

THE YORK POTASH HARBOUR FACILITIES ORDER 201X

Statement of Common Ground

Natural England



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Royal HaskoningDHV

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YORKPOTASH
A Sirius Minerals Project



THE YORK POTASH HARBOUR FACILITIES ORDER 201X

STATEMENT OF COMMON GROUND

RELATING TO NATURE CONSERVATION AND LANDSCAPE INTERESTS

BETWEEN

ROYAL HASKONINGDHV ON BEHALF OF YORK POTASH LIMITED

AND

NATURAL ENGLAND

1. INTRODUCTION

- 1.1. This Statement of Common Ground (SoCG) relates to an application made by York Potash Limited (York Potash) to the Planning Inspectorate (PINS) under Section 37 of the Planning Act 2008 for a Development Consent Order (DCO), to authorise the construction and operation of Harbour facilities at Bran Sands, Teesside, which will be linked by conveyor to a Materials Handling Facility (MHF) located within the Wilton International Complex (“the Application”).
- 1.2. This SoCG has been prepared and agreed between Royal HaskoningDHV, on behalf of York Potash Ltd, and Natural England to set out common ground and to detail any issues which remain unresolved or which are not agreed between the parties in relation to nature conservation and landscape interests. Table 1 summarises the areas of agreement between York Potash Ltd and Natural England.
- 1.3. The only matter yet to be agreed is the wording of the DCO/DML to ensure that all the mitigation/enhancement measures proposed and agreed are fully referenced and appropriately secured in the supporting documentation.

Table 1 Summary of areas of agreement between York Potash Ltd and Natural England

Area of agreement	Document references	York Potash Ltd	Natural England
Agreement that the approach to prediction of effects on the hydrodynamic and sedimentary regime is appropriate.	Document 6.4 (Environmental Statement (ES)) Document 6.5 (Appendices to ES)	Agreed	Agreed
Agreement that the scope of surveys (species and method), including species not surveyed, is appropriate to inform the baseline conditions for the EIA.	Document 6.4 (ES) Document 6.5 (Appendices to ES)	Agreed	Agreed
Agreement that the baseline data is proportionate and appropriate.	Document 6.4 (ES) Document 6.5 (Appendices to ES)	Agreed	Agreed
Agreement that the methodology adopted for the impact assessment is appropriate (including the ecological impact assessment).	Document 6.4 (ES) Document 6.5 (Appendices to ES)	Agreed	Agreed
With regard to the assessment of potential effects on the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site, it is agreed that the waterbird data presented in comprehensive and analysed/presented in an appropriate manner, likely significant effects are identified (alone and in-combination) and the assessment fully takes into account the role that the location of the proposed Harbour facilities plays in contributing to the functionality of the SPA and Ramsar site.	Document 6.4 (ES) Document 6.5 (Appendices to ES) Document 6.3 (Habitats Regulations Assessment)	Agreed	Agreed
Agreement that the proposed scheme, including habitat enhancement measures in Bran sands lagoon together with other mitigation, would not result in an adverse effect on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar site, either alone or in-combination with other plans and projects.	Document 6.4 (ES) Document 6.5 (Appendices to ES) Document 6.3 (Habitats Regulations Assessment)	Agreed	Agreed
Agreement that the proposed habitat enhancement measures in Bran Sands lagoon, proposed habitat improvement at Portrack Marsh and financial contribution to the funding of a Tees Estuary Habitat Strategy report will enhance the biodiversity of the Tees estuary and the measures are in accordance with the National Planning Policy Framework.	Document 6.4 (ES) Document 6.5 (Appendices to ES)	Agreed	Agreed
On the basis of the terrestrial ecology survey and assessment undertaken to date, and with the mitigation proposed, no protected species will be impacted and no protected species letters of no impediment are required.	Document 6.4 (ES) Document 6.5 (Appendices to ES)	Agreed	Agreed
Agreement that there are no statutory designations for landscape that will be impacted by the proposed Harbour facilities.	Document 6.4 (ES) Document 6.5 (Appendices to ES)	Agreed	Agreed
Agreement that the Harbour facilities, along with the Mine, MTS and MHF, form part of the wider York Potash Project which (through the Mine and MTS) will impact on a nationally protected landscape (the North York Moors National Park)	-	Agreed	Agreed

2. BACKGROUND

- 2.1. The proposed Harbour facilities form part of the York Potash Project (YPP) which involves the creation of a mine for the winning and working of polyhalite together with the necessary infrastructure required for the subsequent distribution of the mineral. The project principally comprises the following:
- The mine with surface infrastructure to be located at Doves Nest Farm near Whitby.
 - A Mineral Transport System (MTS), being a 36.5km long tunnel with conveyor to transport the polyhalite from the mine to the MHF at Wilton.
 - A MHF at Wilton.
 - Harbour facilities at Teesside linked to the MHF by a conveyor system.
- 2.2. The proposals for the mine and MTS were the subject of a single cross-boundary application to The North York Moors National Park Authority (NYMNP) and Redcar and Cleveland Borough Council (RCBC), and an application for the MHF was submitted to and approved by RCBC.
- 2.3. The proposed Harbour facilities, designed to export up to 13 million tonnes per annum (mtpa) of product, comprise the following elements:
- A port terminal on the southern bank of the Tees estuary (with capital dredging of an associated berth pocket and approaches, a quay and ship loaders).
 - A conveyor system to transport product to the port terminal from a MHF at Wilton (the MHF was the subject of a separate planning application and was not considered in the Harbour facilities Environmental Impact Assessment (EIA), other than in the cumulative impact assessment).
 - Product storage facilities adjacent to the port terminal, in the form of surge bins.
 - Staff welfare facilities.
- 2.4. York Potash has, via Royal HaskoningDHV, engaged with Natural England in relation to the application through the pre-application process over the last two years. The following documents have been produced by Royal HaskoningDHV and used to support the application.

Environmental Statement

- 2.5. An EIA was undertaken for the proposed Harbour facilities in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, as amended by the Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2012, and with reference to relevant guidance notes from PINS. The EIA process incorporated comments received from PINS through the Scoping Opinion (received in January 2014), following the provision of a Scoping Report prepared by Royal HaskoningDHV to PINS and for consultation by YPL.

Preliminary Environmental Report

- 2.6. A Preliminary Environmental Report (PER) was produced in accordance with PINS Advice Note 7. The PER presented the initial findings of the EIA undertaken by Royal HaskoningDHV on behalf of YPL. In addition to the responses received in the PINS Scoping Opinion, the EIA also

incorporated comments received through consultation under Section 42 of the Planning Act 2008.

Habitats Regulations Assessment

- 2.7. It is a requirement under European law, as implemented in the UK by The Conservation of Habitats and Species Regulations 2010 (as amended), for competent authorities to determine whether a project will be likely to have a significant effect on any European site, either individually or in-combination with other plans and projects. If a significant effect is likely or the possibility of an effect being significant cannot be ruled out, then an appropriate assessment of the implications of the proposed scheme must be undertaken.

- 2.8. A Habitats Regulations Assessment (HRA) has been undertaken for the proposed scheme in line with the requirements of the Conservation of Natural Habitats and Species Regulations 2010 (as amended). The screening stage concluded that the proposed Harbour facilities had the potential to result in significant effects on the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site.

3. HYDRODYNAMIC AND SEDIMENTARY REGIME

Baseline data

3.1. The assessment of likely effects on the hydrodynamic and sedimentary regime was informed by numerical modelling tools. The suite of modelling activities included:

- modelling of sediment plume released from construction activities;
- tidal flow modelling;
- wave modelling;
- sediment transport; and,
- bed change modelling.

Summary of effects

3.2. An assessment of the potential effects of the proposed Harbour facilities on coastal processes (comprising effects on tidal propagation, wave climate, current speeds and sediment budget of the estuarine system) has been undertaken. In summary, the results of the hydrodynamic modelling predict that:

- The proposed scheme does not have the potential to affect tidal propagation into the Tees estuary because no capital dredging seaward of the location of the proposed port terminal (i.e. towards the mouth of the estuary) would occur.
- There would be no effect on wave penetration into the Tees estuary from offshore as a result of the proposed scheme.
- No increases in wave energy over the designated intertidal area at Teesmouth would occur.
- There would be some areas of current speed increase on the shoreline adjacent to the location of the port terminal.
- There would be a localised redistribution of (existing) sediment deposition in response to predicted changes in current speed. This very small change in the overall fine sediment regime would not alter the present frequency of or methodology for maintenance dredging and no effect on sediment supply to intertidal areas throughout the estuary would occur.

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3.3. It is agreed that the approach taken to the prediction of effects on the hydrodynamic and sedimentary regime is appropriate. There are no areas of disagreement over the findings of the assessment.

4. MARINE SEDIMENT AND WATER QUALITY

Baseline data

4.1. The baseline environment for marine sediment and water quality was informed by the following:

- Sediment quality data from samples collected as part of the EIAs for the Northern Gateway Container Terminal (NGCT) (2006) and Queen Elizabeth II (QEII) berth redevelopment (2008).
- A sediment quality survey undertaken as part of the EIA for the Harbour facilities during 2014 (the scope of the survey was agreed with Natural England, the Environment Agency, Cefas and the MMO prior to the survey being undertaken).
- Water quality monitoring data collected by the Environment Agency at various sites within the Tees estuary and tributaries as part of the Clean Seas Environmental Monitoring Programme.

Method of assessment

4.2. The assessment of impacts was undertaken in accordance with the generic impact assessment methodology presented in the ES and with regard to recognised guidelines, namely:

- Cefas Guideline Action Levels for the disposal of dredged material; and,
- Canadian Sediment Quality Guidelines (CSQG) for the Protection of Aquatic Life (Canadian Council of Ministers of the Environment (CCME)).

Summary of potential impacts

4.3. The impact assessment identified a number of impacts that could arise with regard to marine and sediment quality during the construction and operational phases of the Harbour facilities. The key impacts assessed comprise:

- re-suspension of sediment during capital dredging and piling;
- reduced water quality due to placement of dredged material within Bran Sands lagoon (as part of the habitat enhancement measures); and,
- potential for accidental spillage or oils, chemicals and polyhalite.

4.4. The sediment quality survey confirmed that the sediment overlying virgin geology that would be dredged during the construction phase is contaminated. In order to prevent the dispersion of this material during capital dredging, the use of an enclosed grab is proposed.

4.5. Potential impacts are predicted to be of minor adverse significance.

Mitigation measures

4.6. The following controls have been proposed in order to minimise impacts to marine sediment and water quality during dredging:

- limiting re-suspension of sediment during trailing suction hopper dredging can be achieved by optimising the trailing velocity, position of the suction mouth and discharge of the pump with respect to each other, and directing the flow lines of the suction stream to the actual point of excavation;
- reduction of sediment plumes during backhoe dredging can be achieved by using an experienced operator and limiting the swing of the backhoe over water; and,
- resuspension of sediment during cutter suction dredging can be reduced through optimising the cutter speed, swing velocity and suction discharge, shielding the cutter head and optimising the design of the cutter head.

4.7. Silt curtains are proposed within Bran Sands lagoon to prevent dispersion of suspended sediment during placement of dredged material required to construct the habitat enhancement.

4.8. With the implementation of the controls and mitigation measures outlined above, the residual impacts are predicted to be negligible.

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4.9. It is agreed that the survey design and the methodology adopted for the impact assessment is appropriate. There is agreement on the findings of the impact assessment and mitigation measures proposed. These measures will be referenced and their delivery ensured through the DCO/DML. Discussions on the drafting of the DCO are on-going.

5. MARINE ECOLOGY

Baseline data

5.1. The baseline environment for marine ecology was informed by the following:

- Results of a benthic survey undertaken as part of the 2006 NGCT studies.
- Results of a benthic survey undertaken in 2008 as part of the EIA for the consented QEII berth development.
- Environment Agency benthic ecological monitoring data recovered throughout the Tees estuary.
- A site-specific benthic ecological survey (the scope of which was agreed with the Environment Agency, Cefas, the MMO and Natural England).
- An underwater noise survey carried out by Subacoustech Environmental in April 2014.

Method of assessment

5.2. The ecological impact assessment was undertaken in accordance best practice and, in particular, the Guidelines for Ecological Impact Assessment – Marine and Coastal (IEEM, 2010).

Summary of potential impacts

5.3. The assessment identified that the proposed scheme has the potential to result in a number of impacts on marine ecology. The two key potential impacts comprise the direct loss of intertidal habitat due to quay construction and capital dredging, and underwater noise and vibration disturbance to marine mammals.

Direct loss of intertidal habitat

5.4. The direct loss of up to 3.6ha of intertidal habitat as a result of the proposed scheme would represent a long term, irreversible change. The receptor is currently considered to be of low value (with the potential to improve), but the magnitude of the effect would be high. Hence a potential impact of minor adverse significance was predicted.

Generation of underwater noise during construction

5.5. The generation of underwater noise during construction works is inevitable due to piling for the construction of the port terminal and capital dredging. Harbour seal is the most sensitive seal species to underwater sound and, therefore, harbour seal was considered a species of concern with regard to potential impacts from underwater noise. The assessment concluded that the significance of the potential impact (without mitigation) would be of moderate adverse significance.

Mitigation measures

Generation of underwater noise

5.6. The JNCCs guidelines ‘Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise’ should be adhered to during pile driving. In addition, a minimum of eight hours continuous break in every 24 hour period would be

implemented where no impact piling is carried out. A residual impact of minor adverse significance is predicted.

Compensatory measures

- 5.7. The ES concludes that there would be an unavoidable impact on biodiversity, but that this would not represent 'significant harm' under the terms of the National Planning Policy Framework (NPPF).
- 5.8. The ES reported the outcome of initial discussions with the Tees Valley Wildlife Trust (TVWT) regarding the potential to create intertidal habitat at Portrack Marsh nature reserve. Since the submission of the DCO application, further discussions have been held with the TVWT and the Environment Agency and it has been agreed that there is the potential to create up to 8ha of intertidal habitat. The proposed measures at Portrack Marsh Nature Reserve, together with the proposed habitat enhancement measures in Bran Sands lagoon (included within the DCO and described in Section 6), are considered by YPL to represent sufficient compensation (i.e. offset) for the biodiversity impact arising due to the construction of the port terminal.
- 5.9. In addition to the above, YPL 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.

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- 5.10. Natural England welcomes the above proposals and, in its view, they will not only mitigate the impacts on the Teesmouth and Cleveland Coast SPA but will also enhance the biodiversity of the Tees estuary and play a role in the strategic consideration of the Tees estuary habitats. Natural England's view is that the approach adopted accords with the principles set out in paragraph 118 of the NPPF. Natural England considers that the details need to be agreed with the Environment Agency and TVWT. These proposals will be referenced and their delivery ensured through the DCO/DML.

6. MARINE AND COASTAL ORNITHOLOGY AND DESIGNATED SITES

Baseline data

- 6.1. The assessment of likely impacts on marine and coastal ornithology as a result of construction, operation and decommissioning of the proposed scheme was informed by Wetland Bird Survey (WeBS) counts for the most recent five years available from the British Trust for Ornithology (BTO) (i.e. 2008/9 to 2012/13) and monthly bird counts undertaken by Industry Nature Conservation Association (INCA) from 2009 to 2014 for Bran Sands lagoon, Dabholm Gut and the intertidal area at the proposed terminal location (including data on waterbird distribution).
- 6.2. The bird use of the foreshore along the Vopak land was monitored from June 2013 to March 2014 inclusive. The location, species, behaviour and number of birds was recorded onto maps approximately every two weeks throughout that period.
- 6.3. During a consultation meeting on 27 November 2014, agreement was reached with Natural England regarding the format in which bird count data should be provided as part of the ES in order to allow examination of the data. The bird count data was provided within the ES in the agreed format.
- 6.4. The use of such data from the BTO and INCA is appropriate to establish a robust baseline for the purposes of assessing the potential impacts on marine and coastal waterbirds as a result of the proposed scheme, and the data has been provided in a suitable format for interrogation by Natural England.
- 6.5. The Teesmouth and Cleveland Coast Special Protection Area (SPA) is of European importance because it is used regularly by at least 1% of the Great Britain population of Little tern *Sterna albifrons* and Sandwich tern *Sterna sandvicensis*. In addition, the SPA is used regularly by 1% or more of the biogeographical population of Knot *Calidris canutus* and Redshank *Tringa totanus*. The SPA further qualifies as it is used regularly by over 20,000 waterbirds or 20,000 seabirds in any season.
- 6.6. In addition to the cited SPA features, ringed plover (non-breeding) were identified in the 2001 SPA Review as being present in numbers which would qualify them for further consideration as a new and additional feature of the SPA. An extension to encompass little tern and, potentially, common tern foraging is also being considered. Natural England has advised that through this review process, the SPA boundaries are also proposed to be extended to encompass the wintering waterbird assemblage that uses habitats within and adjacent to the DCO application site (the informal consultation phase started on 1 July 2015). The entire lagoon at Bran Sands and the adjacent Dabholm Gut are being considered in the proposed SPA Review in the context of supporting habitat for the SPA wintering waterbird assemblage.
- 6.7. The Teesmouth and Cleveland Coast Ramsar site is of international importance due to ability to support a bird assemblage of international importance with peak counts in winter (Ramsar criterion 5), as well as its ability to support species / populations occurring at levels of international importance (Ramsar criterion 6). The qualifying species under Ramsar criterion 6 comprise:

- Common redshank *Tringa totanus* (species peak counts in spring/autumn): 833 individuals representing an average of 0.7% of the GB population (5 year peak mean 1998/9 to 2002/3).
- Red knot *Calidris canutus islandica* (species with peak counts in winter): 2,579 individuals, representing an average of 0.9% of the GB population.

6.8. In addition to the above designated sites, the following designations are relevant to the application:

- Cowpen Marsh Site of Special Scientific Interest (SSSI);
- Seal Sands SSSI;
- Seaton Dunes and Common SSSI;
- South Gare and Coatham Sands SSSI;
- Redcar Rocks SSSI;
- Tees and Hartlepool Foreshore and Wetlands SSSI; and,
- Teesmouth National Nature Reserve (NNR).

Method of assessment

6.9. The assessment of impacts to marine and coastal ornithology was undertaken in accordance with the guiding principles set out within both the Guidelines for Ecological Impact Assessment (EcIA) (IEEM, 2006) and the Guidelines for Ecological Impact Assessment – Marine and Coastal (IEEM, 2010), with emphasis being placed upon species of particular conservation importance.

Summary of potential impacts

6.10. The assessment identified that the proposed scheme has the potential to result in a number of impacts to waterbird populations. The HRA screening assessment determined that there is potential for a Likely Significant Effect (LSE) on the Teesmouth and Cleveland Coast SPA and Ramsar site due to the following:

- direct loss of habitat within the intertidal and subtidal areas of the Tees estuary;
- direct loss of habitat within Dabholm Gut and Bran Sands lagoon;
- potential for changes in water levels in the lagoon;
- noise, vibration and visual disturbance;
- potential for deposition of polyhalite (dust) within habitats used by waterbirds;
- release of sediments during piling and capital dredging; and,
- changes to sediment transport pathways / coastal processes.

6.11. Natural England stated within its advice that followed its review of the HRA Screening Report that the Appropriate Assessment for the proposed Harbour facilities should specifically consider the following:

- impacts arising from disturbance to uncontaminated sediment (as well as contaminated sediment);
- impacts to existing conditions within Bran Sands lagoon due to changes to the frontage (e.g. potential changes to permeability within the embankment which could impact upon water levels);

- potential impacts from construction and operational phase dust emissions, including the potential for polyhalite dust escaping during operation and the implications of this for habitats;
- visual disturbance from employees moving around site;
- lighting impacts along with any potential shadowing caused by structures on site; and,
- water / sediment quality issues that may arise during the operational phase due to maintenance dredging.

6.12. These issues were assessed within the HRA which accompanied the ES. As discussed within Section 9 of the ES and the accompanying HRA, the key issues with regard to marine and coastal ornithology and designated sites for nature conservation comprise:

- Loss of roosting and feeding habitat due to installation of piled supports for the conveyor system within either Dabholm Gut or Bran Sands lagoon, construction of the port terminal and removal of the Northumbria Water Ltd (NWL) jetty.
- Disturbance impacts, comprising noise, lighting and overshadowing due to the presence of the conveyor in the northern conveyor corridor (if this route is progressed), and potential fragmentation of the lagoon habitat.

Mitigation measures

Habitat enhancement (Bran Sands lagoon)

6.13. Habitat enhancement measures are incorporated into the design of the proposed scheme. One of the objectives of the proposed measures is to provide additional feeding habitat within Bran Sands lagoon; the measures would provide shallow water areas with intertidal fringes and would be designed to enable waterbird feeding across the area throughout the entire tidal cycle. The proposed habitat enhancement measures also include the creation of a series of islands in Bran Sands lagoon to create roosting and nesting opportunities for waterbirds.

6.14. The objectives of the proposed habitat enhancement measures in Bran Sands lagoon and the predicted effects of the measures are described in a Mitigation and Monitoring Strategy (MMS) which is included as an appendix to the HRA for the Harbour facilities.

6.15. The MMS referred to the newly-created clay islands in Bran Sands lagoon being dressed with sands, gravels or cockle shells, with an underlying geotextile membrane to suppress vegetation growth. Natural England has expressed a preference for a geotextile membrane topped with cockle shells, as this would create a more effective surface for roosting and nesting birds; this approach will be adopted.

6.16. The MMS submitted with the application presented the proposed sequencing of the works for the construction of shallow water areas in Bran Sands lagoon. Stage 9 of the process states that the clay bunds would be trimmed with excess material placed in shallow layers in the lagoon. Natural England has suggested that this could either smother soft sediments pumped into the newly-created shallow area or further reduce water depth to the north and, therefore, it would be preferable for this material to be removed from the lagoon. In light of Natural England's view, it is proposed that the excess material generated in the final stages of the construction of the shallow water area would not be placed into the lagoon.

- 6.17. The principles of the habitat enhancement measures have been agreed with Natural England. A programme of monitoring will be implemented for the habitat enhancement in Bran Sands lagoon. The monitoring programme is to be developed through discussion and agreement with YPL, Natural England, the Environment Agency, Cefas and the MMO.

Mitigation for potential disturbance impacts

- 6.18. As mitigation for the potential impact of noise (and visual disturbance) during construction works (particularly piling for the quay construction and conveyor), it is proposed that noise attenuation barriers would be used between the construction works (for the port terminal and conveyor system) and Bran Sands lagoon and Dabholm Gut. As part of the construction phase lighting design, the strategies set out in Section 10.3.75 of the HRA would be implemented to mitigate potential disturbance from lighting.
- 6.19. Fragmentation of the lagoon habitat is not likely to result in significant behavioural effects on waterbirds or significantly detract from the potential of this area of lagoon to support feeding and roosting waterbirds.

Conclusion of the HRA

- 6.20. The HRA concludes that the proposed Harbour facilities (alone and in-combination with other plans and projects), with the implementation of the proposed measures to mitigate the impact of construction noise and visual disturbance and the habitat enhancement measures in Bran Sands lagoon, would not affect the structure and function (the integrity) of the Teesmouth and Cleveland Coast SPA and Ramsar site.
- 6.21. Natural England concluded (in its letter of 9 February 2015) that there are a number of LSEs on the bird assemblage in Bran Sands Lagoon. However, taking the HRA and MMS into account, Natural England accepted that some of these would be avoided through the habitat enhancement measures incorporated into the proposals, and others would be satisfactorily mitigated. Natural England agreed that no adverse effect on integrity of the Teesmouth and Cleveland Coast SPA could be concluded, with scope for delivering actual benefit to the waterbird assemblage, assuming that all mitigation measures are fully delivered.

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- 6.22. There is agreement on the following points:
- The baseline data used to inform the impact assessment for waterbird populations is comprehensive and sufficient to inform a robust assessment of potential impact.
 - The impact assessment identifies and assesses the potentially significant impacts of the proposals on waterbird populations.
 - The HRA identifies the:
 - relevant designated sites to be considered;
 - conservation objectives that apply to the Teesmouth and Cleveland Coast SPA;

- scope of the in-combination assessment (i.e. relevant plans and projects to be included); and,
 - likely significant effects (for the Harbour facilities alone and in-combination).
- Appropriate habitat enhancements and mitigation measures have been identified that are likely to be effective and implementable.
 - There would not be an adverse effect on integrity of the Teesmouth and Cleveland Coast SPA, or any other European designated sites due to the development of the Harbour facilities.
- 6.23. It is agreed that, following construction, there will be a need for ongoing monitoring and maintenance measures through implementation of the MMS. Natural England has confirmed that it is satisfied that, in light of the mitigation proposed, the project is unlikely to have a significant impact on Cowpen Marsh, Seal Sands, Seaton Dunes and Common, South Gare and Coatham Sands, Redcar Rocks, Tees and Hartlepool Foreshore and Wetlands SSSIs or the Teesmouth NNR.
- 6.24. All of the measures proposed will be referenced and their delivery ensured through the DCO/DML.

7. TERRESTRIAL ECOLOGY

Baseline data

- 7.1. The assessment of the potential impacts on terrestrial ecology was informed by both desk-based assessment and an extended Phase 1 habitat survey. The ecological surveys followed Joint Nature Conservation Committee (JNCC) guidance and were extended to include a search for evidence of the presence of notable and protected species (and the potential for habitats to support such species), as recommended by IEEM.
- 7.2. A zone of 5km around the proposed scheme was considered appropriate for the desk study data gathering exercise. For the field surveys, the proposed scheme footprint plus a 50m zone was considered an appropriate area to survey (with a 500m zone for the purposes of great crested newt survey).
- 7.3. None of the habitats surveyed are of significance, being for the most part semi-improved calcareous or mesotrophic grasslands which have lost most of their interest due to becoming overgrown and rank. No areas merited more detailed examination (e.g. for invertebrates). In addition, none of the areas surveyed are of sufficient botanical interest or habitat scarcity to merit more detailed investigation such as Phase II National Vegetation Classification (NVC) survey.
- 7.4. Bat emergence surveys were undertaken at structures deemed to have some potential to support roosting bats. It was concluded that some bridges may provide occasional daytime roosting sites for single bats that may be prevented from returning to their usual day roosts by inclement weather. The bridges are considered unsuitable as a maternity roost or hibernation site. None of the structures would be directly impacted by the proposed scheme.

Method of assessment

- 7.5. The ecological impact assessment has been undertaken in accordance with best practice, and in particular, the Guidelines for Ecological Impact Assessment in the United Kingdom (IEEM, 2006).

Summary of potential impacts

- 7.6. The proposed scheme would give rise to a number of potential impacts to terrestrial ecology, namely:
- direct and indirect impacts to a number of different habitats;
 - loss of open semi-improved neutral grassland and scrub which currently provides food and nesting opportunities for terrestrial birds;
 - disturbance / displacement of commuting and foraging bats due to site noise and lighting;
 - disturbance to reptiles;
 - indirect disturbance to otter (however, movement along the waterbodies in the area would not be restricted and it is unlikely that any otter would venture into the area due to high levels of activity).

7.7. All potential impacts to terrestrial ecology as a result of the proposed Harbour facilities are predicted to be of negligible or minor beneficial significance.

Mitigation measures

7.8. Although all potential impacts to terrestrial ecology were assessed as being of negligible or minor beneficial significance, a number of mitigation measures / control measures are presented within the Harbour facilities ES, including:

- Vegetation clearance.
- Construction lighting would be located away from bridges and designed in accordance with guidance from the Bat Conservation Trust, in order to prevent disturbance to bats.
- A Precautionary Method of Working document for use by contractors would be prepared by an ecologist in order to minimise the risk of harm to reptiles.
- Any trenches and excavations would be closed overnight and escape routes provided should an otter become trapped in an excavation.

7.9. Habitat enhancement opportunities have been identified and incorporated into the proposed scheme. These would include the installation of bat boxes within suitable identified mature trees, along with planting of species, which in turn would provide good quality foraging habitat for bats.

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7.10. It is agreed that the survey effort and methodology adopted for the impact assessment are appropriate. There is agreement on the findings of the impact assessment and mitigation measures proposed.

7.11. Natural England is satisfied 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.

8. LANDSCAPE AND VISUAL ENVIRONMENT

Baseline data

8.1. The baseline environment with regard to the landscape and visual environment was informed by the following:

- a site visit to identify physical landscape features and identify existing views towards the site;
- review of National Character Area (NCA) profiles, specifically NCA 23: Tees Lowlands;
- review of the Redcar and Cleveland Landscape Character Assessment (LCA);
- review of the Stockton-on-Tees Borough Council LCA; and,
- review of the Hartlepool Borough Council LCA.

Method of assessment

8.2. The assessment methodology was based on the Guidelines for Landscape and Visual Impact Assessment, Third Edition, Landscape Institute and Institute of Environmental Management and Assessment, 2013. These guidelines are not prescriptive and set out a general approach that should be tailored to the specific circumstances of the proposed scheme that is being assessed.

8.3. For the purposes of the landscape and visual impact assessment (LVIA), it is considered that there is no material difference between the open or solid quay alternatives in terms of likely effects, with the taller (and more visible) surge bins and shiploader structures being common to both options. Mitigation measures designed into the project were taken into account in the LVIA.

Summary of potential impacts

8.4. Given the nature of the proposed scheme and its setting, no significant effects on landscape receptors are predicted to arise. However, the LVIA predicted that significant short-term visual effects (ranging from moderate adverse to moderate-major adverse) would arise for residents at Dormanstown, public rights of way users, road users and rail users along the line of the conveyor route. The most significant effects would occur at the point where the conveyor crosses the A1085 road corridor and where the conveyor route passes close to public rights of way between the A1085 and Bran Sands.

Mitigation measures

8.5. The following mitigation measures have been incorporated into the proposed scheme to assist with integrating the proposed structures into their landscape and visual setting:

- use of grey cladding (where agreed with Redcar and Cleveland Borough Council (RCBC)) for the conveyor structure enclosure, to match existing pipeline infrastructure colouring;
- use of lighter and recessive colours for taller structures, to reduce prominence in wider views and against the skyline;

- use of an elliptical housing form (where agreed with RCBC) for fully enclosed sections of the conveyor route to soften the appearance of the conveyor structure in external views; and
 - enclosure of the Phase 2 conveyor within the Phase 1 housing at key locations to assist in reducing visual impacts during Phase 2 construction works.
- 8.6. Offsite foreground planting (subject to landowner agreement) to improve close range effects on views from public rights of way between the A1085 and Bran Sands is also proposed by way of additionally.
- 8.7. At the 1085 crossing point, a bridge / conveyor structure would be designed which is non-industrial in character and which responds to the function of the road as a gateway to Redcar. The detail of the crossing is to be developed further and agreed with RCBC.

Statement of Common Ground

- 8.8. It is agreed that the methodology adopted for the impact assessment is appropriate. .
- 8.9. Natural England has confirmed that it has no concerns regarding the landscape and visual impact of the Harbour facilities proposals. However, a judgement on how the local landscape and its communities would be affected by the Harbour facilities should be informed by Redcar and Cleveland Borough Council's own landscape advisors and any relevant plans, strategies or supplementary planning guidance such as a Landscape Character Assessment.
- 8.10. The Harbour facilities are an essential component of the wider York Potash Project which would affect the North York Moors National Park. Natural England's position is that consideration of the Harbour facilities needs to take account of how the wider York Potash Project as a whole would impact on the nationally protected landscape through the Cumulative Impact Assessment. Natural England has submitted advice to the NYMNP and to RCBC about how the minehead and MTS could affect the landscape and statutory purposes of the National Park. Natural England's advice includes an objection to the scheme because of its significant adverse impact on the landscape and setting of the National Park (and therefore on the statutory purposes of the National Park) for the duration of its construction phase. We are in agreement that the Harbour facilities, along with the Mine, MTS and MHF, form part of the wider York Potash Project which (through the Mine and MTS) will impact on a nationally protected landscape (the North York Moors National Park).

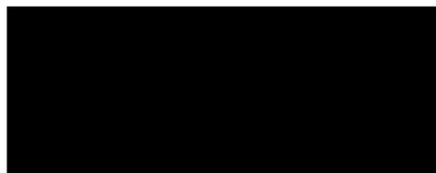
Signed on behalf of York Potash Limited

Name Sian John
Role Director, Environment
Date 18 August 2015
Signature

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Signed on behalf of Natural England

Name Dr Des O'Halloran
Role Principal Adviser
Date 18 August 2015
Signature

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