

THE YORK POTASH HARBOUR FACILITIES ORDER 201X

Applicant's Response to Examining Authority's First Questions



Regulation Number 5(2)(q)

Document 8.2

York Potash Limited

August 2015

YORKPOTASH
A Sirius Minerals Project



Planning Act 2008 (as amended) and the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)

TR030002: Application by York Potash Limited for an Order Granting Development Consent for the York Potash Harbour Facilities

Applicants Responses to the Examining Authority's First Round of Questions 27 July 2015

Ref	Question For	Question	Applicant's Response
		Compulsory Acquisition and Funding (CA)	
CA 1.1	Applicant	<p><i>The need for the rights proposed to be subject to compulsory acquisition</i></p> <p>The Explanatory Memorandum (APP-004) states that the power to deviate laterally the by up to 20 metres between works areas is needed to give the Applicant sufficient scope to take into account matters which it may not be possible to identify before construction commences. The Documentation states that further surveys or studies would be required prior to construction of the development to refine the choice of conveyor route and the nature of quay construction. Please;</p>	

Ref	Question For	Question	Applicant's Response
		<p>a) Provide a more detailed description of these surveys/studies; and</p>	<p>a) The choice of conveyer route and quay construction is inextricably linked with the tender process, choice of contractor and the contractor's design.</p> <p>With regard to the conveyor and the quay the following steps will be undertaken:</p> <p>Stage 1 - Outline design for submission with the tender documents – by the Applicant.</p> <p>Stage 2 - Tender design - by contractors tendering for the works.</p> <p>Stage 3 - Detailed design – undertaken by the selected contractor.</p> <p>For each stage in the process the level of detail will increase. Ultimately the technical solution selected will be dependent on:</p> <ol style="list-style-type: none"> 1. the constraints imposed by the Applicant (capturing the output from the DCO process); 2. the construction methodology selected by the contractor; and 3. the operational equipment available to the selected contractor.

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		<p>b) Show how these are secured through the draft DCO.</p> <p>c) Please indicate what mechanisms exist in the DCO to control the</p>	<p>To support the design development additional studies might be required including but not limited to the following:</p> <ul style="list-style-type: none"> i. Further topographic survey of the area; ii. Further bathymetric survey in the main river channel and in the lagoon; iii. Further ground investigation in the river and on land. This will consider the physical and chemical properties of the soil, ground water and gases as appropriate; and iv. UXO/UXB subject to the findings of a risk assessment. <p>b) It is not intended that the process leading to the identification of which alternative is to be constructed should be dealt with in the DCO. The choice made will however have to conform to the development which has been assessed and authorised by the DCO. It is not felt appropriate for the detailed stages of tendering and other contractual processes to be governed by the DCO.</p> <p>c) It is not intended that the DCO control the choice made. The alternatives are included both as valid options and have both been fully assessed and</p>

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		<p>choice and implementation of only one out of the pairs of alternatives.</p> <p>d) Provide a specific justification for the extent of lateral deviation proposed in relation to each work area as the justification for particular extents must vary from work to work rather than a universal justification being applicable.</p>	<p>found to be acceptable. When the processes described in a) above have identified which option is to be pursued then that option will proceed and the rejected option will not. Whilst the choice is not to be governed by the DCO it is accepted that it must be clear that only one of the alternatives can be constructed. Accordingly in the next version of the DCO (to be submitted by Deadline 2) it is proposed to include a mechanism whereby there is formal notification of the choice of alternative and at that point any authority granted by the DCO in respect of the alternative not chosen will cease.</p> <p>d) The lateral deviation which is referred to in Article 4(c) only applies to the internal works boundaries so that it cannot operate to effectively increase the Order Limits. It is a universal flexibility applying to the demarcation between the works areas and reflects the fact that there is no prescriptive way by which one identifies a works area. Some DCO have few works areas of much greater extent than the works areas proposed here (e.g. Rookery South, Able Marine, Triton Knoll Offshore Wind Farm and Burbo Bank Extension Offshore Wind Farm). It was thought helpful to break up the area into relatively small works areas so that there was</p>

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			<p>more clarity as to what was happening in which area. In doing so one loses the flexibility afforded by larger works areas which could have been created here by simply combining works areas. Accordingly some flexibility is built in as contained in Article 4 (c). This allows for issues relating to constructability in particular to be accommodated.</p>
CA 1.2	Applicant	<p><i>The need for the land proposed to be subject to compulsory acquisition</i> Given the options for conveyor routings and quay construction,</p> <p>a) how can you justify the proposed powers of compulsory acquisition over land that will not be required as implied by the phraseology 'as may be required for the purposes of the authorised development' in articles 29 and 30 of the draft DCO?</p>	<p>a) It is not known yet that any compulsory acquisition applied for "will not be required". That will only be known when the alternatives to be constructed have been determined (see the answer to CA 1.1) It is intended that when the alternative to be constructed has been determined, any compulsory acquisition powers in respect of the alternative conveyor will fall away. The Articles relating to compulsory acquisition in Part 5 of the draft DCO will be reviewed and amended in the next draft to reflect this.</p>

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		<p>b) do you intend to confirm the actual extent of your requirements during the Examination?</p>	<p>b) That is not the intention (see the answer to CA 1.1). It is not possible to confirm the conveyor route until contractors are appointed. The extent of compulsory acquisition therefore cannot be further defined until then.</p>
CA 1.3	Applicant	<p><i>Crown land</i> Part 4 of the Book of Reference (APP-009) lists the following as owner of the Crown interest in respect of certain plots:</p> <ul style="list-style-type: none"> • The Queen's Most Excellent Majesty in Right of her Crown <p>The letter from the Crown estate dated 15 December 2014 does not give an unqualified consent as it requires insertion of an Article in the draft DCO that consent must be sought. Article 36 of the draft Order provides the wording requested, but this appears still to leave consent to be sought. Please provide a progress report on negotiations with the owner of the interest, with an estimate of the timescale for securing unqualified written consent from them under s135 of the PA2008 (as amended).</p>	<p>The issue of Crown consent and Article 36 raised by this question also arose in the Dogger Bank Teesside A and B Offshore Wind Farm Order just approved (hereinafter referred to as "the Dogger Bank Order"). Paragraph 6.9 of the Secretary of State's decision letter dated 4 August 2015 refers. The Dogger Bank Order contains, at Article 41, the same provision as in Article 36 of the Applicant's draft Order.</p> <p>The issue raised in paragraph 6.9 of the Dogger Bank decision letter was that the article effectively only granted conditional consent to the content of the Order relating to Crown interests. However, in the case of Dogger Bank the Secretary of State was satisfied by way of a letter dated 23 June 2015 from the Crown Estate to the Secretary of State. The substance of that letter was to confirm that the Crown Estate consent "to the inclusion of terms relating to Crown land" in the Dogger Bank Order. The letter confirmed that the consent was conditional upon no</p>

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		<p>State whether there are any envisaged impediments to the securing of such consent.</p>	<p>material changes to the draft DCO being made by the Secretary of State in relation to the Crown land provisions. The letter also made it clear that the consent referred to was not the consent which would be required pursuant to the relevant article in the DCO (which in the letter was referred to as "paragraph 42" but which ultimately was Article 41).</p> <p>The letter provided in relation to this draft Order from the Crown Estate dated 15 December 2014 (Document 7.6) in substance provides the same consent as that obtained by the Secretary of State for Dogger Bank post Examination. As with Dogger Bank, we can confirm that there are arrangements in place with the Crown which provide a mechanism whereby any consent under Article 36 may be obtained. There are no envisaged impediments to securing such consent.</p>
CA 1.4	Applicant	<p><i>s127 and s138 including Protective Provisions</i> The Book of Reference (APP-009) includes a number of Statutory Undertakers with interests in plots. Provide a progress report on negotiations with each of the Statutory Undertakers listed in the Book of Reference, with an</p>	

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		<p>estimate of the timescale for securing agreement from them under s127 of the PA2008 (as amended).</p> <p>State whether there are any envisaged impediments to the securing of such agreements.</p> <p>The Explanatory Memorandum (APP-004) states that the Schedules 7-11 contain the latest drafts of protective provisions for Network Rail, National Grid Electricity and Tees Port authority and other enterprises in relation to protection of pipelines and assets over-bridged or over-sailed.</p> <p>State whether it is intended that all of the Statutory Undertakers will be subject to Protective Provisions to be included in Schedules (currently 7-11) of the draft Development Consent Order, bearing in mind the Relevant Representation from Northern Powergrid (Northeast) Limited</p>	<p>Of the statutory undertakers listed in the Book of Reference, only Northumbrian Water Limited ("NWL") has submitted a representation. Heads of terms have been agreed with NWL and the draft documents are at an advanced stage of negotiation with only a few outstanding points remaining.</p> <p>None of the other statutory undertakers listed have interests which require any agreement under s.127 PA2008 to be entered into. It is not intended to extend the current protective provisions to other bodies.</p>

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		<p>(RR-011) and the additional submission from Northumbrian Water Group Limited (AS-002).</p> <p>Please set out the extent to which s138 of the PA2008 (as amended) applies to each of the Statutory Undertakers listed. <i>[see also DCO 1.12]</i></p>	<p>Northern PowerGrid has indicated to the Applicant that it does not now believe it has any operational assets that will be prejudicially affected by the development. The Applicant is pressing Northern PowerGrid for confirmation of this.</p> <p>S.138 does not apply to any of the Statutory Undertakers since there is no need to extinguish any Statutory Undertakers rights or remove any Statutory Undertaker equipment.</p>
CA 1.5	Applicant	<p><i>Company structures</i> Provide a group structure showing and explaining the interrelationships between York Potash Limited and Sirius Minerals plc and any others subsidiaries of the latter.</p> <p>Please explain any links to Cleveland Potash.</p>	<p>Please see company diagram at Appendix 1.</p> <p>There is no business link between Cleveland Potash ("CPL"), which is part of the international firm Israel Chemicals (publically listed in Tel Aviv). York Potash Limited is wholly owned by London-listed Sirius Minerals Plc, a company focused on the development of the York Potash Project.</p>

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			<p>In terms of personnel however, there are a number of key former CPL staff that now work for York Potash Limited. These include:</p> <ul style="list-style-type: none"> • Graham Clarke, who was Managing Director at CPL for 8 years having worked there for 26 years. He was instrumental in the commissioning CPL's polyhalite extraction project. • Sid Brady, former Chief Engineer at CPL. • Matt Wilmot, mine surveyor at CPL.
CA 1.6	Applicant	<p><i>Funding Statement</i> Provide the Audited Accounts for the latest financial year (31 March 2015) as and when these are available for all companies that may become or be related to the Undertaker for the DCO scheme. If they are not immediately available, please indicate when they will be.</p>	<p>Please see Annual Report and Accounts for the year ended 31 March 2015 at Appendix 2.</p>
CA 1.7	Applicant	<p><i>The guarantee</i> Which company or entity would issue the guarantee, or alternative form of security as referred to in Article 23 of the draft DCO? Is that company registered in the United Kingdom?</p>	<p>Sirius Minerals Plc/York Potash Limited will procure the guarantee/security envisaged by Article 23. Please refer to the company diagram at Appendix 1. The security provider providing the guarantee or security would be of appropriate investment grade rating in the UK.</p>

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		<p>On whose authority would such a guarantee or alternative form of security be issued and is that authority yet to be given?</p> <p>State whether thinking on the nature of the guarantee has developed since the draft DCO and Explanatory Memorandum (APP-004) were drafted.</p> <p>What satisfaction can the applicant provide that the entity issuing the guarantee is capable of meeting the liabilities that may arise under it?</p>	<p>No security is yet in place. The point of Article 23 is to ensure it is in place before it could be needed to be called on.</p> <p>It is intended to amend Article 23 to follow Article 9 in the Dogger Bank Order.</p> <p>Adopting the approach in the Dogger Bank Order means that the guarantee (or other form of security as the case may be) would not be approved unless the entity demonstrates that it is capable of meeting the liabilities that may arise. If the security is not provided then the compulsory acquisition cannot proceed.</p>
CA 1.8	Redcar & Cleveland Borough Council Hartlepool Borough Council Applicant	<p><i>The guarantee or alternative form of security</i></p> <p>The draft DCO requires that an alternative form of security is approved by the Secretary of State. The explanation for requiring the Secretary of State to undertake this, as opposed, to the</p>	<p>As mentioned above, it is intended to amend Article 23. One of those changes will result in Redcar and Cleveland Borough Council being responsible for approving the guarantee or alternative form of security.</p>

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		<p>relevant local authorities is provided in the Statement of Funding in that it is based on the Hornsea One Offshore Wind Farm Order 2014.</p> <p>State and justify whether you would prefer to be the body approving an alternative form of security relating to that part of the project lying within your area. Do you consider that you (or the Secretary of State) should be involved in approval of a guarantee?</p>	
		<p>Development Consent Order (DCO) (APP-003)</p>	
DCO 1.1	Applicant	<p><i>Article 2: Definition of "Authorised development".</i></p> <p>This definition currently includes "any other development authorised by this Order within the meaning of section 32 of the PA 2008".</p> <p>What is meant by this? Should any "other development" be included in Schedule 1 or should this this definition refer simply to the Town & Country Planning Act 1990 (TCPA1990) unless one of the specific</p>	<p>The reference to "any other development" encompasses the licensed activities carried out under the DML hence we believe its inclusion is correct. The Dogger Bank Order includes similar wording.</p> <p>None of the extensions referred to in s32(3) are relevant.</p>

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		extensions referred to in s32(3) is relevant?	
DCO 1.2	Applicant	<p><i>Article 2: Definition of "commence".</i> As a number of Requirements in Schedule 2 refer to preventing works from "commencement", please provide a definition of "commence" to be inserted into Article 2? Is the use of the term "commence" consistent across all requirements where it is used? Are any works that would fall within the definition of "development" intended to be able to proceed ahead of the point at which "commence" is referred to in any of these Requirements?</p>	<p>A definition of "commencement" (with "commence" and "commenced" to be construed accordingly) will be inserted in the next draft DCO to be submitted for Deadline 2 and will be considered by reference to the Requirements which are also to be the subject of amendments. It is likely to be similar to the definition contained in the Dogger Bank Order.</p> <p>Whether or not it is necessary to carve out any works in the Requirements to enable them to proceed in advance of "commencement" will be addressed in the amended draft Order to be submitted for Deadline 2.</p>
DCO 1.3	Applicant	<p><i>Article 2: Definition of "maintain".</i> The definition of "maintain" includes 'to alter', decommission', demolish' and 'improve'. The ExA recognises that the definition is conditioned by the phrase '... unless that activity would result in a significant environmental effect not assessed in the environmental statement'. Nevertheless, can inclusion of these terms</p>	<p>It is intended to amend the definition of "maintain" following discussions with the MMO to delete the reference to "reconstruct" and "decommission".</p> <p>It is further noted that the definition of maintain in the Dogger Bank Order includes "alter". The expressions are not</p>

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		<p>and particularly 'alter' and 'improve' be justified within the normal meaning of 'maintain'?</p> <p>The Environmental Statement does not include reference to any demolition or removal works, other than the potential removal of the overhead conveyor. Is the reason that no decommissioning and removal of the quays is referred to because it is assumed that there would be other uses for these quays in addition to or on cessation of use for export of Polyhalite?</p> <p>How have the environmental impacts of the decommissioning and demolition provided for by this definition been assessed?</p>	<p>an exclusive list, "maintain" being defined "as including" thus the precise scope of the definition is not defined by the words used but by the word "maintain".</p> <p>That is correct. It is assumed the quay structure would not be decommissioned and could be used for other activities in the future.</p> <p>The environmental impacts associated with the decommissioning phase (as described in paragraphs 3.2.12 to 3.2.14 of the Environmental Statement (Document 6.4) are addressed within each of the technical sections in Document 6.4.</p>
DCO 1.4	Applicant	<p><i>Jurisdiction of Harbour Authority Article 2, Article 7 and Article 8</i> The Article 2 definition of "Undertaker" and Article 8 (consent to transfer benefit of</p>	

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		<p>order) provides that (in the whole of this order) "undertaker" includes those to whom the benefit of the order has been transferred. Article 7 provides for benefit solely to be for the undertaker subject to Article 8.</p> <p>Please explain these provisions more fully and how this relates to the role of the Tees Port Harbour Authority, protective provisions for whom are contained within draft Schedule 11 but in relation to which there are Relevant Representations from the Authority (RR-002), Trinity House (RR-001) and the Marine & Coastguard Agency (MCA) (RR-008).</p>	<p>The definition of undertaker is restricted to Sirius Minerals plc and York Potash Limited. Article 7 provides that the provisions of the Order have effect solely for the benefit of the those parties. This is so as to exclude any parties who might otherwise have the benefit of the order by virtue of the operation of section 156 (1) of the Planning Act 2008.</p> <p>Any transfer of the benefit of the Order or rights under it is governed by Article 8 and is subject to the Secretary of State's consent.</p> <p>The MMO have raised the issue of transfer of benefit with the Applicant. The Applicant intends to include amended provisions within the next version of the draft DCO to provide for information to be given to the MMO in the event that an application to transfer were to be made. This will follow the approach in the Dogger Bank Order.</p>

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			<p>The draft Order was seen by the Harbour Authority prior to submissions and amendments were made in response to comments made. The Applicant was unaware that there were any outstanding issues with the Harbour Authority with regard to the draft Order with the exception of agreeing some outstanding matters in the protective provisions. The Applicant has very recently seen the response to question DCO 1.9 provided on behalf of PD Teesport Limited and notes some new points made with regard to criminal sanctions for non-compliance with Articles 19-21. The Applicant will consider this and respond as it feels appropriate in the revised draft Order to be submitted for Deadline 2.</p> <p>Since the Relevant Representation was submitted by the Harbour Authority further discussions have taken place with regard to the protective provisions in Schedule 11 and good progress has been made with only a few outstanding issues remaining.</p> <p>The protective provisions take account of the issues raised by the Marine & Coastguard Agency. It is not believed there is any conflict between the Order and the role of the Harbour Authority.</p>

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			<p>Trinity House was consulted on the application in the pre-examination period, as a consequence of which changes were made to the draft DCO. In their Relevant Representation they stated that "It is likely that we will have further comments to make on the application and the draft Order throughout the application process". Following this the Applicant contacted Trinity House requesting any further comments they might have on the application or draft Order. No response has been received.</p>
DCO 1.5	Applicant	<p><i>Article 13: Defence to proceedings in respect of statutory nuisance</i> The wording of the Article appears to cover noise both during construction and use of the proposed development, but the Explanatory Memorandum (APP-004) appears only to justify the provision with regard to construction or maintenance. Please clarify with regard to Chapter 14 of the Environmental Statement.</p>	<p>The Explanatory Memorandum will be amended to clarify that the Article covers noise during operation as well as construction and maintenance.</p>
DCO 1.6	Applicant	<p><i>Procedure in relation to certain approvals</i> The provisions of Article 37 are explained in the Explanatory Memorandum (APP-004). Please provide a fuller explanation</p>	<p>The purpose of Article 37 is two-fold:</p>

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		of the extent of flexibility intended and its justification.	<ul style="list-style-type: none"> - to clarify that any approvals given under the requirements or the protective provisions cannot approve a form of development outside the scope of what has been assessed; and - to allow details approved pursuant to Requirements or protective provisions to be amended provided they also comply with the parameters of the development and are within the scope of what has been assessed. Without this a single approval of a detail (such as details of the parking and storage areas pursuant to Requirement 2) would set it in stone and even if a minor change was felt by all to be beneficial it could not be made. This is in line with PINS Advice Note 15, paragraph 19. <p>Following experience in a recent examination a revised Article 37 will be provided in the next draft DCO to clarify its scope and intent and to more properly reflect the above intentions.</p>
DCO 1.7	Redcar & Cleveland Borough Council	<i>Article 10-13: Streets</i> Is the Council satisfied that these provisions sufficiently safeguard the interests of the highway/street authority?	

Ref	Question For	Question	Applicant's Response
DCO 1.8	Northumbrian Water Limited Environment Agency Redcar & Cleveland Borough Council Internal Drainage Boards (IDBs)	<i>Article 14 Discharge of water</i> Are all relevant authorities satisfied that the provisions of this article sufficiently satisfy their interests?	
DCO 1.9	Marine Management Organisation Teesport Harbour Authority Trinity House MCA	Are the bodies responsible for maritime licences and navigational safety satisfied with these provisions, that there are no conflicts between the draft Deemed Marine Licence and the remainder of the draft DCO and that the various provisions are correctly located within articles or the deemed Marine Licence?	
DCO 1.10	Applicant	<i>Article 30: Temporary use of land for carrying out the authorised project</i>	

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		<p>The Explanatory Memorandum (APP-004) provides some justification for the provisions of this Article in relation to land required for construction purposes but also refers to permanent acquisition of land whereas in the Statement of Reasons (APP-005) and Funding Statement (APP-006) acquisition of rights only is referred to. Please provide further clarification.</p>	<p>The Explanatory Memorandum will be amended to clarify that the extent of compulsory acquisition relates only to rights.</p>
DCO 1.11	<p>Applicant All Interested Parties seeking protective provisions in relation to pipelines of other transport links</p>	<p><i>Article 34 Protective Provisions</i> In addition to statutory undertakers, Schedules 9 and 10 address concerns of pipeline users and other enterprises whose assets or linking communication or transport links are overbridged or over-sailed. Many of these interests sought protective provisions in relation to the Dogger Bank A & B DCO, the decision in respect of which is required by the Secretary of State no later than 5 August 2015 under the provisions of the PA2008. Please explain the extent to which the position reached during the Examination of the draft Dogger Bank A & B DCO and the decision thereon in relation to</p>	<p>It is fair to say at this stage that the draft Order does not fully reflect the outcome of discussions during the Examination of the Dogger Bank Order and obviously does not reflect the outcome of the Dogger Bank decision.</p> <p>The Applicant is liaising with the relevant asset owners to refine the protective provisions in Schedules 9 and 10 and taking into account the Dogger Bank Order. See answer to question DCO 1.12.</p>

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		<p>Protective Provisions has been embodied in this draft DCO in so far as relevant to the interests concerned.</p>	
DCO 1.12	<p>Network Rail Infrastructure Limited National Grid Electricity Transmission Plc Any other affected Statutory Undertaker Applicant</p>	<p><i>Article 34 and Schedules 7-11 Protection of interests</i> The Explanatory Memorandum (APP-004) states that the provisions for the protection of Network Rail Infrastructure Limited have been agreed. Please provide evidence of this agreement and of resolution of the CA objection from Network Rail. For the remainder of the schedules dealing with Protective Provisions, discussions are described as on-going. Please provide an update on progress to secure agreed Protective Provisions and an anticipated timetable for agreement where that has not yet been achieved, bearing in mind the desirability that the Examination should end before the statutory deadline if possible.</p>	<p><u>Network Rail</u> Protective provisions in respect of Network Rail were agreed prior to submission of the Application. The final paragraph of the late representation from Network Rail accepted by the Examining Authority confirms that to be the position. The Applicant has sought to establish what, if anything, further is required by Network Rail in order for it to remove its holding objection. The Applicant has recently been advised by Network Rail that they require an agreement to be entered into regarding the works to cross railway. It has been agreed with Network Rail that this agreement should be completed in advance of the compulsory hearing scheduled for 24th September 2015.</p> <p><u>National Grid Electricity</u> Good progress has been made recently with National Grid Electricity and it is anticipated an agreed form of protective provisions will be contained in the draft DCO to be submitted for Deadline 2.</p>

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			<p><u>PD Ports</u> Good progress has also been made with PD Ports. There are a few outstanding issues still to resolve and the Applicant agrees with the response submitted by PD Ports to this question.</p> <p><u>Pipeline Asset Holders</u> A meeting was held with pipeline asset holders who submitted Relevant Representations shortly after the Preliminary Meeting. This comprised lawyers and representatives for SABIC, Huntsman and DEA. The discussions were very productive and at the time of writing this response suggested amendments to the protective provisions are awaited from those parties. From the discussions held it is anticipated that these are capable of being agreed.</p> <p>With regard to the assets bridged/oversailed the Applicant is not aware of any outstanding issues with M&G Solid Fuels or RCBC. TATA Steel UK Limited and SSI UK Limited have engaged an agent and discussions are ongoing with that agent in addition to discussions on technical matters.</p>

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DCO 1.13	Applicant	<p><i>Article 38 Certification of Plans</i> By reference to Schedule 1, do not a significant number of additional plans not need referencing? If not, please justify.</p>	<p>The intention is that all documents, plans and/or drawings referred to in the draft DCO be certified. This Article will be amended to reflect this.</p>
DCO 1.13	Applicant	<p><i>Schedule 1</i></p> <p>A number of the DCO works (Doc 4.1) refer to the provision of both temporary and permanent lighting. The project description provided in Chapter 3 of the ES (Doc 6.4) does not include a description of the proposed lighting requirements, however a description is provided in the Port Technical Lighting Assessment Report (ES Appendix 20.4 Doc 6.5). The Parameters Table provided in the ES (Table 3.1) does not specify any lighting dimensions to match those which have been subject to the assessment. Please can the applicant provide a revised Parameters Table (Doc 6.9 and Doc 6.4) to reflect the lighting dimension parameters which have been assessed in the ES? Alternatively, please can you</p>	<p><i>Schedule 1</i></p> <p>Please see updated Parameters Table (Document 6.9A – changes shown tracked) incorporating lighting dimension parameters upon which the assessment was based. Given the lack of impact no additional controls are considered necessary.</p>

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		<p>state how this issue is otherwise addressed?</p> <p>Does there not need to be a Requirement in Schedule 2 to secure approval of the lighting scheme within the parameters assessed within the ES?</p> <p><i>Parameters assessed in the LVIA</i></p> <p>The LVIA states that the assessment has been carried out on the basis of a "worst case" scenario of conveyor and transfer tower height of 25m along the length of the conveyor, with the final section rising up to 35m above ground level to meet the surge bins (20.4.9). The Port Technical Lighting Assessment Report (Appendix 20.4) notes that the conveyor system would incline to gain a max height of approx. 25m to feed into the transfer tower (paragraph 1.15), implying that the transfer tower height is 25m. However, the Parameters Table (ES Chapter 3, Table 3-</p>	<p>Requirements 2 and 3 require that details of permanent lighting be approved prior to the commencement of Phase 1 and 2 respectively. Requirement 6 requires that details of any temporary lighting must be include in the CEMP. All approvals will be governed by Article 37 which is to be amended (see answer to question DCO 1.6).</p> <p><i>Parameters assessed in the LVIA</i></p> <p>The maximum height of the transfer towers would be 30m (above ground level), not 25m, with the surge bins being 35m in height (above ground level). The significance of the impacts predicted in the LVIA are based on the maximum height of any structure proposed as part of the Harbour facilities, which is 35m (for the surge bins).</p> <p>The reference to 25m in the Port Technical Lighting Assessment (Appendix 20.4 of the Environmental Statement (Document 6.5)) relates to the approximate height at which the conveyor enters the (maximum) 30m transfer tower (i.e. the conveyor does not enter at the very top of the transfer tower).</p>

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		<p>1) gives a potential transfer tower height of 30m. The draft DCO includes in Work No. 4 parallel conveyors, including transfer stations running between points A-B-C and A-B-D shown on the Works Plans. No heights are specified for the conveyors or the transfer towers in the draft DCO. Instead, the draft DCO states in Schedule 1 that Work Nos. 1-12 must be carried out in accordance with the parameters set out in the Parameters Table.</p> <p>Please can the applicant clarify what height for the transfer tower has been assessed in the LVIA, given the reference to 35m in the LVIA and maximum of 30m in the Parameters Table?</p> <p>The specification of which works are integral and which associated development are inconsistent with the Explanatory Memorandum and in certain instances appear not to follow guidance. For example, are not Works Nos 4 and 5</p>	<p>It is agreed that paragraph 2.9 of the Explanatory Memorandum is inconsistent with Schedule 1 of the draft DCO and this will be rectified. A revised Explanatory Memorandum will accompany the amended draft DCO to be submitted for Deadline 2.</p>

Ref	Question For	Question	Applicant's Response
		<p>integral development? Please review and adjust as necessary.</p> <p>Should not "Works No 2" preamble continue "... and illustrated in Schedule 6"? Should not all successive "Works Nos" continue "... and illustrated on drawings ..." as relevant?</p> <p>Would it not be more helpful for the Parameters Table to be included within</p>	<p>The division between NSIP and associated development that the Applicant believes is appropriate is that contained in Schedule 1. Works Nos 1 and 2 are an integral part of the NSIP being works essential to create the harbour. Other works are not considered to accord with the definition of NSIP and are better referred to as associated development. They are either akin to the general types of associated development referred to in Annex A of the April 2013 Guidance relating to Associated Development (Works Nos 3, 5 – 12) or are not "typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project" (Works No 4). For example, the conveyors in Works No 4 are only one means by which goods might be transported to a harbour.</p> <p>The Applicant would suggest that it would be preferable for the words "and within the quay limits" (which is a defined term) to be used. It would be a departure from other Orders to include cross reference to plans within the Schedule of works other than the works plans which describe the area to which they relate.</p> <p>It is not considered necessary to include the Parameters Table in the DCO. It is a document to be certified under Article 38 and does not need therefore to be included, the</p>

Ref	Question For	Question	Applicant's Response
		<p>the body of the draft DCO rather than as a separate stand-alone Document?</p> <p>Work No. 2 includes 'erection of surge bins' (Work No. 2(3)) and it is noted that Schedule 1 states that 'Works numbers 1-12 to be carried out in accordance with the parameters set out in the parameters table'.</p> <p>Whilst the Parameters Table in the ES (Table 3.1, Doc 6.4) specifies the maximum dimensions of the surge bins, it does not limit the number of surge bins, although only two surge bins are depicted on the Works Plans (Doc 2.2) (depending on the conveyor option chosen). As the development that can be authorised through the DCO will be limited by what has been assessed in the ES, the Applicant is asked to provide clarification on what number of surge bins have been assessed in the ES and how this number is secured through the DCO.</p>	<p>same applying to such key documents as the Book of Reference and the Works Plans and Land Plans.</p> <p>There are two surge bins proposed. The locations of the surge bins are fixed by reference to Document 3.8A or 3.9A (depending on the quay option) and therefore the maximum number of surge bins is fixed. A cross reference has been added to the Parameters Table for clarity (see Document 6.9A).</p>

Ref	Question For	Question	Applicant's Response
		<p>Work no.5 (DCO Doc 4.1) makes reference to permanent signage. However, a description of the proposed signage requirements is not provided in the project description in the ES (Doc 6.4). It is therefore unclear what signage requirements have been assessed in the ES. Please can the applicant provide further information about what signage is proposed?</p>	<p>Any signage would be very minimal and likely to be limited to a small number of standard road signs. No consideration has specifically been given to signage in the Environmental Statement (Document 6.4) as there would be no significant environmental impacts associated with any signage.</p>
DCO 1.14	Applicant Redcar & Cleveland Borough Council Statutory consultees	<p><i>Schedule 2: Requirements – Definition of Phases 1 and 2</i></p> <p>Do not Phases 1 and 2 need defining at the outset, together with provision of a phasing plan in order for the generality of the Requirements to be enforceable?</p> <p>The phasing of the construction period is described in paragraph 3.1.86 of the ES onwards. The construction of Phase 2 of the development is predicted to be within 6 years following the completion of Phase 1 (ES paragraph 3.1.91 Doc 6.4). The construction of the proposed development</p>	<p><i>Schedule 2: Requirements – Definition of Phases 1 and 2</i></p> <p>Further consideration has been given to the definitions of Phase 1 and 2 and the next draft of the DCO to be provided by Deadline 2 will incorporate definitions by reference to descriptions of the Works</p> <p>It is correct that the construction of Phase 2 of the proposed scheme would occur when Phase 1 is operational. Given that development consent is sought for both phases of the development, in instances where the potential impact of the proposed scheme would be long term or permanent (e.g. habitat loss due to construction of the port terminal and effects on marine ecology</p>

Ref	Question For	Question	Applicant's Response
		<p>is anticipated to commence in January 2017 (ES paragraph 3.1.91 Doc 6.4). Paragraph 3.1.92 of the ES confirms that both phases of the proposed development are anticipated to require a 17 month construction period. Based on the above information, is it assumed that the construction of Phase 2 will overlap with the operation of Phase 1. However, the applicant is asked to clarify how the overlapping construction and operation periods have been assessed in the ES on a worst case basis.</p>	<p>(Section 8.5 of Document 6.4) and waterbird habitats (Section 9.6 of Document 6.4), terrestrial habitat loss (Section 10.5 of Document 6.4), impacts on the archaeological resource (Section 15.5 of Document 6.4) and landscape (Section 20.6 of Document 6.4)), the potential impact of both phases of development (together) are assessed to ensure that the significance of the impact of the proposed scheme in its entirety is identified. This approach is considered to be most appropriate for potential impacts that would manifest over the longer term.</p> <p>For a number of parameters there would be short-term/temporary environmental impacts associated with both the construction stages of Phases 1 and 2 separately), and the impacts associated with Phase 2 construction would overlap with the operational stage of Phase 1. In particular, this applies for road traffic, noise and marine water quality (due to phased capital dredging and quay construction).</p> <p>For road traffic (Chapter 12 of Document 6.4) a worst case has been used as the basis for the impact assessment over all periods, as represented by Phase 1 construction, because this would coincide with the construction phase of the other components of the York</p>

Ref	Question For	Question	Applicant's Response
			<p>Potash Project (that is, the road traffic assessment needs to take account of other traffic demand predicted to be generated by other development). This scenario would be significantly worse than that arising during the period of overlap of the operation of Phase 1 and construction of Phase 2.</p> <p>The approach to the assessment of the impact of the construction of Phase 2 on noise (Section 14.5 of Document 6.4) and marine water quality (Section 7.5 of Document 6.4) represents the worst case because the assessment does not assume an increase in baseline noise levels or reduction in water quality over time. Consequently, the predicted effect of the construction of Phase 2 against baseline conditions would be greater compared with a scenario that attempted to account for a future baseline taking account of the operation of Phase 1. For example, the predicted operational noise levels at relevant residential properties were significantly below the background noise levels at those properties and, therefore, would not exacerbate the effects of construction noise when operational noise and construction noise occur simultaneously. The predicted operational noise levels at ecological receptors were assessed against background noise levels, rather than absolute threshold levels, and as such represent a worst</p>

Ref	Question For	Question	Applicant's Response
		<p>If Phase 2 is significantly in the future, does there not need to be a Requirement to ensure that the Environmental Statement is updated to take account of the change in the future baseline due to construction and operation of Phase 1?</p> <p>Is the Council and all statutory Consultees satisfied that their interests will be sufficiently protected by these Requirements?</p>	<p>case assessment. The predicted effects at ecological receptors do not change when construction and operational noise occur simultaneously. The approach adopted for the above assessments is in accordance with current guidance and best practice.</p> <p>A Requirement is not needed to ensure that the Environmental Statement is updated to take account of the change in the future baseline due to the construction and operation of Phase 1, because (as set out in response to paragraph 2 of the question) the worst case has already been assessed over the full period of works; and this adequately encompasses any change that would result in the baseline between Phases 1 and 2. Any change in the baseline associated with the construction and operation of Phase 1 will be minor and will not have a significant influence on the effects predicted for Phase 2.</p>

Ref	Question For	Question	Applicant's Response
		<p><u>Requirement 6 (Construction Environmental Management Plan) (CEMP)</u></p> <p>The applicant is requested to revise draft Requirement 6 to include a provision that the CEMP must identify and deliver the mitigation provided in the ES and a certified copy of the Governance Tracker which should be referenced in Article 38. This might be achieved by requiring a certified copy of the final CEMP within the list within Article 38 and by ensuring that every mitigation measure to be delivered through the final CEMP is listed in the in the Governance tracker, a final copy of which should also be certified under Article 38.</p> <p>It is also noted that draft Requirement 6(2) allows for the CEMP to be varied subject to agreement with the LPA, but does not restrict any such variations to what has been assessed and relied upon for mitigation in the ES. The applicant is requested to also amend the wording of</p>	<p><u>Requirement 6 (Construction Environmental Management Plan) (CEMP)</u></p> <p>The amended draft DCO to be submitted by Deadline 2 will include a revised Requirement 6. The Governance Tracker has been revised (Document 6.8A) and accompanies this response.</p> <p>As indicated in response to Q1 DCO 1.6, Article 37 of the draft DCO is to be amended to address this.</p>

Ref	Question For	Question	Applicant's Response
		<p>Requirement 6(2) to state that the CEMP may be subject to alteration by approval in writing of the local planning authority, provided that the alterations have been assessed within the ES.</p> <p>The CEMP is stated to include details about temporary fencing and temporary lighting arrangements. However, the mechanism of the CEMP is being relied upon in the Governance Tracker to deliver both temporary (construction) and permanent (operational) mitigation, in relation to noise and visual disturbance to waterbird species.</p> <p>Please can the applicant explain why the CEMP is the appropriate mechanism for delivery of <i>operational</i> mitigation?</p> <p>The LVIA states that mitigation relating to lighting and relevant to marine & coastal ornithology and terrestrial ecology would be secured through the Construction & Environmental Management Plan (CEMP), Requirement 6 in the DCO. However, the measures referred to in</p>	<p>It is agreed that the CEMP is not the appropriate mechanism for delivery of operational mitigation. The Outline CEMP has been revised (see new Document 6.10) so as not to refer to operational mitigation and the Governance Tracker has been updated (see Document 6.8A) to make reference to relevant Requirements in relation to operational mitigation.</p>

Ref	Question For	Question	Applicant's Response
		<p>requirement 6 refer to temporary lighting, whereas chapter 9 (9.6.22) states that the mitigation principles to minimise the potential significant effects on water birds also apply in operation.</p> <p>Please can the applicant clarify how such operational lighting mitigation measures will be secured through the DCO and whether Requirement 6 (CEMP) is the appropriate mechanism in in relation to securing and delivering operational mitigation?</p> <p><u>Requirement 9 (Ecology)</u> As an outline Ecological Management Plan (EMP) has not been provide, it is unclear what specific measures the applicant intends to deliver through the EMP or what it has relied upon in assessment terms. The applicant is requested to provide for Deadline 1 an outline EMP identifying the mitigation to be delivered through the EMP, having regard to the mitigation</p>	<p>Please see answer to DCO 1.13 above with regard to Requirements governing lighting.</p> <p><u>Requirement 9 (Ecology)</u></p> <p>Please refer to new Document 6.11 (Outline Ecological Management Plan).</p>

Ref	Question For	Question	Applicant's Response
		<p>identified in the ES and the Governance Tracker.</p> <p>The applicant is requested to provide a revised draft Requirement 9, requiring the EMP to deliver mitigation which is in accordance with the principles set out in an outline EMP and to include a provision that the EMP must identify and deliver the mitigation provided in the ES and in a certified copy of the Governance Tracker.</p> <p><i>Relationship between Requirement 9 in Schedule 2 to the draft DCO and paragraph 7 of Part 2 in the DML</i></p> <p>Requirement 9 in Schedule 2 in the draft DCO includes reference to measures which form part of the Bran Sands Lagoon Mitigation and Monitoring Strategy (MMS). However, the wording in Requirement 9 expressly excludes the lagoon enhancement works which are to be licenced under the draft DML in Schedule 5 (Part 2, Paragraph 7). Please clarify, as paragraph 7 the draft DLM in Schedule 5 requires an ecological management plan</p>	<p>A revised draft requirement 9 will be included in the next draft DCO to be submitted for Deadline 2.</p> <p><i>Relationship between Requirement 9 in Schedule 2 to the draft DCO and paragraph 7 of Part 2 in the DML</i></p> <p>The EMP referred to in Requirement 9 in Schedule 2 is <u>not</u> the same as that referred to in paragraph 7 of Part 2 in the DML. Please refer to new Document 6.11 (Outline Ecological Management Plan).</p> <p>To avoid further confusion, the name of the document to be progressed pursuant to Paragraph 7 of the DML referred to in paragraphs 7(1), (2) and (3) will be changed to "Lagoon Enhancement Plan".</p>

Ref	Question For	Question	Applicant's Response
		<p>to be in place before the lagoon enhancement works commence. It is not clear whether the ecological management plan referred to in the draft DML (Schedule 5, paragraph 7) is the same as the ecological management plan referred to in the draft DCO (Schedule 2, Requirement 9). Please can the applicant clarify? Please update the DCO so that there is no doubt as what approvals are required with cross-references as necessary so that an integrated submission can be made to Natural England and the MMO.</p> <p>Please can the applicant clarify when the lagoon enhancement works are required to be commenced (in relation to the authorised development) and how they will be maintained throughout the operation of the proposed development? Please indicate how your answer would be governed by the provisions of the draft DCO/DML.</p>	<p>The EMP in Requirement 9 will be required to comply with the Outline Ecological Management Plan (new Document 6.11) and the Lagoon Enhancement Plan in paragraph 7 of the DML will be required to comply with the Mitigation and Monitoring Strategy contained in Appendix 3.1 to the HRA (Document 6.3).</p> <p>It has been a principle applied to this Order to seek to avoid approvals of the same subject matter from different bodies. Accordingly, it has been agreed with the MMO and Natural England that the MMO will be the approving authority for the lagoon enhancement works (in consultation with Natural England) and Natural England will be the approving authority in respect of the remainder of the ecological mitigation works.</p> <p>The habitat enhancement works in the lagoon will be implemented in parallel with the capital dredging works to be undertaken as part of Phase 1 of the construction on the Harbour facilities. This is set out in the Mitigation and Monitoring Strategy (MMS) (Appendix 3.1 to Document 6.3), which has been agreed with Natural England. Paragraph 7 (3) of the DML requires the Lagoon Enhancement Plan to accord with the MMS.</p>

Ref	Question For	Question	Applicant's Response
		<p><i>Requirement 11 (Decommissioning)</i> A description of the works envisaged to be required during decommissioning is provided in Section 3.2 of the ES, which states that there are no plans to decommission the terminal, so decommissioning of the port element of the development has not been considered in the ES. However, Table 3-10 provides a summary of the decommissioning works anticipated to be required for the conveyor systems, which would involve the complete removal of site infrastructure. The surge bins and shiploaders are stated to be 'likely to be decommissioned and removed off site'.</p> <p>The Applicant is asked to identify what elements of the proposed development would be decommissioned and removed from site and what is proposed to remain in situ. [See also DCO 1.3]</p>	<p><i>Requirement 11 (Decommissioning)</i> Table 3-10 summarises the intentions for the scope of the decommissioning. As noted in the question DCO 1.3 the decommissioning and removal of the quays is not referred to in Table 3-10 because it is assumed that there would be other uses for the quays in addition to or on cessation of use for export of Polyhalite. The assessment of future operations is not possible as the future use is not known at the current time.</p> <p>Please also see response to DCO 1.3.</p>
DCO 1.15	Applicant	<p><i>Schedule 4 Temporary possession</i> Only Works 11 and 12 are cited as occupying land for temporary possession</p>	<p>No. All other land will be required for the operational phase, access to and maintenance of the development.</p>

Ref	Question For	Question	Applicant's Response
		only. Could this not apply to more of the works that appear only to be required during construction?	
DCO 1.16	Applicant Marine Management Organisation	Schedules 5 and 6 Should Schedule 6 be included in Schedule 5?	Schedule 6 sets out the quay limits and is referred to in the definition of quay limits. It has a different purpose to Schedule 5.
DCO 1.17	Applicant	<p><i>Schedule 5 (Deemed Marine Licence)</i></p> <p>Please can the applicant clarify if they intend to also limit the licensed activities in the DML to the parameters described in the Parameters Table provided in Doc 6.9 and the ES (Table 3.1, Doc 6.4)? If so, please can the DML be amended to include reference to the Parameters Table provided in Doc 6.9 and the ES (Doc 6.4)? If not, please explain how you intend to ensure that the works authorised through the DML have been assessed in the ES?</p>	<p>The licensed activities come within the definition of "authorised development" because they are "other development authorised by this Order" and accordingly are constrained by the parameters by virtue of Article 4. In addition the revised Article 37 will clarify that all approvals pursuant to the DML will not permit development outside the scope of that which has been assessed.</p>
	Environmental Statement General (ES) ES Chapter 1		

Ref	Question For	Question	Applicant's Response
ES 1.1	Applicant	<p><i>Plans requested - the effect of lorry movements on national and local roads</i></p> <p>A map to show the proposed routing for HGVs and LGVs accessing the site has been provided as Appendix A in the Outline Construction Environmental Management Plan (CEMP) (APP-205). Provide a revised version of this plan to include the application site boundary (including all temporary works) and with annotations for all road names and crossings of other highways cited in the Environmental Statement.</p>	<p>The Outline CEMP submitted with the application does not include an Appendix A or the map referred to; nor does the Construction Traffic Management Plan (CTMP) and so the Applicant is unclear as to which map is being referred to in this question.</p> <p>The series of drawings in Section 3 of the Environmental Statement (Document 6.4) show the application site boundary and name the major infrastructure crossed by the conveyor route options. Appendix 12.1 to the Environmental Statement (Document 6.5) contains the figures to support the Traffic and Transport section of the Environmental Statement which shows the road network in the vicinity of the proposed Harbour facilities.</p>
ES 1.4	Applicant Cleveland & Redcar Borough Council	<p><i>Plans requested - Public Rights of Way</i></p> <p>State whether the apparent ending of public footpath number 116/31/1 on the Rights of Way plan at a not publicly accessible location near to Dabholm Gut is correct. If not, please supply an amended version of this plan. Please also label the Rights of Way clearly on the</p>	<p>The ending of public footpath number 116/31/1 on the Rights of Way plan at a not publicly accessible location near to Dabholm Gut is correct.</p> <p>It is not clear what additional labels on the Access and Rights of Way Plans are required; as all relevant information included on the Environmental Statement</p>

Ref	Question For	Question	Applicant's Response
		<p>Rights of Way Plans as indicated in Section 21 of the ES.</p> <p>Are the proposed temporary closures to be carried out under the provisions of Article 11 and, if so, is the definition of "street" in Article 2 sufficiently broad?</p>	<p>Public Rights of Way figure is included on the Access and Rights of Way Plans.</p> <p>The temporary closures which will be required for the construction of the conveyor are outlined in paragraph 21.5.1 of the Environmental Statement (Document 6.4). They involve temporary night-time diversions of the A1085 where the conveyor crosses that road and footpaths similarly affected. These are intended to be catered for by Article 11. The Highways Act 1980 defines "footpath" as a "highway" and the definition of "street" in Article 2 includes "highways" (see section 48 New Roads and Street Works Act 1991). It is therefore considered that the definition is sufficiently broad.</p>
ES 1.5	Applicant	<p><i>Securing mitigation measures</i></p> <p>The applicant has provided a 'Governance Tracker' (Doc 6.8) which signposts how each mitigation measure relied on in the ES will be secured through the DCO or by other means. However, NE in their relevant representation dated 5 June 2015 has identified some concerns with the Governance Tracker and whether it refers to the appropriate requirements when</p>	

Ref	Question For	Question	Applicant's Response
		<p>identifying how mitigation measures relied upon in the ES would be secured through the DCO and DML.</p> <p>The applicant is requested to provide a revised Governance Tracker which refers to the appropriate requirements/conditions in the version of the DCO/DML submitted with the application or any updated versions to be provided. The revised Governance Tracker should also identify the mitigation measures relied upon in the applicant's HRA Report and how these would be secured and delivered through the DCO/DML. The revised Governance Tracker should clearly identify the relationship between ES/HRA mitigation and requirements and should be made a document to be certified under Article 31.</p> <p>The applicant is also requested to provide a diagram showing the hierarchy of plans identified in the draft DCO and DML to deliver the mitigation identified in the ES and the HRA Report and to explain on this diagram how these plans relate to each</p>	<p>Please see updated Governance Tracker (Document 6.8A).</p> <p>Please see diagram at Appendix 3.</p>

Ref	Question For	Question	Applicant's Response
		other. [Note – an example of a hierarchy of plans was provided in the Dogger Bank Teesside A and B examination, see Figure 4.1 in Deadline IX, Appendix 6 of the draft DCO (version 6) (REP-494 in the Document Library)]	
ES 1.6	Applicant	<p><i>Site offices</i></p> <p>In respect of the site offices and compounds, the drawings are apparently intended to be illustrative rather than definitive. Please clarify the process by which layout and design of buildings would be secured in the DCO, with reference to the parameters assessed in the Environmental Statement. Provide (an) additional Requirement(s) as necessary.</p>	<p>The layout and design of buildings will be approved pursuant to Requirements 2 and 3 and are required to accord with the parameters by virtue of Articles 4 and 37 (the latter to be amended in the next draft of the DCO). Details of the site offices and compounds are referred to in the Parameters Table (Document 6.9A).</p>
	EIA Process and Methodology (PM) ES Chapters 2 & 4		
PM 1.1	Applicant	<p><i>Cumulative Assessment</i></p> <p>The Environmental Statement provides a plan and a description of site allocations in the surrounding area.</p>	<p><i>Cumulative Assessment</i></p> <p>The list of projects proposed to be included in the cumulative impact assessment (CIA) (Document 6.6) was consulted on as part of the assessment process in order</p>

Ref	Question For	Question	Applicant's Response
		<p>The proposed Dogger Bank C and D nationally significant infrastructure projects (NSIP) are referred to in documentation, but have not been included in the cumulative impacts assessment. Please explain whether the omission of the proposed Dogger Bank C and D NSIPs was intentional and why. If not, please provide a revised cumulative assessment for the ES taking into account Dogger Bank C and D NSIPs. <i>[See also the need to cover this point in relation to the HRA in combination assessment].</i></p>	<p>to confirm the list of projects that were relevant to the assessment (Section 4 of Document 6.6). Consequently the landfall cables from Dogger Bank A and B and Dogger Bank C and D are included in the CIA (and in-combination assessment).</p> <p>When the Planning Inspectorate was consulted on the list of projects to be included in the in-combination assessment (as part of the Habitats Regulations Assessment), Dogger Bank A and B Offshore Windfarm itself was raised as a project for inclusion. On this basis, this project was also considered in the CIA in the first instance.</p> <p>The CIA subsequently scoped the Dogger Bank Offshore Windfarm A and B out of detailed assessment in the CIA due to its location outside of the zone of influence of the Harbour facilities (Section 25.1 of Document 6.6). This conclusion also applies to the Dogger Bank C and D Offshore Windfarm.</p>
	<p>Project Need, Project Description, Alternatives and Route Selection (PAR) ES Chapter 3</p>		
PAR 1.1	Applicant	<i>Baseline year</i>	

Ref	Question For	Question	Applicant's Response
		<p>The approach to the EIA described in ES Chapter 3 (Approach to the EIA) (Doc 6.4) does not provide confirmation of the baseline year adopted for the purposes of the assessment. Looking at the individual topic chapters, it is evident that data from a number of years has been used to establish the baseline. Whilst some chapters have provided confirmation of the baseline year, for example ES Chapter 13 (Air Quality) (Doc 6.4), this approach has not been followed in all ES chapters. Whilst it is acknowledged that baseline years may vary between environmental topics due to the availability of information, please can the applicant clarify the approach taken to defining the baseline year adopted for the purposes of the topic assessments in the ES? Where it differs between topic assessments, please explain why.</p>	<p>For all parameters, the baseline conditions are described using either existing information where it remains valid and relevant to describing the baseline conditions or new information gathered through surveys undertaken to inform the EIA. The following provides an overview of the approach taken to describing the baseline conditions/year for each aspect of the EIA.</p> <p>Hydrodynamic and sedimentary regime (Section 5.4 of Document 6.4) The baseline year for this topic is the present day (2014/15), but the numerical modelling used in the impact assessment was established using data gathered over several years of studies in the Tees estuary. The key point is that the modelling suite used is well validated and calibrated to represent current baseline conditions.</p> <p>Hydrology, hydrogeology and land quality (Section 6.4 of Document 6.4) A wide range of background reporting has been used to inform the baseline conditions. A preliminary land quality assessment and a project-specific site investigation was undertaken in 2014 to describe current baseline conditions at the location of the proposed scheme.</p>

Ref	Question For	Question	Applicant's Response
			<p>Marine sediment and water quality (Section 7.4 of Document 6.4)</p> <p>A site-specific survey was undertaken in 2014 to describe the current sediment quality at the location of the proposed scheme (this was supplemented by historic data for context). The most recent water quality data available from Environment Agency monitoring was obtained (to 2013).</p> <p>Marine ecology (Section 8.4 of Document 6.4)</p> <p>A site-specific survey was undertaken in 2014 to describe the current marine ecological interest at the location of the proposed scheme (this was supplemented by historic data for context).</p> <p>Marine and coastal ornithology (Section 9.4 of Document 6.4)</p> <p>Site-specific surveys were undertaken at the location of the proposed scheme and in the surrounding area for several years (to 2014). This data was used to describe the current baseline conditions, and was supported by Wetland Bird Survey (WeBS) data for the wider Tees estuary.</p>

Ref	Question For	Question	Applicant's Response
			<p>Terrestrial ecology (Section 10.4 of Document 6.4) Site-specific surveys (Extended Phase 1 habitat and species-specific, as appropriate) were undertaken at the location of the proposed scheme and in the surrounding area (to 2014).</p> <p>Fisheries and fishing activity (Section 11.4 of Document 6.4) The Environment Agency describes the migratory fish population (to 2013). Other information on fisheries interests was obtained through consultation with NEIFCA. Site-specific information on fisheries was obtained from the marine ecological survey undertaken in 2014.</p> <p>Transport (Section 12.4 of Document 6.4) A variety of data sources (traffic count data) were used to describe baseline conditions, supplemented with surveys undertaken specifically for the EIA in 2014.</p> <p>Air quality (Section 13.4 of Document 6.4) Due to current uncertainties regarding the rate at which background pollutant concentrations are decreasing, the assessment utilised 2011 background pollutant concentrations for the baseline and construction phase assessment scenarios. Background pollutant</p>

Ref	Question For	Question	Applicant's Response
			<p>concentrations are still expected to decrease in the future. For the future assessed scenarios, this approach was considered to be overly conservative and projected background concentrations were used, as provided by Defra.</p> <p>Baseline NO₂ diffusion tube surveys were conducted in 2012, 2013 and 2014 to establish existing air quality conditions along transport routes affected by the YPP.</p> <p>Noise (Section 14.4 of Document 6.4) Existing noise data collected for the Wilton site (to 2014) established a baseline dataset for receptors close to the Wilton International Complex. In addition, site-specific baseline noise surveys were undertaken in 2014.</p> <p>Archaeology and heritage (Section 15.4 of Document 6.4) Existing data sources were utilised to describe the current (2014) baseline conditions.</p> <p>Commercial navigation (Section 16.4 of Document 6.4) Existing data on vessel movements in the Tees from 2013 and 2014 was used to describe the baseline conditions.</p> <p>Coastal protection and flood defence (Section 17.4 of Document 6.4)</p>

Ref	Question For	Question	Applicant's Response
			<p>The latest Tees Tidal Flood Risk Management Strategy (2009) and Tidal Tees Integrated Flood Risk Modelling Study (2011) informed the description of baseline conditions. Current flood risk mapping identified areas at risk of flooding. Present day tidal levels were used to predict the potential risk of tidal flooding.</p> <p>Infrastructure (Section 18.4 of Document 6.4) Site visits undertaken during December 2013 and April 2014 identified the key infrastructure relevant to the proposed scheme. This was supplemented by existing data sources, such as Ordnance Survey mapping.</p> <p>Socio-economic (Section 19.4 of Document 6.4) The socio-economic assessment includes the assessment of potential impacts on various socio-economic measures, each of which is supported by baseline data from various sources and dates. The assessment used the latest socio-economic data available for each aspect of the assessment.</p> <p>Landscape and visual (Section 20.4 of Document 6.4) Site visits undertaken in 2014 enabled the baseline conditions to be established, supported by existing published information (description of the Landscape Character Area and Landscape Character Assessment).</p>

Ref	Question For	Question	Applicant's Response
			<p>Recreation and access (Section 21.4 of Document 6.4) Existing (2014) baseline conditions were described using various sources, as described in the ES.</p>
PAR 1.2	Applicant	<p><i>Alternative means of crossing the A1058</i> Given the Relevant Representation from Redcar & Cleveland Borough Council (RR-018), please provide a full explanation of the issues that are said to rule out routing the conveyor beneath the distributor road and other parallel transport routes.</p>	<p>A report on the rationale for adopting the over land conveyor option entitled "Option Study Report: Conveying of Polyhalite from Wilton to Bran Sands: March 2015" was submitted with the Application (Appendix 3.2 to the Environmental Statement (Document 6.5). Following post submission discussions with RCBC a further document has been prepared and provided to RCBC entitled "Conveyance of polyhalite from Wilton to Bran Sands, Teesside – Options Study Supplementary Report". This is attached as Appendix 4.</p> <p>This Study demonstrates that there is no feasible option available to the Applicant that would allow a tunnelled mineral transport system to operate between the Materials Handling Facility at Wilton and the new proposed Harbour Facilities at Bran Sands. The principle of a bridging option over the A1085 has, therefore, been proven to represent the only feasible mineral transport solution.</p>

Ref	Question For	Question	Applicant's Response
			RCBC are currently considering the latest report.
PAR 1.3	Applicant	<p><i>Crossing the A1058</i></p> <p>A particular design is illustrated for the conveyor bridge over the A1058, but with variant alternative designs also shown. Please justify the choice of intended design and/or indicate the scope for incorporation of alternative design approaches. At what point would the final design selection be envisaged? How would the design approval process be controlled by the DCO?</p>	<p>A series of scale parameters have been established in respect of the conveyor bridge. These provide a general envelope within which the conveyor bridge will ultimately be provided. In addition, discussions have continued with officers of RCBC to review initial design solutions for a structure which would be capable of being accommodated within the parameters identified. A variety of options have been prepared and these have formed the basis of consultation.</p> <p>The parameters have formed the basis of assessment as part of the Environmental Statement (Document 6.4) and the Applicant is confident that a solution that is acceptable to all parties can be accommodated within the envelope established.</p> <p>In terms of a future detailed design for the site, it has been agreed with RCBC that the best approach would be to design a bridge through a Design Competition. Entries will be assessed via a panel which will include both the applicant and also RCBC to ensure that the best solution for the site can be brought forward. Submitted designs will be governed by both the parameters identified and a</p>

Ref	Question For	Question	Applicant's Response
			<p>series of key design parameters which will be agreed with RCBC. A protocol for taking forward the Design Competition has been prepared and is under consideration by RCBC.</p> <p>It is anticipated that this will be progressed by way of a suitably worded Requirement which will be included in the next draft of the DCO to be submitted for Deadline 2.</p>
PAR 1.4	Redcar & Cleveland Borough Council	<p><i>Crossing the A1058</i> The Relevant Representation from the Council not only questions the principle of a conveyor bridge over the A1058, but objects to the design illustrated. Please describe/illustrate what the Council would regard as an appropriate design if there is to be a conveyor bridge.</p>	
PAR 1.5	Applicant	<p><i>Site office and works compounds</i> In respect of the site office and works compounds, mains power and phone connections would be brought into the site. Provide a more detailed description of these works including whether the connections would be provided above or</p>	<p>The Principal Contractor appointed for the overland conveyor and harbour facilities, would supply the temporary site office and works compound with the necessary services. Power would be provided via a mobile generator and phone connection via the use of mobile phones.</p>

Ref	Question For	Question	Applicant's Response
		below ground and if they are, in your opinion, subject to permitted development	
PAR 1.6	Applicant	<p><i>Maintenance required during the operational phase</i></p> <p>A description of the operational phase is provided in Section 3.2 of the ES (Doc 6.4). Paragraphs 3.2.7-8 of the ES (Doc 6.4) confirms that maintenance dredging will be required as part of the development. However, the ES does not clarify whether there would be any maintenance requirements for other elements of the port infrastructure. Please can the applicant clarify what maintenance would be required during the operation of the development, how this is secured through the DCO/DML and assessed in the ES?</p>	<p>The Harbour facilities would require routine, standard maintenance to be undertaken, such as maintenance of conveyor drives, belts, shiploaders, etc. The specific details of this cannot be defined at this stage however, the works will comprise standard operational practices (as assessed within the Environmental Statement (Document 6.4)) and controlled by best practice operational procedures.</p> <p>Maintenance to tidal works is being addressed though a revision to the DML which will be incorporated in the next version of the draft DCO. This will provide for a maintenance schedule for the tidal works to be submitted to the MMO prior to the completion of the works.</p>
PAR 1.7	Applicant	<p><i>Life of the project</i></p> <p>The project description presented in the Environmental Statement indicates some expectations of the number of years anticipated to form the 'useful life' span for the purposes of the environmental impact</p>	

Ref	Question For	Question	Applicant's Response
		<p>assessment of the long term impacts of the proposed development, though this is complicated by the expectation that quays and conveyors within the bridge structures would be constructed in two phases. Paragraph 3.1.12 of the ES (Doc 6.4) confirms that the height of the quay construction has taken into account predicted sea level rise over the design life of the facility. However, it is unclear what the design life of the facility is, with particular reference to paragraph 3.2.12 of the ES (Doc 6.4) which states that there are no plans to decommission the port facility. It is noted that in the Applicant's HRA Report Doc 6.3) in footnote (c) of the screening matrices (appendix 8.1) states that the decommissioning works would take place in 100 years' time. However, a similar statement has not been provided in the ES.</p> <p>Please provide further clarification of the anticipated operational life span for the project and demonstrate how this duration has been taken into account in the</p>	<p>The operational lifespan is taken as being 100 years for the purposes of the assessment.</p>

Ref	Question For	Question	Applicant's Response
		<p>environmental assessment, including how the predicted sea level rise over the operational life has been calculated to ensure that the proposed design life can be achieved.</p>	<p>For the assessment of the operational phase implications for those parameters where the baseline conditions can reasonably be expected to change - and where prediction of future baseline can be made (road traffic and air quality) - the Environmental Statement describes the predicted future baseline conditions and the operational phase assessment is based on these conditions. For other parameters, there is either no reason to suspect that baseline conditions would significantly change from the present position in the absence of the proposed scheme, or it is not possible to foresee what changes to baseline conditions may occur with any reasonable degree of confidence. The significance of potential operational phase impacts is, therefore, assessed against present day baseline conditions on the assumption that these would prevail during the operational phase, in the absence of the proposed development.</p> <p>With respect to climate change and predicted sea level rise, this is detailed in Section 4.8 of the Flood Risk Assessment (Appendix 17.1 to the Environmental Statement (Document 6.5)). Based on the findings of the 2012 Tidal Tees Integrated Flood Risk Management Study, present day 1 in 200yr peak sea level is predicted at 4.19mAOD. In the north east part of the UK, sea levels are currently rising by 2.5mm/year. However, by 2085,</p>

Ref	Question For	Question	Applicant's Response
			<p>levels will be increasing by 13mm/year. This means the 1 in 200yr plus 100yrs of climate change sea level is predicted to be 5.07mAOD. This detail has been directly referenced for the operational design; specifically the port terminal element of the Harbour facilities is proposed to be at 5.6mAOD and the minimum height for the conveyor has been set at 5.25mAOD, both of which are above the predicted extreme sea level inclusive of climate change (sea level rise).</p>
PAR 1.8	Applicant	<p><i>Accesses</i> Should a detailed Schedule of accesses and intended modifications to Rights of Way and any other highways be included in the draft DCO? Such (a) schedule(s) are commonly found in DCO. If not required, please justify.</p>	<p>There are no permanent stopping up or diversions to rights of way or any highways, with the exception of the works contained in Works No 12. In addition there are no new accesses being created. It is not considered necessary to add a separate schedule detailing Works No 12 as that would repeat the detail already contained in Schedule 1.</p>
	Safety and Environmental Management (SEM)		
SEM 1.1	Applicant Health and Safety Executive	<p><i>Pipelines Safety including in relation to the Regulations of 1996</i> Set out the nature and outcomes of any discussions already held between the Applicant and the Health and Safety</p>	<p>The HSE has full details of the proposals. Its principle concern was that the Applicant liaised with the asset owners. As identified above the Applicant is continuously</p>

Ref	Question For	Question	Applicant's Response
		Executive (HSE) in relation to Pipelines Safety Regulations 1996 concerning the protective provisions necessary to safeguard pipelines that pass beneath or in close proximity to the application site.	engaging with all relevant asset owners and the Applicant has confirmed this to the HSE.
SEM 1.2	Applicant	<p><i>Navigational safety</i></p> <p>Having regard to the Relevant Representations from PD Teesport, the Tees Port Authority (RR-002), Trinity House (RR-001) and the MCA (RR-008), please indicate the intended action to allay concerns of these bodies with their wider responsibilities for the safety of shipping in the River Tees estuary, including amendments to the wording of the DCO and its Protective Provisions and Requirements intended to be included within the DCO.</p>	<p><i>Navigational safety</i></p> <p>To address the concerns of PD Teesport (the Tees Port Authority), Trinity House and the Maritime and Coastguard Agency with regard to safety of shipping in the River Tees estuary the Applicant has undertaken a programme of works which:</p> <ul style="list-style-type: none"> • quantifies the likely increase in vessel traffic associated with the York Potash project development; • assesses the associated risks to river operations; • develops measures to mitigate identified risks. <p>The stages outlined below are in addition to the numerous meetings and discussions that have been held with the Harbour Master and other key river users.</p> <p><u>Operational Shipping</u></p>

Ref	Question For	Question	Applicant's Response
			<p>Stage 1: A Marine Risk Assessment Study (PB1586-R003-Rev 3 and PB1586-N013-Rev) undertaken to model the impact of the additional shipping movements associated with the application.</p> <p>Stage 2: The Marine Risk Assessment Study was used as background for a Formal Safety Assessment (FSA) in accordance with the Port Marine Safety Code (Department for Transport, 2015) developed through a workshop involving the Harbour Master and representatives from the Tees Bay Pilots, Foy Boatmen (the organisation responsible for mooring of vessels), Svitzer (the tug providers), the Applicant and Royal HaskoningDHV.</p> <p>Stage 3: The results of the FSA were distributed to those who attended the workshop.</p> <p><u>Effects of Construction Activities on Shipping</u></p> <p>Stage 1: An outline construction plan was prepared which considered the construction phase working areas and shipping activities.</p> <p>Stage 2: An outline construction plan was used as background for a Formal Safety Assessment (FSA) in accordance with the Port Marine Safety Code (Department for Transport, 2015) and developed through</p>

Ref	Question For	Question	Applicant's Response
			<p>a workshop involving the Harbour Master and representatives from the Tees Bay Pilots, Foy Boatmen (the organisation responsible for mooring of vessels), Svitzer (the tug providers), the Applicant and Royal HaskoningDHV (held on 14 August 2015).</p>
		<p>Hydrology, Hydrogeology, Marine Sediment and Water quality, Coastal protection and Flood defence (WRF) ES Chapter 6, 7, and 17</p>	
HWF 1.1	<p>Applicant Environment Agency Northumbrian Water IDBs</p>	<p><i>Water resource consents, permits and licences</i> The Mitigation section of the Environmental Statement references the need to secure consents from other bodies such as the Environment Agency and the relevant Internal Drainage Boards (IDBs). Confirm whether a) discussions on such consents been on going and b) whether there is any known impediment to the granting of these consents. In particular provide details of any licences or protective provisions that would be required in relation to works within or adjacent to the Bran Sands waste</p>	<p>The works within Bran Sands lagoon will be covered by the DML included within the draft DCO.</p> <p>Some of the works fall within the area covered by the Environmental Permit for the Bran Sands landfill site. This Environmental Permit will be transferred to the Applicant and there may be a requirement to vary the Environmental Permit. Discussions have been held with the Environment Agency on this matter and the Applicant knows of no impediment with regard to environmental permitting.</p>

Ref	Question For	Question	Applicant's Response
		disposal site to ensure that there is no harm to ecological interests or human health.	
HWF 1.2	Applicant	<p><i>Flood risk assessment</i> 1.2.1. Should the DCO contain provisions to require that the detailed design must be carried out in accordance with the Flood Risk Assessment (FRA) (APP-246)? What minimum measures have been relied on in the Environmental Statement to conclude no significant effects on flood risk?</p>	<p>The majority of the significant infrastructure associated with the development is to be constructed above the worst case predicted tidal water level (see response to PAR1.7). Therefore there is a relatively small amount of the development that will take up associated floodplain and the FRA (Appendix 17.1 to the Environmental Statement (Document 6.5)) states that there is no requirement to provide compensatory storage. Furthermore, the FRA concludes that the development will have no adverse impact on flood extents elsewhere (Section 5 of Appendix 17.1 to the Environmental Statement (Document 6.5)).</p> <p>It is identified that the impermeable area of the site would be increased due to the works. As a result, some areas of the site could see increased flood risk as a result of the development and, therefore, mitigation is required in the form of an adequate drainage system. The FRA states that the drainage could discharge into the Tees (the preferred option identified from consultation with RCBC).</p>

Ref	Question For	Question	Applicant's Response
		<p>Please provide a Table identifying where all the mitigation measures relied upon in the FRA are secured through the DCO and/or suggest additional drafting to the DCO to ensure that they are secured.</p> <p>1.2.2 The Environment Agency has sought the resolution of specific matters in relation to flood risk and in relation to the CEMP in its Relevant Representation (RR-017). Provide a response to each of the issues raised with that response considering whether any of the points raised affect the conclusions presented in the Environmental Statement.</p>	<p>Further to this, RCBC deemed that SuDs were not necessary at this site, as the water can freely discharge into the Tees and Dabholm Gut.</p> <p>Rather than providing a separate table, the Governance Tracker has been updated (see Document 6.8A) to identify where the mitigation measures proposed in the FRA will be secured – please see section 17.</p> <p>With respect to point 1.2.2, the Applicant has reviewed the Environment Agency's Relevant Representation and cannot identify any issues relating to the flood risk and the CEMP that require a response. However, none of the points made by the Environment Agency, in the context of flood risk and the CEMP, in its Relevant Representation affect the conclusions of the Environmental Statement.</p>
HWF 1.3	Applicant Environment Agency The local planning authorities	<p><i>Disposal of contaminated sediments from capital dredging</i></p> <p>Paragraph 3.1.42 of the ES (Doc 6.4) confirms that some of the capital dredged material would be contaminated and</p>	<p>The Applicant's view is that an amendment to the Requirements to provide that a waste management strategy must be agreed in advance is not required. The</p>

Ref	Question For	Question	Applicant's Response
	Marine Management Organisation	<p>would require specific management. The proposed approach to waste management is described in Appendix 3.1 of the ES (Doc 6.5). The management of dredged material and contaminated excavated material on land is provided in Sections 5.1-5.4 of Appendix 3.1 (Doc 6.5).</p> <p>The draft DCO (Doc 4.1) does not specify that a waste management strategy must be agreed in advance with the relevant body or bodies.</p> <p>Do the relevant body/bodies wish to amend the requirements to provide that a waste management strategy must be agreed in advance with the relevant body/bodies?</p> <p>Does the applicant have a view on whether such an amendment would be required?</p> <p>The Environmental Statement refers to the expectation that contaminated sediments that cannot be disposed of at sea would be deposited at appropriate licensed</p>	<p>management of waste is governed by specific legislation and a regulatory process (as described in Section 2.3 of Appendix 3.1 of the Environmental Statement (Document 6.5)). The information provided as Appendix 3.1 of the Environmental Statement (Document 6.5) (and included below) obviates the need for a separate waste management strategy to be prepared.</p> <p>In accordance with Appendix 3.1 of the Environmental Statement (Document 6.5), the regulatory options for the management of contaminated dredged sediments and treatment options have been investigated. This is reported in the following documents:</p> <ul style="list-style-type: none"> • York Potash Project: Contaminated silt disposal – Regulatory Options (June 2015) (Appendix 5); and • York Potash Harbour facilities: Proposed approach to treatment of contaminated silt (August 2015) (Appendix 6). <p>The above reports provide details of discussions that have been held with waste management companies that potentially could be employed to manage the contaminated sediment, including details of sites that may be used for the treatment and disposal of contaminated sediments.</p>

Ref	Question For	Question	Applicant's Response
		<p>disposal sites. Provide details of the particular site or sites that would/might be used and of the means of transport envisaged. How has this been taken account of in the transport assessment and how would this be secured in the DCO or via relevant licensing.</p> <p>More generally, how would the alternative dredging mechanisms be secured in the Deemed Marine Licence given that options are referred to.</p>	<p>The waste management companies that were approached during the course of the above investigations are those with river frontage facilities in order that there would be no road traffic implications associated with the management of the contaminated sediments (hence this does not need to be taken account of in the transport assessment).</p> <p>With regard to alternative dredging mechanisms, it is necessary to have flexibility to allow for possible different approaches that may be proposed by a dredging contractor. The Environmental Statement (Document 6.4) assesses the potential implications of undertaking capital dredging using the different dredger options referred to in the DML at paragraph 6.</p>
HWF 1.4	Applicant	<p><i>Disposal of contaminated soils</i></p> <p>Paragraph 6.5.9 of the ES (Doc 6.4) references the need for a materials management plan which will set out the process of dealing with contaminated soil. However, this management plan is not referenced in the draft DCO (Doc 4.1) or the Governance Tracker (Doc 6.8) and</p>	<p>The requirement for a materials management plan has been included in the revised Outline CEMP (see new Document 6.10) (and the appropriate reference will be added to Requirement 6 of the next draft DCO).</p>

Ref	Question For	Question	Applicant's Response
		<p>therefore it is unclear how this mitigation measure would be secured in the DCO. The Applicant is asked to provide at Deadline 1 an explanation of how this plan would be secured and delivered through the DCO.</p>	
HWF 1.5	Applicant	<p><i>climate change</i> The Environmental Statement confirms that there is potential for climate change to impact on the future baseline condition. Show how this has been factored into the environment assessment and the DCO/DML scheme and relevant plans of the scheme.</p>	Please see the response to question PAR 1.7.
HWF 1.6	Applicant Marine Management Organisation	<p><i>Sediment plume modelling data</i> The marine sediment and water quality assessment uses the sediment plume modelling simulations to inform the assessment of impacts on marine water quality. The Marine Management Organisation (MMO) in their relevant representation has requested that the applicant submits information relating to the validation and calibration of the</p>	<p>Two sediment modelling tools were applied to the project; an estuary-wide sediment regime model using the software DELWAQ (originated by Deltares) and a sediment plume model SEDPLUME (originated by HR Wallingford). The Delwaq model was compared to the overall sediment infill rate in the Tees as is described in the Environmental Statement (Document 6.4).</p>

Ref	Question For	Question	Applicant's Response
		<p>sediment regime models. The applicant is requested to provide this information for Deadline 1.</p> <p>The MMO are requested to review this information and provide their comments for Deadline 2. The MMO's response should identify any concerns they may have regarding the information and an explanation of the potential effect of these concerns on the sediment plume modelling simulations and assessment of impacts on the marine water quality.</p>	<p>SEDPLUME is used to predict the dispersion of sediment that is released into the water column during capital dredging operations. As such there is no direct calibration or validation that can be specifically applied to the SEDPLUME model itself. The model accuracy relies firstly on the flow model results and as such any confidence in its performance is tied to the calibration of the TELEMAC 3D flow model (which is described in the ES). A second area of accuracy is the definition of the sediment release source term which is included within the model and how that might differ from the actual dredger operation. To ensure that the plume simulation presents the maximum likely effect, a reasonable worst case rate of sediment release was used in the modelling.</p> <p>The above information was provided to the MMO on 27 July 2015.</p>
HWF 1.7	Applicant Marine Management Organisation (MMO)	<p><i>Effect of spill of polyhalite product on the marine environment</i></p> <p>Paragraph 7.6.12 of the ES (Doc 6.4) states that in the event of a spill "<i>the components of the polyhalite product pose no significant threat to the marine</i></p>	<p>The conclusion that the material does not pose a significant risk is made on the basis of the composition of polyhalite as described in paragraph 7.6.10 of the Environmental Statement (Document 6.4); which states</p>

Ref	Question For	Question	Applicant's Response
		<p><i>environment.</i>" However, no evidence has been provided by the applicant to justify this statement. The applicant is requested to provide justification for this statement for Deadline 1.</p> <p>The MMO is requested at Deadline 2 to comment on the applicant's response to this question and state whether in the MMO's opinion the components of the polyhalite product pose no significant threat to the marine environment.</p>	<p>that polyhalite is a naturally occurring evaporate. Any accidental release of this material into the marine environment would not introduce any pollutant that would persist or result in lasting contamination of water or sediments. In addition, the dispersive nature of the receiving environment informed this conclusion (as described in paragraph 7.6.10 of the Environmental Statement).</p>
HWF 1.8	Applicant Marine Management Organisation (MMO)	<p><i>Securing dredging mitigation through the DML</i></p> <p>1.8.1</p> <p>The ES confirms that an enclosed grab dredging method would be used for the contaminated sediment above geological deposits (ES paragraphs 7.5.4. and 7.5.12, Doc 6.4). The Governance Tracker (Doc 6.8) confirms that the use of this method is secured through the MMO licence in Schedule 4 of the DML (Doc</p>	<p>The reference to Schedule 4 should be to Schedule 5 (DML) which is corrected in the revised Governance Tracker. It is confirmed that paragraph 6 of the DML is the relevant control over the dredging method.</p>

Ref	Question For	Question	Applicant's Response
		<p>4.1) (see Part 6(3)). However, it is not clear if this reference should be to the draft DML in Schedule 5 of the draft DCO. Please can the applicant at Deadline 1 clarify whether the reference to Schedule 4 in the Governance Tracker should be to Schedule 5 (DML) and whether condition 6(3) in the DML is the relevant condition to secure the use of enclosed grab dredging method to remove contaminated sediment?</p> <p>1.8.2</p> <p>Paragraph 7.5.20 of the ES (Doc 6.4) confirms that where an enclosed grab cannot be used, the use of a backhoe dredger would be the least environmentally damaging in comparison to the other options assessed. Part 6 of the MMO licence does not commit to the use of a backhoe dredger for the remainder of the dredging (Doc 4.1). Please can the applicant comment on whether given this statement, is would be appropriate to commit to the use of the</p>	<p>The Applicant's position is that the use of any of the dredger types referred to would not result in unacceptable impacts on marine water quality, marine ecology or fisheries and, therefore, there is no requirement to specify the use of particular dredging plant (with the exception of the enclosed grab for contaminated material). It is important to retain flexibility in the choice of dredging plant.</p>

Ref	Question For	Question	Applicant's Response
		<p>backhoe dredging in the DML where an enclosed grab cannot be used? If so, please can the applicant provide appropriate wording to secure this commitment through the DML.</p> <p>1.8.3</p> <p>Please can the MMO at Deadline 2 comment on the applicant's response to this question and confirm whether the MMO is satisfied that the mechanism identified for securing this mitigation is appropriate? If not, please can the MMO identify what mechanism would be appropriate?</p>	
HWF 1.9	Natural England (NE) Applicant	<p>The ES does not identify any significant impacts in relation to marine sediment and water quality and does not propose any monitoring of sediment or marine water quality (Doc 6.4). However, Table 7.5 (Summary of consultation responses on the scope of the sediment quality survey) record the following comment from NE <i>"Post dredging monitoring of Seal Sands</i></p>	

Ref	Question For	Question	Applicant's Response
		<p><i>should be taken from the same location as the baseline samples so to identify new deposits as a result of dredging activities. If dredging is found to be detrimental, additional mitigation may be required."</i> To which the applicant responds 'noted'.</p> <p>Natural England is requested to provide at Deadline 1 a statement as to whether this mitigation is required.</p> <p>The Applicant is requested to comment on NE's response at Deadline 2 and to clarify whether it is intended to conduct this monitoring as it is not evident from the ES (Doc 6.4) or the draft DCO (Doc 4.1) that any monitoring is proposed. If such monitoring is proposed, the applicant is requested to clarify how it would be secured and delivered through the DCO and DML.</p>	<p>The Applicant had discussions with Natural England regarding the potential for the proposed scheme to result in deposition of sediment from capital dredging on Seal Sands and, therefore whether baseline benthic/sediment quality sampling (and potentially post-dredging monitoring) was required.</p> <p>In developing the specification for the sampling, it was considered unlikely that sediment that is suspended by the current proposed capital dredging would affect Seal Sands as no capital dredging would occur in the lower Tees estuary. As evidence for this position, sediment dispersion plots from the Northern Gateway Container Terminal EIA (which included capital dredging closer to Seal Sands than would occur for the proposed Harbour</p>

Ref	Question For	Question	Applicant's Response
			<p>facilities) were provided to Natural England, which predicted negligible sediment deposition at Seal Sands. On this basis, Natural England was satisfied that there was no significant risk of sediment deposition at Seal Sands, and it was agreed that sampling at this location was not necessary (hence the 'Not applicable' statement in the final column of Table 7-5 of the Environmental Statement (Document 6.4)).</p> <p>It is worth noting the findings of the Environmental Statement (Document 6.4) confirmed the above, in that no sediment deposition was predicted at Seal Sands and, therefore, there is no requirement for sampling or monitoring at this location.</p>
HWF 1.10	Applicant Environment Agency	Paragraphs 6.4.80-82 of the ES (Doc 6.4), state that it is best practice to conduct a gas risk assessment in accordance with CIRIA 665 guidance. However, the existing monitoring reports used to establish the baseline environment do not include the required data to conduct an assessment in accordance with the CIRIA 665 guidance.	In accordance with the recommended approach in UK best practice guidance, a phased, risk-based approach to the assessment of potential contamination was applied to this site. In this instance, a desk study (and Environmental Statement chapter) has been completed, incorporating a review of publically available data resources and evaluation of existing ground investigation and gas monitoring data which was available for the site. Some of the parameters necessary for a full gas risk assessment have not been recorded to date by these existing studies.

Ref	Question For	Question	Applicant's Response
		<p>The Applicant is asked to clarify at Deadline 1 why the collection of appropriate data required to conduct the assessment in accordance with the best practice guidance was not undertaken.</p> <p>The EA is asked to clarify at Deadline 2 whether this data is required? If so, please identify what additional data the applicant would need to collect to undertake the assessment.</p>	<p>The site specific conceptual site model (CSM) developed for the site, based on the existing information, concluded that (at this stage) ground gas risks are considered to be low/medium and that sufficient information was available to understand the potential risks/impacts and mitigation measures that may be required.</p> <p>In consultation with RCBC , it was agreed that, based on the level of risk, any further data collection to refine the studies/mitigation measures (e.g. gas protection measures) could be undertaken at a later date this is reflected in the updated Governance Tracker (Document 6.8A) by reference to an additional Requirement which will be included in the next draft DCO.</p>
HWF 1.11	Applicant Environment Agency	<p><i>Monitoring and contingency plan</i></p> <p>Although no significant impacts have been identified in the ES, paragraph 6.5.5 of the ES (Doc 6.4) confirms that groundwater and surface water monitoring in association with the aftercare of Bran Sands Landfill has been undertaken for a number of years and will continue to be undertaken and a contingency plan will be included in the CEMP should a departure from the baseline conditions be noted.</p>	

Ref	Question For	Question	Applicant's Response
		<p>However, it is unclear from the information provided in the ES whose responsibility it should be to undertake the monitoring and whether the existing monitoring regime is sufficient to provide the required data. It is unclear whether the monitoring would continue beyond the construction phase. The thresholds which trigger a need to enact a contingency plan have not been defined.</p> <p>The Applicant is requested to provide at Deadline 1 details about the scope of the monitoring (groundwater and surface water and ground gas) and whether it would continue beyond the construction phase. If monitoring continues beyond the construction phase, the applicant is requested to clarify how this ongoing monitoring would be secured and delivered through the DCO. The Applicant is also request to provide at Deadline 1 a description of the trigger thresholds for enacting the contingency plan.</p>	<p>As a requirement of the existing environmental permit an aftercare and closure report has been drafted by the current permit holder (ICI). The aftercare and closure report sets out the scope of monitoring and frequency of monitoring that will be undertaken by the permit holder. Monitoring will continue until such time that the permit holder applies to the regulator to surrender the permit (the Applicant would become the holder of the environmental permit and will, therefore, be responsible for this continued monitoring). Permit surrender is only possible after the landfilled waste has stabilised such that it no longer poses a risk to the environment.</p> <p>In addition to the monitoring undertaken as part of the environmental permit, monitoring would be undertaken</p>

Ref	Question For	Question	Applicant's Response
		<p>The EA is requested to comment on the applicant's response to this question at Deadline 2 and to state whether there are any concerns with the applicant's</p>	<p>during the construction phase by the Applicant. The scope of the monitoring would be in line with the scope of monitoring outlined in the aftercare and closure report, although the frequency of the monitoring for some parameters may be increased as the aftercare and closure report only requires some parameters to be monitored on an annual basis. Additional monitoring locations may be proposed once the detailed design for the development and construction phasing plans are available.</p> <p>The results of the monitoring undertaken by the Applicant during the construction phase would be compared to the baseline data range that has been collected by the permit holder over several years. Data that appear to fall outside of the baseline range would trigger the contingency plan, which comprises further analysis and investigation to confirm whether any change in baseline conditions has occurred due to the proposed development and, if so, to inform the design of any mitigation that may be necessary.</p>

Ref	Question For	Question	Applicant's Response
		proposed approach to monitoring and enacting the contingency plan if required.	
	Terrestrial Ecology and Marine and Coastal Ornithology (Ec) ES Chapters 10 and 11		
Ec 1.1	Applicant	<p><i>The need for ecological enhancement</i> Provide a clear schedule of the proposed ecological enhancement measures, that have been identified and assessed in the ES, including how these would be delivered and secured through the requirements/conditions in the draft DCO/DML. These measures are presumably those or include those to be referred to in the proposed s106 undertaking. Please explain the extent to which these measures are required to provide sufficient mitigation for the DCO scheme.</p>	<p>Paragraph 8.5.6 of the Environmental Statement (Document 6.4) recognises that the port terminal and capital dredging would have an impact on biodiversity that is unavoidable. The Applicant's position is that this would not represent 'significant harm' as defined in the National Planning Policy Framework (NPPF). However, investigation has been undertaken into the potential to implement habitat improvement (enhancement) measures at Portrack Marsh nature reserve, in discussion with the Tees Valley Wildlife Trust (TVWT). The Environmental Statement (Document 6.4) provides further detail in paragraphs 8.5.6 to 8.5.16.</p> <p>Since the publication of the Environmental Statement, further studies have been undertaken on the measures described in the Environmental Statement, including further assessment of the feasibility of implementing habitat improvement at Portrack Marsh Nature Reserve.</p>

Ref	Question For	Question	Applicant's Response
			<p>There was ongoing dialogue with the Environment Agency regarding the nature and scale of biodiversity (ecological) enhancement that the Agency considers is required. These discussions are centred around the type and extent of habitat to be delivered through the habitat improvement proposals. The Applicant's position on this matter is set out in Appendix 7 – "Biodiversity offsetting as compensation for the loss of intertidal habitat (June 2015)"; which proposes the creation of 7ha of intertidal habitat at Portrack Marsh.</p> <p>It is also noteworthy that the Applicant is proposing to provide a £50,000 contribution to the funding of a Tees Estuary Habitat Strategy report to identify the habitat protection and enhancement opportunities and priorities in the Tees estuary, through Tees Valley Local Nature Partnership.</p> <p>The Environment Agency, however, is of the view that an additional 18 biodiversity units are warranted; equating to an additional 1ha of intertidal habitat. The Applicant is therefore proposing to increase to size of the habitat to be created at Portrack Marsh from 7ha to 8ha (which is still within the capacity of the Nature Reserve to</p>

Ref	Question For	Question	Applicant's Response
			<p>accommodate intertidal habitat within part of the reserve area).</p> <p>Please see the Statement of Common Ground with the Environment Agency (Document 9.4).</p> <p>The measures outlined above are to be secured by a Development Consent Obligation under s106 of the TCPA 1990 (please see Document 7.4A).</p> <p>Further investigation into the re-profiling and 'naturalising' up to 350m of river bank (and potentially a further 700m at Maze Park) (paragraph 8.5.11 of the Environmental Statement (Document 6.4)) has shown that these measures would not deliver significant biodiversity benefit and would require substantial earthworks given the topography of the river banks; as such, these measures are no longer under consideration.</p> <p>The Portrack Marsh habitat creation and Tees Estuary Habitat Strategy contribution proposals discussed above, in the Applicants view, are not required as mitigation or compensation (under The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations)) for the DCO scheme. The proposals are intended to offset the impact of the proposed scheme on biodiversity at the</p>

Ref	Question For	Question	Applicant's Response
			<p>request of the Environment Agency, despite the Applicant's position that the proposed scheme would not does not result in 'significant harm' in the context of the NPPF.</p> <p>The mitigation measures proposed in the context of the DCO scheme to satisfy the requirements of the Habitats Regulations within Bran Sands lagoon are discussed in our response to questions relating to the Habitats Regulations Assessment.</p> <p>Other enhancement measures identified comprise the installation of bat boxes and planting of small areas of scrub and trees which would benefit bats and reptiles.</p>
Ec 1.2	Applicant	<p><i>the need for further ecological mitigation and enhancement</i></p> <p>The Relevant Representation from the Environment Agency (RR-008) states that the Environmental Statement provides no evidence that the applicant has investigated the potential for larger scale enhancements.</p> <p>Set out how you have investigated the potential for larger scale enhancements and set out the results of that investigation</p>	<p>Please refer to our response to question Ec 1.1.</p> <p>The environmental enhancement measures proposed at Portrack Marsh, along with the measures proposed within Bran Sands Lagoon, are considered to represent large scale enhancements that significantly exceed the impact associated with the proposed scheme.</p>

Ref	Question For	Question	Applicant's Response
		<p>or explain why no such investigations have been undertaken or are not necessary. Please provide a copy of the agreement/undertaking that would provide for off-site ecological enhancement as referred to in the Environmental Statement and Relevant Representations.</p>	<p>Please see new Document 7.4A.</p>
Ec 1.4	Applicant Natural England	<p><i>Impacts on specific species and habitats – marine mammals</i> Please indicate how the MMMP is secured through the DCO, given that the mitigation measures outlined in the ES are considered appropriate by NE. Is a specific Requirement needed?</p>	<p>Paragraphs 31 and 32 of Schedule 5, Part 4 of the draft DCO refer to mitigation proposed for marine mammals. Further detail is provided within our response to question DCO 1.14 (Ecological Management Plan).</p>
Ec 1.5	Applicant Natural England	<p><i>Impacts on specific species and habitats - bats</i> Whilst no bat roosts have been identified within the DCO boundary, potential bat roosts have been identified in structures in the vicinity of the DCO scheme. Confirm that potential impacts on bats feeding or roosting from disturbance during the construction phase (e.g. noise,</p>	<p>Please refer to paragraphs 10.5.9 to 10.5.13 of the Environmental Statement (Document 6.4).</p>

Ref	Question For	Question	Applicant's Response
		dust) have been adequately assessed and show where this has been done.	
Ec 1.6	Applicant	<p><i>Dust</i> Construction-related dust settling on adjacent habitats has been identified as a potential effect in the Environmental Statement and reference is made to potential impacts from dust being considered in detail in Chapter 13 of the Environmental Statement (Air Quality). However, it is not evident that the impact of dust on all relevant habitats has been assessed. Show where this has been done and indicate the findings from this assessment.</p>	<p>The study area for the assessment of construction phase fugitive dust (and particulate matter), was defined in accordance with guidance available from the Institute of Air Quality Management. This states that ecological receptors within 50m of the site boundary or within 50m of the route(s) used by construction vehicles on the public highway, up to 500m from the site entrance(s), should be considered in any ecological assessment (i.e. the sensitivity of habitats and plant communities to potential dust deposition). An ecological receptor refers to any sensitive habitat that is affected by dust soiling.</p> <p>The closest designated ecological site is South Gare and Coatham Sand SSSI which is located approximately 600m north of the site boundary. Hence the ecological assessment concluded that there are no habitats or species present within the site or 50m of the site boundary that are sensitive to dust deposition, and no detailed assessment of dust deposition during construction was undertaken (Appendix 13.1 to the Environmental Statement (Document 6.5)).</p>

Ref	Question For	Question	Applicant's Response
Ec 1.7	Applicant	<p><i>Ecological Management Plan (EMP)</i> The Environmental Statement confirms that the proposed ecological mitigation measures will be implemented through the Ecological Management Plan (EMP), secured through Requirement 9.</p> <ul style="list-style-type: none"> a) Provide a copy of an initial draft of this document b) Set out the minimum measures relied on in the Environmental Statement to conclude no significant effects on ecological receptors; and show how the achievement these would be incorporated into the EMP for each stage and how the inclusion of such measures would be secured through Requirement 9 of the draft DCO. c) The Environmental Statement describes the proposed monitoring of created habitats for a minimum of five years post-construction, which is stated would form part of the EMP. Show how the inclusion of such measures may be secured 	<ul style="list-style-type: none"> a) Please refer to the response to question DCO 1.14 (Ecological Management Plan); b) Please refer to the response to question DCO 1.14 (Ecological Management Plan); c) The Applicant cannot find any reference to monitoring being undertaken for a minimum of 5 years. Section 6 of the Mitigation and Monitoring Strategy for the lagoon enhancement works (Appendix 3.1 to Document 6.3) refers to the fact that a monitoring plan will be developed for the

Ref	Question For	Question	Applicant's Response
		through Requirement 9 of the draft DCO	habitat enhancement proposals in Bran Sands lagoon.
Ec 1.9	Natural England	<p><i>Securing enhancement</i> Your relevant representation confirms that you are content with the proposed enhancement measures described in the Environmental Statement. However, it then states that these measures will need to be shown to be deliverable through an appropriate legal mechanism which should be captured within the DCO. Please confirm the extent to which the enhancement measures proposed are to be regarded as mitigation.</p> <p>Is Natural England satisfied that the implementation of all the ecological enhancement measures set out in the Environmental Statement are specifically and adequately secured through provisions in the draft DCO including through the Governance Tracker if this is made a certified document properly referenced in the DCO or through the proposed s106 undertaking to the extent that its provisions are to be regarded as</p>	

Ref	Question For	Question	Applicant's Response
		<p>necessary mitigation? If you are not satisfied, what do you consider to be the most appropriate ways to deliver these through the draft DCO?</p>	
Ec 1.10	Applicant	<p><i>Consents and licences</i> Provide the letters from the consenting bodies indicating in respect of all licences or permits that may be required that there is no known reason why these may not be granted.</p>	<p>Please see paragraph 7.11 of the Statement of Common Ground with Natural England (Document 9.3) where Natural England confirm that, on the basis of the information provided so far, it is unlikely that any protected species will be impacted by the development with the mitigation measures proposed and that no protected species letters of no impediment are required for the Examining Authority to consider.</p> <p>Some of the works fall within the area covered by the Environmental Permit for the Bran Sands landfill site. Discussions have been held with the Environment Agency and the Applicant knows of no impediment with regard to environmental permitting. The placement of material in this location is covered by the deemed Marine Licence.</p> <p>An Environmental Permit will also be required for discharge of water into the Tees estuary during the construction of habitat enhancement proposals in Bran</p>

Ref	Question For	Question	Applicant's Response
			Sands lagoon. The Applicant knows of no impediment with regard to this Environmental Permit.
Ec 1.11	Applicant	<p><i>Decommissioning</i></p> <p>It is stated that decommissioning would not have any anticipated ecological effects.</p> <p>What evidence has been used to back up this conclusion?</p>	<p>Section 10.7 of the Environmental Statement (Document 6.4) refers to the fact that surveys would be needed prior to decommissioning to enable appropriate mitigation to be identified to avoid adversely impacting on protected species and contravening legislation. This approach is necessary because it is not possible to predict with high confidence the ecological conditions that will prevail at the site at the time of decommissioning. However, based on current conditions as described in Section 10.4 of the Environmental Statement, and the predicted ecological impact of undertaking construction works (as described in Section 10.5 of the Environmental Statement no adverse ecological impact are anticipated.</p>
Ec 1.12	Applicant	<p><i>Mitigation measures during construction</i></p> <p>Mitigation proposed to minimise the light effect on Bran Sands lagoon and Dabholm Gut (visual disturbance due to movements of construction plant, personnel and construction lighting) are described in paragraph 9.5.28 and include reference to the technical lighting assessment</p>	<p>Please refer to the revised Governance Tracker (Document 6.8A).</p>

Ref	Question For	Question	Applicant's Response
		<p>(Appendix 20.4 of the ES). The assessment notes that <i>“contractors would be required to monitor the lighting levels and spillage, and records of lighting levels would be retained on site. Where lighting levels are found to be inadequate or excessive, mitigation strategies to remedy the effects would be implemented”</i> (paragraph 9.5.31). However, it is not clear what these ‘mitigation strategies’ are or how they would be secured and delivered through the applicant’s draft DCO.</p> <p>The Applicant is requested to clarify what these mitigation strategies are and how they would be secured and delivered through the DCO. If the intention is to include reference in the Governance Tracker, please provide an amended version.</p>	
Ec 1.13	Applicant	<p><i>Mitigation measures during operation</i> Visual disturbance (movements of vehicles, personal and operational lighting) – parking and offices areas</p>	

Ref	Question For	Question	Applicant's Response
		<p>located immediately adjacent to the quay would be screened (by fencing) to minimise the potential for significant effects on the waterbirds using Bran Sands lagoon and Dabholm Gut. It is unclear whether the fencing to screen visual activities during operation is the same fencing as the acoustic noise barriers used as mitigation during construction.</p> <p>The Applicant is requested to provide clarification whether the fencing to screen visual activities is the same as the fencing proposed for the noise acoustic screening? If the visual screening fencing is different to the noise acoustic screening, please can the applicant identify the location of the visual fencing and how this would be secured and delivered through the draft DCO?</p> <p>If the intention is to include reference in the Governance Tracker, please provide an amended version.</p>	<p>Fencing to screen visual activities is proposed during the operational phase, and is different to the fencing proposed as an acoustic noise barrier during the construction phase. Please see revisions of Documents 3.5A and 3.5B showing the location of the operational fencing. The purpose of this fencing is to screen the permanent compounds from the lagoon as part of the bird habitat protection measures.</p> <p>Please also refer to the updated Parameters Table (Document 6.9A) which now makes reference to the lagoon screening fencing. This is secured by virtue of Article 4 and Requirements 2 and 3 of the draft DCO.</p>

Ref	Question For	Question	Applicant's Response
Ec 1.14	Applicant	<p><i>Mitigation measures during decommissioning</i></p> <p>A Decommissioning Plan is proposed to manage the works which would include construction phase screening, to reduce noise and visual disturbance to waterbirds (arising from the decommissioning of the overland conveyor and most likely the surge bins and shiploaders). The assessment does not identify how the proposed mitigation measures would be secured and delivered through the draft DCO.</p> <p>The Applicant is requested to identify how the proposed decommissioning mitigation measures would be secured and delivered through the draft DCO. If the intention is to include reference in the Governance Tracker, please provide an amended version.</p>	<p>Please refer to the revised Governance Tracker (Document 6.8A).</p>
	<p>Traffic and Transport (TT) ES Chapter 12</p>		
TT 1.1	Applicant	<i>Methodology</i>	

Ref	Question For	Question	Applicant's Response
	Redcar & Cleveland Borough Council North Yorkshire County Council Highways England	Has the methodology for the assessment of transport and infrastructure been agreed with the Local Highways and Planning Authorities and Highways England (formerly the Highways Agency)?	The Applicant's transport consultants Royal HaskoningDHV have engaged with all Local Highway Highways and Planning Authorities with regard to the Transport Assessment methodology. Please see Statements of Common Ground with Highways England (Document 9.1) and Redcar and Cleveland Borough Council (Transport) (Document 9.2).
TT 1.2	Applicant Highways England Redcar & Cleveland Borough Council North Yorkshire County Council	<p><i>Formal Transport Assessment and significant effects</i></p> <p>Are the conclusions of the Transport Assessment accepted by all relevant Highway authorities?</p> <p>In particular is the absence of significant cumulative effects during the construction phases for the Port and wider project accepted?</p>	<p>Please see answer to TT 1.1 above.</p> <p>The cumulative traffic impact of the York Potash Project on the North Yorkshire County Council Local Highway Authority (NYLHA) administration area was the subject of a Transport Assessment submitted in support of an application for the Mine and MTS submitted to North York Moors National Park Authority (NYMNP) ref: M-NYM-2014-0676/MEIA which was the subject of a committee resolution to approve on 30 June 2015.</p>

Ref	Question For	Question	Applicant's Response
			<p>In their recommendation to the NYMNPA, NYLHA concluded:</p> <p><i>“the NYLHA does not consider that the residual cumulative impacts of either the construction of the development or its operation on the North Yorkshire highway network can be considered as ‘severe’. Consequently there are no valid reasons to prevent development on highway grounds within North Yorkshire.”</i></p>
TT 1.3	Applicant Redcar & Cleveland Borough Council North Yorkshire County Council Highways England	Worst case scenario – the effect of lorry movements on national and local roads Are all relevant highway authorities satisfied that the cumulative impact of lorry movements on national and local roads has been adequately assessed in a worst case scenario should the phasing of different aspects of the overall scheme change so that more construction is taking place simultaneously?	<p>The Statements of Common Ground with Highways England and RCBC (Documents 9.1 and 9.2) confirm the relevant highway authorities are satisfied with the traffic data submitted.</p> <p>A Framework Construction Traffic Management Plan was submitted with the application which sets out the strategies for controls, monitoring review and enforcement of HGVs to ensure the worst case levels assessed are not exceed. Prior to commencement on site, this framework would be developed into a final plan to be submitted to the local planning authority for approval, as required by Requirement 7 (Schedule 2 of the draft DCO).</p>

Ref	Question For	Question	Applicant's Response
TT 1.4	Redcar & Cleveland Borough Council	Consenting in relation to highway matters Is the Council satisfied with the arrangements set out in the DCO for securing necessary approvals that are not explicitly granted with the DCO itself?	
TT 1.5	Applicant	<i>Travel to work plans for construction workers</i> Please explain how the travel to work plans for construction workers would be secured through the provisions of the DCO.	Travel to work plans for construction workers are contained in the Framework Construction Traffic Management Plan submitted with the application (see response to TT 1.3 for more details). Prior to commencement on site, this framework would be developed into a final plan to be submitted to the local planning authority for approval pursuant to Requirement 7 of the DCO.
TT 1.6	Applicant Network Rail Infrastructure Ltd	<i>Impacts on rail infrastructure</i> Confirm that there will be no disruption to rail services arising from construction work on railway crossing points or in on-going operation of the conveyor bridges, whether to passenger services, freight services and in particular to specialist hot-metal movements given the Relevant Representation from Tata Steel UK	The works will be carried out in a manner which minimises any interruption with the current asset holders' operations. Any impact on rail services as a result of construction will be governed by the normal arrangements for possessions of the track agreed with Network Rail. Arrangements relating to such possessions deal with any consequential interruptions to services.

Ref	Question For	Question	Applicant's Response
		<p>Limited (RR-019) which refers to use of the hot rail route by themselves and Sahaviriya Steel Industries UK.</p>	<p>With regard to the Tata Steel UK Relevant Representation, the Applicant has, and is, liaising with Tata Steel and has confirmed that the works will be carried out in accordance with the current safe system of working in operation on the site.</p>
TT 1.7	Applicant Network Rail Infrastructure Ltd	<p><i>Ability to use rail for export of Polyhalite or for transfer of any other materials that might pass through the proposed Port Facilities</i></p> <p>The Boulby Potash mine is currently rail served and has begun to mine Polyhalite as well as Muralite. The proposed conveyor bridge appears to occupy land that currently or has previously been occupied by rail sidings that served the Materials Handling Facility (MHF) site. Would the DCO scheme prevent rail access to the MHF or rail access directly into the quay Area?</p>	<p>The only interface within the Wilton site rail infrastructure will be as the overland conveyor passes over the section of line referred to as the Eastern Spur/curve, as it leaves the Materials Handling Facility. This section of line, as is the whole of Wilton site rail network, is currently out of service.</p> <p>There are possibilities that the Eastern Spur/curve could be brought back into service at some point in the future should a development on site require it. The overland conveyor passing over the line will pass over this section of track at a height no less than the minimum height for current UK rail bridges 4.780m for a freight route (reference Track Design Handbook NR/L2/TRK/2049), and as such the asset holder (Sembcorp) has no concern.</p>

Ref	Question For	Question	Applicant's Response
	Noise and Vibration (NV) ES Chapter 14		
NV 1.1	Applicant	<i>Construction noise</i> Set out how the potential effects of noise resulting from piling have been assessed and how any mitigation required is secured through the draft DCO and draft DML?	<p>The methodology for the noise impact assessment (including piling) is set out in Section 14.3 and Section 14.5 of the Environmental Statement (Document 6.4).</p> <p>The CEMP required to be submitted pursuant to Requirement 6 is required to include details of "the methods to control noise arising from construction activities".</p>
NV 1.2	Applicant	<i>Operational vibration</i> Confirm and justify whether or not the conveyor is expected to produce any vibration whilst in operation.	<p>The proposed conveyor does not have the potential to result in significant vibration during the operational phase. This is confirmed by the fact that this was not raised as a potential issue during the scoping phase of the EIA. Consequently, the Environmental Statement (Document 6.4) did not refer to, or assess, this issue.</p>
NV 1.3	Redcar & Cleveland Borough Council Applicant	<i>Proposed mitigation measures for operational and construction noise and vibration</i> Set out the nature of any requirements that you may wish to impose in relation to	

Ref	Question For	Question	Applicant's Response
		<p>operational noise and state why these should not be secured through Requirements in the draft DCO. Please respond to this question working in consultation with the applicant.</p> <p>Is the Council satisfied that the CEMP will address construction noise and vibration issues?</p>	<p>The construction noise will be appropriately dealt with through the CEMP to be submitted pursuant to Requirement 6 of the draft DCO.</p> <p>The Environmental Statement (Document 6.4) identifies no noise relating to the operational phase which requires any noise control.</p>
	<p>Landscape and Visual Impact Assessment (LVIA) ES Chapter 20</p>		
LVA 1.1	Applicant	<p><i>Landscape - Fencing</i></p> <p>There are references both to fencing for security and visual screening purposes as well as acoustic fencing which is referred to in the Environmental Statement as one of the proposed methods to mitigate construction related noise impacts. Clarify whether the proposed acoustic fencing has been considered as part of the Landscape and Visual Impact Assessment (LVIA) and explain the</p>	<p>The acoustic fencing was not specifically covered in the LVIA. The proposed acoustic barriers may be distantly visible from the western end of public footpath 116/31/1 and would constitute a very small scale change within a distant view. This would not be sufficient to change the identified construction or operational phase visual impacts for users of the footpath.</p> <p>See also response to Ec 1.13 which clarifies the relationship between different fencing.</p>

Ref	Question For	Question	Applicant's Response
		relationship between various forms of fencing both during construction and operation. [See also Ec 1.13]	
LVA 1.2	Natural England	<p><i>Landscape</i></p> <p>In your Relevant Representation, concern is expressed over the cumulative landscape impact between the Port structures, those of the Material Transport system and the mine head itself. Please explain more fully how these concerns arise in relation to the Port in view of the apparent lack of inter-visibility between its structures and those of the MTS and mine head even during construction?</p>	
LVA 1.3	Applicant	<p><i>Landscape</i></p> <p>Please comment on the expressed concern over potential cumulative landscape impact between the port and the MTS and minehead.</p>	<p>There would not be any cumulative impact on the landscape character due to the Harbour facility structures, the MTS intermediate shaft sites and the minehead due: a) to there being no intervisibility between these sites and the Harbour facilities and b) the location of these features being within different landscape character areas, meaning that physical cumulative effects could not occur on any one character area.</p>

Ref	Question For	Question	Applicant's Response
			<p>There would be intervisibility and physical effects on the same character area due to the Harbour facility structures and the MHF and MTS portal at Wilton. In this case, the Harbour facilities structures are in keeping with and would not alter the existing industrialised estuary landscape character of the Teesport area, as would be the case with the MHF and MTS portal. The cumulative effect of these features would not be sufficient to alter the key characteristics of existing industrialised estuary landscape character and would be in keeping with this character.</p>
LVA 1.4	Applicant	<p><i>Inter-relationship of effects</i></p> <p>Chapter 23 (Table 23-1) states that no significant inter-relationships with other environmental topics have been identified with regard to the landscape and visual environment, although the influence of lighting is considered with respect to ecology in ES chapters 8, 9, 10 and 11. However, the influence of lighting only appears to have been considered specifically in chapters 9 (Marine and</p>	<p>This is an error in Table 23-1. Lighting was considered in Chapters 9 and 10 but the effect of lighting was not considered significant for marine ecological receptors or fisheries. The effect of lighting was considered where relevant (as determined through the consultation process, including the preliminary environmental information report).</p>

Ref	Question For	Question	Applicant's Response
		<p>coastal ornithology) and 10 (Terrestrial ecology).</p> <p>Please can the applicant clarify how it has considered the influence of lighting in relation to chapters 8 (Marine ecology) and 11 (Fisheries and fishing activity in the ES)?</p>	
LVA 1.5	Applicant LPA	<p><i>Mitigation</i></p> <p>The Governance Tracker refers to requirement 2 in the draft DCO as being the mechanism to secure and deliver the mitigation identified in the LVIA. However, requirement 2 in the DCO, which refers to various mitigation measures at a general level, does not refer back to the specific landscape and visual impacts mitigation in chapter 20 of the ES. Furthermore requirement 2 refers only to phase 1 of the development. As requirement 3 in the draft DCO refers to phase 2 of the development, it is unclear why the Governance Tracker does not also refer to requirement 3 as</p>	<p>Please refer to the revised Governance Tracker (Document 6.8A) - reference to Requirement 3 has been included.</p>

Ref	Question For	Question	Applicant's Response
		<p>well, to secure mitigation in relation to phase 2 of the development.</p> <p>Please can the applicant clarify whether the Governance Tracker should refer to both Requirements 2 and 3 in the draft DCO as securing the mitigation identified in the LVIA?</p> <p>Please can the LPA confirm whether they are satisfied that the wording in Requirements 2 and 3 are appropriate to secure the identified mitigation in the LVIA?</p>	
LVA 1.6	Applicant LPA	<p><i>Mitigation</i></p> <p>The LVIA includes reference to offsite planting as proposed mitigation (20.5.30; 20.5.42; 20.7; Table 20-9; 20.9.2; 20.10.2; 20.11.6). However, it is not clear what significant effects the offsite planting is seeking to mitigate (or which receptors will benefit) and what the residual effects post mitigation would be. It is noted that the draft DCO does not include reference to planting as part of the draft requirements,</p>	

Ref	Question For	Question	Applicant's Response
		<p>so it is unclear whether this mitigation forms part of the DCO application or would be delivered through another mechanism.</p> <p>Please can the applicant clarify if offsite planting is to be provided as part of the draft DCO? If planting is included in the draft DCO can the applicant please refer the ExA to a plan that identifies the location of the planting, and provide a response that identifies which receptors and effects the planting will mitigate?</p> <p>If the applicant is relying on this mitigation, but it would not be delivered through the draft DCO, please can the applicant explain how it would be otherwise secured and delivered, if it is not already in place?</p> <p>If the applicant is relying on mitigation provided through off-site planting, please can the applicant clarify whether they are proposing to provide a maintenance programme for this planting and, if so, whether this would be secured and</p>	<p>Existing planting in the Dormanstown area east of the MHF site has been referred to in the LVIA as 'offsite' but is not offsite planting in the meaning of works connected to the application.</p> <p>Offsite planting is also provided for in the draft Development Consent Obligation (Document 7.4A) and was referred to in the Heads of Terms (Document 7.4). This is by way of a "Gateway Contribution" to RCBC for improvements to the public realm and landscaping in the Dormanstown area. The precise location of such planting will be a matter for RCBC.</p>

Ref	Question For	Question	Applicant's Response
		delivered through the draft DCO or through another mechanism.	
	Habitat Regulations Assessment (HRA)		
HRA 1.1	Natural England	<p><i>Identification of the relevant European sites and features</i></p> <p>Please can NE confirm, as the relevant SNCB, whether they agree that the applicant has applied an appropriate study area to identify the relevant European site which may be affected by the proposed development and that the applicant has not omitted any relevant European sites or features of those sites, from their assessment? If the applicant has omitted any relevant sites or features, please can NE identify these to the ExA?</p>	
HRA 1.2	Applicant Natural England	<p><i>Sites screened out of further consideration in the applicant's HRA</i></p> <p>The HRA Report has concluded that whilst North York Moors SAC and SPA sites and</p>	

Ref	Question For	Question	Applicant's Response
		<p>Arnecliff & Park Hole Woods SAC are shown close to the transport routes identified on Figure 5.1, the potential emissions from road traffic during the construction and operation of the harbour development would make an insignificant contribution to the traffic flows generated by the York Potash Project (YPP) as a whole and effects would not extend into the North York Moors National Park (NYMNP) or influence the North York Moors SAC or SPA (paragraph 5.1.2). Whilst the HRA Report acknowledges that the air quality effects of the YPP are predicted to cause exceedences of Objective levels for ecology within NYMNP, prior to mitigation, these are predicted to arise due to a combination of the influence of traffic emissions and the contributions from construction phase generators at the minehead and Lockwood Beck Intermediate Shaft site and not from traffic alone. On this basis, the applicant has screened out of the HRA for the harbour facility potential effects on</p>	

Ref	Question For	Question	Applicant's Response
		<p>North York Moors SPA and SAC (paragraph 5.1.3).</p> <p>Please can NE state whether they agree with the applicant's conclusion that there will not be any effect on the North Moors SAC and SPA sites from the Harbour facility project alone and in combination with the other elements of the overall YPP development, namely the Lockwood Beck Intermediate Shaft as part of the mineral transport system application?</p> <p>The HRA Report also states that the Arnecliff & Park Hole Woods SAC has been screened out of further consideration (paragraph 5.1.3). However, it is not clear on what basis the applicant has screened out Arnecliff & Park Hole Woods SAC from further consideration in their HRA.</p> <p>Please can the applicant clarify on what basis it has screened out Arnecliff & Park Hole Woods SAC from further consideration in their HRA?</p>	<p>Arnecliff & Park Hole Woods SAC was screened out from further consideration in the HRA for the same reasons as described for the North Moors SAC and SPA sites. This is confirmed in Table 8.5 of the HRA (Document 6.3).</p>

Ref	Question For	Question	Applicant's Response
HRA 1.3	Applicant	<p><i>Interaction between construction of Phase 2 and operation of Phase 1</i></p> <p>The applicant's HRA has considered the effects arising during both construction and operation of the proposed development. The applicant is aware of the likelihood that operational effects attributed to Phase 1 of the development will interact concurrently with construction effects attributed to Phase 2 of the development. Can the applicant please provide evidence that the overlapping effects from phase 1 in operation and phase 2 in construction have been assessed as part of the HRA?</p> <p>Please can the applicant also clarify what timeframe was used when considering construction effects on the qualifying features / criteria of the European site considered in the applicant's HRA? For example, is the construction timeframe the total duration of Phase 1 and 2? If so, what overlap is there between Phase 1 operation and Phase 2 construction?</p>	<p>See response to DCO 1.14. The same principles applied to the EIA have been applied with respect to the HRA.</p>

Ref	Question For	Question	Applicant's Response
HRA 1.4	Applicant	<p><i>In combination assessment – Dogger Bank Teesside A and B and Dogger Bank Teesside C and D</i></p> <p>Table 8.7 records that there is potential for Dogger Bank Teesside A and B (project ID 169) to result in a LSE in combination with the harbour facility. The ExA notes that Dogger Bank Teesside A and B NSIP is due to be determined by the Secretary of State by 5 August 2015.</p> <p>If Dogger Bank Teesside A and B is granted development consent, please can the applicant consider whether any amendments have been made to the route or timing of the construction of the onshore cable corridor and if so, inform the ExA as to whether any such changes have affected the assumptions on which the applicant has undertaken their in-combination assessment?</p> <p>Whilst Dogger Bank Teesside A and B has been considered in the applicant's in</p>	<p>Since the Dogger Bank Teesside A & B application was made in March 2014, the applicant (Forewind) submitted one amendment to the onshore cable route during the examination phase of that project. This was a 180m realignment of the Dogger Bank Teesside A & B HVAC onshore cable route – moving the cable alignment approximately 50m south from its original alignment to avoid a building owned by GrainCo (and further away from the Harbour facilities). The realigned section is approximately 2.8km south west of the Harbour facilities. The amendment was submitted to the ExA in September 2014.</p>

Ref	Question For	Question	Applicant's Response
		<p>combination assessment, it is unclear whether the proposed Dogger Bank Teesside C and D NSIP (project ID 170, as shown on Figure 6.1) has been considered in the applicant's in combination assessment as it is not listed in either Table 6.1 or Table 6.2 in the HRA Report.</p> <p>Please can the applicant clarify whether the proposed Dogger Bank Teesside C and D NSIP has been considered in the in combination assessment at both the screening and integrity stages for the European site screened into the applicant's assessment? Please can the applicant refer the ExA to where this information is provided in the HRA Report?</p>	<p>The Applicant is not aware of any amendments to the timing of the construction of the onshore cable route for Dogger bank Teesside A & B since that application was made.</p> <p>In-combination assessment of Dogger Bank Teesside C & D: please see response to PM 1.1.</p>
HRA 1.5	Applicant	<p><i>In combination assessment – maintenance dredging</i></p> <p>The 'other plans and projects' included in the in combination assessment on the effects on integrity of the Teesmouth and</p>	<p>The EIA and HRA considers the effects of maintenance dredging on the depth of the navigation channel and berths in the Tees estuary as part of the baseline</p>

Ref	Question For	Question	Applicant's Response
		<p>Cleveland Coast SPA and Ramsar sites (paragraph 11.2.1), include maintenance dredging within the Tees Estuary. Table 8.7 explains that this maintenance dredging is the existing on-going dredging, which may have an effect in combination with the capital dredging required for the proposed development.</p> <p>Please can the applicant confirm whether this maintenance dredging has been assessed as part of the baseline or the in combination assessment?</p> <p>Please can the applicant also clarify what effects the maintenance dredging required to maintain the berth created during Phase 1 of the development would have in combination with the capital dredging required for Phase 2 of the development?</p>	<p>conditions (e.g. the numerical modelling accounts for the effect of maintenance dredging on sediment budget of the Tees).</p> <p>In the HRA, the assessment also considers the short-term effect of maintenance dredging on water quality (i.e. sediment resuspension during the dredging activity) and the potential for interaction between sediment suspended during maintenance dredging and capital dredging for the proposed scheme.</p> <p>It is very unlikely that the berth for Phase 1 would be maintained during capital dredging for Phase 2 because some of the sediment disturbed during Phase 2 capital dredging would be deposited adjacent to the dredge area, and within the berth for Phase 1. This would make simultaneous maintenance of the Phase 1 berth ineffective. Nevertheless, should maintenance and capital dredging be undertaken simultaneously, the combined effect would be insignificant because material suspended during maintenance would be within the spatial extent of any sediment plume created by capital dredging.</p>

Ref	Question For	Question	Applicant's Response
HRA 1.6	LPA and Natural England	<p><i>In combination assessment</i></p> <p>Please can the LPA and Natural England confirm whether they agree that the applicant has identified all the relevant 'other plans and projects' for consideration in the applicant's HRA.</p>	
HRA 1.7	Applicant	<p><i>In combination effects of direct loss of habitat</i></p> <p>The applicant's HRA Report has identified that the MHF and the harbour facility in combination would result in a loss of habitat used by waterbirds. However, no mitigation is proposed as the loss of habitat at the MHF is described as 'very minor' (but is not quantified) and that the habitat affected (short grass sward) is present and common in the wider area and differs from the habitat lost for the harbour facility (intertidal area).</p> <p>The HRA Report has concluded that the habitat enhancement proposals provided under the Bran Sands lagoon MMS are</p>	

Ref	Question For	Question	Applicant's Response
		<p>considered to outweigh the combined effect of the loss of habitat for waterbirds at the harbour facility and the MHF (paragraph 11.3.5).</p> <p>Please can the applicant put the statement of 'very minor' into context, for example, what area of habitat (short grass sward) is lost and also to clarify what is meant by 'present and common in the wider area' i.e. what 'wider area' has been considered by the applicant for the availability of this habitat?</p>	<p>Paragraph 11.3.5 of the HRA (Document 6.3) describes a 'very minor effect', which refers to the scale of effect on the waterbird population as a whole, given its occasional use by curlew, not the spatial extent of habitat affected by the MHF.</p> <p>The area of grassland predicted to be affected by the MHF is 26.8ha (as assessed in the Environmental Statement for the Mine, MHF and MTS components of the York Potash Project). The 'wider area' refers to the industrial zone to the south of the Tees and to the north of the Tees. As an example, an area of grassland habitat is present across the whole surface of the Bran Sands landfill site.</p>
HRA 1.8	Applicant	<p><i>In combination effects on marine water quality and food resource for waterbirds during capital and maintenance dredging</i></p> <p>When considering the potential for in combination effects from dredging activity</p>	

Ref	Question For	Question	Applicant's Response
		<p>associated with the harbour facility, the NGCT and the QEII Berth Development, it is unclear why it has been assumed by the applicant that both developments cannot happen together with the harbour facility. Therefore, the HRA has only considered the harbour facility with the NCGT or the QEII Berth development and not all three developments together.</p> <p>Please can the applicant clarify the basis for this assumption, including reference to the proposed timescales for each development?</p>	<p>The HRA (and CIA) does consider the potential interaction of all three projects together (the Harbour facilities, QEII Berth Development and Northern Gateway Container Terminal) (HRA paragraphs 11.3.9 to 11.3.17), although there is a low likelihood that the construction phases of the three projects would coincide.</p>
HRA 1.9	Applicant	<p><i>In combination effects from noise disturbance during the operational phase</i></p> <p>As the HRA Report notes that the Tuned In! scheme has already been developed (paragraph 11.2.16), please can the applicant provide further information about the mitigation measures which the Tuned</p>	<p>The mitigation measures related to the Tuned In! facility are described in paragraph 11.3.27 of the HRA (Document 6.3).</p>

Ref	Question For	Question	Applicant's Response
		<p>In! facility has secured and delivered, which the applicant is relying on to reach a conclusion of no adverse effect on site integrity for the SPA and Ramsar sites from the project in combination with the Tuned In! facility?</p>	<p>The following provides further detail of the mitigation measures already implemented as part of the detailed design of the boating lake in the Coatham Enclosure master plan:</p> <ul style="list-style-type: none"> • Provision of measures to deter pedestrian access to the island between September and March inclusive. Between September and March a chain across the bridge and interpretation board will deter access from the island. • Rowing boats only allowed on the lake between May and mid-September. • Agreement with model boating clubs on measures to minimise disturbance to roosting birds from their activities, either through a no-go-zone of 3m around the island or through avoidance of the high tide period. • Uses of the boating lake 'performance deck' during the winter period that cause roosting birds on the island to take flight will not be allowed within 3 hours of high tide.

Ref	Question For	Question	Applicant's Response
HRA 1.10	Applicant	<p><i>Reliance on Bran Sands Lagoon Mitigation and Monitoring Strategy (MMS)</i></p> <p>Habitat enhancement measures in the form of the Bran Sands Lagoon Mitigation and Monitoring Strategy (MMS) are proposed and have been incorporated into the design of the development (Work No. 3). The proposed Bran Sands lagoon MMS is provided in Appendix 3.1 of the HRA Report.</p> <p>The MMS (Appendix 3.1 of the HRA Report) identifies in Table 3.1 the predicted direct effect of the harbour facilities on the interest features of Teesmouth and Cleveland Coast SPA and the objective of the mitigation proposed through the MMS. The objective of the MMS is 'to provide improved feeding, roosting and loafing habitat, thereby mitigating the direct impact of the port terminal'. The ExA notes that Redshank and Red Knot are also qualifying features of the Teesmouth and Cleveland Ramsar site.</p>	

Ref	Question For	Question	Applicant's Response
		<p>Please can the applicant clarify whether the predicted effects arising from the Harbour facility (on the SPA interest features) and the mitigation proposed also relate to the qualifying criteria of the Teesmouth and Cleveland Coast Ramsar site?</p> <p>The Bran Sands Lagoon MMS identifies that the purpose of the proposals is to provide mitigation for elements of the harbour facility development by providing improved feeding, roosting and loafing habitat thereby mitigating the direct impact of the port terminal and to provide habitat enhancement through the placement of dredged material in Bran Sands lagoon. However, it is not clear whether the applicant is relying on the Bran Sands Lagoon MMS to conclude no adverse effect on site integrity.</p> <p>Please can the applicant clarify whether it is relying on the Bran Sands Lagoon MMS</p>	<p>The Applicant can confirm that the predicted effects of the Harbour facilities and the mitigation proposed relate to the qualifying criteria of the Teesmouth and Cleveland Coast Ramsar site and the Teesmouth and Cleveland Coast SPA; the features of both designated sites have been considered in the HRA (Document 6.3).</p> <p>Taking the HRA (Document 6.3) and MMS (Appendix 3.1 to Document 6.3) into account, Natural England has accepted that there would be no adverse effect on site</p>

Ref	Question For	Question	Applicant's Response
		to conclude no adverse effect on site integrity?	integrity. This conclusion does rely on the measures described in the MMS relating to Bran Sands lagoon habitat enhancement proposals (described in the MMS) and other mitigation identified (in the HRA and MMS).
HRA 1.11	Applicant	<p><i>Securing and delivering the mitigation identified in the Bran Sands Lagoon MMS</i></p> <p>The MMS stipulates that where the indicators of success are not being met, intervention measures, include the activation of the second control pipe to adjust the water levels in the lagoon may be applied. Please can the applicant clarify what these intervention measures are, how they will be secured and delivered through the MMS and how they have been assessed in the applicant's HRA?</p>	<p>It is not possible to definitely state what the intervention measures might be because the measures that may be required depend on analysis of the reasons the habitat enhancement proposals are deemed to be not meeting their objectives (if this proves to be the case based on the findings of the monitoring programme). As described in Section 6.1 of the MMS (Appendix 3.1 to Document 6.3), this monitoring plan will be developed and agreed with Natural England, the Environment Agency, Cefas and the MMO.</p> <p>Section 6.3 of the MMS provides some indication of the adjustments that could be made to the created habitats within the lagoon as intervention measures. This information is provided to demonstrate that there is scope for managing the newly created habitats in the future if necessary, and as informed by the monitoring programme.</p>

Ref	Question For	Question	Applicant's Response
			<p>The intervention measures themselves are not assessed in the HRA (Document 6.3). It is not possible to undertake such an assessment at this stage because the details of the intervention measures cannot be defined (i.e. the measures would be developed in specific response to the findings of the monitoring programme to change the functioning of the habitat to meet the objectives of the habitat enhancement proposals).</p>
HRA 1.12	Applicant	<p>Please can the applicant also clarify how any potential maintenance works in relation to the lagoon, for example, additional maintenance dredged material, have been assessed in the HRA?</p>	<p>Please see response to question HRA 1.11. The use of additional maintenance dredged material is one potential intervention measure, identified in Section 6.3 of the MMS (Appendix 3.1 to Document 6.3).</p>
HRA 1.13	Applicant Natural England	<p><i>Provision of artificial nesting platforms</i></p> <p>The HRA infers that artificial nesting platforms can be provided beneath the suspended deck of the quay (if the open quay structure is proposed). This design option would be of particular benefit for nesting shags. Can the applicant confirm if this option will be adopted in the final</p>	<p>This option will be adopted if the design of the quay allows, but would be more difficult to accommodate for a solid quay structure. This was discussed as a possible enhancement measure and is not a measure required to ensure no adverse effect on site integrity.</p> <p>The provision of artificial nesting platforms in Bran Sands Lagoon is not proposed as part of the MMS for the lagoon.</p>

Ref	Question For	Question	Applicant's Response
		<p>design and if so how it is secured in the draft DCO/DML? Please can Natural England comment on whether they Bran Sands Lagoon MMS should include the provision of artificial nesting platforms?</p>	<p>Such platforms have been installed in the past and have failed (disintegrated).</p>
HRA 1.14	Applicant	<p><i>Control of water exchange between the Tees Estuary and Bran Sands lagoon</i></p> <p>Water exchange between the Tees Estuary and Bran Sands lagoon currently occurs through the pipe in the embankment (as illustrated on Figure 10-1 in the HRA Report). Whilst the applicant does not intend to actively control the water level in the lagoon, it is proposed that a second flow control structure would be constructed when the pipe is replaced. It is proposed that this second control would not be operational initially, but could be activated in the future if monitoring demonstrates that altering the water level would be acceptable (paragraph 10.3.34).</p>	

Ref	Question For	Question	Applicant's Response
		<p>Please can the applicant clarify whether the instillation of the second control mechanism in the pipe is required to ensure the delivery of the Bran Sands Lagoon MMS? If so, how any necessary monitoring would be undertaken and what would the trigger be for activating the second control to alter the water level?</p> <p>Please can the applicant also clarify what the potential implications would be for ecological receptors from altering the water level in the lagoon? Can the applicant also explain how this has been assessed in the applicant's HRA?</p> <p>As the replacement of the existing pipe and the construction of the new second pipe falls between Works Nos. 1, 2 and 3 in the draft DCO, please can the applicant clarify which requirements must be met before replacement and construction of the new pipes can commence?</p>	<p>The installation of the second pipe is not necessary to implement the habitat enhancement proposals, but is proposed as a means of enabling future adjustment of water levels in the lagoon. It is proposed to be installed during the construction of the habitat enhancement measures to avoid having to undertake future work within the embankment in the event that there is a desire to adjust water level in the lagoon (i.e. it is the most effective means of building in flexibility).</p> <p>Please refer to our response to question HRA 1.11 for comments regarding assessment of intervention measures and their potential effects.</p> <p>The new pipes will be constructed as part of the lagoon habitat enhancement measures. There are no requirements which must be met before the pipes can be constructed.</p>

Ref	Question For	Question	Applicant's Response
HRA 1.15	Applicant	<p><i>Barriers to provide acoustic and visual screening</i></p> <p>Mitigation has been proposed in the form of noise attenuation barriers, likely to be 3m high boarding at ground level are proposed and would be position as described in paragraph 10.3.63 and paragraph 5.2 in Appendix 3.1 of the HRA Report. The location of the barriers is shown on Figure 9.3 in Chapter 9 of the ES (marine and coastal ornithology).</p> <p>Please can the applicant confirm whether they are relying on these barriers in the HRA Report to provide visual screening to reduce movements of construction plant and personnel and construction lighting, as well as operational lighting from parking and storage areas (paragraph 10.3.86)?</p> <p>It is noted that the use of the barriers to provide visual screening is not discussed in the marine and coastal ornithology assessment in the ES (section 9 of the</p>	<p>The noise attenuation barriers (acoustic fence) would also represent mitigation for potential visual disturbance associated with movements of plant and personnel during construction. These are temporary barriers, and would not be present during the operational phase.</p> <p>The use of barriers (in this case fencing) to provide visual screening is described in paragraph 9.5.30 of the Environmental Statement (Document 6.4) by cross</p>

Ref	Question For	Question	Applicant's Response
		<p>ES). Please can the applicant explain why?</p> <p>The Parameters Table (Doc 6.9) when describing the parameters for Work no.5 refers to 'temporary acoustic fencing' giving the parameters of this fencing to have a max height 3m, location shown on Plan 9 (YO989-HF -9-003, Figure 9.3, Section 9 of the ES (Document 6.4). However, Work No. 5 in the draft DCO (Schedule 1) does not refer to 'temporary acoustic fencing'.</p> <p>Please can the applicant clarify how the acoustic fencing will be secured and delivered through the DCO?</p> <p>The Governance Tracker, in relation to mitigation identified in the ES, identifies at number 27 (Section 9 – Marine and Coastal Ornithology) that the noise attenuation barriers would be delivered through the CEMP (draft Requirement 6), which includes 'details of all temporary fencing...including arrangements for their</p>	<p>referring to the noise mitigation measures (which include the barriers) (refer to paragraphs 9.5.18 to 9.5.21).</p> <p>There is reference to temporary acoustic fencing in Works No. 5(10)</p> <p>The CEMP(s) to be approved pursuant to Requirement 6 are required to include "details of methods to control noise arising from construction activities". For clarity the words "including temporary acoustic fencing" could be added.</p>

Ref	Question For	Question	Applicant's Response
		<p>removal following completion of construction' (Requirement 6(1)(d) in the draft DCO). Note – Regulation 6 requires the CEMP to be drafted in accordance with the principles contained in Appendix 6.4 of the ES (Outline CEMP), which includes in Table 6.1 a summary of mitigation measures identified in the ES. This list matches the list of mitigation measures in the Governance Tracker (Doc 6.8). However, not every mitigation measure listed in Table 6.1 has been identified as being secured through the CEMP.</p> <p>Please can the applicant clarify whether Table 6.1 would be used to identify the mitigation measures to be delivered through the CEMP? If so, please can the applicant revise Table 6.1 to only include the mitigation measures to be secured through the CEMP?</p> <p>The HRA Report implies that the applicant is relying on this fencing to provide visual screening during both construction and operation. However, there does not</p>	<p>Table 6.1 would be used to identify the mitigation measures to be delivered through the CEMP. Please see updated Outline CEMP (new Document 6.10)</p> <p>Please refer to the response to question Ec 1.13 above with regard to fencing and amendment made to the Parameters Table (Document 6.9A).</p>

Ref	Question For	Question	Applicant's Response
		<p>appear to be reference to any permanent fencing, apart from security fencing (max 2m. height) referred to in work No. 5 in the Parameters Table (Doc 6.9) and the draft DCO (Schedule 1).</p> <p>Please can the applicant clarify which fencing they are relying on to provide visual screening during both the construction and operational phase of the development and how this would be secured and delivered through the DCO?</p>	<p>See response to question Ec 1.13 above.</p>
HRA 1.16	Applicant	<p><i>A noise reduction curtain</i></p> <p>The HRA Report (and the Governance Tracker) states that a noise reduction curtain over the hammer piling rig during the quay construction is to be investigated (paragraph 10.3.65). Please can the applicant clarify on what basis the applicant would determine whether a noise reduction curtain would be used and what reliance has been placed on the use of the noise reduction curtain when determining no adverse effect on site</p>	<p>Whether or not a noise reduction curtain could be used depends on the detail of the methodology and approach for piling proposed by the contractor. As this cannot be ascertained with certainty, the HRA does not assume that this is a mitigation measure that can be implemented and, therefore, is not taken into account in determining no adverse effect on site integrity on the European sites.</p>

Ref	Question For	Question	Applicant's Response
		integrity on the European sites taken forward to AA?	
HRA 1.17	Applicant	<p><i>Lighting Scheme</i></p> <p>Measures are also described in paragraph 10.3.75 of the HRA Report to minimise the lighting effect during construction on Bran Sands lagoon and Dabholm Gut, which combined with the use of barriers to provide acoustic and visual screening between the proposed construction works and the lagoon and Dabholm Gut, no effect on population levels of waterbirds would occur.</p> <p>The HRA Report that for the project alone visual disturbance due to lighting (construction and operation) affecting waterbirds that feed and roost at Bran Sands lagoon and Dabholm Gut would be mitigated by implementation of a lighting scheme.</p> <p>The Lighting Assessment Report provided with the application has concluded that</p>	<p>The Lighting Assessment Report refers to the Teesmouth and Cleveland Coast SPA and Ramsar sites as currently designated. However, the assessment undertaken in the HRA (Document 6.3) is focussed on areas that are functionally linked to the SPA.</p>

Ref	Question For	Question	Applicant's Response
		<p>based on the distance of the proposed scheme from the designated nature conservation areas (a minimum of 0.7km), it is considered that construction and operational lighting for the scheme would have no adverse effects upon the designated sites, which includes in Table 4-3 the Teesmouth and Cleveland Coast SPA and Ramsar sites (paragraph 4.4.2). However, this statement does not appear to have considered the potential for the qualifying features of these sites to use the functionally linked land for the sites at the Bran Sands lagoon and Dabholm Gut, which is within and immediately adjacent to the proposed development area for the harbour facility.</p> <p>The Governance Tracker (Doc 6.8) identifies that in relation to mitigation identified in chapter 9 of the ES (Section 9 – Marine and Coastal Ornithology) where lighting levels are found to be inadequate or excessive, mitigation strategies to remedy the effects would be implemented and delivered through the CEMP secured</p>	

Ref	Question For	Question	Applicant's Response
		<p>through Requirement 6 in the draft DCO. It is not clear from Requirement 6 what mitigation measures would be identified and used to remedy the effects on ecology from lighting levels.</p> <p>Please can the applicant clarify how the lighting mitigation measures identified in the HRA Report (paragraph 5.3 of Appendix 3.1) would be secured and delivered through the draft DCO?</p>	<p>Please see updated Governance Tracker (Document 6.8A) at item 31.</p>
HRA 1.18	Applicant Natural England	<p><i>Applicant's screening and integrity conclusions</i></p> <p>Table 8.1 identifies the potential effects associated with the harbour facility that could affect the Teesmouth and Cleveland Coast SPA and Ramsar sites. The screening matrices for these sites identify a likely significant effect on all the qualifying features /criteria of these sites from the project alone (see Table 8.2 for the effects arising from the project alone on these features/criteria) and in combination (see Table 8.7 which</p>	

Ref	Question For	Question	Applicant's Response
		<p>identifies the other plans and projects which may result in in combination effects), during construction and operation, but not during decommissioning. Therefore, all the qualifying features /criteria of these sites have been taken forward to appropriate assessment.</p> <p>The HRA Report has concluded that in the context of the Teesmouth and Cleveland Coast SPA conservation objectives (provided in Appendix 5.1), the project alone, with the measures to mitigate the impact of construction noise and visual disturbance and the habitat enhancement measures in Bran Sands lagoon, would not affect the integrity (structure and function) of the SPA. The HRA Report has concluded that in the context of the Teesmouth and Cleveland Coast Ramsar criteria (provided in Section 5.3), the project alone would not affect the integrity (structure and function) of the Ramsar site. However, it is noted that the applicant when reaching this conclusion, does not</p>	

Ref	Question For	Question	Applicant's Response
		<p>rely on measures to mitigate the impact of construction noise and visual disturbance and the habitat enhancement measures in Bran Sands lagoon.</p> <p>Please can the applicant clarify whether they are relying on measures to mitigate the impact of construction noise and visual disturbance and the habitat enhancement measures in Bran Sands lagoon to conclude no adverse effect on site integrity for the Teesmouth and Cleveland Coast Ramsar?</p>	<p>The conclusions of the HRA rely on the proposed measures to mitigate the impact of construction noise and visual disturbance and the habitat enhancement measures in Bran Sands lagoon.</p>
HRA 1.19	Natural England	<p>The Bran Sands lagoon MMS stipulates that the ES and HRA were undertaken on the assumption that construction works would not be seasonally constrained (section 5.2 in Appendix 3.1 of the HRA Report). The MMS records that Natural England advised that with the proposed mitigation measures in place, it could only be concluded that the risk of indirect impacts on waterbirds would be reduced to an insignificant level if it could be guaranteed that the construction works</p>	

Ref	Question For	Question	Applicant's Response
		<p>would avoid the wintering period. However, the MMS records that NE accepted that the potential disturbance effects would not have an adverse effect on the integrity of the Teesmouth and Cleveland Coast SPA (and Ramsar?), due to the limited period over which the disturbance would occur (3 to 4 months) in combination with the mitigation proposed.</p> <p>Please can Natural England confirm whether they agree with the Applicant's statement that the potential disturbance effects arising from the development would not have an adverse effect on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar sites? If Natural England agrees with the Applicant's statement, please can Natural England state on what basis they have reached this conclusion? Please can Natural England expressly state any assumptions or mitigation relied upon in their response?</p>	

Ref	Question For	Question	Applicant's Response
HRA 1.20	Applicant	<p><i>Screening and integrity matrices</i></p> <p>Whilst the screening and integrity matrices provided with the applicant's HRA Report (Doc 6.3) include the qualifying features of the sites screened into the applicant's assessment, in relation to the Teesmouth and Cleveland Coast SPA, the screening and integrity matrices do not include the species identified in the SPA review for this site. Natural England's relevant representation (dated 5 June 2015) notes that the potential for offsite impacts needs to be considered in assessing the potential effects that the proposal may have on the Teesmouth and Cleveland Coast SPA, given that whilst the harbour development is currently located outside the boundary of the SPA, it is in an area known to be used by birds and therefore has the potential to affect the SPA (paragraphs 2.3 and 2.4).</p> <p>Please can the applicant provide revised screening and integrity matrices for the Teesmouth and Cleveland Coast SPA to</p>	

Ref	Question For	Question	Applicant's Response
		<p>include ringed plover, little tern and common tern as the species for which an extension to the SPA is being considered?</p> <p>Whilst the footnotes in the screening and integrity matrices refer to where the information is provided in the HRA Report to support the conclusions reached by the applicant, the footnotes are not sufficiently detailed enough to enable the reader to identify the specific text which is relevant to each qualifying feature / criteria for that site. The footnotes also do not clearly identify the mitigation relied upon by the applicant to reach a conclusion of no adverse effect on site integrity (AEoI) for the qualifying features / criteria of the sites.</p> <p>Please can the applicant provide revised screening and integrity matrices with more detailed footnotes identifying the specific information and mitigation measures relied upon to conclude no LSE and no AEO No Marking?</p>	<p>Please see revised screening and integrity matrices (Appendix 8).</p>

Ref	Question For	Question	Applicant's Response
HRA 1.21	Applicant Environment Agency Natural England	<p><i>Absence of adverse effects – securing mitigation</i></p> <p>Natural England's Relevant Representation (RR-007) gives a prospective view that no adverse effects are anticipated on any European Sites as a result of the proposed development provided that intended mitigation measures are implemented, subject to assessments in relation to additional species that may be affected should expected review proposals be implemented. On the assumption that such assessments do not reveal new issues needing to be addressed, can it be confirmed whether the DCO contains articles and/or Requirements that satisfactorily guarantee that the mitigation measures would be secured? If not please specify any additional mitigation measures and a means by which to secure them.</p>	<p>The Applicant is puzzled by the statement in the question that Natural England give a prospective view that “no adverse effects are anticipated on any European Sites as a result of the proposed development provided that intended mitigation measures are implemented, <u>subject to assessments in relation to additional species that may be affected should expected review proposals be implemented</u>”.</p> <p>The Applicant does not believe that Natural England has qualified its position with regard to the effect on site integrity with the underlined text above. In addition the HRA undertaken adopted a future proofing approach in light of the proposal for the Teesmouth and Cleveland Coast SPA to be expanded.</p>
HRA 1.22	Natural England	<p><i>In-combination effects</i></p> <p>Bearing in mind the apparent absence of consideration of the cumulative impacts of</p>	

Ref	Question For	Question	Applicant's Response
		<p>Dogger Bank C & d, can Natural England confirm they are content that there would be no Likely Significant Effects/adverse effect on the integrity after mitigation measures on any European Sites for both the project alone and in-combination with other plans/projects.</p>	
	<p>Water Framework Directive (WFD)</p>		
WFD 1.1	<p>Applicant Marine Management Organisation</p>	<p><i>Data used to inform the WFD Compliance Assessment</i> The applicant has provided a WFD Compliance Assessment as part of their DCO application in Appendix 4.3 of the Environmental Statement. The sources of baseline data used to inform the assessment are outlined in paragraphs 1.2.8-9 of the WFD Compliance Assessment. This includes the hydraulic modelling results established to understand the effects of the development on the physical processes in the Tees Estuary. Within their relevant representation the Marine Management Organisation (MMO)</p>	<p>The MMO's request specifically related to the sediment plume dispersion modelling. Please see our response to question HWF 1.6.</p>

Ref	Question For	Question	Applicant's Response
		<p>requested the submission of validation and calibration data for the modelling software used. Please can the Applicant provide this information for Deadline 1? Please can the MMO comment on this information for Deadline 2? The MMO is asked to identify in their response any issues arising out of this information which may affect the modelling results and to explain whether these would have any implications on the applicant's WFD Compliance Assessment.</p>	
WFD 1.2	Applicant	<p><i>Detailed compliance assessment</i> Table 18 of the WFD Compliance Assessment assesses the potential impacts on the biological quality elements of the Tees water body. The proposed habitat enhancement works are referenced but the assessment does not provide a conclusion on whether the proposed works would affect compliance with the WFD objectives. The Applicant is requested to provide for Deadline 1 confirmation of whether the proposed</p>	<p>The habitat enhancement works would not affect compliance with the WFD objectives. During construction, measures are proposed to avoid significant inputs of fine sediment into the Tees estuary as any sediment placed as part of the habitat enhancement proposals dewater.</p> <p>The habitat enhancement measures represent a beneficial effect on biodiversity, although they are located outside the boundary of the Tees water body.</p>

Ref	Question For	Question	Applicant's Response
		works would affect compliance with the WFD objectives.	
WFD 1.3	Environment Agency	<p><i>Detailed compliance assessment</i> Table 18 of the WFD Compliance Assessment acknowledges that temporary small scale deterioration would occur in relation to temporary benthic habitat loss associated with the proposed capital dredging. The applicant concludes that the deterioration would only be temporary and recovery would occur and therefore this action remains compliant with the WFD objective. Given that a deterioration has been identified, the Environment Agency is asked to confirm whether they agree that the deterioration remains compliant with the WFD and consideration of the derogation tests set out in Article 4.7 of the Directive is not required.</p>	
WFD 1.4	Applicant	<p><i>Detailed compliance assessment</i> In respect to the Tees water body, paragraph 4.1.18 of the WFD Compliance Assessment confirms that the existing capital and maintenance dredging strategy</p>	<p>The existing dredging strategy referred to in Paragraph 4.1.18 is an all encompassing strategy for the Tees transitional water body that the Environment Agency identifies as being one of the mitigation measures in place</p>

Ref	Question For	Question	Applicant's Response
		<p>would be updated to incorporate the proposed development to ensure its compliance is not threatened. Condition 35 of the draft DML (Doc 4.1) states that a capital dredging and disposal strategy would need to be agreed with the Marine Management Organisation. The Applicant is requested to provide at Deadline 1 clarification on how the need to update the existing dredging strategy is secured in the DCO/DML and how the strategy required as part of Condition 35 of the DML would be compatible with this.</p>	<p>for this water body (as set out in Table 4 in the WFD compliance assessment) (Appendix 4.3 of the Environmental Statement Document 6.5). This is not a document produced by the Applicant or which the Applicant is responsible for updating and, therefore, would not be secured in the draft DCO or DML. Paragraph 4.1.18 of the WFD compliance assessment is assessing the potential for the Harbour facilities to affect the mitigation measures in place for the water body, as reported by the Environment agency in the River Basin Management Plan.</p> <p>The capital dredging and disposal strategy referred to in condition 35 of the DML (Schedule 5 of the draft DCO) specifically relates to the proposed Harbour facilities, and is envisaged to be a method statement for the dredging and disposal activities associated with the Harbour facilities only.</p>
WFD 1.5	Applicant Environment Agency Marine Management Organisation	<p><i>Detailed compliance assessment</i> In relation to each waterbody screened into the WFD Compliance Assessment, a number of mitigation measures are proposed to ensure any potential impacts of the proposed development would not cause deterioration in the status of the</p>	<p>Additions have been made to the Governance Tracker (under the section of the table in the Governance Tracker entitled 'Appendix 4.3 – Water Framework Directive') to address this comment (see Document 6.8A).</p>

Ref	Question For	Question	Applicant's Response
		<p>waterbody (e.g. paragraph 4.1.8). However, the WFD Compliance Assessment does not indicate how each of these measures would be secured in the DCO/DML. The Applicant is asked to provide for Deadline 1 a Table identifying how each mitigation measure proposed in the WFD Compliance Assessment would be secured and delivered through the requirements/conditions in the DCO/DML. Please can the MMO and EA comment for Deadline 2, on whether the wording of the requirements/conditions identified in the DCO/DML to secure and deliver the mitigation measures proposed in the WFD Compliance Assessment is sufficient? If not, please identify wording that would you consider appropriate to secure and deliver the mitigation measures proposed.</p>	