

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

Natural England's response of 4 November 2015 to Examining Authority's Second Round of Questions issued on 16 October 2015 for Deadline 4

| Development Consent Order (DCO) | |
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| <p>DCO 2.6</p> <p><i>Design approval (Requirement 3)</i></p> <p>To: The Applicant</p> <p>Please can the Applicant define in Article 2 of the draft DCO the term ‘further environmental report’ as referred to in requirements 3(3) and 3(4)?</p> <p>To: Redcar and Cleveland Borough Council (RCBC), Natural England (NE) and the Marine Management Organisation (MMO)</p> <p>Are RCBC, NE and the MMO satisfied that the new Requirements 3(3) and 3(4) are adequate to address the concerns raised previously raised regarding the potential need for surveys to establish the baseline prior to commencement of Phase 2 of the development?</p> | <p>NE has discussed with MMO and is now satisfied</p> |
| <p>DCO 2.7</p> <p><i>Requirement 6 in the draft DCO – Construction Environmental Management Plan (CEMP)</i></p> <p>To: The Applicant</p> <p>Please can the Applicant define in Article 2 of the draft DCO, the term ‘ecological mitigation works’, to provide a definition of the scope of works covered by this description.</p> <p>Requirement 6(2) provides that the CEMP may be altered by</p> | <p>Natural England is satisfied with this change in wording on the assumption that the amendment is made as described to include the word ‘statement’.</p> |

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| <p>approval in writing from the Local Planning Authority (LPA). The draft DCO provided at DL3 [REP3-003 and REP3-004] includes an amendment to Requirement 6(2) which stipulates that <i>'The CEMP may be subject to alteration in writing of the local planning authority provided that such alternative does not prevent the mitigation during construction referred to in the environmental'</i>. It is presumed that this amendment should say 'environmental statement'. If so, please amend Requirement 6(2) to include the word 'statement' at the end of the sentence.</p> <p>To: All IPs, in particular RCBC</p> <p>Are IPs, in particular RCBC, satisfied that the amended wording of Requirement 6(2) adequately ensures that any alteration to the CEMP would not prevent the delivery of the construction mitigation identified in the governance tracker (Document 6.8A) and identified and assessed in the environmental statement?</p> | |
| <p>DCO 2.8</p> <p><i>Requirement 9 – Ecological Management Plan (EMP)</i></p> <p>To: The Applicant</p> <p>Following the amendment to Requirement 9 to include reference to the 'marine management mitigation plan', please can the Applicant clarify if this is the same as the Marine Mammal Mitigation Plan (MMMP)? If not, please can the Applicant explain the difference between these plans and revise the Hierarchy Diagram [REP1-031] to include the</p> | <p>The wording in Requirement 9, as previously noted in our Relevant Representations section 6.1, should state the approval should be the responsibility of RCBC in consultation with other relevant statutory bodies which includes Natural England and EA and MMO etc. since they are the Competent Authority above Mean Low Water. There is an overlap between the MMO and RCBC - so in the Requirements it is sensible that RCBC should consult MMO and in the DML, MMO should consult RCBC.</p> <p>This is a typo we believe, and we understand the term MMMP to refer to The marine mammal mitigation plan.</p> |

marine management mitigation plan? If this is simply a typographical error, please correct the wording in the latest draft DCO, otherwise please define in Article 2 of the draft DCO the term 'marine management mitigation plan'?

To: **IPs (in particular the MMO and NE)**

If the 'marine management mitigation plan' is not the same as the MMMP, should Requirement 9 also include reference to the MMMP and should the minimum information to be provided within the MMMP also be secured via this or a separate requirement, to provide clarity on the mitigation required (via the Governance Tracker)?

For the avoidance of doubt, in agreement with the MMO and the applicant, we have re-worded this requirement in the light of our understanding to ensure what we think should be captured and those statutory bodies that need to secure it are correctly referenced:

Ecology

9.—(1) No phase of the authorised development is to commence until a written ecological management plan for any ecological mitigation or enhancement measures included in the environmental statement for that phase (including a marine ~~mammal management~~ mitigation plan but not including the lagoon habitat enhancement works which are licensed under the deemed marine licence in Schedule 5) drafted in accordance with the principles set out in the outline ecological management plan (Document 6.11) and incorporating the mitigation identified in the governance tracker (Document 6.8A) has been submitted to and approved in writing by Redcar and Cleveland Borough Council and the MMO in consultation with Natural England and Environment Agency.

~~(2) The ecological management plans must be implemented as approved, but may be subject to alteration by prior approval in writing of of Natural England Redcar and Cleveland Borough Council and when changes to any ecological enhancement or mitigation works are proposed below MHS the MMO, in consultation with Natural England and the Environment Agency. In the case of any habitat creation ecological mitigation or enhancement works below mean high water springs the relevant part of the ecological management plan must also be approved by the MMO.~~

~~(2) The ecological management plan must be carried out as approved from time to time in writing by Natural England.~~

(3) Prior to the decommissioning phase of the authorised works, terrestrial ecological surveys are to be undertaken to verify whether any protected species could be impacted by the decommissioning phase, and to identify the requirement for mitigation to be implemented in order to avoid any impacts. The scope of terrestrial ecological surveys will be agreed with Natural England

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| | <p>and the local planning authority <u>in consultation with Natural England</u> prior to any ecological surveys being undertaken and the scope of mitigation agreed following the survey. The agreed mitigation shall then be carried out in accordance with an agreed timetable.</p> <p>We note that the applicant is revising the Governance Tracker referred to above as Document 6.8A, and so this reference may need amending if it changes.</p> |
| <p>DCO 2.13</p> <p><i>Hierarchy of Plans</i></p> <p>To: all IPs (in particular the MMO, NE and RCBC)</p> <p>The Applicant provided at DL1 a diagram showing the hierarchy of plans identified in the draft DCO and DML to deliver the mitigation identified in the Environmental Statement (ES) and the Habitat Regulations Assessment(HRA) Report [REP1-031].</p> <p>Please consider whether all plans identified in the DCO/DML have been identified on the diagram – if not, what is missing? Please also consider whether the wording in the requirements/articles/conditions, referred to as being the mechanism to deliver the plans identified in the diagram, is sufficient and does actually require the delivery of these plans?</p> <p>To: The Applicant:</p> <p>Please provide by Deadline 5, a revised hierarchy plan to identify how each plan would be secured through the DCO/DML where this is not currently stated on the diagram i.e.</p> | <p>The lagoon monitoring plan described on the hierarchy plan and referenced in section 6.1 of the MMS is not referred to in the DCO/DML and needs to be in some form. We have agreed how this might be captured with the applicant and the MMO in the answer to question HRA 2.4.</p> <p>See comments provided in answers to previous questions DCO 2.8 and HRA 2.4 about wording and delivery of the plans noted in the documents.</p> |

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| <p>the diagram does not state how the Lagoon Monitoring Plan would be secured.</p> | |
| <p>Ecology (Ec) and Habitat Regulations Assessment (HRA) ES Chapter 11 and Habitat Regulations Assessment</p> | |
| <p>Ec 2.1 <i>Ecological Management Plan and related plans</i> To: The Applicant To: The MMO & NE As discussed at the hearing on 25 September 2015, please rationalise the content of the various ecological Management and related plans covering the Bran Sands Lagoon enhancement and protection of marine mammals so that the primary responsibilities of NE and the MMO above and below high water are clearly distinguished and related documents are referred to in the appropriate place within the requirements in Schedule 2 or the deemed marine licence in Schedule 5 and elsewhere in the DCO.</p> | <p>As described in the question above DCO 2.8, the primary responsibility sits with RCBC and MMO in consultation with NE and other relevant bodies.</p> <p>The Brans Sands Lagoon Enhancement plan sits with the MMO along with the monitoring plan.</p> <p>The wider EMP sits with RCBC</p> <p>There is an overlap between the MMO and RCBC between MLW and MHWS and so there is a need for the Competent Authorities to consult each other along with NE and EA..</p> <p>We have responded to the questions and amended the requirements / conditions accordingly in DCO 2.8 and HRA 2.4.</p> |

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| <p>HRA 2.1</p> <p>To: NE</p> <p>To: The Applicant</p> <p><i>Qualifying interests of the Teesmouth and Cleveland Coast Ramsar</i></p> <p>Within Section 5.1 of NE's Written Representations, NE identify the Sandwich Tern (non-breeding) as a qualifying interest of the Teesmouth and Cleveland Coast Ramsar and this is referred to in the accompanying 2000 citation [REP1-017]. However, the Sandwich Tern is not included in the 2008 Ramsar Information Sheet. Could Natural England please clarify and, if the Sandwich Tern is a current qualifying interest, please indicate to the Applicant by Deadline 4 what, if any, further information should be provided by the Applicant. The Applicant should provide any such information by Deadline 5.</p> <p><i>Teesmouth and Cleveland Coast Special Protection Area (SPA)</i></p> <p>Natural England has drawn attention to prospective extension to the Teesmouth and Cleveland Coast SPA to include the intertidal areas as well as the Bran Sands Lagoon and Dabholm Gut near as a result of Common Tern foraging. NE has advised that the ExA may wish to consider whether the Applicant's HRA should include consideration of the potential addition of the intertidal area to the SPA extension at this</p> | <p><i>Ramsar</i></p> <p>In summary, there are three sources of information on Teesmouth and Cleveland Coast Ramsar:</p> <ol style="list-style-type: none"> (1) The Ramsar citation (produced by English Nature); (2) The Ramsar Information Sheet held on the JNCC website and (3) A different version of a Ramsar Information Sheet held on the Ramsar website. <p>NE uses the citation as the official legal document and the record of what the qualifying features are.</p> <p>For Teesmouth and Cleveland Coast this includes Sandwich Tern.</p> <p>For completeness the Applicant should further revise Appendix 8 the screening and integrity matrices to incorporate Sandwich Tern as an interest feature of the Ramsar site. However, sandwich tern has already been considered as an interest feature of the SPA within the Applicant's HRA.</p> <p><i>Teesmouth and Cleveland Coast Special Protection Area (SPA)</i></p> <p>NE noted in our WR section 6.2.3 that the ExA's own HRA may wish to consider the potential changes to the Teesmouth and Cleveland Coast SPA designation. Without there being a pSPA at present there is no obligation on the Applicant to provide any information. However, the Applicant has been fully aware throughout and has taken this into account in its assessment where common tern has been considered, for example in the Screening and Integrity matrices.</p> <p>However, the boundary of this extension is unknown at present and</p> |
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| <p>stage, to future proof the proposal.</p> <p>Please can Natural England clarify whether they expect the Applicant to provide further information to the ExA to allow for an assessment of Common Tern in respect of the potential extension to the SPA to include the intertidal foraging area? If so, please can NE indicate what further information, if any, should be provided by the Applicant by Deadline 4.</p> <p>The applicant should provide any such information by Deadline 5.</p> | <p>could potentially encompass the intertidal frontage - the potential for this was explained in early meetings with the Applicant. The HRA as currently worded talks about boundary extensions but does not specifically note the potential to include the foreshore.</p> <p>The HRA could be amended to include a phrase describing the low risk of a negative impact in relation to common tern should the boundary encompass the intertidal habitat. In addition the applicant could safely describe that these impacts are adequately mitigated for on a precautionary basis.</p> |
| <p>HRA 2.2</p> <p><i>North York Moors Special Area of Conservation (SAC), SPA and Arnecliff and Park Hole Woods SAC</i></p> <p>To: NE</p> <p>NE has only identified Teesmouth and Cleveland Coast SPA and the Teesmouth and Cleveland Coast Ramsar sites in their Relevant Representation [RR-007], Written Representation [REP1-015] and Statement of Common Ground (SoCG) with the Applicant [REP1-051], as being the relevant designated sites of concern in relation to the Harbour Facility application. However, for the avoidance of doubt, please can NE confirm</p> | <p>We agree with the applicant's conclusions, having considered these sites already within the overall HRA for the project in the mine and MTS applications and the potential for in-combination affects across all sites.</p> <p>We agreed with the North York Moors NPA on HRA issues at that stage in order for the North York Moors NPA and RCBC to be able to determine their planning applications.</p> <p>This was dependent on the applicant submitting and securing the NSIP project as agreed including the MMS.</p> |

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| <p>that they agree with the Applicant’s conclusion of no likely significant effects on the following European sites from the project alone and in combination with other plans and projects, including the other elements of the overall York Potash Project?</p> <ul style="list-style-type: none"> • North York Moors SAC • North York Moors SPA, and • Arnecliff and Park Hole Woods SAC | |
| <p>HRA 2.3 <i>Clarification of HRA conclusion</i> To: NE It is noted that in NE’s SoCG with the Applicant, NE agrees that there would not be an adverse effect on the Teesmouth and Cleveland coast SPA, or any other European designated site due to the Harbour Facility application (paragraph 6.22, York Potash and Natural England SoCG [REP1-051]). Can it be assumed that this statement includes the Teesmouth and Cleveland Coast Ramsar site and applies to consideration of the Harbour Facility alone and in-combination with other plans and projects, including the other elements of the overall York Potash Project? Please can NE confirm that this assumption is correct?</p> | <p>This assumption is correct. NE agrees with the conclusion.</p> |
| <p>HRA 2.4 <i>Mitigation and Monitoring Strategy (MMS)</i> To: The Applicant</p> | <p>3. Yes subject to 5. Below 4. There is no mention of the securing of the lagoon monitoring plan as described in 6.1 of the MMS although a lagoon enhancement plan is</p> |

Within paragraph 6.2.8 of their Written Representation [REP1-015] NE expressed concern that the ongoing monitoring and management of the Bran Sands Lagoon habitat creation has not been clearly described in the original MMS provided in the HRA Report [APP-127 and APP-128]. The MMO also expressed a similar concern in their Written Representation and response to the ExA's first written questions [REP1-012]. The Applicant provided a MMS at DL2 [REP2-006].

1. Please can the Applicant clarify whether the MMS provided at DL2 [REP2-006] includes any amendments from the previous version provided with the DCO application (Appendix 3.1, HRA Report [APP-128])? If yes, please can the Applicant explain what these amendments are and why they have been made?

2. Please can the Applicant clarify how the lagoon enhancement works would be maintained throughout the operation of the proposed development and how this has been provided for in the MMS?

To: all IPs (in particular NE, EA, the MMO):

3. Are the IPs satisfied that the MMS [REP2-006] submitted by the Applicant for Deadline 2 adequately secures the relevant mitigation relied on to reach the

Applicant's HRA conclusion of no adverse effect on the Teesmouth and Cleveland Coast SPA and Ramsar sites and addresses their previous concerns raised in relation to the

noted. This is confusing - either the MMS should be referred to along with associated agreement with the 2 plans in the hierarchy underneath; or both plans should be secured in the Schedule and Condition 48.

It is important that the monitoring plan is agreed as it includes both **pre- and post- construction** monitoring to inform the lagoon enhancement plan as well as describe the baseline and monitor success of the works.

We have agreed with the applicant and the MMO the following rewording to give greater clarity. The applicant proposed that all monitoring requirements for the lagoon enhancement works are captured within the lagoon habitat enhancement plan (i.e. the monitoring requirements will be set out as a discrete section of that plan, or an appendix to it as appropriate). We have agreed this revision and the applicant has agreed to revise the hierarchy of plans to reflect these changes as follows:

Lagoon habitat enhancement

7.—(1) The lagoon habitat enhancement works shall not commence until a written lagoon habitat enhancement plan (to include details of pre- and post-construction monitoring) has been submitted to and approved by the MMO (following consultation with Natural England, the Environment Agency and ~~other relevant stakeholders~~ the local planning authority).

(2) The lagoon habitat enhancement plan must include—

(a) details of proposals for pre- and post-construction monitoring

(ab) details of the enhancement of habitat in the lagoon for water birds and a construction method statement regulating the construction of those works; and

(cb) a timetable for the implementation of those works.

(3) The lagoon habitat enhancement plan (including pre- and post- construction monitoring information) must accord fully with the mitigation and monitoring

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| <p>operational monitoring and management of Bran Sands Lagoon? If not, can they explain why not?</p> <p>4. Are all IPs content that the MMS is adequately secured in the revised DCO submitted at DL3 [REP3-002 and REP3-004] under Paragraph 7 of Part 2 and Condition 48 in Part 4 of the draft DML in Schedule 5 and as a certified Plan under Article 38(h) of the draft DCO? If not, can they explain why not?</p> <p>5. 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. The Applicant explains that 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. Are the IPs satisfied that the proposed mechanisms in the MMS to adapt the strategy where the indicators of success are not being met, are sufficient? If not, what additional mechanisms are required?</p> | <p>strategy (Document 6.12).⁷</p> <p>(4) The lagoon habitat enhancement plan must be implemented as approved.</p> <p><i>Lagoon Habitat Enhancement Works</i></p> <p>48. The undertaker must implement and comply with the lagoon habitat enhancement plan (<u>including requirements for pre- and post- construction monitoring</u>) approved pursuant to paragraph 7 and shall monitor and maintain the lagoon habitat enhancement works in accordance with <u>lagoon habitat enhancement plan and</u> principles outlined in the mitigation and monitoring strategy (Document 6.12) and agreed with the MMO in consultation with Natural England and, the Environment Agency and the local planning authority.</p> <p>5. NE considers that section 6.3 intervention measures within the MMS should be re-worded. At the moment there is no obligation to ensure that the Indicators of Success are reached.</p> <p>We suggest there is a re-wording so that intervention measures ‘will’ rather than ‘could’ be implemented.</p> <p>The applicant has agreed to do this and we have seen and agreed the changes to the MMS prior to submission of this response. These changes contained in the revised MMS sent to us by email on 2 November are detailed below:</p> <p>6.3 Intervention measures</p> <p><i>Should the monitoring indicate that the habitat enhancement proposals are not achieving their defined objectives (and this is agreed with Natural England, the Environment Agency, Cefas and the MMO), and that this is demonstrated to be due to reasons that are reasonably</i></p> |
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| | <p><i>within the control of York Potash Ltd, intervention measures could will be implemented. The measures applicable would will depend on the reasons why the scheme was considered to not be meeting its objectives, but could include (for example) actively adjusting the rate of water exchange between the Tees and the lagoon, recharging the shallow water area with additional maintenance dredged material, and vegetation management (e.g. on the islands, should vegetation develop that is considered detrimental through reducing sight lines or impacting on ability to nest or roost).</i></p> <p>The monitoring plan to be agreed would clarify the frequency of reporting for example can take this obligation further. The suggestions in 4. Above for the re-wording of the Paragraph 7 and Condition 48 may assist..</p> |
| <p>HRA 2.5</p> <p><i>Construction lighting design</i></p> <p>To: NE</p> <p>Paragraph 10.3.75 of the HRA Report [APP-127 and APP-128] describes the mitigation measures which would need to feature in the construction lighting design strategy to mitigate effects on SPA birds. The Applicant has subsequently incorporated these measures into item 31 of the Updated Governance Tracker [REP1-043] and amended the wording of Requirement 6(1)(g) of the draft DCO to secure this design detail [REP3-003 and REP3-004].</p> | <p>NE is satisfied with these measures</p> |

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| <p>Is NE satisfied with these measures?</p> | |
| <p>HRA 2.7 <i>Temporary acoustic fencing</i></p> <p>To: NE</p> <p>The Updated Governance Tracker [REP1-043] confirms that the need to provide and agree the detailed design of the temporary acoustic fencing would be secured through the CEMP (DCO Requirement 6(b)). The wording of Requirement 6 has been amended to refer to temporary acoustic fencing and in addition this is also reflected within the Outline CEMP [REP1-041] tied into Requirement 6.</p> <p>Is NE satisfied with this revision?</p> | <p>NE is satisfied with this revision</p> |
| <p>HRA 2.9 <i>Ecological Management Plan</i></p> <p>To: The Applicant and NE</p> <p>Paragraph 10.3.86 of the HRA Report [APP-127 and APP-128] confirms that during the operation of the development parking and storage areas immediately adjacent to Bran Sands Lagoon would be screened (for example by fencing) and that the operational lighting design would follow the principles described for the construction phase lighting design (paragraph 10.3.75, HRA Report).</p> <p>1. Item 36 of the Updated Governance Tracker [REP1-043] confirms that the operational visual screening and the operational lighting design would be secured through the</p> | <p>The applicant will need to incorporate the operational measures into the EMP. NE would be satisfied if this was completed.</p> |

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| <p>Ecological Management Plan (EMP) which is secured in Requirement 9 of the draft DCO [REP3-003 and REP3-004]. Requirement 9 of the draft DCO specifies that the EMP must be in accordance with the principles set out in the outline EMP [REP1-042] and incorporate the mitigation measures identified in the Updated Governance Tracker [REP1-043].</p> <p>2. The Outline EMP submitted by the Applicant for Deadline 1 [REP1-042] does not refer to operational visual screening and the operational lighting design. Should the EMP be updated to reflect these mitigation measures, noting they are secured by reference in Requirement 9 to the Updated Governance Tracker [REP1-043]?</p> <p>Is NE satisfied with the means of securing these mitigation measures?</p> | |
| <p>HRA 2.11 <i>Clarifications</i> To: The Applicant To: NE</p> <p>NE has advised the Applicant on how to secure the mitigation within the DCO requirements (see section 6.2.4 – 6.2.11 of NE’s written representation).</p> <p>The Applicant has advised at DL2 that in light of the approach taken in the HRA (as set out in the Applicant’s response to Q1 HRA 1.21) with respect to the proposed changes to the Teesmouth and Cleveland Coast SPA designation, and the provision of revised screening and integrity matrices in response to question HRA 1.20 (which include consideration of</p> | <p>Please see the suggested revisions to wording detailed in answer to questions DCO 2.7, DCO 2.8, HRA 2.4, HRA 2.5, HRA 2.7, HRA 2.9 and HRA 2.12 which would resolve the matter of securing the mitigation, ongoing monitoring and management of the site.</p> <p>Once all is revised, NE would be able to consider that the mechanisms are appropriate to secure the mitigation in order to conclude no adverse effect on site integrity of the Teesmouth and Cleveland Coast SPA and Ramsar sites.</p> <p>Answer to HRA 2.1 deals with Common Tern</p> |

Common Tern), the Applicant's view is that the HRA already addresses the point made in section 6.2.3 of NE's Written Representation (the Applicant has assumed that NE's reference to section 6.2.3 is incorrect and should be section 6.3.3).

As Section 6.3 in NE's Written Representation (WR) [REP1-015] relates to impacts on the landscape and does not include a paragraph 6.3.3, please can the Applicant clarify which representation from NE they are referring to in relation to paragraph 6.3.3 in their comments on NE's response to question HRA 1.21?

At DL2, in the Applicant's comments on the WRs provided at DL1, in response to NE's WR and the mitigation referred to in section 6.2.3, the Applicant has stated that with the following measures in place, the Applicant believes that the mitigation referred to by NE is appropriately secured:

- Revised MMS (Document 6.12)
- Amended Schedule 2 (in particular requirement 9)
- Production of Outline Environmental Management Plan (Doc 6.11); and
- Amendments to the DML (in particular paragraph 7).

Please can NE confirm whether the mechanisms identified by the Applicant in their response to NE's WR (above) are appropriate to secure the mitigation required by NE within the DCO to conclude no adverse effect on site integrity of the Teesmouth and Cleveland Coast SPA and Ramsar sites, including the wording of these mechanisms?

HRA 2.12

To: The Applicant

To: NE

Paragraph 5.4 of the HRA Report [APP-127 and APP-128] indicated that artificial nesting platforms could be provided beneath the suspended deck of the quay (if the open quay structure is proposed). In response to Question HRA 1.13 of the ExA's First Written Questions [REP1-028], the Applicant explained that the measure was an enhancement measure and is not a mitigation measure required to ensure no adverse effect on site integrity, it is not proposed as part of the MMS for the lagoon. Conversely, NE responded to confirm that this measure should be included in the MMS although agreeing it was not a mitigation measure for which the HRA had to rely on [REP1-015].

At DL2, the Applicant has stated that the provision of nesting platforms is already referred to in Bran Sands Lagoon MMS [REP2-006]. At paragraph 5.4 in the MMS it states that the Applicant would be happy to implement artificial nesting platforms, if the quay design allows it. Whilst this indicates the Applicant's willingness to provide nesting platforms, it is not a commitment to do so and does not state that number that would be required.

Is the wording in the wording in the Bran Sands Lagoon MMS sufficient to cover provision of artificial nesting platforms if the open quay structure design is used for the development?

Should the Bran Sands Lagoon MMS stipulate the number of

We suggest that the best approach is to re-word the MMS with the clear commitment i.e. the applicant will provide artificial nesting platforms if an open quay structure is developed. The final design of these and the number of platforms that could be provided within the design will be agreed with RCBC and MMO in consultation with NE and EA.

NE discussed this potential revision with the applicant and we have agreed their revision to the MMS provided to us on 2 November 2015.

These changes are detailed below (within section 5.4 of the MMS supplied):

*A further point raised at the meeting on 5 February 2015 was that the provision of artificial nesting platforms should be considered beneath the suspended deck of the quay (should an open quay structure be proposed). It was felt that such measures could be of particular benefit for nesting shags. **YPL confirmed that they will provide artificial nesting platforms if an open quay structure is developed. The final design of the nesting platforms and the number to be provided will be agreed with the local planning authority and the MMO, in consultation with Natural England during later stages of the design of the quay. ~~would be happy to implement such measures should the quay design allow it.~~***

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| artificial nesting platforms which would be provided and whether the final design of these should be agreed with NE prior to installation? | |
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