Note, Guidance	Paragraph/ Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments
PINS Advice Note 14	P.3	<i>'Explanatory text should set the scene and provide an overview narrative... It would assist if a quick reference guide in bullet point form is included'</i>	Yes	The applicant has not provided a reference guide in bullet point form as advised, although reference is made to this in the Introduction. The Executive Summary which is currently incomplete could be used for this purpose.
<u>Statement of Community Consultation ('SoCC') – s47 PA2008.</u>				
Legislation, Advice Note, Guidance	Paragraph/ Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments
PA 2008	Section 47 (1) (6)	<i>'Duty to prepare a SoCC under S47 (1) and to publish it under S47 (6)'</i>	Yes	Details of the SoCC are provided at sections 6.28-6.32 including information on where the SoCC was publicised. A copy of the final SoCC is provided in appendix 16.
PA 2008	Section 47 (2)	<i>'Duty to consult each local authority on a SoCC under S47 PA 2008'</i>	Yes	Sections 6.28-6.30 detail how the applicant has consulted with the local authority on the SoCC.
DCLG guidance on Pre-application process.	Paragraph 14 p.6	<i>'Produce a Statement of Community Consultation, in consultation with the local authorities, which describes how the applicant proposes to consult the local community about their project and then carry out consultation in accordance with that statement'</i>	Yes	A copy of the SoCC is found in Appendix 16 which details how the applicant proposes to consult the local community about their project.
DCLG guidance on Pre-application process.	Paragraph 14 p.6	<i>'Make the SoCC available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land where the development is proposed (required by s47 PA 2008 and Regulations)'</i>	Yes	Appendix 17 contains a copy of the notice publicising the SoCC. The SoCC is made available for inspection at various deposit points in the local area.

PINS Advice Note 14	P.4	<i>'Where more than one SOCC was prepared...the updated SOCC(s) should be included together with a narrative about why the SOCC was reviewed and updated'</i>	Yes	The York Potash project outlines the history of the consultation that had taken place prior to the formalising of the SoCC in Sections 2-5 of the draft Consultation Report.
PINS Advice Note 14	P.4	<i>'Copies of the published SOCC as it appeared in local press should be provided along with [...] which local newspapers it was published in and when'</i>	Yes	A copy of SoCC notice is available in Appendix 16.
PINS Advice Note 14	P.4	<i>'It would be helpful to provide a summary of the rationale behind the SoCC methodology'</i>	Partially	Section 6 of the draft Consultation Report details partially the rationale behind the SoCC methodology, however this could be made clearer in the final version of the report.
<u>Statutory Publicity (S48)</u>				
Legislation, Advice Note, Guidance	Paragraph/ Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments
PA 2008	Section 48	<i>'Duty to publicise under section 48 PA 2008'</i>	Yes	Sections 6.54-6.57 contains details of the publication of the notice under S48
APFP Regulations	APFP Regulations 2009 Chapter 4	<i>'The applicant must publish a notice.... (a) for at least 2 successive weeks in one or more local newspapers circulating the vicinity in which the proposed development would be situated (b) once in a national newspaper (c) once in the London Gazette'</i>	Partially	Section 6.54 contains a table providing the dates when the S48 notice was published in (a) a local newspaper for at least two successive weeks and (b) a national newspaper. However, it does not clearly state whether the notice has been published in the 'London Gazette'.
PINS Advice Note 14	P.4	<i>'A copy of the S48 notice as it appeared in the local and national newspapers, together with a description of where the notice was published and confirmation of the time period given for responses should be included in the report'</i>	Partially	The S48 notice is included in Appendix 28; however the copy provided does not appear to show the document as it appeared in local and national newspapers. Section 6.56 contains details of the time period given in which people can respond to the notice (being no less than 28 days).
PINS Advice Note 14	P.4	<i>'Applicants should also provide confirmation that the S48 notice was sent to the prescribed consultees at the same time the notice was published'</i>	Yes	Section 6.57 confirms that a copy of the notice was sent to the prescribed consultees at the same time the notice was first published.

PINS Advice Note 14	P.4	<i>'A description of the consultation material used and how the prescribed consultees were able to access it would also be useful. The S48 publicity is best dealt with as a separate section within the report'</i>	Yes	Section 6.55 contains a description of the consultation material used. The applicant separates S48 consultation from the rest of the draft Consultation Report
Consultation with the prescribed consultees (S42)				
Legislation, Advice Note, Guidance	Paragraph/ Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments
PA 2008	Section 46	<i>'Duty to notify PINS of the proposed application on or before commencing consultation under S42'</i>	Yes – could be clarified	Appendix 29 outlines the schedule of S42 consultees. The applicant should clearly state within the main body of the Consultation Report when the Planning Inspectorate was notified on the application before commencing consultation under S42.
PA 2008	Section 42 (a)	<i>'Duty to consult prescribed consultees, under S42 (a) PA 2008'</i>		A list of consultees is provided in Appendix 29. However, it is for the applicant to ensure that the list is comprehensive, and if bodies are not included the reasons for this are clearly stated in the report.
PA 2008	Section 42 (b)	<i>'Duty to consult each local authority that is within section 43, under section 42 (b) of the Act'</i>	Yes	See Section 6.24 details of local authorities with reference to S42(b)
PA 2008	Section 45	<i>'Notification of the deadline for receipt of responses under S45 (1) of the Act. This deadline must not be earlier than 28 days under section 45 (2) PA 2008'</i>	Yes	Section 6.24 appears to evidence this.
PA 2008	Section 42 (d)	<i>Duty to consult each person within one or more of the categories set out in S44 PA 2008'</i>	Yes	
PA 2008	Section 42	<i>Duty to consult the Marine Management Organisation under s42 (1) (aa) of the Act, in any case where the proposed development would effect (1) (2) (a) waters in or adjacent to England up to the seaward limits of the territorial sea'</i>	Yes	

PINS Advice Note 14	P.3	<i>This includes prescribed statutory bodies, local authorities consulted under S43 of the Act and those with an interest in the land consulted under S44 PA 2008. These separate strands of prescribed consultees should be clearly identified</i>	Yes	
PINS Advice Note 14	P.3	<i>'The applicant should include a full list of the prescribed consultees as part of the consultation report. If the prescribed consultees have been consulted on multiple occasions, perhaps at different phases of the consultation, then this should be explained. If the applicant's list of prescribed consultees varies in any way from the list of organisations set out in schedule 1 of the APFP Regulations 2009 then this should be robustly justified'.</i>	Yes	A list of prescribed consultees is provided in Appendix 29.
PINS Advice Note 14	P.3	<i>'The list of organisations in schedule 1 of the APFP should be followed in terms of the order in which the consultees are presented.'</i>		The Applicant should take note.
PINS Advice Note 14	P.3	<i>'A short description of how S43 PA 2008 has been applied in order to identify the relevant local authorities should be included. This could be supported by a map showing the site and identifying the boundaries of the relevant local authorities'</i>	Not yet provided	Unable to confirm
PINS Advice Note 14	P.3	<i>'It is important that those with an interest in the land consulted under S44 of the Act are identified as a distinct element of the wider S42 consultation'</i>	Yes	See Section 6.13 of the draft Consultation Report.
PINS Advice Note 14	P.3	<i>'Where compulsory acquisition forms part of the draft DCO the consultees who are also included in the Book of Reference for compulsory acquisition purposes should be highlighted in the consolidated list of prescribed consultees'</i>		The Applicant should take note.

Non Statutory 'informal' consultation

Legislation, Advice Note, Guidance	Paragraph/ Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments
PINS Advice Note 14	P.4	<i>'Applicants may have been engaged in non-statutory consultation, for example, high level consultation with statutory bodies may have been undertaken when identifying options and in advance of formal consultation under the provisions of the Act'.</i>	Yes	Sections 3 and 4 of the draft Consultation Report provide detail on non-statutory consultation that the applicant has engaged in prior to the formal statutory consultation.
PINS Advice Note 14	P.4	<i>'Any consultation not carried out under the provisions of the Act should be clearly indicated and identified separately in the report from the statutory consultation. This does not necessarily mean that informal consultation has less weight than consultation carried out under the Act, but identifying statutory and non-statutory consultation separately will assist when it comes to determining compliance with statutory requirements.'</i>	Yes	As above, Sections 3 and 4 document the non-statutory consultation separately to the statutory consultation later within the draft report.
<u>Responses to Statutory Consultation</u>				
Legislation, Advice Note, Guidance	Paragraph/ Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments

PA 2008	Section 49	<i>'Duty to take account of responses to consultation under section 49 of the Act'</i>		<p>Responses from consultation have been tabulated within a number of appendices to the draft Consultation Report. However it is unclear whether these have met the requirement of the Act fully at this point in time.</p> <p>It may be helpful for the applicant to prepare a reference sheet so that identity numbers of individuals and their comments can be fully attributed to that particular individual or organisation. However, this would need to be provided with the copies of the original correspondence (should this be requested during acceptance) so that personal details are not published with the application in breach of data protection.</p>
PA 2008	Section 47	<i>'Duty to have regard to the responses under S47 (5) of the Act'</i>		<p>Responses from consultation under S47 have been tabulated within a number of appendices to the draft Consultation Report. However it is unclear whether these have met the requirement of the Act fully at this point in time.</p>
Comments:				
PINS Advice Note 14	P.5	<i>'If the level of response was significant it may be appropriate to group responses under headline issues'</i>		The Applicant should take note.
PINS Advice Note 14	P.5	<i>'Care must be taken to ensure that in doing this the responses are not presented in a misleading way or out of context from the original views of the consultee'.</i>		The Applicant should take note.
PINS Advice Note 14	P.5	<i>'Where this approach (issues led) has been adopted it should be clearly identified and explained in the main body of the report, including any safeguards and cross checking that took place to ensure that the responses were grouped appropriately'.</i>		The Applicant should take note.

Summary of Responses				
Legislation, Advice Note, Guidance	Paragraph/ Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments
PINS Advice Note 14	P.5	<i>'A list of the individual responses received should be provided and categorised in an appropriate way'.</i>	Yes	These have been provided in the Consultation Report Appendices in a tabulated format.
PINS Advice Note 14	P.5	<i>'The summary of responses [...] can save a significant amount of explanatory text. We advise that applicants group responses under the three strands of consultation as follows: S42 prescribed consultees (inc S43 and S44), S47 community consultees and S48 responses to statutory publicity'</i>		It would be helpful to clearly identify the different responses received and tabulate them accordingly. It is noted that the applicant has undertaken this procedure to some extent.
PINS Advice Note 14	P.5	<i>'The list should also make a further distinction within those categories by sorting responses according to whether they contain comments which have led to changes to matters such as siting, route, design, form or scale of the scheme itself, or to mitigation or compensatory measures proposed, or have led to no change'.</i>		The tables do identify where regard has been had to certain responses. However, it would be helpful to also document why a response has been given to some comments and not to others.
PINS Advice Note 14	P.5	<i>'A summary of responses by appropriate category together with a clear explanation of the reason why responses have led to no change should also be included, including where responses have been received after deadlines set by the applicant'.</i>		It is important to have regard to the quoted advice and make clear where changes have been made to the application and why.
PINS Advice Note 14	P.5	<i>'While it is advisable for applicants to seek to resolve as many areas of disagreement and concern with consultees as possible, it is recognised that this is not always possible. It is important that where a resolution has not been reached, the reasons why are set out clearly in the summary'.</i>		No clear reference to this

PINS Advice Note 14	P.5	<i>'The schedule in Annex A is indicative, but sets out an approach which the Planning Inspectorate would find helpful'.</i>		The Applicant should take note.
Comments				
<u>Phased Approach</u>				
Legislation, Advice Note, Guidance	Paragraph/ Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments
PINS Advice Note 14	P.5	<i>'Where a phased approach to consultation was undertaken then this can be reflected in the structure of the report and in the summary of responses. For example, it may be advisable to have a separate commentary and summary schedule of responses sheet for each phase of consultation carried out'.</i>		
<u>Local authority responsibilities</u>				
Legislation, Advice Note, Guidance	Paragraph/ Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments
PINS Advice Note 14	P.6	<i>'Relevant local authorities will be requested by the Planning Inspectorate to provide an adequacy of consultation statement upon the submission of the application. Given the short 28 day timescale allowed for the acceptance stage it is particularly useful if applicants provide local authorities with early sight of the consultation report to inform their views'.</i>		The Applicant should take note.

PINS Advice Note 14	P.6	<i>'For its part the Planning Inspectorate will seek to provide advice to local authorities about preparing for the submission of the application and will encourage applicants to share drafts of the consultation report with local authorities as early as possible. The Planning Inspectorate will make the submitted consultation report available to local authorities as soon as possible after submission by way of a web link.'</i>	N/A	N/A at present
<u>Data Protection Act 1998</u>				
Legislation, Advice Note, Guidance	Paragraph/ Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Comments
PINS Advice Note 14	P.6	<i>'Applicants should ensure that the consultation report complies with the Data Protection Act 1998 and that the addresses and other contact information of private individuals are treated appropriately within the context of this statutory process. Applicants should ensure that the consultation report has been fully redacted and is fit for public consumption before submitting it'.</i>	No	No reference given, however no addresses or other contact information seem to be present within the draft Consultation Report or appendices. Applicant is advised to ensure in the final copy this advice is adhered to.

Annex 2: Draft Development Consent Order

The applicant should have regard to the DCO drafting advice note 15 which has recently been published and ensure that the DCO and EM comply with the advice.

http://infrastructure.planningportal.gov.uk/wp-content/uploads/2014/10/advice_note_15_version_1.pdf

DCO

In the preamble reference is made to the ExA submitted a report to the SoS in accordance with s.74 of the 2008 Act. This will only be correct if a panel determine the application, if it is a single person then s.83 will apply. It would be advisable to leave this blank until an ExA is appointed.

Article 2

This should contain a definition of the Environmental Statement (ES) as being the statement certified as the ES by the SoS for the purpose of the Order. The ES is listed in Article 38 as a document to be certified and should be defined as such.

Article 2 & 8 - Definition of Maintain

Article 2 contains a wide definition of maintain, including removal and replacement, this could permit substantial works to be carried out. The power to maintain should not permit the construction of what is a different project from that consented and the applicant should provide justification for including "removal" and "replacement". A DCO should only authorise works that are within the scope of the environmental impact assessment (EIA) that has been carried out and the applicant is advised to limit the definition of maintain either in the definition of "maintain" and / or within the maintenance article, to the extent assessed in the ES. This is reflected in the recent DCO drafting advice note at para 20.2. If the applicant does not consider this to be necessary they should provide an explanation for this within the Explanatory Memorandum (EM).

Article 4 – application of TCPA appeal provisions

The applicant should ensure that the drafting of this article does not have the effect of ousting the National Infrastructure EIA regulations that apply to discharge of requirements and the applicant is referred to paragraph 21 & 22 of the DCO drafting advice note, in particular to the good practice point in section 22 which considers appropriate drafting to prevent this.

Article 9

This permits the undertaker to provide and operate the harbour facilities as necessary for the construction of the development or operation of the undertaking. The applicant is advised to consider whether it is necessary to define the "undertaking" as it is not sufficiently clear what this relates to in the present drafting.

Article 14

This contains deemed consent provisions the applicant is advised to consult any bodies that are to discharge such provisions to seek agreement to inclusion of a deemed consent and to the time limits imposed.

Article 19 – tidal works

It is not clear why this article is included, it would be helpful if the applicant could explain this in the EM.

Article 26 – CA of land and rights

26(1) permits the undertaker to acquire compulsorily the land and existing rights and create and acquire compulsorily the new rights “described in the BoR and shown on the land plans”. The applicant must ensure that this is very clearly set out in the BoR so that the extent of CA that is being sought over each plot is clear. Following a cursory review the BoR does not appear to describe any new rights to be created. If the applicant seeks to create new rights these must be described somewhere, this can either be in the BoR as the DCO indicates or the applicant could amend the DCO to include a schedule of new rights and amend article 26 to reflect this.

26(4) relates to Crown land. The applicant is advised to consult with The Crown Estate (TCE) as they will need to consent to the inclusion of this provision in accordance with s.135(2) PA 08. The applicant is also advised to check that TCE are content with the level of protection the provision offers. The applicant may wish to note that the provisions of s.135(1) do not permit the compulsory acquisition of any Crown land or interest in Crown land that is owned by the Crown, compulsory acquisition is only permitted for interests in Crown land held otherwise than by or on behalf of the Crown and then only when the Crown authority consents.

Article 36 – protection of interests of Statutory Undertakers

The applicant is advised to agree the protective provisions with the relevant statutory undertakers as much as possible before submission of the application.

Schedule 1 - Works

24(1) PA 2008 details the requirements for the construction of harbour facilities to be an NSIP. The applicant is relying on 24(3)(c), facilities for cargo ships that are not container or ro-ro cargo. This means that to qualify as an NSIP the harbour facilities when constructed are expected to be capable of handling the embarkation or disembarkation of at least 5 million tonnes. It would be helpful if the applicant could explain how this is secured.

It appears on the works plans that there are areas of land within the red line boundary that do not comprise any of the works authorised by the Order. The red line boundary is described as “land required or affected by the authorised development (the order limits)”. Article 5 of the DCO grants development consent for the authorised development to be carried out within the order limits. The order limits are defined as the limits shown on the works plans. This means that the order authorises construction of the project within the redline boundary. The applicant should explain

why there is additional land included within the order limits which does not form part of the identified authorised development in Schedule 1 of the DCO and why it is needed.

Works No 1

The works describe the quay being constructed in two phases being either a quay of solid construction or a quay of open construction. The applicant should explain in the EM why it is not possible to determine which option would be appropriate at the time of submission of the application and when it is envisaged that this decision will be made. The applicant should also ensure that the effects of both have been fully assessed within the ES.

The applicant should also explain the 2 stage approach and how this is secured within the DCO. At present there does not seem to be any description or indication of what the two phases consist of and thus it is not clear exactly what development consent is being sought for or when the demolition of the proposed jetty will be authorised in accordance with 1(2).

Works in connection with 1-4B listed (a) – (n) at the end of schedule 1 should all be within the scope of the ES and the latter part of (n) should be applied to (a) – (n) and not just to (n).

Schedule 2 – Requirements

Several requirements require plans or schemes to be submitted to the “relevant planning authority” this is not defined within the DCO. The applicant should include a definition in Article 2. It is also noted that some requirements refer to the “local planning authority” it is important to ensure that the DCO is consistent. The applicant should bear in mind the advice in the DCO drafting note at section 21 that for clarity requirements should be drafted to refer to the relevant authority by name.

Requirement 1 is left blank for definitions, the applicant should consider whether this is necessary or if all definitions can be put in Article 2.

Requirement 5

This requirement permits the LPA to agree a subsequent change to approved details in writing by use of the tailpiece “unless otherwise approved in writing”.

The Applicant should ensure that any requirements that include tailpiece provisions are drafted in as precise a way as possible so that the scope of the tailpiece and the limited circumstances in which it applies are clear. Use of each tailpiece should be justified in the EM by reference to the relevant case law.

The applicant is advised to refer to section 19 of the DCO drafting advice note and ensure that the DCO complies with the advice set out in this.

There is reference within this requirement to being “in accordance with paragraph 5” the applicant is asked to consider whether they mean paragraph 4?

Requirements 10, 11, 12 13 & 14

The applicant may like to consider whether these contain enough detail to ensure that all necessary mitigation identified in the ES is effectively secured by the DCO.

DML

The applicant should ensure that the provisions of this are agreed as much as possible with the MMO before submission of the application.

Book of Reference

The applicant must ensure that part 1 correctly describes all land and rights to be acquired, including all new rights to be created. This is particularly important as the authorisation of compulsory acquisition in Article 26 is limited to the land and rights described in the BoR. This could be done by a separate column or it could be identified in the plot number column or in description column e.g by stating "new right" or "existing right" etc. It would also be more accurate to describe column 2 as "extent description of land or right to be acquired or created"

It is helpful to have a general introduction section explaining what is contained in each part. It would also be helpful to explain in this why part 2 is split into 2a and 2b at the beginning of the BoR.

In part 3 it would be helpful to include the column headed "extent description and situation of the land or right".

The applicant should ensure everyone in part 3 also in part 1.

The BoR should not contain a list of Statutory undertakers (see paragraph 9 Annex D Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land 2013). The applicant should remove this prior to submission.

Annex 3: Draft Land Plans and Work Plans

Comments on draft Works Plans

It is noted that the Order limits and the Works are clearly differentiated. The plans refer to APFP Regulation 5(2)(j)

Drawing, Plan Reference	Drawing/Plan Title	Check Revision	North Direction	Paper Size A0 or Smaller	Plan Scale 1:1 – 1:2500	Key Plan	Comments
1. Land Plans							
2.1	YPL Land Plan Key Plan	v2.0	Y	A1	1:7500	Y	
2.1A	YPL Land Plan Sheet 1	v2.0	Y	A1	1:2500		Shows Order Land in pink and land containing Crown interest in pink (hatched)
2.1B	YPL Land Plan Sheet 2	v2.0	Y	A1	1:2500 Contains inset plan at scale 1:250@A1		Shows Order Land in pink and land containing Crown interest in pink (hatched)
2.1C	YPL Land Plan Sheet 3	v2.0	Y	A1	1:2500		Shows Order Land in pink
2. Works Plans							
2.2	YPL Works Plan Key Plan	v1.0	Y	A1	1:7500	Y	
2.2A	YPL Works Plan Sheet 1	v1.0	Y	A1	1:2500		Shows Order limits as red line and Works Nos 1,2,3,4A & 4B and their Maximum Limits of Deviation
2.2B	YPL Works Plan Sheet 2	v1.0	Y	A1	1:2500		Shows Order limits as red line and Works Nos 3 & 4B and their Maximum Limits of Deviation
2.2C	YPL Works Plan Sheet 3	v1.0	Y	A1	1:2500		

Comments on Draft Land Plans:

4. Plot comparison with BoR and comments		
Drawing, Plan Reference and title	Plot Number and description	Comments
2.1A YHPL Land Plan Sheet 1	1 - 233624 square metres or thereabouts, of the bed of the River Tees, foreshore and part of jetty situated at Seal Sands, Middlesborough, except those interests owned by (The Crown)	<p>Shows plots 1-21. Refers to APFP Regulation 5(2)(i) and 5(2)(n)</p> <p>Plot 1 encloses plots 2, 3, 4 & 5, and is adjacent to plots 6, 7, 8,13,12,14. Plot 1 is shown as land containing Crown interests.</p> <p>The order limit red line boundary on the key is not sufficiently clear to differentiate it from the borders of the plots, which are also delineated in red.</p> <p>It is not made clear what the area shown as two parallel red lines running diagonally south east from Plot 7 is. This feature is not shown on the key plan.</p>
As above	2 – 652 square metres square metres square metres square metres square metres or thereabouts of the bed of the River Tees and pipelines on foreshore situated at Seal Sands, Middlesborough, except those interests owned by (The Crown)	Plot 2 extends south east and appears to morph into plot 12, but this is not clearly marked.
As above	3 – 5581 square metres or thereabouts of the bed of the River Tees, foreshore and pipelines situated at Seal Sands, Middlesborough, except those interests owned by (The Crown)	No comment
As above	4 – 325 square metres or thereabouts of the bed of the River Tees and pipe tunnel on foreshore pipelines situated at Seal Sands, Middlesborough, except those interests owned by (The Crown)	Plot 4 extends east/south east and appears to morph into plot 14, but this is not clearly marked. <i>(See also Plot 14)</i>
As above	5 – 48085 square metres or thereabouts of the bed of the River Tees, foreshore and pipelines situated at Seal Sands, Middlesborough, except those interests owned by (The Crown)	No comment
As above	6 – 38 square metres or thereabouts, of the bed	No comment

	of the River Tees, and foreshore situated at Seal Sands, Middlesborough, except those interests owned by (The Crown)	
As above	7 – 46 square metres or thereabouts of boulders situated in the River Tees	No comment
As above	8 – 755324 square metres or thereabouts of part of the river Tees, mudflats, part of beach known as Bran Sands, lagoon, footpath, grassed area, private road, pipelines and part of Bran Sands Effluent Treatment Works.	Plot 8 extends south east onto Sheet 2. It forms a section turning south west to meet its boundaries with plots 11 and 37.
As above	9 – 9330 square metres or thereabouts of land forming part of Redcar Iron and Steel Works	No comment
As above	10 – 25671 square metres square metres or thereabouts of land forming part of Redcar Iron and Steel Works except those interests owned by (The Crown)	Plot 10 extends south east and is shown as land containing Crown interests. (See also under Land Plan Sheet 2)
As above	11 – 71096 square metres or thereabouts of water known as Dobholm Gut (forming part of the River Tees) part of jetty, part of pipelines, bridge, pipe gantries and pipe tower situated to the east of the River Tees	No comment
As above	12 – 423 square metres or thereabouts of land and pipelines situated north of water known as Dobholm Gut (forming part of the River Tees)	It is not clear where Plot 12 meets Plot 2 (west) and Plot 19 (east) (See also Plot 16 & Plot 19)
As above	13 – 3669 square metres or thereabouts of water known as Dobholm Gut (forming part of the River Tees), part of jetty, private road, pipelines, pipe gantries and pipe tower situated to the east of the River Tees	No comment
As above	14 – 59 square metres or thereabouts of land and pipelines situated south of Bran Sands	It is not clear if Plot 14 is the boundary of Plot 4 or a small parcel of land within Plot 4
As above	15 – 88 square metres or thereabouts of land and pipelines situated to the east of the River Tees	It is not clear if Plot 15 is the boundary of Plot 14 or a small parcel of land within Plot 4
As above	16 -2 square metres or thereabouts of water known as Dobholm Gut (forming part of the River Tees) and pipelines situated to the north	Plot 16 appears to be the intersection of Plots 2, 15, 17 and 19.
As above	17 – 2095 square metres or thereabouts of land and pipelines situated to the east of the River	Plot 17 extends south eastwards onto Sheet 3 as far as Plot 49

	Tees	
As above	18 – 22581 square metres square metres square metres square metres or thereabouts of land and pipelines situated to the east of the River Tees	Plot 18 extends south eastwards onto Sheet 2 as far as the plots on the inset plan. <i>(See also Sheet 2, Inset Plan)</i>
As above	19 – 4072 square metres or thereabouts of water known as Dobholm Gut (forming part of the River Tees) and pipelines situated to the north	Plot 19 extends south eastwards onto Sheet 2 as far as the inset plan where it meets plot 30. <i>(See also Sheet 2 ,Inset Plan)</i>
As above	20 – 36127 square metres or thereabouts of water known as Dobholm Gut (forming part of the River Tees), private road, public footpath, pipelines and pipe gantries situated to the east of the River Tees	Plot 20 extends south eastwards onto Sheet 2 as far as the inset plan where it meets the boundaries of plots 25,26,27,28,29 and 30 <i>(See also Sheet 2 ,Inset Plan)</i>
As above	21 – 63775 square metres or thereabouts of mudflats and pipelines leading into water known as Dobholm Gut (forming part of the River Tees),	Plot 21 extends south eastwards onto Sheet 2 as far as its boundary with plot 20.
2.1B YHPL Land Plan Sheet 2		Shows Plots 21- 50 and an inset plan showing plots 25-37 Refers to APFP Regulation 5(2)(i) and 5(2)(n)
As above	10 – 25671 square metres square metres or thereabouts of land forming part of Redcar Iron and Steel Works except those interests owned by (The Crown)	A portion of Plot 10 on this Sheet is shown hatched in heavier line. It is not made clear what this feature is.
As above	22 – 488 square metres square metres or thereabouts of accessway to Bran Sands Effluent Treatment Works, land and pipelines situated to the north of the River Tees	No comment
As above	23 – 516 square metres or thereabouts of land forming part of historic access to Bran Sands Effluent Treatment Works situated to the east of said treatment works and to the north of the River Tees	No comment
As above	24 – 2614 square metres or thereabouts of land adjoining Bran Sands Effluent Treatment Works situated to the east and north of said treatment works and to the north of the River Tees	No comment
Inset plan		

As above	25 – 675 square metres or thereabouts of grassed area, pipelines, bridge and railway situated to the east of Dabholm Beck	No comment
As above	26 – 112 square metres square metres or thereabouts of land, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	27 – 68 square metres or thereabouts of land, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	28 – 61 square metres square metres or thereabouts of land, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	29 – 581 square metres or thereabouts of grassed area. Private road, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	30 – 11 square metres or thereabouts of land, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	31 – 29 square metres or thereabouts of land, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	32 – 17 square metres or thereabouts of land, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	33 – 180 square metres or thereabouts of land, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	34 – 29 square metres or thereabouts of land,	No comment

	pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	
As above	35 – 257 square metres or thereabouts of private road, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	36 – 54 square metres or thereabouts of land, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works and north east of Dabholm Beck	No comment
As above	37 - 1146 square metres or thereabouts of land, pipelines, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works	No comment
2.1B YHPL Land Plan Sheet 2 (cont)		
As above	38 – 16374 square metres or thereabouts of grassed areas, private road, pipelines, pipe gantries, bridge and railway situated to the south east of Bran Sands Effluent Treatment Works	Plot 38 continues east onto Sheet 3 as far as its boundary with plot 39
As above	39 – 999 square metres or thereabouts of pipelines, bridge and private railway situated to the south of the electrical substation	No comment
As above	40 – 2 square metres or thereabouts of land and pipelines situated to the south of the electrical substation	Plot 42 appears to be an intersection of plots 41,39, 43 and 49
As above	41 – 155 square metres or thereabouts of land and pipelines situated to the south east of the Bran Sands Effluent Treatment Works	No comment
As above	42 – 5377 square metres or thereabouts of grassed areas, private road, railway, pipelines and pipe gantries situated to the south east of the Bran Sands Effluent Treatment Works	No comment
As above	43 – 407 square metres or thereabouts of land, pipelines, bridge and railway situated to the south of the electrical substation	Plots 44- 49 are shown on Sheet 3

As above	49 – 489 square metres or thereabouts of pipelines, bridge and private railway situated to the south of the electrical substation	No comment
As above	50 – 16952 square metres or thereabouts of grassed areas, pipelines, pipe gantries, bridge and private railway situated to the east of Bran Sands Effluent Treatment Works	No comment
2.1C YHPL Land Plan Sheet 3		Shows Plots 41- 62 Refers to APFP Regulation 5(2) (i) and 5(2) (n)
As above	44 – 46812 square metres or thereabouts of grassed areas, private road, private railways, pipelines, pipe gantries, trees and woodland situated to the south east of Bran Sands Effluent Treatment Works	No comment
As above	45 – 852 square metres or thereabouts of public footpath and public adopted highway known as the A1085	No comment
As above	46 – 62 square metres or thereabouts of public adopted highway known as the A1085	No comment
As above	47 – 1588 square metres or thereabouts of land, private railway, pipelines, bridge known as McGowan Bridge, public footpath and public adopted highway known as the A1085 situated to the east of Bran Sands Effluent Treatment Works	No comment
As above	48 – 3100 square metres or thereabouts of grassed areas, private railway, pipelines, trees and woodland situated to the east of Bran Sands Effluent Treatment Works	No comment
As above	51 – 1693 square metres or thereabouts of hard surface and private road situated to the north of public adopted highway known as the A1085	No comment
As above	52 – 241 square metres or thereabouts of land and public footpath forming part of adopted highway known as the A1085	No comment
As above	53 – 82 square metres or thereabouts of land and public footpath forming part of adopted highway known as the A1085	No comment
As above	54 – 30151 square metres or thereabouts of ,	Plot 54 includes a roundabout, but it is not mentioned in

	public footpath and public adopted highway known as the A1085	the description.
As above	55 – 56 square metres or thereabouts of , public footpath and public adopted highway known as the A1085, land and pipelines	No comment
As above	56 – 132 square metres or thereabouts of ,public footpath and public adopted highway known as the A1085	No comment
As above	57 – 25305 square metres or thereabouts of private road and woodland situated to the south of public adopted highway known as the A1085	No comment
As above	58 – 371 square metres or thereabouts of pipelines and private railway woodland situated to the south east of public adopted highway known as the A1085	No comment
As above	59 – 91456 square metres or thereabouts of grassed areas, pipelines, pipe gantries, bridge and private railway situated to the south of public adopted highway known as the A1085	No comment
As above	60 – 18538 square metres or thereabouts of grassed area and trees situated to the south of public adopted highway known as the A1085	No comment
As above	61 – 19 square metres or thereabouts of land and pipelines situated to the north of Wilton Works	No comment
As above	62 – 79111 square metres or thereabouts of grassed area, private road, trees and premises situated south of the railway and within Wilton Works square metres or thereabouts of grassed area	No comment

Annex 4: Section 51 advice in relation to the draft HRA report (dated 28 October 2014)



3/18 Eagle Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services: 0303 444 5000
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By email

Your Ref:

Morag Thomson

Our Ref: TR030002

Date: 28 October 2014

Dear Ms Thomson

**Application by York Potash Ltd for an Order Granting Development Consent
for the York Potash Harbour Facilities Order**

Section 51 advice in relation to draft documentation

Thank you for providing a draft HRA Report for the York Potash Harbour Facilities which was received on 6 October 2014. Comments on this Report and an outline of our expectations for the final HRA Report are provided below and within **Annex 1** this letter.

The relevant Secretary of State is the competent authority for the purposes of the Habitats Directive, the 2010 Habitats Regulations and the Offshore Marine Regulations for applications submitted under the PA 2008 regime. The findings and conclusions on nature conservation issues reported by the ExA will assist the Secretary of State in performing the duties under the 2010 Habitats Regulations and the Offshore Marine Regulations.

As you may be aware, the Examining Authority produces a Report on the Implications for European Sites (RIES) as part of the examination process. This RIES compiles, documents and signposts information provided within the DCO application, and the information submitted throughout the examination by the applicant and by Interested Parties.

This RIES is issued for consultation to Interested Parties. This process may be relied on by the Secretary of State for the purposes of Regulation 61(3) of the 2010 Habitats Regulations and Regulation 25(3) of the Offshore Marine Regulations.

An applicant's HRA Report and accompanying matrices are key documents used to produce the RIES and therefore it is important that the HRA Report you submit as part of the DCO application includes the information required to allow the ExA to undertake this task.

General Comments

It is noted that the draft HRA Report is incomplete and is awaiting additional data following the outcome of the EIA for the Harbour Facility. This is clearly reflected in the Report, for example in paragraph 10.3.5.

The Planning Inspectorate would expect that by the time of submission of the draft DCO application, the draft HRA Report will have been revised to include all of the outstanding additional data and that a conclusion on the likely significant effects on European sites as a result of the Harbour Facilities will have been reached. It is expected that agreement on the approach to the assessment and the conclusions reached will have been agreed with all relevant statutory parties, in particular Natural England as the statutory nature conservation body (SNCB). It is expected that evidence of these agreements will be provided in the HRA Report.

Structure of the draft HRA Report

It is noted that the draft HRA Report provides an assessment of all elements of the York Potash Project together, and then provides an in-combination assessment of the York Potash Project with other plans/projects in the wider area. The draft HRA Report does not provide an assessment of the Harbour Facilities project alone.

The Planning Inspectorate advises that the assessment supporting the draft DCO application should clearly consider:

- i. the Harbour Facilities (**project alone**)
- ii. the Harbour Facilities in combination with other plans and projects, these will include the other elements of the York Potash Project (ie mine; construction village, construction and operational park and rides; minerals transport system; material handling facility) (**in-combination**).

This is to ensure it is clear where a potential effect on a European site arises from the Harbour Facility (Project Alone) or in combination from another development. It is important for the ExA to understand how an adverse effect, if present, could be mitigated (if possible) and therefore how this mitigation could be secured and delivered through the DCO.

Further comments

Comments on the individual sections of the draft HRA Report are provided in **Annex 1** of this letter.

I trust the comments provided are of assistance and should you require any clarification on the points raised, I would be grateful if these could be provided in advance of the meeting on 4 November 2014 in preparation for discussion.

Yours sincerely

Oliver Blower

Oliver Blower on behalf of Tom Carpen (Principal Case Manager)

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

Comments on the applicant's draft HRA Report entitled 'York Potash Project Habitat Regulations Assessment: Part 2 Appendix 11.3' (Revision E September 2014)

Section 1: Introduction and Background

- Paragraph 1.1.2 of the draft HRA Report within the Executive Summary confirms that the Report as submitted, does not include all of the environmental information that will be available in relation to the Harbour Facility, as this facility is stated to be still in development. The information provided about the Harbour Facility in this draft HRA Report, is therefore stated to be limited to what has been provided so far under the EIA for the Harbour Facility. The Planning Inspectorate advises that this should be revised prior to submission of the draft DCO and all information provided (see comments in the covering email).
- The draft HRA Report does not assess the effects of the proposed DCO application (ie the Harbour Facilities development), rather it is stated (paragraph 1.2.5) that 'for the purposes of the YPL's HRA, as far as possible, the entire YPP is being assessed as one scheme', yet the same paragraph acknowledges that there will be different competent authorities. It follows that each competent authority will need to be clear as to the assessment relating to the development they are considering. The assessment should be revised to ensure that the documents supporting the draft DCO clearly assesses the Harbour Facilities alone (project alone); and the Harbour Facilities in combination with other plans and projects, including the other elements of the York Potash Project (in-combination).
- The applicant describes their definition of a likely significant effect (LSE) in paragraph 1.4.6 of the draft HRA Report. The basis for this definition should be explained e.g. taken from a publication or any guidance, in which case this should be clearly referenced, or professional judgement.
- Inclusion of the relevant site conservation objectives as an Appendix to the draft HRA Report is welcomed, however the applicant should be aware that the conservation objectives provided in the draft HRA Report differ from those provided by Natural England on their website. The applicant should ensure that the most up to date conservation objectives are provided in the final HRA Report.

Section 2: Description of the York Potash Project

- The description of the development must describe the development for which development consent is sought (Harbour Facilities) and must match the description in the draft DCO submitted with the application. In this respect, whilst a brief description of the other aspects of the York Potash Project is useful, the description of the development should be explicitly clear on which aspects form the 'project alone' (Harbour Facilities) and which form part of the in-combination assessment (the other three elements of the development) together with other proposals in the vicinity. Clarity is also needed when describing the 'site' in the HRA Report. This should be a reference to the location of the proposed Harbour Facilities and clearly identified on a plan.

- The applicant should ensure that the red line boundary figure provided in the HRA Report matches the Work Plans provided in the draft DCO application.
- Paragraph 2.6.2 of the draft HRA Report refers to the use of design parameters where development options remain, for example in relation to the conveyor system. In addition, two options are currently being considered for the quay construction – an open quay structure and a solid quay structure (paragraph 2.6.4). Paragraph 2.6.3 of the draft HRA Report confirms that the minimum quay length would be 540m with no reference to the maximum length. The applicant should ensure that the design of the development is as firm as possible at the time of submission, and where options remain, the design parameters are clearly defined and reflected within the draft DCO and the worst case is assessed. This is set out in paragraph 2.1.1 of the draft HRA Report which confirms that the project description is based on the ‘realistic worst case scenario’ for the project and is used as the basis for the applicant’s HRA.
- The HRA Report must provide a clear description of the worst case scenario with reference to the project description in the draft DCO and a justification of the basis for this to be considered the ‘worst case scenario’. The applicant may find it necessary to consider different ‘worst cases’ dependant on the aspects of the environment likely to be affected.
- Paragraph 2.1.2 of the draft HRA Report confirms that liaison will be maintained with NYMNPA, RCBC and PINS throughout the detailed design phase to ensure that any alterations to the design are reflected in the HRA. The applicant is strongly advised to consult with Natural England (as the SNCB) in relation to design changes should these occur.
- Paragraphs 2.6.1 and 2.6.10 of the draft HRA Report confirms that capital dredging in the approach channel is required but this is contradicted in paragraph 10.3.13 of the draft HRA Report which states that no dredging in the approach channel is required. It is noted from Figure PB1586/SK58 (Rev 2) that the red line boundary does not extend into the approach channel. The extent of the dredging works proposed as part of the development will affect the assessment of hydrodynamic impacts on European Sites (particularly Teesmouth and Cleveland Coast SPA and Ramsar) and therefore this aspect of the development should be clarified in the applicant’s submitted HRA Report and reflected in the assessment.
- Consideration of potential mitigation in the form of enhancing the habitat in the Bran Sands lagoon following discussions with Natural England is referred to in paragraph 2.6.9 of the draft HRA Report. The draft HRA Report records that at this stage, this potential mitigation is currently being investigated. The Planning Inspectorate expects that the potential for any such mitigation would have been considered, and assessed, prior to the submission of the DCO application for the Harbour Facility, if the applicant intends to include this mitigation as part of the DCO application. It should also be included as part of the environmental impact assessment.

Section 4: Site Screening Methodology

- Paragraph 4.1.1 of the draft HRA Report confirms that a generic 5km buffer was initially applied, and then beyond this buffer, further zones of interaction in relation

to differing environmental parameters were defined as described in Table 5.1. However, Table 5.1 implies that the 5km buffer was reduced in some areas as certain impacts were not expected to extend for 5km. The applicant is advised to provide further clarity and justification for the study area used for the HRA.

- Paragraph 4.1.2 and Table 4.1 confirm that European Sites adjacent to the existing road network that have the potential to be affected by the proposed scheme have also been considered. As the definition of the proposed scheme currently included in the draft HRA Report includes all four elements of the overall project, it is not clear what element of the overall project may result in impacts on these sites. This should be clarified, in particular, whether these impacts are from the proposed Harbour Facility. It would be helpful for a map of these routes and the location of any relevant European Sites to be provided in the draft HRA Report.
- This section of the draft HRA Report should refer to any guidance used to develop the site screening methodology. The draft HRA Report should describe the consultation that occurred to screen sites into or out of the assessment, and provide corroborative evidence from NE to demonstrate that all sites relevant to the draft HRA have been considered.

Section 5: Plans and Projects to be considered in-combination

- Previously discussions (e.g. meeting note 17 December 2013) have been held between PINS and the applicant regarding the need to identify a 'cut off' point in the project programme to allow for a consistent approach in the identification of plans/projects to be included in the in-combination assessment for the separate planning applications relating to each element of the York Potash Project. Paragraph 8.2.11 of the draft HRA Report states that the in-combination effects will be reassessed if other developments become apparent in the study area. This statement implies that the cut-off point has yet to be reached. It is therefore acknowledged that the plans/projects included in the final in-combination assessment may differ from those presented in the draft HRA Report once the cut off point has been reached. The final HRA Report should clarify this date.
- The Planning Inspectorate draws the attention of the applicant to the Dogger Bank Teesside A and B NSIP which was accepted for examination in April 2014 and has a proposed cable corridor in the vicinity of the Wilton complex. This proposed NSIP is not referred to in either Table 5.1 or 5.2, its absence should be explained in the HRA Report and consideration given as to whether this proposed development may have an in-combination effect with the proposed Harbour Facility.

Section 6: Designated Sites Potentially Affected by the Project

- Paragraph 6.1.1 of the draft HRA Report states that five European Sites and one Ramsar have been screened into the assessment yet only four European Sites are listed in the following bullet points. It is assumed that this is an error but the applicant is advised to review this sentence.

Section 7: Description of the Baseline Environment

- A summary of the ecological surveys carried out in relation to the harbour facility are provided in Table 7.5 of the draft HRA Report. The draft HRA Report should

only include those which are relevant to the HRA. References to the location of this data elsewhere in the application should be provided.

- It is noted that the baseline data dating back 7 years in relation to ornithology has been sourced from INCA 'of the areas within the footprint of the proposed Harbour Facility' (paragraph 7.4.2). The applicant is advised to ensure that the scope of the data relied on for the HRA has been agreed with NE and evidence provided to demonstrate this.
- At present it is only the baseline ornithological environment that has been described (Section 7.4). It is expected that once more baseline information on other aspects of the environment becomes available, the description of the baseline environment will be updated to reflect this.
- There is a large amount of information in this section which describes the baseline environment relating to the other elements of the York Potash project. The applicant is advised to review this information to ensure its relevance to the proposed NSIP development is included in the HRA.
- It would be useful for this section of the draft HRA Report to include evidence of the agreement made with NE in relation to the scope of the baseline data collection.

Section 8: Assessment of Potential for Likely Significant Effect

- Screening matrices intended to follow the format set out in PINS Advice Note 10 are provided in Tables 8.7-8.10 of the draft HRA Report. Comments on the format and content of these matrices are provided in the following bullet points.
- These matrices will need to be revised to reflect the 'project alone' and 'in-combination' assessment.
- The screening matrices should be amended to ensure that each qualifying feature of a European Site is considered in a separate row.
- The applicant is advised that a separate matrix for the Teesmouth and Cleveland Coast Ramsar will be required as the criteria differ from the qualifying features of the Teesmouth and Cleveland Coast SPA.
- In relation to the Harbour Facilities development, the screening matrices indicate that the only sites where LSE cannot be excluded are the Teesmouth and Cleveland Coast SPA and Ramsar Site (Table 8.10). The evidence to support the conclusions reached is provided in Table 8.5 of the draft HRA Report, with no indication as to which part of Table 8.5 is relevant. The applicant should be reminded that references to the supporting evidence should be provided in the footnotes to the matrix. It is useful to refer to consultation responses e.g. from the SNCB to support any conclusions reached.
- In relation to 'habitat loss', the screening matrix (Table 8.10) and the accompanying evidence (Table 8.5) indicate that there will be LSE in relation to habitat loss. However, when referring to Plan PB1110-P1-5-003 (draft HRA Report Appendix A), the site boundary for the harbour facilities project is not shown to be

located within the Teesmouth and Cleveland Coast SPA or Ramsar. The screening matrices and accompanying information should be reviewed to ensure that direct and indirect impacts (e.g. habitat loss of potential functional land) are considered appropriately.

- Footnote 'h' confirms that decommissioning has been scoped out of the HRA. The applicant should provide evidence of the basis for this aspect to be scoped out of the assessment. The applicant should be able to demonstrate, perhaps with reference to the DCO, how the extent of the proposed decommissioning works will be secured in the DCO.

Section 9: Screening Statement

- This section will need amending to summarise the conclusions of the revised screening assessment of the 'project alone' and 'in-combination' effects.

Section 10: Information for Appropriate Assessment (YPP Alone)

- It is noted from paragraph 10.4.11 of the draft HRA Report that further data is awaited as a result of the Harbour Facilities EIA and therefore the appropriate assessment will be updated with more evidence once this becomes available.
- The applicant should ensure that within their consideration of the effects of the development on site integrity the sources of data/literature used in support of the conclusions is clearly referenced in this section.
- The applicant should ensure that an assessment against the conservation objective of the sites screened into the Appropriate Assessment is carried out.
- The applicant should ensure that integrity matrices in the format demonstrated in PINS Advice Note 10 are provided in the HRA Report for any sites screened into the Appropriate Assessment. Please refer to the comments provided under Section 8 in relation to the format and content of these matrices.
- There are some references to the use of mitigation as part of the assessment (e.g. paragraphs 10.3.34, and 10.3.43). The HRA Report should provide a detailed description of all mitigation measures relied on in the HRA, with reference to how such measures would be secured in the DCO. The applicant should provide evidence of agreement with Natural England on the suitability of the mitigation measures.

Section 11: Information for Appropriate Assessment (In-combination)

- Paragraph 11.4.9-11.4.10 confirms that the 'Tuned In' youth facility has been implemented yet forms part of the in-combination assessment. Therefore, it is unclear whether this development is part of the baseline environment and this should be clarified by the applicant.

Other comments

The applicant needs to consider how they intend to take the potential extension to the Teesmouth and Cleveland Coast SPA into account within the HRA. It is expected that the applicant consults with Natural England to agree an appropriate approach.