



# SCOPING OPINION

## Proposed York Potash Port Facility



January 2014





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## EXECUTIVE SUMMARY

This is the Scoping Opinion (the Opinion) provided by the Secretary of State in respect of the content of the Environmental Statement for the proposed York Potash Port Facility at Bran Sands, Teesport.

This report sets out the Secretary of State's opinion on the basis of the information provided in York Potash Limited's ('the applicant') report entitled 'York Potash Project Port and Materials Handling Facilities Environmental Scoping Report' dated November 2013 ('the Scoping Report'). The Opinion can only reflect the proposals as currently described by the applicant.

The Secretary of State has consulted on the Scoping Report and the responses received have been taken into account in adopting this Opinion. The Secretary of State is satisfied that the topic areas identified in the Scoping Report encompass those matters identified in Schedule 4, Part 1, paragraph 19 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended).

The Secretary of State draws attention both to the general points and those made in respect of each of the specialist topic areas in this Opinion. The main potential issues identified are:

- Drainage and flood risk
- emissions to air and water
- impacts on marine and terrestrial ecology; and
- release of existing contaminants and risk of polluting resulting in ground contamination.

Matters are not scoped out unless specifically addressed and justified by the applicant, and confirmed as being scoped out by the Secretary of State.

The Secretary of State notes the potential need to carry out an assessment under the Habitats Regulations<sup>1</sup>.

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<sup>1</sup> The Conservation of Habitats and Species Regulations 2010 (as amended)



# 1.0 INTRODUCTION

## Background

- 1.1 On 2 December 2013, the Secretary of State (the 'SoS') received the Scoping Report submitted by under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the 'EIA Regulations') in order to request a scoping opinion for the proposed York Potash Port Facility ('the proposed development').
- 1.2 This Opinion is made in response to this request and should be read in conjunction with the applicant's Scoping Report. It should be noted that if the proposed development changes substantially during the EIA process, prior to application submission, the applicant may wish to consider the need to request a new scoping opinion from the SoS.
- 1.3 The applicant has formally provided notification under Regulation 6(1)(b) of the EIA Regulations that it proposes to provide an environmental statement (ES) in respect of the proposed development in a letter dated 29 November 2013 and received by the SoS on 2 December 2013. Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the proposed development is determined to be EIA development.
- 1.4 The EIA Regulations enable an applicant, before making an application for an order granting development consent, to ask the SoS to state in writing their formal opinion (a 'scoping opinion') on the information to be provided in the ES.
- 1.5 Before adopting a scoping opinion the SoS must take into account:
  - (a) the specific characteristics of the particular development;
  - (b) the specific characteristics of the development of the type concerned; and
  - (c) environmental features likely to be affected by the development'.

*(EIA Regulation 8 (9))*
- 1.6 This Opinion sets out what information the SoS considers should be included in the ES for the proposed development. The Opinion has taken account of:
  - i the EIA Regulations
  - ii the nature and scale of the proposed development
  - iii the nature of the receiving environment, and

- iv current best practice in the preparation of environmental statements.
- 1.7 The SoS has also taken account of the responses received from the statutory consultees (see Appendix 2 of this Opinion). The matters addressed by the applicant have been carefully considered and use has been made of professional judgement and experience in order to adopt this Opinion. It should be noted that when it comes to consider the ES, the SoS will take account of relevant legislation and guidelines (as appropriate). The SoS will not be precluded from requiring additional information if it is considered necessary in connection with the ES submitted with that application when considering the application for a development consent order (DCO).
- 1.8 This Opinion should not be construed as implying that the SoS agrees with the information or comments provided by the applicant in their request for an opinion from the SoS. In particular, comments from the SoS in this Opinion are without prejudice to any decision taken by the SoS (on submission of the application) that any development identified by the applicant is necessarily to be treated as part of a nationally significant infrastructure project (NSIP), or associated development, or development that does not require development consent.
- 1.9 Regulation 8(3) of the EIA Regulations states that a request for a scoping opinion must include:
- (a) 'a plan sufficient to identify the land;
  - (b) a brief description of the nature and purpose of the development and of its possible effects on the environment; and
  - (c) such other information or representations as the person making the request may wish to provide or make'.
- (EIA Regulation 8 (3))*
- 1.10 The SoS considers that this has been provided in the applicant's Scoping Report.

## The Secretary of State's Consultation

- 1.11 The SoS has a duty under Regulation 8(6) of the EIA Regulations to consult widely before adopting a scoping opinion. A full list of the consultation bodies is provided at Appendix 1. The list has been compiled by the SoS under their duty to notify the consultees in accordance with Regulation 9(1)(a) of the EIA Regulations. The applicant should note that whilst the SoS's list can inform their consultation, it should not be relied upon for that purpose.



- 1.12 The list of respondents who replied within the statutory timeframe and whose comments have been taken into account in the preparation of this Opinion is provided at Appendix 2 along with copies of their comments, to which the applicant should refer in undertaking the EIA.
- 1.13 The ES submitted by the applicant should demonstrate consideration of the points raised by the consultation bodies. It is recommended that a table is provided in the ES summarising the scoping responses from the consultation bodies and how they are, or are not, addressed in the ES.
- 1.14 Any consultation responses received after the statutory deadline for receipt of comments will not be taken into account within this Opinion. Late responses will be forwarded to the applicant and will be made available on the Planning Inspectorate's website. The applicant should also give due consideration to those comments in carrying out the EIA.

## Structure of the Document

- 1.15 This Opinion is structured as follows:

- Section 1 Introduction
- Section 2 The proposed development
- Section 3 EIA approach and topic areas
- Section 4 Other information.

This Opinion is accompanied by the following Appendices:

- Appendix 1 List of consultees
- Appendix 2 Respondents to consultation and copies of replies
- Appendix 3 Presentation of the environmental statement.

## 2.0 THE PROPOSED DEVELOPMENT

### Introduction

2.1 The following is a summary of the information on the proposed development and its site and surroundings prepared by the applicant and included in their Scoping Report. The information has not been verified and it has been assumed that the information provided reflects the existing knowledge of the proposed development and the potential receptors/resources.

### The Applicant's Information

#### Overview of the proposed development

2.2 As described in Section 1.4 of the Scoping Report, the applicant is considering an overall scheme for the production and export of polyhalite bulk fertilizer, which comprises of a number of developments. The four main elements of this overall scheme are:

- a minehead located in the North York Moors National Park to mine the polyhalite;
- an pipeline to transport the polyhalite (in a slurry form) from the minehead to a materials handling facility ('the MHF');
- a MHF to convert the polyhalite into fertilizer; and,
- a port facility to export the fertilizer.

2.3 The applicant is seeking a scoping opinion for the port facility, which currently comprises of three options, all of which would be located at Bran Sands, on the Tees Estuary (see Section 1.3 of the Scoping Report and Figures 1.1-1.3). Whilst all three options (Options 1, 2 and 3) are considered within this Opinion, it should be noted that only Options 1 & 2 would locate the MHF at Bran Sands, so that it would be included within the proposed DCO application for the port facility. Option 3 would locate the MHF at Wilton, so that under this option, the MHF would not be included within the proposed DCO application for the port facility and would instead be consented under a separate planning regime. The minehead and the pipeline would not form part of the proposed development of the port facility and therefore do not form part of this Opinion.

#### *Option 1 (a port facility including the MHF)*

2.4 This includes the construction of:

- a marine terminal at Bran Sands, including dredging works
- a storage area on Bran Sands Lagoon

- a MHF to the **immediate north** of Bran Sands Lagoon; and
- a short conveyor system (the approximate length of which is not stated in the Scoping Report) to transport the fertilizer from the MHF to the marine terminal, as shown on Figure 1.1.

*Option 2 (a port facility including the MHF)*

2.5 This includes the construction of:

- a marine terminal at Bran Sands, including dredging works
- a storage area on Bran Sands Lagoon
- a MHF to the **north east** of Bran Sands Lagoons; and
- an approximately 1km long conveyor system to transport the fertilizer from the MHF to the marine terminal, as shown on Figure 1.2.

*Option 3 (port facility only)*

2.6 This includes the construction of:

- a marine terminal at Bran Sands, including dredging works
- a storage area on Bran Sands Lagoon; and
- an approximately 3.2km long conveyor system to transport the fertilizer from the MHF (which would be located at Wilton) to the marine terminal, as shown on Figure 1.3.

## **Description of the site and surrounding area**

### *The Application Site*

2.7 All of the options for the proposed development would be located on the south bank of the Tees Estuary. Part of the development would be located on the Bran Sands Lagoon. The Tees estuary forms part of the River Tees, and is within the Northumbria River Basin District. The tides and water levels of the Tees Estuary are summarised in Section 5.1.1 of the Scoping Report. There are a number of water bodies including ponds, lagoons and drainage channels located within the site boundary (see Scoping Report Figure 5.1). This includes Dabholm Gut, a drainage channel on the southern boundary of the site into which the local area drains, measuring 1.35km in length with a weir, small jetty and pumping station at the end adjacent to the estuary.

2.8 The majority of the land on which the proposed development would be located consists of made ground deposits, beneath which are superficial deposits. The development site is located partially

on a Secondary B Aquifer and partially a Secondary (undifferentiated) aquifer.

- 2.9 Figure 5.2 identifies current and former landfill sites within the site and the surrounding area. Part of the development site would be located on the former Bran Sands landfill in the central area of the site and Teesport Eston Tip on the southern boundary of the site. Both of these landfills accepted controlled waste.
- 2.10 The A1058 trunk road and a railway cross through the site boundary.
- 2.11 The proposed development is not located within an Air Quality Management Area (AQMA).
- 2.12 There are two public rights of way ('PROW') located within the proposed site boundary to the south of the site: a footpath and a bridleway. These are described in Section 5.17.1 of the Scoping Report and identified on Figure 5.10. The footpath (route codes 102/2A/2, 102/2/3, 116/31/3, 116/31/1) heads in a northerly direction and the bridleway (route code 116/9/1) is adjacent to this.
- 2.13 The following paragraphs explain the existing baseline conditions for the three options considered within the Scoping Report.

*Option 1 (a port facility including the MHF)*

- 2.14 The area of land on which the marine terminal and the MHF would be located is currently used to store ore associated with the Redcar Bulk Terminal. This area also contains conveyor systems and electricity pylons.

*Option 2 (a port facility including the MHF)*

- 2.15 The marine terminal would be situated in the same location as describe in Option 1. The MHF would be located on land that is used for the storage of ore and a conveyor system, with grassland and shrub present on the eastern half.

*Option 3 (port facility only)*

- 2.16 The marine terminal would be situated in the same location as describe in Option 1. The MHF would be located at Wilton and would not be included in the DCO, the southern edge of the site boundary where the conveyor would be located largely comprises of grassland/scrub vegetation and hardstanding.

*The Surrounding Area*

- 2.17 The Scoping Report identifies a number of industrial land uses around the site (Scoping Report Section 5.10.1 and Section 5.14.1). These include:
- Norsea Oil Terminal at Seal Sands
  - North Tees Oil Refinery
  - a further oil refinery located next to Teesport
  - Hartlepool nuclear power station
  - Seal Sands Storage Terminal
  - a titanium pigment plant to the south of Seaton Carew on the north side of the Tees Estuary
  - a chemicals processing plant located next to Teesport on the south side of the estuary; and
  - a steelworks at Bran Sands.
- 2.18 The Northumbria Water Ltd sludge jetty is located at the upstream end of the proposed berth and the Redcar Ore Terminal jetty at the downstream end. Bran Sands Sewage Treatment Facility is located adjacent to the site (paragraph 5.14.1 in the Scoping Report).
- 2.19 Paragraph 5.14.1 of the Scoping Report provides details on a number of pipelines which run along the southern boundary of the site including natural gas pipelines and some associated with the treatment and transfer of sludge from the Bran Sands sewage treatment works. The length of these pipelines is not stated in the Scoping Report.
- 2.20 The Scoping Report confirms that the closest residential areas to the proposed development are Dormanstown (1.15km east), Grangetown (3.1km south) and South Bank (4km southwest) (Scoping Report Section 5.9.1).
- 2.21 A number of sites designated for their ecological features are located within 5.5km of the site:
- Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site
  - Tees and Hartlepool Foreshore and Wetlands Site of Special Scientific Interest (SSSI)
  - Teesmouth National Nature Reserve (NNR)
  - Seal Sands SSSI
  - Cowpen Marsh SSSI
  - Redcar Rocks SSSI
  - Seaton Dunes and Common Dunes SSSI; and

- South Gare and Coatham Sands SSSI.
- 2.22 The distances from the proposed development site to these designated sites are presented in Table 5.3 of the Scoping Report and vary between 0.7km and 5.5km. These are also illustrated on Figure 5.4 in the Scoping Report.
- 2.23 The Scoping Report identifies a number of archaeological and cultural heritage assets located within the vicinity of the site including Anglo-Saxon and medieval settlements, a protected wreck site at Seaton Carew at Seaton Sands, listed buildings in some of the surrounding settlements, and Scheduled Monuments 4km to 5km to the south on Eston Moor (Scoping Report, Section 5.11.1).

### **Alternatives**

- 2.24 Section 3.1 of the Scoping Report provides a description of the alternatives considered by the applicant for the location of the port facility, in terms of ports, namely Hull and Whitby, and other locations within the Tees estuary.
- 2.25 Three options are currently being considered for the port facility and the MHF. A description of each of these options is provided in the 'Overview of the proposed development' section earlier in this Opinion.

### **Description of the proposed development**

- 2.26 The description of the proposed development is set out in Section 3 of the Scoping Report and illustrated in Figures 1.1-1.3.
- 2.27 As stated previously, three options are currently being considered for the port facility. Two of the options for the port include a MHF as associated development.

#### *Materials Handling Facility (MHF) (Options 1 and 2)*

- 2.28 The purpose of the MHF is to convert the mineral suspended in slurry into a solid form to be exported. The facility would receive the slurry from a pipeline which transports this from the minehead.
- 2.29 The key components of the MHF are described in paragraph 3.2.1 of the Scoping Report. The footprint of the facility for Option 1 is approximately 15ha, and for Option 2 approximately 20ha (Scoping Report, Section 3.2.2).
- 2.30 A description of the physical development associated with the MHF is provided in Section 3.2.3 of the Scoping Report and would be the same for both options.

- 2.31 A description of the operational processes associated with the MHF (thickening and filtering, powder drying, dust collection, granulation, bagging, water usage) would be the same for both options and is provided in Section 3.2.3 of the Scoping Report.
- 2.32 The Scoping Report explains that a storage building for the product would be located on the same site as the MHF (Section 3.4). The storage building would have a capacity of 750,000 tonnes and would measure 75m wide and 500m long.

*Conveyor System (all options)*

- 2.33 All development options require a conveyor system, to transport the product from the MHF to the marine terminal. However, as identified on Figures 1.1-1.3 in the Scoping Report, the proposed route and length of each conveyor differs depending on the option chosen by the applicant. If Option 3 is selected, the Scoping Report identifies that there are two sub-options for the route of the conveyor system, located either side of the Dabholm Gut, as shown on Figure 1.3.
- 2.34 The Scoping Report confirms that for all three options the conveyor system would be covered to reduce dust emissions to air (Section 3.3).

*Storage area (all options)*

- 2.35 A 'storage area' would be located on Bran Sands Lagoon (referred to in Section 1.3 and shown on Figures 1.1. to 1.3 in the Scoping Report) which would hold up to 130,000 tonnes of fertilizer (Section 3.4). In order to create a platform for this storage area, it would be necessary to partly reclaim Bran Sands Lagoon. This would include the installation of a 230m by 6m deep sheet-piled cut off wall, the use of infill material to raise the ground level to create the development platform, and the installation of a new culvert or an extension of an existing culvert to ensure the lagoon remains hydraulically connected to the estuary.
- 2.36 The fertilizer would be fed from the MHF to the marine terminal via the conveyor system.

*Marine Terminal (all options)*

- 2.37 All three options would include the development of a marine terminal. The key components of the terminal are identified in Section 3.6 in the Scoping Report. An indicative layout of the marine terminal is provided in Figure 3.2 of the Scoping Report.
- 2.38 Dredging of an approach channel to the marine terminal and a berth pocket immediately adjacent to the marine terminal would be required to facilitate the development. Section 3.6.3 of the Scoping Report describes the anticipated dredging process. The

total volume of material estimated to be dredged in 1.05million m<sup>3</sup> of material. The berth pocket channel requiring dredging measures 548m (l) x 40m (w) and the capital approach channel 3,560m (l) by 150m (w), dredged to a depth of 15.1 below Chart Datum (bCD).

- 2.39 Two ship loaders would be required to load the ships. These would be mounted onto a rail mounted structure with an enclosed cascade chute, fed from a conveyor. The ship loaders would measure 25m above the deck of the quay.
- 2.40 Two options are currently being considered for the quay, a suspended quay, or a continuous quay as described in Section 3.6 of the Scoping Report. These options are illustrated on Figures 3.3 and 3.4 in the Scoping Report.

### **Proposed access**

- 2.41 The Scoping Report identifies that the access to the proposed port facility would likely be from the existing Tees Dock Road (Section 5.8.1). Section 3.2.2 of the Scoping Report confirms that no new road infrastructure, with the exception of internal access roads, is proposed as part of the development.
- 2.42 During construction, traffic would access the site via the existing trunk roads adjacent to the scheme on the A1085. Section 5.8.2 of the Scoping Report confirms that there may be the potential for construction materials to be delivered by barge, and this option will be investigated during the detailed design phase.
- 2.43 Section 3.2.5 of the Scoping Report quantifies the anticipated number of vehicles associated with visitors, staff and deliveries during the operational phase of the development based on the operation of the development at maximum capacity. The anticipated number of vehicles associated with the construction of the development is not quantified in the Scoping Report.

### **Construction**

- 2.44 The Scoping Report confirms that the construction of the development is anticipated to take 18-24 months (paragraph 3.8).

#### *Materials Handling Facility (MHF) (Options 1 and 2)*

- 2.45 Section 3.2.2 of the Scoping Report describes the construction works associated with the MHF.
- 2.46 The site levels would be reduced to facilitate the MHF. The foundations would be a ground bearing slab and some piled foundations would be required. A drainage scheme would be required to manage surface water run off.



2.47 The Scoping Report confirms that some underground service cables and pipes may need to be removed/diverted prior to construction works commencing.

2.48 No details have been provided regarding the construction of the storage building.

*Conveyor System (all options)*

2.49 No details have been provided regarding the construction of the conveyor system.

*Storage area (all options)*

2.50 No details have been provided regarding the construction of the storage area and building.

*Marine terminal (all options)*

2.51 A description of the construction processes and activities associated with the marine terminal are provided in Section 3.6 of the Scoping Report.

2.52 Section 3.6.5 of the Scoping Report confirms that approximately 100 staff would be required to construct the marine terminal and temporary parking for 100-150 cars associated with staff and visitors is anticipated.

2.53 The dredging method has yet to be determined and three options are currently under consideration (Scoping Report, Section 3.6.3):

- Backhoe/grab dredger
- Cutter section dredger; and
- Trailing suction hopper dredger.

2.54 Section 3.7 of the Scoping Report sets the options for the disposal of the dredged material. This includes the use of the material to reclaim part of Bran Sands Lagoon in order to provide a development platform for the storage facility adjacent to the marine terminal and as infill for the continuous quay should the nature of the material be suitable, or its disposal in the offshore sites illustrated on Figure 3.5.

## **Operation and maintenance**

2.55 The vessel movements anticipated per annum to export material from the port facility are set out in Section 3.6.4 of the Scoping Report.

2.56 The number of staff required to operate the facility is not quantified, although it is noted that 340 staff vehicles would be

associated with the operational phase, seven days a week (Scoping Report, Section 3.2.5).

- 2.57 Section 3.6.3 of the Scoping Report confirms that maintenance dredging would be required during the operation of the development which would be carried out 24 hours a day. However, the frequency of the dredging is not provided within the Scoping Report.

### **Decommissioning**

- 2.58 Section 1.6 of the Scoping Report confirms that the impacts arising from the decommissioning of the proposed development has not been covered within the Scoping Report. However, the likely implications of decommissioning will be covered within the EIA. The level of assessment is proposed to be high level and reflect of the amount of information available at the time.

## **The Secretary of State's Comments**

### **Description of the application site and surrounding area**

- 2.59 The ES should include detailed baseline information to be provided as part of the topic specific chapters of the ES. The SoS would expect the ES to include a section that summarises the site and surroundings. This would identify the context of the proposed development, any relevant designations and sensitive receptors. This section should identify land that could be directly or indirectly affected by the proposed development and any associated auxiliary facilities, landscape areas and areas needed for mitigation or compensation schemes.
- 2.60 When describing receptors/constraints within the surrounding area, the applicant should ensure that distances and direction from the site are provided. In addition, the applicant should use figures to illustrate the location of the receptors in the wider context of the proposed development site.
- 2.61 The SoS notes that there are a number of designated ecological sites within the vicinity of the proposed development site. The applicant should note that Table 5.3 inaccurately lists Teesmouth and Cleveland Coast SPA as a SAC.
- 2.62 Paragraph 5.14.1 of the Scoping Report provides details on a number of pipelines which run along the southern boundary of the site. However, it is unclear if these are within, or outside of, the proposed site boundary and how they would relate to the development of the conveyor presented in Option 3. This should be clarified in the ES should Option 3 be pursued.

## Description of the proposed development

- 2.63 Noting that the development is part of a wider proposal, as identified in paragraph 1.4 in the Scoping Report, the applicant will need to ensure that the ES clearly identifies how the proposed development fits within the overall project and clearly assesses the impacts arising from the proposed development, as well as the cumulative impacts arising from the overall project and any other proposals in the area.
- 2.64 The description of the development presented within the ES should clearly define what will be included in the draft DCO and explain how the project will link to other development, either existing or proposed, outside of the proposed DCO application but which forms part of the wider scheme being undertaken by the applicant. For example, when describing Options 1 and 2 in Section 1.3 of the Scoping Report, reference is made to a pipeline approximately 4km long (Option 1) or 2.5km (Option 2), which is stated to be outside the scope of the Scoping Report. However, the Scoping Report does not explain how this pipeline relates to the pipeline described as “approximately 44.5km long”, which forms part of the overall York Potash project (as described in Section 1.4 of the Scoping Report). This should be clarified in the ES.
- 2.65 To provide clarity about the wider scheme, the SoS recommends that the applicant includes within the ES a figure which identifies the layout of the wider scheme showing the location of each element. It would also be helpful to identify on this figure how each element would be consented i.e. a DCO or TCPA application, represented by different colours, to provide a high level visual representation of the wider scheme, which would assist the reader of the ES when understanding the overall project being developed by the applicant.

### *Proposed York Potash Port Facility*

- 2.66 The SoS notes that the proposed development is referred to as the ‘York Potash Harbour Facilities’ whilst the Scoping Report refers to it as a port and MHF development. The applicant is advised to ensure that consistent terminology is used throughout the ES, which should reflect the project description within the draft DCO submitted with the development consent application.
- 2.67 The applicant should clearly define in the ES what elements of the proposed development are integral to the NSIP and which are ‘associated development’ under the Planning Act 2008 (as amended) (PA 2008) or is an ancillary matter. Any proposed works and/or infrastructure required as associated development, or as an ancillary matter, (whether on or off-site) should be considered as part of an integrated approach to EIA, this should relate to the project as described in the draft DCO provided with the application.

- 2.68 The ES should clarify the anticipated emissions associated with the proposed development, including those to water, air, soil, noise, vibration, light and heat.
- 2.69 The environmental effects of all wastes to be processed and removed from the site should be assessed. The ES will need to identify and describe the control processes and mitigation procedures for storing and transporting waste off site. All waste types should be quantified and classified.
- 2.70 As noted from the Scoping Report, works would be required to maintain and safeguard the drainage of the area (see Scoping Report, Section 3). The SoS would expect to see details on all drainage works, including appropriate drawings where necessary provided within the ES.
- 2.71 The applicant should ensure that the description of the proposed development that is being applied for is as accurate and firm as possible, as this will form the basis of the EIA. It is understood that at this stage in the evolution of the scheme the description of the proposals and even the location of some of the development components may not be confirmed. The applicant should be aware however, that the description of the development in the ES must be sufficiently certain to meet the requirements of paragraph 17 of Schedule 4 Part 1 of the EIA Regulations. There should be more certainty about the description of the proposed development by the time the ES is submitted with the DCO application.

## **Alternatives**

- 2.72 The EIA Regulations state that the ES should include '*An outline of the main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects*' (See EIA Regulations Schedule 4 Part 1 and Appendix 3 of this Opinion).
- 2.73 Section 3.1 of the Scoping Report provides a description of the alternative locations considered for the port facility. However, it is unclear whether this information will be provided in the ES. The SoS would expect to see this information provided in the ES.
- 2.74 In addition to the location of the port facility, this section should include a description of the alternative designs, layouts, and processes/activities considered by the applicant. As identified in the Scoping Report a number of design details remain under consideration. The ES should clearly state the reasons why the final scheme was chosen and others discounted.

## **Proposed access**

- 2.75 The Scoping Report does not identify the exact location of the proposed site access – other than along 'Tees Dock Road', or

clarify whether any works would be required to construct or adapt the existing site entrance, and whether any temporary access points would be required during the construction phase. This information should be provided in the ES.

- 2.76 The SoS would expect to see details of transport routes for the construction and operational phases of the development provided within the ES and illustrated on a figure.
- 2.77 It would be helpful to include parking requirements during construction and operation. These should be described and located on figures, with evidence to demonstrate that the land allocated for parking would be sufficient to meet the numbers of staff/visitors proposed.
- 2.78 Whilst the anticipated operational vehicle numbers are quantified in Section 3.2.5 of the Scoping Report, it is unclear whether these represent two way movements. This should be clarified in the ES. In addition, the SoS would expect to see the number of construction vehicle movements quantified in the ES.

## **Construction**

- 2.79 The SoS notes that the construction of the development is anticipated to take 18-24 months (paragraph 3.8 of the Scoping Report). The SoS would expect to see a detailed construction programme provided within the ES, setting out each of the construction phases/activities and anticipated timescales. It would also be useful for the applicant to provide the anticipated year of construction commencement and operation in the ES.
- 2.80 The SoS expects that as the design of the scheme is finalised, a detailed description of all construction activities will be provided in the ES. This should include information on the timing, methodology and type/number of piles anticipated to be used to construct the quay. The ES should provide a detailed explanation of the site preparation works that would be required to facilitate the development.
- 2.81 It is noted from the ES that pipeline and utility diversions may be required. Therefore, the ES should include information on any required site clearance, preparation, levelling, demolition and diversion works.
- 2.82 The SoS notes that no information has been provided in the Scoping Request regarding the size and location of construction compounds. Whilst it is appreciated that this information may not be available at this stage in the evolution of the project, applicants are reminded that they will need to have identified any land required for construction within the proposed DCO application boundary and have assessed, within the ES, the impacts arising from these construction compounds.

- 2.83 The construction hours should be provided within the ES, including an assessment of the impacts associated with any requirement for overnight or weekend / bank holiday working. Consideration should be given to the need for any mitigation where appropriate and how this would be secured and delivered through the draft DCO.
- 2.84 The ES should describe and assess lighting required during the construction phase, including consideration of any mitigation where appropriate and how this would be secured and delivered through the draft DCO.

### **Operation and maintenance**

- 2.85 It is noted from Section 3.2.5 of the Scoping Report that the development is proposed to operate continuously for 7 days a week. The ES should also confirm the operational hours of the development.
- 2.86 The number of full/part time jobs required to operate the facility should be clarified within the ES and an assessment undertaken as to the potential impacts.
- 2.87 The SoS notes that maintenance dredging will be required during the operation of the development and welcomes the inclusion of further details on likely timescales and methods within the ES, including disposal options and locations.
- 2.88 The ES should confirm what goods, materials and deliveries would be required to facilitate the operation of the development, and assess how these would be transported to the site.
- 2.89 The ES should describe and assess lighting required during the operation phase, including consideration of any mitigation where appropriate and how this would be secured and delivered through the draft DCO.

### **Decommissioning**

- 2.90 The Scoping Report does not indicate what the lifespan of the development would be. This information should be provided in the ES. It is recommended that the EIA covers the life span of the proposed development, including construction, operation and decommissioning.
- 2.91 The SoS acknowledges that the further into the future any assessment is made, the less reliance may be placed on the outcome. However, the purpose of such a long term assessment is to enable the decommissioning of the works to be taken into account in the design and use of materials such that structures can be taken down with the minimum of disruption. The SoS welcomes the applicant's intention to consider decommissioning in

the ES and suggests that the process and methods of decommissioning should be taken into account and options presented in the ES.

## 3.0 EIA APPROACH AND TOPIC AREAS

### Introduction

- 3.1 This section contains the SoS's specific comments on the approach to the ES and topic areas as set out in the Scoping Report. The SoS's following comments are applicable all three proposed options currently being considered by the applicant, unless expressly stated otherwise. General advice on the presentation of an ES is provided at Appendix 3 of this Opinion and should be read in conjunction with this Section.
- 3.2 Applicants are advised that the scope of the DCO application should be clearly addressed and assessed consistently within the ES.

### Environmental Statement (ES) - approach

- 3.3 The information provided in the Scoping Report sets out the proposed approach to the preparation of the ES. Whilst early engagement on the scope of the ES is to be welcomed, the SoS notes that the level of information provided at this stage is not always sufficient to allow for detailed comments from either the SoS or the consultees.
- 3.4 The SoS would suggest that the applicant ensures that appropriate consultation is undertaken with the relevant consultees in order to agree wherever possible the timing and relevance of survey work as well as the methodologies to be used. The SoS notes and welcomes the intention to finalise the scope of investigations in conjunction with ongoing stakeholder liaison and consultation with the relevant regulatory authorities and their advisors.
- 3.5 The Scoping Report provides limited information on the extent of the study area for each assessment. The SoS recommends that the physical scope of the study areas should be identified under all the environmental topics and should be sufficiently robust in order to undertake the assessment. The extent of the study areas should be on the basis of recognised professional guidance, whenever such guidance is available. The study areas should also be agreed with the relevant consultees and, where this is not possible, this should be stated clearly in the ES and a reasoned justification provided by the applicant. The scope should also cover the breadth of the topic area and the temporal scope, and these aspects should be described and justified.
- 3.6 The Scoping Report identifies potential mitigation measures within each topic assessment which may be relied upon to reduce the potential effects of the proposed development. Only deliverable mitigation measures should be taken into account in the assessment. To demonstrate that a mitigation measure is



deliverable, the applicant may wish to include within the ES, as an appendix, a Table showing how mitigation identified in ES would be secured & delivered through the draft DCO. Where reliance is placed on a plan to deliver the mitigation, for example the use of a Construction and Environmental Management Plan as referred to in Section 5.2 in the Scoping Report, it would be useful to provide a copy of the draft plan with the DCO application.

## Matters to be scoped out

3.7 The applicant has identified in the relevant sections of the Scoping Report the matters proposed to be 'scoped out'. These include:

- Consideration of the risk to soils, groundwater and surface water as a result of the construction of the new marine terminal, as the new terminal would not comprise any landside works beyond the quayside (Scoping Report, Section 5.2.3)
- recreation and access on land and via water (Options 1 and 2) as the recreational activities would take place outside of the construction footprint (Scoping Report Section 5.17.3)
- recreation and access via water (Option 3) as limited recreational activities on water take place in the port location (Scoping Report Section 5.17.4)
- construction phase air quality impacts for Options 1 and 2 as human and ecological receptors are outside of 350m of the construction works (Scoping Report Section 5.9.3.); and,
- air quality impacts from marine vessel movements because there are no residential receptors within 1km of development on the estuary (Section 5.9.3).

3.8 Matters are not scoped out unless specifically addressed and justified by the applicant, and confirmed as being scoped out by the SoS.

3.9 The Scoping Report states that the marine terminal is proposed to be located immediately adjacent to a currently authorised landfill site (Bran Sands Landfill – reference EAWML60092) as shown on Figure 5.2 and would require the partial reclamation of Bran Sands Lagoon in order to provide a development platform as shown on Figure 3.2 (see also Sections 5.2.1 and 5.1.2 respectively in the Scoping Report). As the Scoping Report identifies that such works could impact upon the hydrological regime and drainage characteristics of the area and may result in the release of contaminants, which could lead to pollution of surface water and groundwater, the SoS does not agree that the risk to soils, groundwater and surface water as a result of the construction of the new marine terminal can be scoped out.

- 3.10 The SoS agrees to scope out direct impacts on recreation and access routes via land out of the ES for Options 1 and 2 as it is noted that the proposals would not directly affect the identified PRowS. The EIA should still consider the indirect affects of users of these PRowS in terms of air quality, noise and vibration and visual impacts and these assessments can be presented in the relevant topic chapters.
- 3.11 The SoS agrees to scope recreation and access via water out of the EIA for all Options proposed as it is recognised that the industrialised nature of the port has resulted in the limited presence of recreational vessel movements and activities likely to be affected by the development.
- 3.12 The SoS does not agree to scope out of the ES construction air quality impacts for Options 1 and 2 for ecological receptors, as the presence of ecological receptors on the site has yet to be determined by the Phase 1 Habitat Survey and the species specific surveys. In addition, the Scoping Report refers to the presence of birds on the of Bran Sands lagoon (Scoping Report, Section 5.5.1) which is located within 350m of the quay and the MHF construction activities. The SoS agrees that air quality impacts on occupants of residential properties can be scoped out of the assessment given the distance to the nearest residential receptor. However, air quality impacts associated with the construction phase on other human receptors including workers on the site and the surrounding area, and users of the nearby PRowS cannot be scoped out of the EIA.
- 3.13 The SoS notes that there are no residential receptors within 1km of the marine vessel movement routes, however there are ecological receptors within a 1km radius and therefore the potential air quality impacts from marine vessel movements on these receptors cannot be scoped out of the EIA.
- 3.14 Whilst the SoS has not agreed to scope out certain topic or matters within this Opinion on the basis of the information available at the time, this does not prevent the applicant from subsequently agreeing with the relevant consultees to scope matters out of the ES, where further evidence has been provided to justify this approach. In order to demonstrate that topics have not simply been overlooked, where topics are scoped out prior to submission of the DCO application, the ES should still explain the reasoning and justify the approach taken.

## National Policy Statements (NPSs)

- 3.15 Sector specific NPSs are produced by the relevant Government Departments and set out national policy for nationally significant infrastructure projects (NSIPs). They provide the framework within which the Examining Authority will make their recommendations to

the SoS and include the Government's objectives for the development of NSIPs.

- 3.16 The SoS must have regard to any matter that the SoS thinks is important and relevant to the SoS's decision. This could include the draft NPS if the relevant NPS has not been formally designated.
- 3.17 The NPS for Ports sets out assessment principles that should be considered in the EIA for the proposed development. In term so the proposals and when undertaking the EIA, the applicant must take account of the NPS for Ports.

## Environmental Statement - Structure

3.18 Paragraph 4.2 of the Scoping Report provides information on the format of the ES. The SoS notes that the ES will include:

- project introduction, description of the EIA process
- detailed description of the proposed scheme, including the alternative options considered and the reasons for selecting the proposed approach
- detailed description of the existing environment
- detailed description of the potential Impacts and mitigation measures identified during the EIA process for each of the environmental issues under consideration
- description of the cumulative effects of the project; and,
- summary of findings.

3.19 Section 5 of the Scoping Report sets out the proposed topics to be included in the ES on which the applicant seeks the opinion of the SoS. These are under the broad headings of:

- Hydrodynamic and sedimentary processes
- Hydrology, hydrogeology and soils
- Marine sediment and water quality
- Marine ecology
- Marine and coastal ornithology
- Terrestrial ornithology
- Natural fisheries resource
- Transport
- Air quality
- Noise and vibration
- Archaeology and heritage

- Commercial navigation
  - Coastal protection and flood defence
  - Infrastructure and land drainage
  - Socio-economics
  - Landscape and visual character
  - Recreation and access
  - Cumulative impact assessment
  - Water Framework Directive; and
  - Habitat Regulations Assessment.
- 3.20 The SoS recommends that the ES should include a description of the proposed construction programme and methods.
- 3.21 In addition to the impacts associated with disposing of material associated with dredging, the ES should also provide information on other waste produced by the development during construction, operation and decommissioning. The SoS advises that the ES should clarify the types of all wastes to be processed and that the effect of the proposal, in terms of waste, should be included in the ES.
- 3.22 The SoS considers it essential to also take account of materials to be removed from the site and to identify where potential traffic movements would be routed. The applicant may also wish to consider the need for a Site Waste Management Plan.
- 3.23 The applicant's attention is drawn to Public Health England's suggestion that a separate chapter 'Public Health' is inserted into the ES to draw together all impacts associated with potential effects on human health as a result of the proposed development (see comments in Appendix 2 of this Opinion).

## Topic Areas

### **Hydrodynamic and sedimentary processes** (see Scoping Report Section 5.1)

- 3.24 The physical scope of the assessment should be clarified in the ES. It will be important to carefully justify the physical area for this assessment and ensure that the impacts are considered over a sufficiently wide area.
- 3.25 The SoS notes that the applicant intends to draw upon existing data sources to inform the assessment. It is noted that a lot of data referenced within Section 5.1.1 of the Scoping Report dates back more than 10 years. The applicant is advised to ensure that data used within the ES is relevant to the development and is up

to date and representative of the existing baseline. Where data is not recent, justification should be provided in the ES to demonstrate it remains relevant. Full copies of all reports from which data is drawn from should be provided in the ES.

- 3.26 The SoS welcomes the use of three dimensional hydrodynamic modelling and notes that the Marine Management Organisation (MMO) agrees with the proposed assessment models. The ES should provide the calibration and validation methods and copies of the modelling report.
- 3.27 The SoS notes that wave modelling would not be carried out should the suspended deck structure for the quay be chosen, but would be conducted if the continuous quay is to be chosen. The applicant is advised to agree this approach with the MMO.
- 3.28 The SoS should ensure that effects resulting from sediment dispersion relating to the quay construction are assessed as part of the EIA.
- 3.29 In addition to the dredging works required to construct the port facility, the ES should also provide an assessment of the impact on hydrodynamics and sedimentary processes resulting from the maintenance dredging works that are intended to be carried out through the operational lifespan of the development. The ES should include details on the proposed deposit locations for the spoil dredged as part of these maintenance works.

**Hydrology, hydrogeology and soils** (see Scoping Report Section 5.2)

- 3.30 The baseline for the ES should explain in detail the extent of the study area and justify the reasons for this.
- 3.31 The SoS notes that the initial investigation of the baseline will be delivered by a desk based assessment followed by a Phase 2 site Investigation Report, if deemed appropriate. The SoS is pleased to note that the approach to the assessment and any need for a Phase 2 Site Investigation Report will be agreed with Redcar and Cleveland Borough Council (RCBC) as the host local authority in which the proposed port facility would be based and the Environment Agency (EA).
- 3.32 The SoS is pleased to note that a piling risk assessment will be carried out to assess any potential impacts resulting from the release of contaminants from land.
- 3.33 The ES should include an assessment of the risk of contaminated material leaching into the ground during construction and operation and the potential impact on soil and land resources due to this.

- 3.34 The SoS notes that a Flood Risk Assessment (FRA) will be carried out in support of the development, the methodology and conclusions of which will be agreed with the EA. The applicant should note the EA's consultation response which advises that the FRA includes a flood risk sequential test (see Appendix 2 of this Opinion). The SoS welcomes the statement that the FRA will be included within the ES as an annex (Section 5.13.3, Scoping Report) and recommends that the main text of the ES draws on the conclusions within the FRA.
- 3.35 The potential impacts listed in the Scoping Report include contamination risks associated with developing on made ground and within close proximity to landfill sites. Potential impacts associated with contamination risks should be addresses throughout the ES and the applicant's attention is drawn to section 4 of this Opinion in relation to the potential need for a Health Impact Assessment.

**Marine sediment and water quality** (see Scoping Report Section 5.3)

- 3.36 The SoS is pleased to note that a site specific sediment quality survey will be carried out at the proposed berth pocket and the methodology will be agreed in consultation with Cefas and the MMO.
- 3.37 In addition, the SoS notes that the EA will be consulted to gather data on water quality on and around the site. The applicant is not proposing to carry out any water quality sampling. The SoS advises that the approach is agreed with the EA and the MMO and relevant water quality sampling carried out at necessary.
- 3.38 The SoS notes that approximately 60,000 litres of water would be discharged from the MHF (Options 1 and 2). Should either of these options be pursued, the ES should provide information on the chemical and thermal nature of these discharges and how/where they will be discharged and assess the impacts of these proposals.
- 3.39 The ES should also include an assessment the potential impact of the release of the polyhalite substance entering the water environment, and describe the measures that would be taken to prevent any identified risk.
- 3.40 Mitigation measures should be addressed and the SoS advises that reference should be made to other regimes (such as pollution prevention from the EA). On-going monitoring should also be addressed and agreed with the relevant authorities to ensure that any mitigation measures are effective and can be secured through the draft DCO.

- 3.41 The applicant's attention is drawn to the comments made by Public Health England regarding the assessment of emissions to water (see Appendix 2 of this Opinion).
- 3.42 The Scoping Report states that maintenance dredging is likely to form part of PD Ports' wider maintenance dredge campaigns, as the statutory harbour authority (Scoping Report Section 5.3.2). The cumulative impact of both the dredging associated with the proposed port facility and the wider dredging works undertaken by PD Ports should be considered as part of the EIA.

**Marine ecology** (see Scoping Report Section 5.4)

- 3.43 The SoS is pleased to note that a targeted benthic survey will be conducted, comprising of grab sampling and beam trawl surveys and that the scope of the survey will be agreed in consultation with Natural England (NE), Cefas, the MMO and the EA.
- 3.44 The SoS notes the presence of ecologically designated sites within the vicinity of the site as identified in Figure 5.4 of the ES. In addition, Seal Sands located on the northern side of the estuary is an important seal habitat and potential impacts on this site should be assessed.
- 3.45 The EIA should consider effects on marine ecology relating to, inter alia, increased disturbance and displacement, habitat loss, and construction and operational activities including piling, dredging, and lighting.
- 3.46 The SoS welcomes that the assessment will draw on the results of the sedimentary and hydrodynamic assessment.
- 3.47 Please note the EA's comments requesting the inclusion of detailed information in the ES regarding the dredging and piling works in order to contribute to the assessment on marine ecology (see Appendix 2 of this Opinion).

**Marine and coastal ornithology** (see Scoping Report Section 5.5)

- 3.48 It is noted from Section 5.5.3 of the Scoping Report that the study area is intended to be informed by analysing existing data sources including WeBS data. The SoS notes that this approach will be agreed with NE. The applicant should ensure that the data used to inform the assessment is up to date and specific to the proposed development. Where data is not recent, justification should be provided in the ES to demonstrate it remains relevant.
- 3.49 The SoS agrees with the applicant's intention to use hydrodynamic and sedimentary assessment data that is due to be gathered by the applicant to inform the assessment of impacts upon waders and wildfowl, and the potential effects on feeding resources of

birds (see the SoS' comments on 'Hydrodynamic and sedimentary processes' earlier in this Opinion).

- 3.50 It is noted that the assessment will include the effects on noise and vibration of waterbird populations, this is important given the proposed piling operations. The assessment should also consider whether there would be any potential disturbance and displacement of bird species, for example, due to increased sea traffic and dredging works during construction and operation.
- 3.51 The applicant's attention is drawn to the comments made by NE within their consultation response (see Appendix 2 in this Opinion).

### **Terrestrial ecology** (see Scoping Report Section 5.6)

- 3.52 The SoS recommends that the proposals should address fully the needs of protecting and enhancing biodiversity. The assessment should cover habitats, species and processes with the sites and surroundings.
- 3.53 The SoS notes that a Phase 1 Habitat Survey will be conducted on the site. As the extent of the land take is not yet defined the Scoping Report does not state what the study area of the assessment will be. The SoS advises that the study area assessed should be sufficient to consider both temporary and permanent land take and receptors within the vicinity of the site where impact pathways may be present. It is noted that a Phase 2 Survey is not intended to be carried out. The applicant is advised to agree this approach with NE and the applicant's attention is drawn to NE's comments in Appendix 2 of this Opinion.
- 3.54 The SoS notes that a number of species surveys are proposed (Scoping Report, Section 5.6.3). The ES should clearly state the methodologies used within the assessments and the applicant is advised to agree these in consultation with NE. Where existing data is to be used to inform the assessment, the applicant is advised to ensure that this data is relevant to the development and representative of the existing baseline. The suitability of such data should be explained within the ES.
- 3.55 The assessment should take account of impacts on noise, vibration and air quality (including dust), and cross reference should be made to these specialist reports.
- 3.56 The potential impacts on international and nationally designated sites should be assessed as well as county level habitats. The SoS notes the possible need for a Habitats Regulation Assessment (HRA) in view of the location of the proposed development in relation to the Tees Estuary and the potential impacts on the estuarine structure and function. The applicant is encouraged to engage with the Planning Inspectorate (PINS) in the preparation of



their HRA report, and the SoS would refer the applicant to its comments in Section 4 of this Opinion.

**Natural fisheries resource** (see Scoping Report Section 5.7)

- 3.57 It is noted that the assessment of the impacts of the development on natural fisheries resources is intended to be based on existing data sources. As stated previously, the applicant should ensure that any data used is relevant, up to date and relevant to the potential impacts of the development. The SoS welcomes that primary data collected in relation to other topic assessments, for example, the hydrodynamic and sediment regime and marine and coastal ornithology assessments, will be fed into the assessment.
- 3.58 The applicant is advised to consult with fishing organisations within the local area to determine the origin of any fishing vessels and how and where they operate, in order to inform the assessment.
- 3.59 The applicant's attention is drawn to the comments made by the MMO in Appendix 2 of this Opinion in relation to the assessment of potential impacts on the natural fisheries resource.

**Transport** (see Scoping Report Section 5.8)

- 3.60 The SoS notes that the study area for the development has yet to be confirmed, however this is being agreed in consultation with the highways department of RCBC. The applicant may also wish to consider consulting with the Highways Agency to determine any requirement for an assessment of the impacts of the development on roads under their ownership.
- 3.61 A Transport Assessment (TA) is anticipated to be submitted as part of the application. The TA should clearly set out how traffic movements have been predicted and what models have been used to inform the assessment. The applicant should also consider whether an abnormal load assessment is required.
- 3.62 To inform the assessment, information on the number and size of the vessels likely to be utilising the Port should be provided in the ES. The assessment should also reflect the proposed operating hours of the port facility, which the Scoping Report has stated are intended to be 24 hours a day, 7 days a week.
- 3.63 The assessment should also consider how waste materials during both construction and operation will be removed from the site.
- 3.64 The Scoping Report states that the potential for construction materials to be delivered by barge will be investigated in the detailed design phase (Scoping Report Section 5.8.2). Should this be pursued as an option, the SoS would expect the ES to include a detailed assessment of the impacts associated with barge

transport. This should include increased traffic movement in the port location, methods of transporting material from the barge to the land and the potential effects arising from such transportation, such as increased dust, risk of spillages etc.

**Air Quality** (see Scoping Report Section 5.9)

- 3.65 The SoS notes that a construction and operational air quality assessment will be carried out to assess the impacts associated with vehicle emissions. This assessment should take account of anticipated traffic movements set out in the TA.
- 3.66 It is noted that no primary data collection is proposed and existing data sources will be utilised to provide a description of the baseline. The SoS advises that this approach is agreed with the EA and the Environmental Health Officer of the local planning authority.
- 3.67 Emissions from construction and operational plant and machinery associated with the development should also be included in the assessment.
- 3.68 A fugitive dust assessment should be carried out for all proposed options as the ship loading and storage at the quay is likely to include dust generating activities aside to those likely to be produced by the MHF (Options 1 and 2).
- 3.69 As the proposed development site lies close to national and European-designated wildlife sites, there is the need to consider effects on these designated sites due to an increase in airborne pollution including fugitive dust especially during site preparation, construction and operation.
- 3.70 Air quality and dust levels should be considered not only on site but also off site, including along access roads, local footpaths and other PROW.
- 3.71 Consideration should be given to appropriate mitigation measures and to monitoring dust complaints. The applicant may wish to consider the use of a Construction Environmental Management Plan (CEMP) to deliver this mitigation. Only deliverable mitigation measures should be taken into account in the assessment. It may be useful to provide a copy of the draft CEMP with the DCO application.
- 3.72 The applicant's attention is drawn to the comments made by EA in relation to monitoring landfill gas outputs (see Appendix 2 of this Opinion).
- 3.73 The applicant's attention is drawn to the comments made by Public Health England regarding the assessment of emissions to air (see Appendix 2 of this Opinion).

**Noise and Vibration** (see Scoping Report Section 5.10)

- 3.74 The SoS is pleased to note that the methodology will be agreed in consultation with the Environmental Health Department (EHD) of the relevant local planning authority. The SoS recommends that the applicant also agrees with the EHD the choice of sensitive noise receptors to be included within the noise survey. When considering the scope of the noise assessment, consideration should also be given to discussing with NE the appropriate study area and methodology to assess the potential noise and vibration impacts on both marine and terrestrial ecological species, as identified in section 5.10.2 of the Scoping Report.
- 3.75 Information should be provided on the types of vehicles, and plant and machinery to be used during the construction phase, with appropriate cross reference to the TA. Once operational, noise sources generated should be identified and assessed. Where appropriate, effective measures should be provided to mitigate against noise nuisance.
- 3.76 The applicant should include a detailed assessment on the noise and vibration impacts associated with the piling and dredging activities on both human and ecological receptors.
- 3.77 Noise impacts on people should be specifically addressed, and particularly any potential noise disturbance at night and other unsocial hours such as weekends and public holidays.
- 3.78 Consideration should be given to monitoring noise complaints during construction and when the development is operational.

**Archaeology and heritage** (see Scoping Report Section 5.11)

- 3.79 The SoS notes that the archaeological assessment is intended to be based on existing data sources with intrusive investigation carried out should the desk based assessment and walk over survey suggest that further investigation is required. The SoS notes that English Heritage (EH) are in general agreement with the applicant's proposed approach (see Appendix 2 of this Opinion).
- 3.80 However, the SoS suggest that the need for vibrocore and borehole logs are discussed in consultation with EH and the archaeologist of the local host authority, to assess the potential for peat and organic raw materials.
- 3.81 The Scoping Report acknowledges that the berth pocket dredging would take place in a location that is not subject to regular dredging and therefore there is the potential for unknown archaeology. The applicant's attention is drawn to English Heritage's suggestion for the adoption of an archaeological reporting protocol to mitigate potential archaeological effects arising from the dredging activity (see Appendix 2 of this Opinion).

**Commercial navigation** (see Scoping Report Section 5.12)

3.82 The SoS notes that a Marine Navigation Risk Assessment will be undertaken to inform the EIA. The SoS suggests that the methodology and proposed mitigation are agreed in consultation with the PD Ports as the harbour authority, MMO and Trinity House.

**Coastal protection and flood defence** (see Scoping Report Section 5.13)

3.83 The SoS notes the presence of existing flood defences within the Tees Estuary and is pleased to note the applicant's intention to provide an assessment of the potential impacts on flood defences, in particular the effects resulting from changes to the hydrodynamic and sedimentary regime. This assessment should also consider the potential for breaching/overtopping of the flood defence under present and projected sea level scenarios.

3.84 It is noted that the FRA will inform this topic chapter and the applicant's attention is drawn to the SoS's comments on the proposed FRA within the 'Hydrology, hydrogeology and soils' section of this Opinion.

3.85 The SoS recommends that the sections considering the water environment should be cross referenced within this chapter.

**Infrastructure and Land Drainage** (see Scoping Report Section 5.14)

3.86 The ES should provide a detailed description of the existing baseline in relation to infrastructure on and around the site. It is noted that this assessment will be primarily desk based.

3.87 The applicant is advised to identify all infrastructure users and operators that may be affected by the proposed development and investigate the potential effects of the development on their infrastructure. The ES should consider the impacts of connecting into the existing utility infrastructure and the capacity to do so.

3.88 The SoS advises that the consideration of potential impacts on land drainage is provided within the proposed 'hydrology, hydrogeology and soils' chapter of the ES as land drainage is considered to be an integral part of this assessment.

3.89 The applicant's attention is drawn to the comments made by the EA in relation to the adopting sustainable urban drainage principles (see Appendix 2 in this Opinion).

**Socio-economics** (see Scoping Report Section 5.15)

- 3.90 The SoS notes that the socio-economic assessment would be based on existing desk based sources. The applicant is advised to consult with the local planning authority on this assessment as they may be able to provide relevant data. The SoS recommends that the assessment criteria should be locationally specific and consider the potential significance of the impacts of the proposal within the local and regional context.
- 3.91 The SoS recommends that the types of jobs generated should be considered in the context of the available workforce in the area, this applies equally to the construction and operational stages. The Scoping Report acknowledges that the skills needed to operate the facility may not be available within the local area and therefore expertise may be sought elsewhere. The ES should quantify the likely influx of people to the area and therefore consider the impact of bringing workforce into the area, including impacts upon housing, healthcare and potential educational needs.

**Landscape and visual character** (see Scoping Report Section 5.16)

- 3.92 The Scoping Report states that the landscape and visual impact assessment will be carried out in accordance with the Guidelines on Landscape and Visual Impact Assessment (The Landscape Institute and the Institute for Environmental Management and Assessment, 2013) in consultation with NE and the local authority. The SoS also recommends that the applicant discusses the proposed landscape and visual impact assessment with the local authorities on the opposite side of the Tees Estuary, in addition to the local authority where the proposed port facility would be located (Redcar and Cleveland Borough Council), as these local authorities may also be visually affected by the proposed development.
- 3.93 The SoS advises the use of a Zone of Theoretical Visibility (ZTV) to provide information on the potential visibility of the proposed development site. The SoS advises that the ES should describe the methodology and model used, provide information on the area covered and the timing of any survey work.
- 3.94 The Scoping Report does not provide a list of viewpoints that will be used within the assessment. The SoS advises that the viewpoints are agreed in consultation with the local authorities and should include the key road and rail viewpoints as mentioned in the Scoping Report, and publically available viewpoints within the local area from which the site may be visible. Views from across the Tees estuary should be included as well as night time views particularly as the port is anticipated to be in operation 24 hours a day.

- 3.95 Whilst set within an industrial landscape with other large structures, the SoS requests that careful consideration should still be given to the form, siting, and use of materials and colours in terms of minimising the potential adverse impacts of these structures.
- 3.96 It is noted that the development may result in the loss of woodland features and scrubland habitat. The applicant is advised to consider how the landscape proposals on the site can be developed to minimise visual impact and consider the effect on the landscape character.

**Recreation and access** (see Scoping Report Section 5.17)

- 3.97 It is noted that if Option 3 is chosen by the applicant (the location of the MHF at Wilton), the conveyor route connecting the MHF from the Wilton site to the port facility would cross over the route of some of the PRoWs identified within the Scoping Report. The ES should clearly explain how access across these PRoWs would be sought, including the need for any diversion or stopping up of these PRoW and any mitigation measures proposed to minimise disruption to the users of these PRoW.

**Cumulative Impact Assessment (CIA)** (see Scoping Report Section 5.18)

- 3.98 Section 5.18 in the Scoping Report lists the projects that are currently being considered by the applicant as part of the CIA. However, the SoS notes that some of these projects may not be included within the CIA once further assessment is carried out to determine whether potential interactions exist. The applicant is advised to agree the final list of projects with the local planning authorities, including both the local authority where the port facility will be located and the authorities on the opposite side of the Tees Estuary. The applicant should also consult other relevant bodies which may have knowledge about development in the vicinity of the development site, for example PD Ports, as the statutory harbour authority.
- 3.99 The SoS is pleased to note that the CIA would cover all of the environmental topics proposed for inclusion in the EIA.

**Water Framework Directive (WFD)** (see Scoping Report Sections 4.4 and 5.19)

- 3.100 The SoS notes that the applicant intends to provide a WFD compliance assessment. The applicant is advised to agree the scope of the assessment with the EA and attention is drawn to the EA's comments in Appendix 2 of this Opinion in this regard.

**Habitat Regulations Assessment (HRA)** (see Scoping Report Sections 4.3 and 5.20)

- 3.101 A summary of the applicant's approach to HRA is presented in Sections 4.3 and 5.20 of the Scoping Report. The SoS would recommend that the applicant make use of pre-application discussions with PINS regarding its approach to the HRA and the applicant should ensure that the most up to date version of PINS' Advice Note 10: HRA, as available on the National Infrastructure website, is used and followed.
- 3.102 The SoS recommends reconsideration of the applicant's proposed approach to including the information required under the Habitats Regulations<sup>2</sup>, within the ES. The applicant's attention is drawn to Section 4 of this Opinion with regard to the HRA process and the SoS's comments on the requirements of Regulation 5(2)(g) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended).

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<sup>2</sup> The Conservation of Habitats and Species Regulations 2010 (as amended) ('the Habitats Regulations')

## 4.0 OTHER INFORMATION

- 4.1 This section does not form part of the SoS's Opinion as to the information to be provided in the ES. However, it does respond to other issues that the SoS has identified which may help to inform the preparation of the application for the Development Consent Order (DCO).

### Habitats Regulations Assessment (HRA)

- 4.2 The SoS notes that the applicant has identified within the Scoping Report the proximity of European sites to the proposed development, namely the Teesmouth and Cleveland SPA and Ramsar sites (Sections 4.3 and 5.20 in the Scoping Report). It is the applicant's responsibility to provide sufficient information to the Competent Authority (CA) to enable them to carry out a HRA if required. The applicant should note that the CA for the proposed development is the relevant SoS.
- 4.3 The applicant's attention is drawn to The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) ('the APFP Regulations') and the need to include information identifying European sites to which the Habitats Regulations applies or any Ramsar site or potential SPA which may be affected by a proposal. The submitted information should be sufficient for the CA to make an appropriate assessment (AA) of the implications for the site if required by Regulation 61(1) of the Habitats Regulations.
- 4.4 The SoS notes the applicant's intention to provide the information required under Regulation 5(2)(g) of the APFP Regulations as a section within the ES as described in Sections 4.3 and 5.20 in the Scoping Report. Whilst there is no statutory requirement for the information to be provided in a prescribed form, the SoS advises the applicant to consider carefully the potential implications that arise from the regulatory requirements under the EIA Regulations for information in an ES, especially relating to the publication and consultation requirements where new information is provided; and also the potential for the SoS to suspend consideration of an application if it is found that an ES is inadequate. In addition, although the contents of an ES and a report for the purposes of the Habitats Regulations may be linked in terms of the information included, there is no requirement under the EIA Regulations for an ES to include a report for the purposes of the Habitats Regulations – indeed the two assessments processes are different and serve different purposes. Therefore, the applicant should take care when referring to specific terminology under both the EIA and Habitats Regulations, for example cumulative and in combination, to ensure that such specific terminology is only referred to when appropriate.



- 4.5 The SoS advises that it would be preferable for the applicant to produce a standalone report for the purposes of the Habitat Regulations, containing the information identified with the latest version of PINS's Advice Note 10: HRA, including the appended screening and if appropriate, integrity matrices, which cross-refer to the ES as appropriate. This approach should enable the applicant to provide the information required under Regulation 5(2)(g) of the APFP Regulations.
- 4.6 The report to be submitted under Regulation 5(2)(g) of the APFP Regulations with the application must deal with two issues: the first is to enable a formal assessment by the CA of whether there is a likely significant effect; and the second, should it be required, is to enable the carrying out of an AA by the CA.

### **Evidence Plans**

- 4.7 An evidence plan is a formal mechanism to agree upfront what information the applicant needs to supply to the Planning Inspectorate as part of a DCO application. An evidence plan will help to ensure compliance with the Habitats Regulations. It will be particularly relevant to NSIPs where impacts may be complex, large amounts of evidence may be needed, or there are a number of uncertainties. It will also help applicants meet the requirement to provide sufficient information (as explained in the Planning Inspectorate's Advice Note 10 on HRA) in their application, so the Examining Authority can recommend to the SoS whether or not to accept the application for examination and whether an AA is required.
- 4.8 Any applicant of a proposed NSIP in England can request an evidence plan. A request for an evidence plan should be made at the start of pre-application (eg after notifying the Planning Inspectorate on an informal basis) by contacting the Major Infrastructure and Environment Unit (MIEU) in Defra (MIEU@defra.gsi.gov.uk).

### **Sites of Special Scientific Interest (SSSIs)**

- 4.9 The Secretary of State notes that the applicant has identified within the Scoping Report a number of SSSIs in the vicinity of the study area applied, namely the Tees and Hartlepool Foreshore and Wetlands, Seal Sands, Seaton Dunes and Common, South Gare and Coatham sands, Redcar Rocks and Cowpen Marsh SSSI (paragraph 2.4 in the Scoping Report). Where there may be potential impacts on the SSSIs, the SoS has duties under sections 28(G) and 28(I) of the Wildlife and Countryside Act 1981 (as amended) (the W&C Act). These are set out below for information.
- 4.10 Under s28(G), the SoS has a general duty '*... to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the*

*flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest*'.

- 4.11 Under s28(I), the SoS must notify the relevant nature conservation body (NCB), Natural England (NE) in this case, before authorising the carrying out of operations likely to damage the special interest features of a SSSI. Under these circumstances 28 days must elapse before deciding whether to grant consent, and the SoS must take account of any advice received from the NCB, including advice on attaching conditions to the consent. The NCB will be notified during the examination period.
- 4.12 If applicants consider it likely that notification may be necessary under s28(I), they are advised to resolve any issues with the NCB before the DCO application is submitted to the SoS. If, following assessment by applicants, it is considered that operations affecting the SSSI will not lead to damage of the special interest features, applicants should make this clear in the ES. The application documents submitted in accordance with Regulation 5(2)(I) could also provide this information. Applicants should seek to agree with the NCB the DCO requirements which will provide protection for the SSSI before the DCO application is submitted.

## European Protected Species (EPS)

- 4.13 Applicants should be aware that the decision maker under the Planning Act 2008 (PA 2008) has, as the CA, a duty to engage with the Habitats Directive. Where a potential risk to an EPS is identified, and before making a decision to grant development consent, the CA must, amongst other things, address the derogation tests<sup>3</sup> in Regulation 53 of the Habitats Regulations. Therefore the applicant may wish to provide information which will assist the decision maker to meet this duty.
- 4.14 If an applicant has concluded that an EPS licence is required the Examining Authority will need to understand whether there is any impediment to the licence being granted. The decision to apply for a licence or not will rest with the applicant as the person responsible for commissioning the proposed activity by taking into account the advice of their consultant ecologist.
- 4.15 Applicants are encouraged to consult with NE and, where required, to agree appropriate requirements to secure necessary mitigation. It would assist the examination if applicants could provide, with the application documents, confirmation from NE whether any issues have been identified which would prevent the EPS licence being granted.

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<sup>3</sup> Key case law re need to consider Article 16 of the Habitats Directive: Woolley vs East Cheshire County Council 2009 and Morge v Hampshire County Council 2010.

- 4.16 Generally, NE are unable to grant an EPS licence in respect of any development until all the necessary consents required have been secured in order to proceed. For NSIPs, NE will assess a draft licence application in order to ensure that all the relevant issues have been addressed. Within 30 working days of receipt, NE will either issue 'a letter of no impediment' stating that it is satisfied, insofar as it can make a judgement, that the proposals presented comply with the regulations or will issue a letter outlining why NE consider the proposals do not meet licensing requirements and what further information is required before a 'letter of no impediment' can be issued. The applicant is responsible for ensure draft licence applications are satisfactory for the purposes of informing formal pre-application assessment by NE.
- 4.17 Ecological conditions on the site may change over time. It will be the applicant's responsibility to ensure information is satisfactory for the purposes of informing the assessment of no detriment to the maintenance of favourable conservation status (FCS) of the population of EPS affected by the proposals<sup>4</sup>. Applicants are advised that current conservation status of populations may or may not be favourable. Demonstration of no detriment to favourable populations may require further survey and/or submission of revised short or long term mitigation or compensation proposals. In England the focus concerns the provision of up to date survey information which is then made available to NE (along with any resulting amendments to the draft licence application). This approach will help to ensure no delay in issuing the licence should the DCO application be successful. Applicants with projects in England or English waters can find further information on NE's protected species licensing procedures in relation to NSIP's by clicking on the following link:

[http://www.naturalengland.org.uk/Images/wml-g36\\_tcm6-28566.pdf](http://www.naturalengland.org.uk/Images/wml-g36_tcm6-28566.pdf)

- 4.18 In England or English Waters, assistance may be obtained from the Consents Service Unit (the 'Unit'). The Unit works with applicants to coordinate key non-planning consents associated with NSIP. The Unit's remit includes EPS licences. The service is free of charge and entirely voluntary. Further information is available from the following link:

<http://infrastructure.planningportal.gov.uk/legislation-and-advice/consents-service-unit/>

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<sup>4</sup> Key case law in respect of the application of the FCS test at a site level: Hafod Quarry Land Tribunal (Mersey Waste (Holdings) Limited v Wrexham County Borough Council) 2012, and Court of Appeal 2012.

## Health Impact Assessment (HIA)

- 4.19 The SoS considers that it is a matter for the applicant to decide whether or not to submit a stand-alone HIA. However, the applicant should have regard to the responses received from the relevant consultees regarding health, and in particular to the comments from the Health and Safety Executive and Public Health England in relation to electrical safety issues (see Appendix 2).
- 4.20 The methodology for the HIA, if prepared, should be agreed with the relevant statutory consultees and take into account mitigation measures for acute risks.

## Other regulatory regimes

- 4.21 The SoS recommends that the applicant should state clearly what regulatory areas are addressed in the ES and that the applicant should ensure that all relevant authorisations, licences, permits and consents that are necessary to enable operations to proceed are described in the ES. Also it should be clear that any likely significant effects of the proposed development which may be regulated by other statutory regimes have been properly taken into account in the ES.
- 4.22 It will not necessarily follow that the granting of consent under one regime will ensure consent under another regime. For those consents not capable of being included in an application for consent under the PA 2008, the SoS will require a level of assurance or comfort from the relevant regulatory authorities that the proposal is acceptable and likely to be approved, before they make a recommendation or decision on an application. The applicant is encouraged to make early contact with other regulators. Information from the applicant about progress in obtaining other permits, licences or consents, including any confirmation that there is no obvious reason why these will not subsequently be granted, will be helpful in supporting an application for development consent to the SoS.

## Transboundary Impacts

- 4.23 The SoS has noted that the applicant **has not** indicated whether the proposed development is likely to have significant impacts on another European Economic Area (EEA) State.
- 4.24 Regulation 24 of the EIA Regulations, which *inter alia* require the SoS to publicise a DCO application if the SoS is of the view that the proposal is likely to have significant effects on the environment of another EEA state and where relevant to consult with the EEA state affected. The SoS considers that where Regulation 24 applies, this is likely to have implications for the examination of a DCO application.

- 4.25 The SoS recommends that the ES should identify whether the proposed development has the potential for significant transboundary impacts and if so, what these are and which EEA States would be affected.

Scoping Opinion for the proposed  
York Potash Port Facility

Scoping Opinion for the proposed  
York Potash Port Facility

## **APPENDIX 1**

### **List of Consultees**

Scoping Opinion for the proposed  
York Potash Port Facility



## APPENDIX 1

### LIST OF BODIES FORMALLY CONSULTED DURING THE SCOPING EXERCISE

<b>CONSULTEE</b>	<b>ORGANISATION</b>
<b>SCHEDULE 1</b>	
The Health and Safety Executive	Health and Safety Executive
The National Health Service Commissioning Board and the relevant clinical commissioning group	NHS England
	NHS South Tees Clinical Commissioning Group
Natural England	Natural England
The Historic Buildings and Monuments Commission for England	English Heritage
The Relevant Fire and Rescue Authority	Cleveland Fire and Rescue Service
The Relevant Police and Crime Commissioner	Police & Crime Commissioner for Cleveland
The Relevant Parish Council(s) or Relevant Community Council	Billingham Town Council
The Environment Agency	The Environment Agency
The Joint Nature Conservation Committee	Joint Nature Conservation Committee
The Maritime and Coastguard Agency	The Maritime & Coastguard Agency
The Marine Management Organisation	Marine Management Organisation (MMO)
The Highways Agency	The Highways Agency - regional contact
The Relevant Highways Authority	Redcar & Cleveland Borough Council Hartlepool Borough Council Stockton-on -Tees Borough Council
The Coal Authority	The Coal Authority
Trinity House	Trinity House
Public Health England, an executive agency to the Department of Health	Public Health England
The Crown Estate Commissioners	The Crown Estate
<b>RELEVANT STATUTORY UNDERTAKERS</b>	
<b>Health Bodies (s.16 of the Acquisition of Land Act (ALA) 1981)</b>	
The relevant clinical commissioning board	NHS England
The relevant clinical commissioning group	NHS South Tees Clinical Commissioning Group
Local Area Team	Durham, Darlington And Tees Area

	Team
Ambulance Trusts	North East Ambulance Service NHS
<b>Relevant Statutory Undertakers (s.8 ALA 1981)</b>	
Railways	Highways Agency Historical Railways Estate
Dock	PD Teesport
Universal Service Provider	Royal Mail Group
Relevant Environment Agency	Environment Agency
Water and Sewage Undertakers	Hartlepool Water (Anglian Water)
The relevant public gas transporters	British Gas Pipelines Limited Energetics Gas Limited ES Pipelines Ltd ESP Connections Ltd ESP Networks Ltd ESP Pipelines Ltd Fulcrum Pipelines Limited GTC Pipelines Limited Independent Pipelines Limited LNG Portable Pipeline Services Limited National Grid Gas Plc Quadrant Pipelines Limited SSE Pipelines Ltd The Gas Transportation Company Limited Utility Grid Installations Limited Northern Gas Networks Limited
The relevant electricity licence holder with CPO Powers (electricity distributors)	Energetics Electricity Limited ESP Electricity Limited Independent Power Networks Limited The Electricity Network Company Limited Northern Powergrid (Northeast) Limited
The relevant electricity licence holder with CPO Powers (electricity transmitters)	National Grid Electricity Transmission Plc
<b>SECTION 42 Consultees</b>	
Marine Management Organisation	
<b>LOCAL AUTHORITIES (SECTION 43)</b>	
Redcar & Cleveland Borough Council Hartlepool Borough Council Stockton-on -Tees Borough Council Middlesbrough Council Durham County Council Darlington Borough Council North Yorkshire County Council	

Hambleton District Council Scarborough Borough Council North York Moors National Park Authority
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<b>NON-PRESCRIBED CONSULTATION BODIES</b>
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Royal National Lifeboat Institute
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## **APPENDIX 2**

# **Respondents to Consultation and Copies of Replies**



## APPENDIX 2

### LIST OF BODIES WHO REPLIED BY THE STATUTORY DEADLINE

Cleveland Fire and Rescue Service
The Coal Authority
Energetics UK
English Heritage
The Environment Agency
Fulcrum Pipelines
The Health and Safety Executive
The Marine Management Organisation
The Ministry of Defence
Natural England
NHS England
North York Moors National Park Authority
North Yorkshire County Council
PD Teesport
Public Health England
Stockton on Tees Borough Council





**Hannah Nelson**

---

**From:** Olds, Ronnie [rolds@clevelandfire.gov.uk]  
**Sent:** 12 December 2013 12:12  
**To:** Environmental Services  
**Subject:** Ref; TR030002

Please find attached consultation report for;

**Planning Act 2008 (as amended) and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) – Regulations 8 and 9**

**Application by York Potash Limited for an Order Granting Development Consent for the proposed York Potash Harbour Facilities.**

Cleveland fire Brigade would request that the access and water supplies provision provided in the environmental statement in relation to the project should meet the requirements as set out in approved document B volume 2 for both access and water supply requirements.

However further comments may be made through the building regulation consultation process as required.

Regards

Ronnie Olds.  
Legislative Fire Safety Officer.  
Cleveland Fire & Rescue Service.  
01429 874109  
[rolds@clevelandfire.gov.uk](mailto:rolds@clevelandfire.gov.uk)

W: [www.clevelandfire.gov.uk](http://www.clevelandfire.gov.uk)

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[Click here to view tender opportunities at Cleveland Fire Brigade](#)

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**Disclaimer:** Any views or opinions presented within this e-mail are solely those of the author and do not necessarily represent those of Cleveland Fire Brigade, unless otherwise specifically stated.



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The Coal  
Authority



INVESTOR IN PEOPLE

200 Lichfield Lane  
Berry Hill  
Mansfield  
Nottinghamshire  
NG18 4RG  
DX: 716177 Legal Mansfield 5

Telephone: 01623 637 119 (Planning Enq)

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

Web: [www.coal.decc.gov.uk/services/planning](http://www.coal.decc.gov.uk/services/planning)

Ms H. Nelson – EIA and Land Rights Advisor  
Planning Inspectorate - Major Applications and Plans

[BY EMAIL ONLY: [environmentalservices@infrastructure.gsi.gov.uk](mailto:environmentalservices@infrastructure.gsi.gov.uk)]

02 January 2014

Dear Ms Nelson

**TR030002 Scoping consultation and notification of the applicant's contact details and duty to make available information to the applicant if requested**

**Application by York Potash Limited for an Order Granting Development Consent for the proposed York Potash Harbour Facilities, River Tees, Middlesbrough**

Thank you for your consultation letter dated 6 December 2013 consulting The Coal Authority on the above which has brought to my attention.

This proposal is not located on the defined coalfield and as such The Coal Authority has **no specific comments** to make.

Thank you for your attention.

Yours sincerely

**Miss Rachael A. Bust** *B.Sc.(Hons), MA, M.Sc., LL.M., AMIEnvSci., MCMI, MInstLM, MRTPI*  
**Chief Planner / Principal Manager**



**Hannah Nelson**

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**From:** Karen Dickson [karen.dickson@energetics-uk.com]  
**Sent:** 09 December 2013 14:30  
**To:** Environmental Services  
**Subject:** York Potash Harbour Facilities Our Ref TR030002

Dear [Hannah Nelson](#),

Thank you for submitting your recent plant enquiry.

Based on the information provided, I can confirm that Energetics **does not** have any plant within the area(s) specified in your request.

Please be advised that it may take around 10 working days to process enquiries. In the unlikely event that you have been waiting longer than 10 working days, or require further assistance with outstanding enquiries, please call 01698 404968.

Please ensure all plant enquiries are sent to [plantenquiries@energetics-uk.com](mailto:plantenquiries@energetics-uk.com)

Regards

**Karen Dickson**  
**Technical Clerical Team**

**Energetics Design & Build**  
**International House**  
**Stanley Boulevard**  
**Hamilton International Technology Park**  
**Glasgow**  
**G72 0BN**

**t:** 01698 404 968  
**f:** 01698 404 940

**e:** [karen.dickson@energetics-uk.com](mailto:karen.dickson@energetics-uk.com)  
**w:** [www.energetics-uk.com](http://www.energetics-uk.com)

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\*\*\*\*\*



**Hannah Nelson**

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**From:** Young, Rob [Rob.Young@english-heritage.org.uk]

**Sent:** 18 December 2013 10:16

**To:** Environmental Services

**Subject:** Ref TR030002 Application by York Potash.... for an Order Granting Development Consent for the proposed York Potash Harbour Facilities FOR THE ATTENTION OF HANNAH NELSON

**PLANNING ACT 2008 (AS AMENDED) AND THE INFRASTRUCTURE PLANNING (EIA) REGULATIONS 2009 (AS AMENDED) – Regs. 8 and 9.**

**APPLICATION BY YORK POTASH LTD FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED YORK POTASH HARBOUR FACILITIES**

**SCOPING CONSULTATION AND NOTIFICATION OF THE APPLICANT'S CONTACT DETAILS AND DUTY TO MAKE AVAILABLE INFORMATION TO THE APPLICANT IF REQUESTED.**

Dear Hannah Nelson,

I have read the Archaeology and Heritage Section of the applicant's Environmental Scoping Report (Nov 2013) and I am in agreement with the statements that it contains about the potential impact of the proposed port developments on land-based archaeological remains. There will be no direct or indirect impacts on any designated historic environment assets for which English Heritage has a remit. I note, however, the following in the Archaeology and Heritage section of the Scoping Report:

- i) that 'The desk-based assessment undertaken to inform the NGCT EIA highlighted that within the Tees estuary the presence of peat and alluvial deposits "*may preserve evidence of early use of the Tees and as such should be subject to further investigation*" (AOC, 2006).'
- ii) that 'Royal Haskoning DHV are unaware of the dredge footprint (berth pocket and dredge channel) and construction footprint associated with the proposed scheme having been subject to archaeological assessment (in the form of analysis of borehole / vibrocore logs).'
- iii) that 'The archaeological significance of the proposed NGCT site and surrounding area up to a radius of 1km was assessed as part of the ES for that project. An additional detailed archaeological study of the proposed QEII site was undertaken in support of the ES produced for the MGT Power Ltd Teesside biomass power station, and the recent No.1 Quay ES utilised previous and existing information to assess archaeological and heritage impacts.' Given that this previous information is within the public domain, it is proposed to utilise, as far as possible, the existing information to inform an archaeological desk-based assessment specific to the proposed scheme options.
- iv) that 'A walkover / site visit will also be undertaken as part of the project specific archaeological desk-based assessment. Further recommendations, if applicable, will be made as part of the desk-based reporting. This will include consideration of any potential setting effects that the proposed scheme may have on the historic (industrialised) landscape and both designated and undesignated heritage assets (including built heritage) within the vicinity.
- v) that 'It is considered unlikely that new record searches will need to be conducted given the presence of relevant information within the public domain. However, if deemed appropriate, borehole and vibrocore logs from any planned programme of geotechnical site

18/12/2013

investigation will be analysed for evidence of the presence of peat or other organic material. This will be determined through consultation with the archaeological adviser to RCBC.'

vi) that 'No intrusive investigation work is envisaged at this stage other than if potentially significant remains are identified in the vibrocore and borehole logs, in which case further palaeo-environmental assessment and/or analysis may be deemed necessary. This requirement would be agreed in consultation with the archaeological adviser to RCBC (see below).

vii) that 'If any greenfield, previously undisturbed, ground is identified as falling within the proposed scheme footprint then archaeological geophysical survey may be an appropriate response in the first instance. This would need to be agreed in consultation with the archaeological adviser to RCBC. If potential anomalies of archaeological interest were identified from any geophysical survey conducted, this may lead to a requirement for archaeological trial trenching, although due to the character of the surrounding landscape, this is deemed unlikely at this stage.

viii) that 'There should also be a reporting protocol put in place outlined within a written scheme of investigation (WSI) specific to the scenario of any unexpected wreck material being identified during the construction works.'

ix) that 'The EIA will determine the requirement for the implementation of mitigation measures to reduce the significance of the impact to archaeology and cultural heritage. If it is determined that significant impacts have potential to arise, it may be necessary to undertake archaeological trial trenching, archaeological watching brief or full archaeological recording and excavation to reduce the significance of the impact to an acceptable level (however this will be fully investigated during the EIA).'

All of these points should be covered in any Environmental Statement that is prepared.

In addition, the three proposed options will all require capital dredging of an approach channel to the marine terminal and a berth pocket immediately adjacent to the marine terminal. As a result I would reinforce the need for an archaeological reporting protocol to be put in place to cover the potential archaeological impacts of the dredging activities. The Crown Estates protocol would be a good example of such a document - see web link [http://www.thecrownestate.co.uk/media/122838/pad\\_offshore\\_renewables.pdf](http://www.thecrownestate.co.uk/media/122838/pad_offshore_renewables.pdf) Whilst this protocol refers, strictly, to off shore wind developments it is of equal relevance for the recording of any historic assets dredged up during any type of marine-based work.

Similarly, in relation to point v noted above, I would reiterate the need, as a matter of course (rather than 'if deemed appropriate'), for all new vibrocore and borehole logs produced, as a result of the proposed works, to be examined by a qualified Geo-archaeologist to ascertain the presence/absence of peat or other organic raw materials. The link below is to the geotechnical guidelines produced by COWRIE also for the Crown Estate. This gives a clear indication as to why we would ask for specialist geo-archaeological interpretation of vibrocore and borehole logs in cases like this one:

<http://www.thecrownestate.co.uk/media/354783/2011-01%20Offshore%20Geotechnical%20Investigations%20and%20Historic%20Environment%20Analysis%20-%20Guidance%20for%20the%20Renewable%20Energy%20Sector.pdf>

I hope that these comments are helpful. Please do not hesitate to contact me again if I can be of further assistance.

Yours Sincerely



Dr. R. Young

Dr Rob Young | Inspector of Ancient Monuments, English Heritage North East  
Direct Line: 0191 269 1239

English Heritage | Bessie Surtees House  
41-44 Sandhill | Newcastle upon Tyne | NE1 3JF

**www.english-heritage.org.uk**

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Ms Hannah Nelson  
The Planning Inspectorate  
National Infrastructure Directorate  
2 The Square  
Bristol  
BS1 6PN

**Our ref:** NA/2013/110167/01-L01  
**Your ref:** TR030002  
**Date:** 19 December 2013

Dear Ms Nelson

**YORK POTASH LIMITED FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED YORK POTASH HARBOUR FACILITIES. SCOPING CONSULTATION. BRAN SANDS**

Thank you for your EIA Scoping consultation letter of 6 December 2013.

We have reviewed the scoping report submitted and have the following detailed comments in relation to the following environmental issues we consider to be of most importance for this proposal :-

- Flood risk
- Marine Ecology;
- Groundwater and contaminated land;
- Waste management;
- Water Framework Assessment Compliance Assessment; and
- Environmental Permitting / Regulatory Requirements.

**Flood Risk**

As set out in the National Planning Policy Framework, development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

5.13 of the scoping report makes reference to carrying out a Flood Risk Assessment to assess and mitigate current and future flood risk. We agree with these proposals, but would request a Flood Risk Sequential Test is undertaken steer the most vulnerable development to areas with the lowest probability of flooding.

We wish to promote the use of Sustainable Drainage systems (SuDS) and draw attention to Paragraph 103 of the National Planning Policy Framework. SuDS tackle surface water run-off problems at source using features such as soakaways, permeable pavements, grassed swales, infiltration trenches, ponds and wetlands, and, green roofs to attenuate flood peak flows, produce water quality improvements and environmental enhancements. We seek to promote the use of SuDS techniques for any permanent above-ground elements of the development, and expect the developer of the site to submit detailed investigations such that the use of SuDS has been fully explored.

## **Marine Ecology**

### **Encroachment into intertidal environment**

One of the two forms of construction currently considered for the new quay is a continuous quay of a combi-piled wall retaining fill material.

We consider that development should not encroach either physically, or via its associated infrastructure into the intertidal environment. We are committed to no net loss of intertidal and subtidal habitat. We would welcome further discussion regarding this option. When encroachment is shown in plans for any new works, considerable justification for this, together with details of mitigation and compensation would need to be included to secure support.

The issue of coastal squeeze needs to be incorporated into the design to mitigate for sea level rise and habitat creation.

### **Piling**

The development is in close proximity to national and internationally designated sites including the Teesmouth and Cleveland Coast SPA and Ramsar sites. On this basis, any proposed piling works may disturb migratory fish, marine mammals and bird populations within the area. On this basis, we would welcome further discussions with the developer, Natural England and the Marine Management Organisation regarding appropriate construction timings to safeguard all interests.

Further information on timing, methodology and type/number of piles should be included in the ES. Winter piling is preferred in safeguarding migratory fish. If however piling is required outside of winter timings we may recommend tidal restrictions will be put in place at key fish migration times, or measurable mitigation measures put into place. In addition, we consider soft start measures should be used.

Details of piling operations on land should also be considered as this can also affect migratory fish. There may be a need for piling to support the shore side of the berthing pocket due to the proximity of the dredge.

### **Dredging**

Dredging method to be discussed and agreed with Environment Agency in advance of works to protect migratory fish. Information on timings, method, destination of spoil, quality of spoil, monitoring of dissolved oxygen/turbidity to be provided.

1<sup>st</sup> December to 31<sup>st</sup> March preferred dredge window as main salmonid migration is mid-April to end of November and the dredge may cause increase in turbidity and drop in dissolved oxygen levels, providing a migration barrier or in extreme cases fish mortality.

The results should be provided of sediment quality testing from the berth pocket and dredge channel.

Benthic sampling should follow Water Framework Directive methodology and the results provided to the Environment Agency.

### **Bran Sands Lagoon**

The lagoon should be assessed for ecological value including benthic invertebrates and fish. As the lagoon is contiguous with the Tees there may be eels present – they are protected under the Eel Regulations England 2009. The affect of any works on the above and on water quality should be assessed. Data on existing water quality of any standing water in the lagoon should be assessed and provided.

### **Land Contamination**

The scoping report makes reference to carrying out a preliminary risk assessment to be possibly followed by site investigation. This is in line with the guidelines set out in CLR11. It is also proposed to undertake a WFD compliance assessment and a piling risk assessment. We agree with these proposals, which should aid in assessing whether the previous industrial uses within the proposed development area pose an unacceptable risk to groundwater underlying the site and the adjacent River Tees.

We recommend that developers should:

- 1) Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
- 2) Refer to the Environment Agency Guiding Principles for Land Contamination for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
- 3) Refer to our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information.

### **Waste management**

We would wish to see further information within the ES on waste management to include all waste material and not just the dredged material. This should detail:-

- How the developer plans to meet their duty of care under the Environmental Protection (Duty of Care) Regulations 1991 and implement the waste hierarchy, including:-
- Arrangements for the safe and legal management of construction and site waste;
- Arrangements for the safe and legal management of waste arising from the operational phase of the project;
- How excavated materials will be stored, and or used on site. Impact of waste treatment plant if used (e.g. crushers).

### **Landfill**

The proposed development falls within 250m of a closing landfill site that is known to be producing landfill gas. This is the Azko Nobel Bran Sands landfill EAWML 60092 (site supervision provided by Impetus Waste Management Ltd.)

Landfill gas consists of methane and carbon dioxide is produced as the waste in the landfill site degrades. Methane can present a risk of fire and explosion. Carbon dioxide can present a risk of asphyxiation or suffocation. The trace constituents of landfill gas can be toxic and can give rise to long and short term health risks as well as odour nuisance.

Under the conditions of the Environmental Permit for this landfill, the operator is required to monitor for sub-surface migration of landfill gas from the site. An examination of our records of this monitoring shows that there is no previous evidence of landfill gas migration from the site that could affect the proposed development. This environmental monitoring data from the site is available on our public register.

You should be aware of the potential risk to the development from landfill gas and you may wish carry out a risk assessment to ensure that the potential risk is adequately addressed. The local authority's Environmental Health and Building Control departments would wish to ensure that any threats from landfill gas have been adequately addressed in the proposed development. This may include building construction techniques that minimise the possibility of landfill gas entering any enclosed structures on the site to be incorporated into the development.

The following publications provide further advice on the risks from landfill gas and ways of managing these:

1. Waste Management Paper No 27
2. Environment Agency LFTGNO3 'Guidance on the Management of Landfill Gas'
3. Building Research Establishment guidance - BR 414 'Protective Measures for Housing on Gas-contaminated Land' 2001
4. Building Research Establishment guidance - BR 212 'Construction of new buildings on gas-contaminated land' 1991
5. CIRIA Guidance - C665 'Assessing risks posed by hazardous ground gases to buildings' 2007.

### **Regulatory Requirements**

Consideration must be given to whether an Installations Environmental Permit will be required if the materials handling facility is to be included on the site. The scoping document does not give full details of the activities to be carried out at the materials handling facility, but they could potentially fall under a number of activities e.g. EPR 1.1 Combustion Activities for the dryers and/or 4.3 Chemical Fertiliser Production.

Sec 3.2.4 Water usage and emissions, states there could be upto 60,000 litres per day discharged from the site. This discharge, if going to the foul sewer, would need agreement from Northumbrian Water.

If the discharge is intended to go to the environment, it would require a bespoke discharge permit and depending on the constituents of the effluent, may need some form of treatment before discharge to meet any limits set within the permit.

### **Water Framework Assessment Compliance Assessment**

We welcome the commitment to undertake a Water Framework Assessment Compliance Assessment and would recommend this is a separate section within the ES to aid in consideration of these issues.

**Other comments**

North Eastern Sea Fisheries Committee (NEIFCA) should be contacted to provide advice on sea fisheries interests, as should the National Federation of Fishermen's Associations.  
Fish data – the most recent rod catch data should be used, this is available from the Environment Agency.

Please do not hesitate to contact me should you wish to discuss any of these issues further.

Yours sincerely

**Cameron Sked**  
**Technical Specialist - Sustainable Places Team**

Direct dial 01912034295

Direct fax 01912034004

Direct e-mail [cameron.sked@environment-agency.gov.uk](mailto:cameron.sked@environment-agency.gov.uk)





**Hannah Nelson**

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**From:** Penlington, Graham [Graham.Penlington@fulcrum.co.uk] on behalf of &box\_FPLplantprotection\_conx, [FPLplantprotection@fulcrum.co.uk]  
**Sent:** 10 December 2013 11:15  
**To:** Environmental Services  
**Subject:** RE: TR030002 - York Potash Harbour Facilities - Scoping Request

Thank you for asking Fulcrum Pipelines Limited to examine your consultation document for the above project.

We can confirm that Fulcrum Pipelines Limited have no comments to make on this scoping report. Please note that we are constantly adding to our underground assets and would strongly advise that you consult us again prior to undertaking any excavations.

Please note that other gas transporters may have plant in this locality which could be affected.

We will always make every effort to help you where we can, but Fulcrum Pipelines Limited will not be held responsible for any incident or accident arising from the use of the information associated with this search. The details provided are given in good faith, but no liability whatsoever can be accepted in respect thereof.

If you need any help or information simply contact Graham Penlington directly on 01142 804175.

To save you time, any future requests for information about our plant, can be emailed to [FPLplantprotection@fulcrum.co.uk](mailto:FPLplantprotection@fulcrum.co.uk)

GRAHAM PENLINGTON  
Process Assistant



Tel: 0845 641 3010 ext: 4175

Direct Dial:

Email: [Graham.Penlington@fulcrum.co.uk](mailto:Graham.Penlington@fulcrum.co.uk)

Web: [www.fulcrum.co.uk](http://www.fulcrum.co.uk)

**FULCRUM NEWS****FULCRUM IS A UTILITY WEEK ACHIEVEMENT AWARDS FINALIST**

We're very pleased to announce that we've been shortlisted for a Utility Week Achievement Award for the gas utility works we delivered at the 2012 Olympic Games. [Learn more.](#)

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**From:** Environmental Services [mailto:EnvironmentalServices@infrastructure.gsi.gov.uk]  
**Sent:** 06 December 2013 09:38  
**To:** NSIP.applications@hse.gsi.gov.uk  
**Subject:** TR030002 - York Potash Harbour Facilities - Scoping Request

<<131206\_TR030002\_Letter to stat cons\_Scoping AND Reg 9 Notification\_English.pdf>>

10/12/2013



HID Policy - Land Use Planning  
NSIP Consultations  
Building 5.S.2, Redgrave Court  
Merton Road, Bootle  
Merseyside, L20 7HS

Your ref: 131206\_TR030002

Our ref: 4.2.1.3893

HSE email: [NSIP.applications@hse.gsi.gov.uk](mailto:NSIP.applications@hse.gsi.gov.uk)

FAO Hannah Nelson  
The Planning Inspectorate  
3/18 Eagle Wing, Temple Quay House  
2 The Square, Bristol  
BS1 6PN

Dear Ms Nelson,

19<sup>th</sup> December 2013

**PROPOSED YORK POTASH HARBOUR FACILITIES (the project)  
PROPOSAL BY YORK POTASH LTD (the applicant)  
INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2009 (as amended) – Regulations 8 and 9**

Thank you for your letter of 6th December 2013 regarding the information to be provided in an environmental statement relating to the above project. HSE does not comment on EIA Scoping Reports but the following information is likely to be useful to the applicant.

Major Hazard Installations

The application has been determined by referring to the following plans - Scoping Report 9Y0989/R/303659/Newc November 2013 together with associated appendices and plans.

The site is approximately located at grid reference NZ552248 (dependant on which of the three options is adopted).

Using the site location plans (reference Figure 1.1, 1.2, 1.3 of the Scoping Report), it is clear that the proposed project sites (Location and Layout - Options 1-3) currently fall within several of HSE's Consultation Distances for Major Hazard Sites. These include, but are not limited to, the consultation distances associated with the following major hazard sites:

Vopak Ltd, Fine Organics Ltd, Seal Sands Storage Ltd North Terminal, Dow Chemical Company Ltd and Norse Pipeline Ltd c/o Conoco Phillips Petroleum Company UK Ltd.

The project does not currently fall within any of HSE's Consultation Distances for Major Accident Hazard Pipelines (MAHP).

Section 3.2.5 of the report indicates that there will approximately 340 staff vehicles per day visiting the site when operational; it is therefore possible that there will be 100 or more occupants in any single building. However, Section 3.2.2 lists a number of buildings and facilities where workers are likely to be based, so it may be that they will be distributed more evenly across the buildings rather than concentrated in one of them. The maximum height of the buildings will be 15 metres, so it is possible that one of them will contain three or more occupied storeys.

In Section 3.2.5 there is also a reference to approximately 140 visitors vehicles attending the site each day. There is no information as to why people are visiting the site in such numbers each day, and they are listed



separately from deliveries to the site, but if it is proposed to include a Visitors Centre (Indoor use by the public), which is not mentioned in the report, then HSE may advise against this in the inner zone, depending on the total floorspace.

PADHI+ categorises proposed developments into four sensitivity levels. These are used to define the vulnerability of a population to major accident hazards. The scale ascends from Level 1 to Level 4: the more vulnerable the population, the higher the sensitivity level. The proposed facility is categorised as PADHI+ development type DT1.1 - Workplaces and the sensitivity level of such developments is determined by the number of occupants and the number of occupied storeys in any building. The scoping report does not provide this information, but Section 3.2.5 refers to there being 340 staff vehicles travelling to the site each day when it is operational, and section 3.2.2 indicates that the maximum height of the buildings will be 15 metres.

If the proposed development does not have a building containing 100 or more occupants, or three or more occupied storeys in height, it would be categorised as a PADHI+ sensitivity Level 1 development and HSE would not advise against the granting of planning permission for the proposed development. However, if any building will contain 100 or more occupants or three or more occupied storeys, it will be sensitivity level 2 which HSE would advise against in the inner zone.

The report does not indicate why so many people will be visiting the site each day. If it is proposed to have a Visitor Centre on site, then this aspect of the proposal would be categorised as a different PADHI+ development type DT2.4 - Indoor use by the public. This would be categorised as a PADHI+ sensitivity level 1 if the total floorspace is less than 250m<sup>2</sup>. If the floorspace is between 250m<sup>2</sup> and 5,000m<sup>2</sup>, it will be sensitivity level 2, which HSE would advise against if it is sited within the inner zone.

Please note that the above advice is based on HSE's existing policy for providing land-use planning advice and the information provided thus far. HSE's advice in response to a subsequent planning application may differ should HSE's policy or the scope of the development change by the time the Development Consent Order application is submitted.

#### Hazardous Substances Consent

York Potash Harbour Facilities Scoping Report does not specifically make reference to the storage of hazardous substances. The developer is advised to consider whether storage of hazardous substances is required and, if so, whether Hazardous Substances Consent (HSC) would be required.

The presence on, over or above land of certain hazardous substances, at or above set threshold quantities (Controlled Quantities), may require Hazardous Substances Consent under the Planning (Hazardous Substances) Act 1990 as amended. The substances, alone or when aggregated with others, for which HSC is required, and the associated Controlled Quantities, are set out in The Planning (Hazardous Substances) Regulations 1992 as amended particularly by The Planning (Hazardous Substances) (Amendment) (England) Regulations 2009 and 2010, as well as Planning (Control of Major Accident Hazards) Regulations 1999.

Hazardous Substances Consent would be required if the site is intending to store or use any of the Named Hazardous Substances or Categories of Substances and Preparations at or above the controlled quantities set out in schedule 1 of these Regulations. Further information on HSC should be sought from the relevant Hazardous Substances authority.

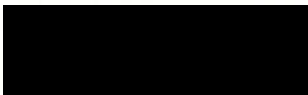
#### Explosives sites

The proposed York Potash Harbour Facilities development does not impinge on the explosives licensed site in the area.

Please send any further electronic communication on this project directly to the HSE's designated e-mail account for NSIP applications. Alternatively any hard copy correspondence should be sent to:

Miss Laura Evans  
NSIP Consultations  
5.S.2 Redgrave Court  
Merton Road  
Bootle,  
Merseyside  
L20 7HS

Yours sincerely,



Laura Evans  
HID Policy - Land Use Planning







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

Your reference: TR030002  
Our reference: DCO/2014/  
0002/140103

3 January 2014

Dear Tom

**Infrastructure Planning (Environmental Impact Assessment) Regulations 2009  
York Potash Harbour Facilities Order  
Scoping consultation**

1. Thank you for consulting the Marine Management Organisation (“MMO”) about the scope of the environmental impact assessment (“EIA”) for the York Potash Port and Materials Handling Facilities (the “Project”) proposed by York Potash Limited (the “Applicant”).
2. The MMO has reviewed the document entitled *York Potash Project Port and Materials Handling Facilities – Environmental Scoping Report* (November 2013) (the “Scoping Report”) and the MMO’s advice is set out in the letter below. This advice follows the headings used in the Scoping Report and any reference to a section or figure is a reference to that section or figure within the Scoping Report.

**National, regional and local planning policy**

3. The Scoping Report correctly identifies the National Policy Statement for Ports and other policy relevant to the Project. However, there is no mention of the Marine Policy Statement (“MPS”). In the absence of a marine plan for the north east inshore area, nationally significant infrastructure projects must have regard to the MPS and this must be considered in the EIA.

**Description of the proposed scheme**

4. The Scoping Report does not cover the possibility of polyhalite bulk fertiliser coming into contact with the marine environment and the potential impacts arising from this. This may be because the design of the storage facilities, conveyor system and ship loaders make this an unlikely event. If so, the description in the ES must identify the design features which secure this. If not, the potential impacts must be assessed and contingency plans provided as with other pollution risks.



5. The proposed method of dredging is yet to be decided. For the EIA, if a method is still unclear or more than one is proposed, the realistic worst-case scenario or scenarios for the marine receptors must be assessed.
6. It is not clear whether consent for the periodic maintenance dredging within the berthing pocket and approach channel will be sought within the development consent order and any associated deemed marine licence. It should be noted that frequent sample analysis for maintenance dredging may be required depending on the results of the initial sediment analysis and the duration of the consent.
7. The likely and maximum number and size of additional vessels entering the port during the construction and operational phases should be made clear in the ES and in future pre-application consultations. The Scoping Report is unclear on this point describing 35 to 55 ship loads per annum in section 3.6.4 and 40 to 95 ship loads in section 5.12.2.
8. Similarly, there is no information on the size of vessels currently using the port and this should be provided to support the impact assessment. The predictions about shipwash, particularly in section 5.5.2, and the navigational assessments may both be affected by vessels of a significantly different size to the present situation being used.

#### **Disposal of dredged material**

9. The Scoping Report is not clear as to whether the approach channel is already maintained by dredging operations. If it is, the ES must contain details of the maintenance dredging operations. The developer should also consult stakeholders who may be affected by dredging operations.
10. Two offshore disposal sites have been identified that could potentially accept the dredged material: Tees Bay A (TY160) and Tees Bay C (TY150). TY160 has previously received quantities that would be similar to the Project. TY150 did receive over 1 million tonnes in 1999 but since then has received only 74,903 tonnes in total. The EIA must assess the fate of any material disposed of at sea, in particular, whether and how this would be dispersed.
11. The EIA must assess the cumulative impacts of the proposed disposal with other disposal operations at these sites.
12. The MMO welcomes the commitment to seek alternative uses of the dredged material. If this is done prior to the ES being finalised, the ES should detail the likely quantity of material going to a disposal site and the likely quantity being used. If the alternative use cannot be guaranteed, the ES should assess the full amount being disposed of to sea as a worst-case scenario.

#### **Approach to EIA and the environmental statement**

13. The MMO is content with the ES format described in section 4.2 although the Applicant should also assess and present the residual effects of potential impacts following the application of mitigation.



14. Although it may be that the flowchart set out in figure 4.1 is intended to be indicative only, the MMO notes that it proposes consultation with statutory organisations prior to the primary data collection, specialist studies and impact assessment. It is not clear when the consultation on the preliminary environmental information is intended to take place but it may be better done following at least some of the primary data collection, specialist studies and impact assessment.

### **Hydrodynamic and sedimentary processes**

15. The MMO concurs with the description of likely impacts set out in section 5.1.
16. TELEMAC-3D and SEDPLUME are suitable for the modelling proposed but the ES must include the calibration and validation methods and also the modelling reports.
17. The Scoping Report states that maintenance dredging may be required and that this will be assessed during the EIA. The EIA must also assess the potential to alter the sediment regime and cause additional sedimentation which could increase dredging operations at other locations in the vicinity.
18. The MMO welcomes the commitment to assess sediment dispersion (or retention) from the offshore disposal sites and to assess and quantify the potential for release of sediment into the Tees estuary, including through the dewatering of Bran Sands Lagoon.
19. Some of the reports referenced in the Scoping Report (for example, HR Wallingford 1989a in section 5.1) could be considered out of date. If they are to be relied upon, the ES must justify why the reports remain valid and should include copies of the reports as appendices.

### **Marine sediment and water quality**

20. The MMO considers that the potential impacts on marine sediment and water quality must be assessed with relation to sensitive marine receptors such as shellfisheries, spawning and nursery areas, benthic ecology and migratory routes.
21. The MMO concurs with the list of analyses proposed in section 5.3.3.

### **Marine ecology**

22. The MMO concurs with the description of likely impacts set out in section 5.4.
23. The Applicant proposes to undertake a benthic survey to characterise the marine communities within and adjacent to the Project site. The MMO considers this is necessary to properly undertake the impact assessment and so welcomes this commitment.
24. The effects on marine ecological receptors from changes to marine sediment and water quality must also be assessed.

### **Natural fisheries resource**

25. Section 5.7 summarises the fish species with spawning and/or nursery grounds within the vicinity of the Project site. Cod, spurdog, anglerfish, whiting, sprat, lemon sole and nephrops also use this general area and should be assessed alongside the currently identified species.
26. The ES must also include an assessment of the effects, if any, on those species and habitats on the OSPAR List of Threatened and Declining Species and Habitats.
27. The effects on natural fisheries resource from changes to marine sediment and water quality must also be assessed.

### **Noise and vibration**

28. The MMO considers that the EIA must assess the potential impacts from noise and vibration on marine receptors during both construction and operational phases. This should include the dredging operations.

### **Commercial navigation**

29. The MMO welcomes the commitment to undertake a navigational risk assessment ("NRA") and to consult the local harbour authority. The NRA should be incorporated within or cross-referenced with the ES.
30. Section 5.12.2 states that different vessels sizes may be used during the operational phase which would consequently affect the number of vessel movements through the port. The NRA should consider both the potential lower number of larger vessels and the potential higher number of smaller vessels. It would also be helpful to assess the most-likely scenario.
31. The EIA must assess commercial navigation in-combination and cumulatively with other projects. This should include the Northern Gateway Container Terminal, Queen Elizabeth II Jetty and Tees Dock No.1 Quay.

### **Cumulative impact assessment**

32. The MMO is not aware at present of any projects other than those listed in the Scoping Report that should be considered in the cumulative impact assessment.
33. The EIA must assess cumulative impacts from within the Project, for example, the effects of dredging and piling concurrently on marine receptors.

### **Additional comments**

34. The Applicant intends that only one design option will be presented in the ES. If this is done then the ES should justify why and how that option was chosen. If not, then a Rochdale Envelope approach must be used and the ES must detail worst-case scenarios. It would also be helpful in that situation to assess the most-likely scenario.

35. The MMO notes that although decommissioning has not been discussed in detail in the Scoping Report, the Applicant will assess any likely implications in the EIA. If decommissioning is not to be included in the ES, then it should detail potential uses or changes of use.
36. Section 3.2.2 identifies a potential need to remove or divert existing underground service cable and pipes. This need should be established as early as possible in order that such activities may be assessed in the EIA.
37. It would be useful if the Applicant could present a shapefile of the Project site with the ES and future pre-application consultation for use in GIS.

#### **Next steps**

38. The MMO recommends that the Applicant consults Natural England, the Environment Agency, the North Eastern Inshore Fisheries and Conservation Authority, PD Teesport and the Corporation of Trinity House throughout the pre-application phase.
39. The MMO has already been approached by agents of the Applicant regarding sample analysis and would also welcome further engagement.

Yours sincerely

Jonathan Peters  
Inshore Marine Licensing Team

D +44 (0)191 376 2522

E [jonathan.peters@marinemanagement.org.uk](mailto:jonathan.peters@marinemanagement.org.uk)



**Hannah Nelson**

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**From:** DIO ODC-IPS SG1a1 (Dale, Louise D) [DIOODC-IPSSG1a1@defence.gsi.gov.uk]

**Sent:** 18 December 2013 09:42

**To:** Hannah Nelson

**Subject:** 20131218 TR030002 - York Potash Harbour Facilities - Scoping Request

**Attachments:** 131206\_TR030002\_Letter to stat cons\_Scoping AND Reg 9 Notification\_English.pdf

Hannah

DIO OS OD 182/2013

Thank you for consulting the Ministry of Defence in relation to the above referenced application.

I can confirm the MOD has no safeguarding concerns.

Kind Regards

Louise Dale| Assistant Safeguarding Officer - Statutory & Offshore, DIO Safeguarding |

Defence Infrastructure Organisation |

Building 49 | Kingston Road| Sutton Coldfield B75 7RL

Civ: 0121 311 3656 | Mil: 94421 3656 | Fax: 0121 311 2218

Email: DIOODC-IPSSG1a1@mod.uk

Website: [www.mod.uk/dio/](http://www.mod.uk/dio/)

MOD Safeguarding

<http://www.mod.uk/DefenceInternet/MicroSite/DIO/WhatWeDo/Operations/ModSafeguarding.htm>

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**From:** DIO-Safeguarding-Comms (MULTIUSER)

**Sent:** 09 December 2013 16:08

**To:** DIO-Safeguarding-Statutory (MULTIUSER)

**Subject:** FW: TR030002 - York Potash Harbour Facilities - Scoping Request

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**From:** Environmental Services [mailto:EnvironmentalServices@infrastructure.gsi.gov.uk]

**Sent:** 06 December 2013 09:47

**To:** DIO-Safeguarding-Comms (MULTIUSER)

**Cc:** [REDACTED]

**Subject:** FW: TR030002 - York Potash Harbour Facilities - Scoping Request

<<131206\_TR030002\_Letter to stat cons\_Scoping AND Reg 9 Notification\_English.pdf>>

Good morning,

Please see attached correspondence in relation to the proposed York Potash Harbour Facilities.

Kind regards

Hannah Nelson

EIA and Land Rights Advisor

Environmental Services Team

Major Applications and Plans

The Planning Inspectorate,

18/12/2013



Date: 20 December 2013  
Our ref: 106289  
Your ref: TR030002



Hannah Nelson  
The Planning Inspectorate  
3/18 Eagle Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

**BY EMAIL ONLY**

Dear Hannah

**Environmental Impact Assessment Scoping consultation (Regulation 15 (3) (i) of the EIA Regulations 2011): York Potash Harbour Facilities**  
**Location:** Bran Sands, Teesport

Thank you for seeking our advice on the scope of the Environmental Statement (ES) in your consultation dated 06 December 2013 which we received on the same date.

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

Case law<sup>1</sup> and guidance<sup>2</sup> has stressed the need for a full set of environmental information to be available for consideration prior to a decision being taken on whether or not to grant planning permission. We would expect the final Environmental Statement (ES) to include all necessary information as outlined in Schedule 4 of the Town & Country Planning (Environmental Impact Assessment) Regulations 1999. Appendix A to this letter provides Natural England's advice on the scope of the Environmental Impact Assessment (EIA) for this development.

It will be important for any assessment to consider the potential cumulative effects of this proposal, including all supporting infrastructure, with other similar proposals and a thorough assessment of the 'in combination' effects of the proposed development with any existing developments and new applications. A full consideration of the implications of the whole scheme should be included in the ES.

The Habitats Regulations, in particular Regulations 61 and 62, require the Planning Inspectorate to determine whether or not the proposals are likely to have a significant effect, alone or in combination with other plans or projects, on any internationally protected sites (SAC, SPA and Ramsar sites). Natural England advises that the ES should include sufficient information to allow the Planning Inspectorate to make the judgements required of them under the Habitats Regulations.

Natural England will seek to talk to the applicant during the production of the ES to provide further advice available through our Discretionary Advice Service and input into the specifics of this

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<sup>1</sup> Harrison, J in *R. v. Cornwall County Council ex parte Hardy* (2001)

<sup>2</sup> *Note on Environmental Impact Assessment Directive for Local Planning Authorities* Office of the Deputy Prime Minister (April 2004) available from <http://webarchive.nationalarchives.gov.uk/+http://www.communities.gov.uk/planningandbuilding/planning/sustainability/environmental/environmentalimpactassessment/noteenvironmental/>

<sup>3</sup> *Department for Environment, Food and Rural Affairs (July 2012) Guidance on competent authority coordination under the Habitats Regulations*

proposal to ensure that opportunities for mitigation, compensation and enhancement to the natural environment are maximised.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

We draw particular attention to the point in Annex A where we note that two of the options outlined for the location of the materials handling facility would result in the York Potash Project Pipeline extending to within close proximity of the port site. In addition to the issues about dealing with the overall York Potash project and in-combination assessments, these options would necessitate consideration of the coastal Natura 2000 sites in the Habitats Regulations Assessment (HRA) for the pipeline, which is the subject of separate application to the Planning Inspectorate Ref. EN070002. This would necessitate further assessment of the in combination effects for these two options as part of the entire project. These issues may also extend to the separate Materials Handling Facility application that has also recently been through scoping with Redcar and Cleveland Borough Council Ref: R/2013/0685/S.

The York Potash project has both built elements requiring permission and emissions/discharges requiring environmental permits, it spans more than one administrative area, and also includes elements of both local and national planning significance. Natural England therefore continues to advise that any of the 'segments' of the overall York Potash project may be relevant to each individual competent authority's HRA. As indicated by recently produced DEFRA guidance<sup>3</sup>, in such situations it is advisable for there to be coordination between the respective competent authorities.

For any queries relating to the specific advice in this letter only please contact Deborah Hall on 0300 0602259. For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

Deborah Hall  
Land Use Operations



## **Annex A – Advice related to EIA Scoping Requirements**

### **1. General Principles**

Schedule 4 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011, sets out the necessary information to assess impacts on the natural environment to be included in an ES, specifically:

- A description of the development – including physical characteristics and the full land use requirements of the site during construction and operational phases.
- Expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.
- An assessment of alternatives and clear reasoning as to why the preferred option has been chosen.
- A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.
- A description of the likely significant effects of the development on the environment – this should cover direct effects but also any indirect, secondary, cumulative, short, medium and long term, permanent and temporary, positive and negative effects. Effects should relate to the existence of the development, the use of natural resources and the emissions from pollutants. This should also include a description of the forecasting methods to predict the likely effects on the environment.
- A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
- A non-technical summary of the information.
- An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

It will be important for any assessment to consider the potential cumulative effects of this proposal, including all supporting infrastructure, with other similar proposals and a thorough assessment of the 'in combination' effects of the proposed development with any existing developments and current applications. A full consideration of the implications of the whole scheme should be included in the ES. All supporting infrastructure should be included within the assessment.

It will be important to ensure all the different elements cross-reference each other throughout.

### **2. Biodiversity and Geology**

#### **2.1 Ecological Aspects of an Environmental Statement**

Natural England advises that the potential impact of the proposal upon features of nature conservation interest and opportunities for habitat creation/enhancement should be included within this assessment in accordance with guidance on such matters. Guidelines for Ecological Impact Assessment (EclA) have been developed by the Institute of Ecology and Environmental Management (IEEM) and are available on their website.

EclA is the process of identifying, quantifying and evaluating the potential impacts of defined actions on ecosystems or their components. EclA may be carried out as part of the EIA process or to support other forms of environmental assessment or appraisal.

The National Planning Policy Framework sets out guidance in S.118 on how to take account of biodiversity interests in planning decisions and the framework that authorities should provide to assist developers.

## 2.2 Internationally and Nationally Designated Sites

The ES should thoroughly assess the potential for the proposal to affect designated sites. European sites (e.g. designated Special Areas of Conservation and Special Protection Areas) fall within the scope of the Conservation of Habitats and Species Regulations 2010. In addition paragraph 118 of the National Planning Policy Framework requires that potential Special Protection Areas, possible Special Areas of Conservation, listed or proposed Ramsar sites, and any site identified as being necessary to compensate for adverse impacts on classified, potential or possible SPAs, SACs and Ramsar sites be treated in the same way as classified sites.

Under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 an appropriate assessment needs to be undertaken in respect of any plan or project which is (a) likely to have a significant effect on a European site (either alone or in combination with other plans or projects) and (b) not directly connected with or necessary to the management of the site.

Should a Likely Significant Effect on a European/Internationally designated site be identified or be uncertain, the competent authority (in this case the Planning Inspectorate) may need to prepare an Appropriate Assessment, in addition to consideration of impacts through the EIA process. We invite the Planning Inspectorate and developer to consider whether an Evidence Plan would be advantageous in taking this process forward.

### **Sites of Special Scientific Interest (SSSIs) and sites of European or international importance (Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites)**

The development site is close proximity to the following designated nature conservation sites:

- Cowpen Marsh 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  
Teessmouth and Cleveland Coast SPA  
Teessmouth and Cleveland Coast Ramsar site  
MCZs
- Further information on the SSSIs and their special interest features can be found at [www.natureonthemap.naturalengland.org.uk](http://www.natureonthemap.naturalengland.org.uk). The Environmental Statement should include a full assessment of the direct and indirect effects of the development on the features of special interest within these sites and should identify such mitigation measures as may be required in order to avoid, minimise or reduce any adverse significant effects.
- Natura 2000 network site conservation objectives are available on our internet site [here](#).

In this case the proposal is not directly connected with, or necessary to, the management of a European site. In our view it is likely that it will have a significant effect on internationally designated sites and therefore will require assessment under the Habitats Regulations. We welcome the intention to include a separate section of the Environmental Statement to address impacts upon European and Ramsar sites for the purposes of informing a Habitats Regulations Assessment.

We note that two of the options outlined for the location of the materials handling facility would result in the York Potash Project Pipeline extending to within close proximity of the port site. These options would necessitate consideration of the coastal Natura 2000 sites in the Habitats Regulations Assessment (HRA) for the pipeline, which is the subject of separate application to the Planning Inspectorate Ref. EN070002. This would necessitate further assessment of the in combination effects for these two options as part of the entire project. These issues may also extend to the

separate Materials Handling Facility application that has also recently been through scoping with Redcar and Cleveland Borough Council Ref: R/2013/0685/S.

In addition to the points specifically identified below, the ES must consider potential impacts on all of the features of the designated sites identified above, including (but not limited to) the loss of roosting and foraging habitat for SPA/Ramsar waterbirds (both on the intertidal and terrestrial), disturbance to SPA/ Ramsar birds both within and outside the designated site boundary during construction and operation and impacts to any additional features of SSSIs in close proximity.

### **Water and Air Quality**

- We note that water emissions associated with the materials handling facility under normal operations would be approximately 60,000 litres per day (Section 3.2.4). Further information on the chemical and thermal nature of the discharge, and where/how it will be discharged should be provided to enable assessment of impact on habitat quality for SPA qualifying features.
- If there is potential for release to the environment, the effects of polyhalite/potash on the environment and in particular the marine environment should be fully assessed (Section 3.2.4).
- The impact of piled structures (monopile and sheet) within the marine environment will need to be fully assessed with respect to receptors including fish, marine mammals, birds, contaminated sediments and benthic communities.
- An appraisal of dredging techniques and their associated impacts on the marine environment and designated sites (water quality, suspended sediment concentration SSC) should be presented. This should cover disposal options for the dredged material, contamination investigations, maintenance dredging for the lifetime of the project and dredging period (proposed at 24 hours/day). We would welcome consideration of alternative uses for dredged material to protect or increase estuary habitats, avoiding loss of SPA functional land. We note the Shoreline Management Plan (SMP2) for this area (MA13 Tees Bay, 13.5 Bran Sands) advocates no active intervention for Bran Sands, and mentions investigation into the use of dredged material to create sand banks in the area (Biodiversity Opportunity Study).
- The report does not mention the impact on tidal prism that could result from capital dredging works of this scale, or consider any impact on tidal range and consequently possible losses in intertidal habitat. The direct and indirect impacts of this on designated sites and their qualifying features should be assessed.
- We would welcome detailed information on how the deepened estuary channel may act as a sediment trap, intercepting fine sediment in particular and reducing the level of deposition at the intertidal areas of Seal Sands and South Gare and Coatham Sands SSSIs. A potential hypothesis for decline of SPA birds in the estuary is a shift from fine sediments to coarse marine ones. The potential impact on sediment flow should therefore be examined in detail.

### **Habitat loss and bird surveys**

- We would expect the ES to quantify habitat losses not only at the seaward end of the lagoon, but also at the intertidal frontage which would be lost to the new quay.
- Bran Sands Lagoon is used by many birds for feeding, not just roosting, as stated in the report (Section 5.5.2).
- We note that it is proposed that waterbird interest of the area will be evaluated by desk based assessment only, collating existing data (Section 5.5.3 and Table 6.1). However, In the Terrestrial Ecology section fortnightly bird counts at various states of the tide are referred to for both Bran Sands Lagoon and Dabholme Gut. More information on the survey and survey effort is required to determine whether this is sufficient, e.g. are counts undertaken on a different state of the tide each fortnight, or on multiple times each fortnight? This data should include recent information (preferably collected within the last 3 years e.g. in relation to breeding birds the data appears to be from 2005). More certainty that the information

being collated is sufficiently up to date and directly relevant to the application site will be required.

### **Noise and light impacts**

- The ES should address predicted noise and light levels during construction and operation in relation to disturbance to the special features of the nearby designated sites and any other sensitive locations such as adjacent fields that are known to support important numbers of SPA/Ramsar waterbirds.
- The potential impact of noise and vibration on all receptors as well as the waterbird populations should be assessed, for example marine mammals (Section 5.5.3).
- Given the proximity of the identified development site to designated sites, the piling element of both the construction options under consideration (tubular and sheet) should be fully assessed (Section 3.6). A realistic 'worst case' scenario should be identified (maximum number of piling rigs, hammer energy, etc.) and subsea acoustic modelling used to identify the potential impact zone. This should also include in combination impacts where appropriate.

### **Visual impacts**

- Consideration, and subsequent mitigation, should also be given to any visual impacts on areas used by feeding and/or roosting SPA/ Ramsar birds (for example reduced site-lines), both within and adjacent to the footprint of the development. This should include any potential shadowing that may be caused by large buildings.

### **2.3 Regionally and Locally Important Sites**

The EIA will need to consider any impacts upon local wildlife and geological sites. Local Sites are identified by the local wildlife trust, geoconservation group or a local forum established for the purposes of identifying and selecting local sites. They are of county importance for wildlife or geodiversity. The Environmental Statement should therefore include an assessment of the likely impacts on the wildlife and geodiversity interests of such sites. The assessment should include proposals for mitigation of any impacts and if appropriate, compensation measures. Contact the [Tees Valley Wildlife Trust](#), local geoconservation group Tees Valley RIGS Group (c/o Tees Valley Wildlife Trust) or local sites body in this area for further information.

### **2.4 Protected Species - Species protected by the Wildlife and Countryside Act 1981 (as amended) and by the Conservation of Habitats and Species Regulations 2010**

It has already been established that this proposal has the potential to affect species protected under European or UK legislation. Natural England has produced [Standing Advice](#) which is available on its website. Whilst this advice is primarily designed to assist local planning authorities better understand the information required when assessing the impact of developments upon protected species, it also contains information to help applicants ensure that their applications comply with good practice guidelines and contribute to sustainable development. Please refer to this Standing Advice for further information on what information may be required in terms of survey and mitigation proposals. Records of protected species should be sought from appropriate local biological record centres, nature conservation organisations, groups and individuals; and consideration should be given to the wider context of the site for example in terms of habitat linkages and protected species populations in the wider area, to assist in the impact assessment.

**Licensing of European Protected Species (EPS) under the Habitats Regulations** (see Planning Inspectorate [Advice Note Eleven](#): "Working with Public Bodies", Annex C – Natural England and the Planning Inspectorate)

For NSIPs which may affect EPS and where a licence is required, Natural England's regulation team will be able to provide early charged-for advice through [Pre-Submission Screening \(PSS\) service](#) and opinion on the applicant's protected species proposals in relation to all 3 licensing

tests<sup>16</sup> before development consent is granted. This is done so that the decision-maker under the 2008 Act can have confidence that Natural England, as the relevant licensing authority, has considered the appropriate issues relating to protected species. In order to do this, Natural England needs to conduct an assessment, based on a full draft mitigation licence application, in advance of the formal submission of the NSIP application to the Planning Inspectorate. The steps to be followed when submitting the appropriate information to Natural England, in respect of an NSIP project which has the potential to affect EPS, are set out in the following link.

[http://www.naturalengland.org.uk/Images/WML-G36\\_tcm6-28566.pdf](http://www.naturalengland.org.uk/Images/WML-G36_tcm6-28566.pdf)

## **2.5 Habitats and Species of Principal Importance**

The ES should thoroughly assess the impact of the proposals on habitats and/or species listed as 'Habitats and Species of Principal Importance' within the England Biodiversity List, published under the requirements of S41 of the Natural Environment and Rural Communities (NERC) Act 2006. Section 40 of the NERC Act 2006 places a general duty on all public authorities to conserve and enhance biodiversity. Further information on this duty is available in the Defra publication '[Guidance for Local Authorities on Implementing the Biodiversity Duty](#)'.

Government Circular 06/2005 states that Biodiversity Action Plan (BAP) species and habitats, 'are capable of being a material consideration...in the making of planning decisions'. Natural England therefore advises that survey, impact assessment and mitigation proposals for Habitats and Species of Principal Importance should be included in the ES. Consideration should also be given to those species and habitats included in the relevant Local BAP.

Natural England advises that a habitat survey (equivalent to Phase 2) is carried out on the site, in order to identify any important habitats present. In addition, ornithological, botanical and invertebrate surveys should be carried out at appropriate times in the year, to establish whether any scarce or priority species are present. The Environmental Statement should include details of:

- Any historical data for the site affected by the proposal (e.g. from previous surveys);
- Additional surveys carried out as part of this proposal;
- The habitats and species present;
- The status of these habitats and species (e.g. whether priority species or habitat);
- The direct and indirect effects of the development upon those habitats and species;
- Full details of any mitigation or compensation that might be required.

The development should seek if possible to avoid adverse impact on sensitive areas for wildlife within the site, and if possible provide opportunities for overall wildlife gain.

The record centre for the relevant Local Authorities should be able to provide the relevant information on the location and type of priority habitat for the area under consideration.

## **2.6 Contacts for Local Records**

Natural England does not hold local information on local sites, local landscape character and local or national biodiversity priority habitats and species. We recommend that you seek further information from the appropriate bodies (which may include the local records centre [Environmental Records Information Centre North East](#), [Tees Valley Wildlife Trust](#), local geoconservation group Tees Valley RIGS group (c/o Tees Valley Wildlife Trust) or other recording society and a local landscape characterisation document). We note that the [Industry Nature Conservation Association](#) (INCA) has already been consulted.

## **3. Landscape Character**

### **Landscape and visual impacts**

Natural England advises that details of local landscape character areas are mapped at a scale

appropriate to the development site as well as any relevant management plans or strategies pertaining to the area. The EIA should include assessments of visual effects on the surrounding area and landscape together with any physical effects of the development, such as changes in topography. The European Landscape Convention places a duty on Local Planning Authorities to consider the impacts of landscape when exercising their functions.

The EIA should include a full assessment of the potential impacts of the development on local landscape character using landscape assessment methodologies. We encourage the use of Landscape Character Assessment (LCA), based on the good practice guidelines produced jointly by the Landscape Institute and Institute of Environmental Assessment in 2013. LCA provides a sound basis for guiding, informing and understanding the ability of any location to accommodate change and to make positive proposals for conserving, enhancing or regenerating character, as detailed proposals are developed.

Natural England supports the publication *Guidelines for Landscape and Visual Impact Assessment*, produced by the Landscape Institute and the Institute of Environmental Assessment and Management in 2013 (3rd edition). The methodology set out is normally used for landscape and visual impact assessment.

In order to foster high quality development that respects, maintains, or enhances, local landscape character and distinctiveness, Natural England encourages all new development to consider the character and distinctiveness of the area, with the siting and design of the proposed development reflecting local design characteristics and, wherever possible, using local materials. The Environmental Impact Assessment process should detail the measures to be taken to ensure the building design will be of a high standard, as well as detail of layout alternatives together with justification of the selected option in terms of landscape impact and benefit.

The assessment should also include the cumulative effect of the development with other relevant existing or proposed developments in the area. In this context Natural England advises that the cumulative impact assessment should include other proposals in the area currently at Scoping stage. Due to the overlapping timescale of their progress through the planning system, cumulative impact of the proposed development with those proposals currently at Scoping stage would be likely to be a material consideration at the time of determination of the planning application.

The assessment should refer to the relevant [National Character Areas](#) which can be found on our website. Links for Landscape Character Assessment at a local level are also available on the same page.

#### **4. Access and Recreation**

Natural England encourages any proposal to incorporate measures to help encourage people to access the countryside for quiet enjoyment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways are to be encouraged. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be incorporated where appropriate.

#### **5. Air Quality**

Air quality in the UK has improved over recent decades but air pollution remains a significant issue; for example over 97% of sensitive habitat area in England is predicted to exceed the critical loads for ecosystem protection from atmospheric nitrogen deposition ([England Biodiversity Strategy](#), Defra 2011). A priority action in the England Biodiversity Strategy is to reduce air pollution impacts on biodiversity. The planning system plays a key role in determining the location of developments which may give rise to pollution, either directly or from traffic generation, and hence planning decisions can have a significant impact on the quality of air, water and land. The assessment should take account of the risks of air pollution and how these can be managed or reduced. Further

information on air pollution impacts and the sensitivity of different habitats/designated sites can be found on the Air Pollution Information System ([www.apis.ac.uk](http://www.apis.ac.uk)). Further information on air pollution modelling and assessment can be found on the Environment Agency website.

## **6. Climate Change Adaptation**

The [England Biodiversity Strategy](#) published by Defra establishes principles for the consideration of biodiversity and the effects of climate change. The ES should reflect these principles and identify how the development's effects on the natural environment will be influenced by climate change, and how ecological networks will be maintained. The NPPF requires that the planning system should contribute to the enhancement of the natural environment 'by establishing coherent ecological networks that are more resilient to current and future pressures' ([NPPF](#) Para 109), which should be demonstrated through the ES.

## **7. Contribution to local environmental initiatives and priorities**

We note the applicant is discussing potential biodiversity enhancements with a variety of stakeholders as part of the wider York Potash project.

## **8. Cumulative and in-combination effects**

A full consideration of the implications of the whole scheme should be included in the ES. All supporting infrastructure should be included within the assessment.

The ES should include an impact assessment to identify, describe and evaluate the effects that are likely to result from the project in combination with other projects and activities that are being, have been or will be carried out. The following types of projects should be included in such an assessment, (subject to available information):

- a. existing completed projects;
- b. approved but uncompleted projects;
- c. ongoing activities;
- d. plans or projects for which an application has been made and which are under consideration by the consenting authorities; and
- e. plans and projects which are reasonably foreseeable, i.e. projects for which an application has not yet been submitted, but which are likely to progress before completion of the development and for which sufficient information is available to assess the likelihood of cumulative and in-combination effects.





**Hannah Nelson**

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**From:** Contactus England (HEALTH AND SOCIAL CARE INFORMATION CENTRE) [england.contactus@nhs.net]  
**Sent:** 06 December 2013 14:09  
**To:** Environmental Services  
**Cc:** [REDACTED]  
**Subject:** RE: TR030002 - York Potash Harbour Facilities - Scoping Request - NHS England Reference 179419CLM

Thank you for your email of 6<sup>th</sup> December 2013.

Your enquiry has been allocated a reference number of SDR179419. Please quote this reference number in any further communication regarding this issue.

I can confirm that your query has now been passed to the Case Management Team and a Case Officer will contact you within 2-3 working days.

If you require any further information or wish to speak to someone about your enquiry, please contact NHS England at the email address and telephone number shown below.

Yours faithfully,

NHS England  
PO Box 16738 | Redditch | B97 9PT  
0300 3 11 22 33  
[england.contactus@nhs.net](mailto:england.contactus@nhs.net)  
[www.england.nhs.uk](http://www.england.nhs.uk)

---

**From:** Environmental Services [mailto:EnvironmentalServices@infrastructure.gsi.gov.uk]  
**Sent:** 06 December 2013 09:39  
**To:** Contactus England (HEALTH AND SOCIAL CARE INFORMATION CENTRE)  
**Cc:** [REDACTED]  
**Subject:** TR030002 - York Potash Harbour Facilities - Scoping Request

<<131206\_TR030002\_Letter to stat cons\_Scoping AND Reg 9 Notification\_English.pdf>>

Good morning,

Please see attached correspondence in relation to the proposed York Potash Harbour Facilities.

Kind regards

Hannah Nelson  
EIA and Land Rights Advisor  
Environmental Services Team  
Major Applications and Plans  
The Planning Inspectorate,  
Temple Quay House,  
Temple Quay,  
Bristol,  
BS1 6PN  
Direct Line: 0303 444 5061  
Helpline: 0303 444 5000  
Email: [hannah.nelson@infrastructure.gsi.gov.uk](mailto:hannah.nelson@infrastructure.gsi.gov.uk)  
Web: [www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate) (Planning Inspectorate casework and appeals)  
Web: [www.planningportal.gov.uk/infrastructure](http://www.planningportal.gov.uk/infrastructure) (Planning Inspectorate's National Infrastructure Planning portal)

This communication does not constitute legal advice.  
Please view our [Information Charter](#) before sending information to the Planning Inspectorate.

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06/12/2013



**Hannah Nelson**

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**From:** Amy Brown [a.brown@northyorkmoors.org.uk]

**Sent:** 10 December 2013 16:41

**To:** Environmental Services

**Subject:** NYMNPAs - Standard Acknowledgement Letter

The Planning Inspectorate

Your ref:

[environmentalservices@infrastructure.gsi.gov.uk](mailto:environmentalservices@infrastructure.gsi.gov.uk)

Our ref:

Date: 09 December 2013

Dear Sir

**Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (As Amended) – Regulations 8 and 9**

Thank you for your enquiry regarding the above received **09 December 2013** which is being dealt with by **Mr Mark Hill**.

The Officer/Team named above will endeavour to provide you with a full response to your enquiry within ten working days, however it should be noted that this timescale may not always be achievable due to many contributing factors such as the complexity of the development/history of the site or in some instances the need to undertake a site visit.

If you have any queries regarding the progress of your enquiry please do not hesitate to telephone the Officer/Team on the above number, or if unavailable the Development Management Administration Team would be pleased to assist you.

Yours faithfully



Mrs Wendy Strangeway  
Planning Administration Officer

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[www.northyorkmoors.org.uk](http://www.northyorkmoors.org.uk)

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\*\*\*\*\*



Hannah Nelson  
EIA and Land Rights Advisor  
The Planning Inspectorate  
3/18 Eagle Wing  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

**Your ref:** TR030002

**Our ref:**

**Contact:** Rachel Wigginton

Tel: 01609 532428  
E-mail: [rachel.wigginton@northyorks.gov.uk](mailto:rachel.wigginton@northyorks.gov.uk)  
Web: [www.northyorks.gov.uk](http://www.northyorks.gov.uk)

3 January 2014

Dear Ms Nelson

**Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) – Regulations 8 and 9**

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

**Scoping consultation and notification of the applicant's contact details and duty to make available information to the applicant if requested**

Thank you for asking North Yorkshire County Council for its scoping opinion on the above information. Unfortunately, the letter appears to have been sent to the wrong address and we only became aware of the consultation belatedly. The project is at an early stage and our comments are limited but we are keen to be involved at subsequent stages.

This is an officer response on behalf of the County Council. The comments from service areas are as follows:

Historic Environment

The approach set out in the Royal Haskoning document regarding archaeology proposes further assessment work, which is in accordance with the NPPF policies on the historic environment. As the proposal lies outside of the North Yorkshire area, we have no further comments to add.

Natural Environment

We are happy that the approach in the Royal Haskoning environmental scoping report to the Environmental Impact Assessment and Environmental Statement is robust bar a few minor errors with regard to the natural environment. In section 5.5.1 the report refers to breeding sandwich terns. This should read common terns as these breed extensively in the Tees estuary whereas sandwich tern is only an occasional breeder. There is minimal overlap of wildlife between this site and North Yorkshire.

There are no comments at this stage from other service areas, although the North Yorkshire Highway Authority may send a separate response.

I am happy to discuss any issues.

Yours sincerely

Rachel Wigginton  
Senior Policy Officer

Hannah Nelson

**From:** Sue Welch, PDT [Sue.Welch@pdports.co.uk]  
**Sent:** 30 December 2013 12:42  
**To:** Environmental Services  
**Cc:** [REDACTED]  
**Subject:** Application by York Potash Limited for an Order Granting Development Consent for the Proposed York Potash Harbour Facilities - Scoping Consultation ...

**Follow Up Flag:** Follow up

**Flag Status:** Red

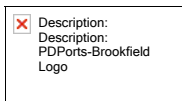
Dear Sirs

I refer to your letter dated 06 December 2013 (Your Ref: TR030002) and confirm that:

1. all environmental issues have been covered from our perspective;
2. the area covered in planning, which shows the 150m wide channel within a channel, should be expanded to cover the full channel width, with the resultant update in dredged quantities.

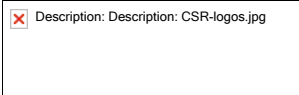
Regards

**Sue Welch**  
**On behalf of Captain J L Drewitt**  
**Harbour Master**



**Sue Welch**  
Harbour Master's Secretary  
PD Teesport

Harbour Master's Office, Teesport, Grangetown,  
Middlesbrough, TS6 6UD  
Tel: +44 [0] 1642 27 7201 | Fax: +44 [0] 1642 27 7227  
[sue.welch@pdports.co.uk](mailto:sue.welch@pdports.co.uk) | [www.pdports.co.uk](http://www.pdports.co.uk)



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Public Health  
England

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Didcot  
Oxfordshire OX11 0RQ www.gov.uk/phe

The Planning Inspectorate  
3/18 Eagle Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN  
F.A.O Hannah Nelson

3rd January 2014

Our Ref : NSIP 131206  
Your Ref : TR030002

Dear Sir,

**Re: Scoping Consultation  
Application for an Order Granting Development Consent for the  
proposed York Potash Harbour Facilities  
York Potash Limited**

Thank you for including Public Health England (PHE) in the scoping consultation phase of the above application. Our response focuses on health protection issues relating to chemicals and radiation. Advice offered by PHE is impartial and independent.

In order to ensure that health is fully and comprehensively considered the Environmental Statement (ES) should provide sufficient information to allow the potential impact of the development on public health to be fully assessed. We understand that the promoter will wish to avoid unnecessary duplication and that many issues including air quality, emissions to water, waste, contaminated land etc. will be covered elsewhere in the ES. PHE however believes the summation of relevant issues into a specific section of the report provides a focus which ensures that public health is given adequate consideration. The section should summarise key information, risk assessments, proposed mitigation measures, conclusions and residual impacts, relating to human health. Compliance with the requirements of National Policy Statements and relevant guidance and standards should also be highlighted.

In terms of the level of detail to be included in an ES, we recognise that the differing nature of projects is such that their impacts will vary. Any assessments undertaken to inform the ES should be proportionate to the potential impacts of the proposal, therefore we accept that, in some circumstances particular assessments may not be relevant to an application, or that an assessment may be adequately completed using a qualitative rather than quantitative methodology. In cases where this decision is made the promoters should fully explain and justify their rationale in the submitted documentation.

It is noted that the current proposals do not appear to consider possible health impacts of Electric and Magnetic Fields (EMF). The proposer should confirm either that the proposed development does include or impact upon any potential sources of EMF; or ensure that an adequate assessment of the possible impacts is undertaken and included in the ES.

The attached appendix outlines generic areas that should be addressed by all promoters when preparing ES for inclusion with an NSIP submission. We are happy to assist and discuss proposals further in the light of this advice.

Yours faithfully

Allister Gittins  
Environmental Public Health Scientist

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*Please mark any correspondence for the attention of National Infrastructure Planning Administration.*

## **Appendix: PHE recommendations regarding the scoping document**

### **General approach**

The EIA should give consideration to best practice guidance such as the Government's Good Practice Guide for EIA<sup>1</sup>. It is important that the EIA identifies and assesses the potential public health impacts of the activities at, and emissions from, the installation. Assessment should consider the development, operational, and decommissioning phases.

It is not PHE's role to undertake these assessments on behalf of promoters as this would conflict with PHE's role as an impartial and independent body.

We note that the information provided states that there will be three associated development projects, but that these will be the subject of separate planning consent applications. We recommend that the EIA includes consideration of the impacts of associated development and that cumulative impacts are fully accounted for.

Consideration of alternatives (including alternative sites, choice of process, and the phasing of construction) is widely regarded as good practice. Ideally, EIA should start at the stage of site and process selection, so that the environmental merits of practicable alternatives can be properly considered. Where this is undertaken, the main alternatives considered should be outlined in the ES<sup>2</sup>.

The following text covers a range of issues that PHE would expect to be addressed by the promoter. However this list is not exhaustive and the onus is on the promoter to ensure that the relevant public health issues are identified and addressed. PHE's advice and recommendations carry no statutory weight and constitute non-binding guidance.

### **Receptors**

The ES should clearly identify the development's location and the location and distance from the development of off-site human receptors that may be affected by emissions from, or activities at, the development. Off-site human receptors may include people living in residential premises; people working in commercial, and industrial premises and people using transport infrastructure (such as roads and railways), recreational areas, and publicly-accessible land. Consideration should also be given to environmental receptors such as the surrounding land, watercourses, surface and groundwater, and drinking water supplies such as wells, boreholes and water abstraction points.

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<sup>1</sup> Environmental Impact Assessment: A guide to good practice and procedures - A consultation paper; 2006; Department for Communities and Local Government. Available from:

<http://www.communities.gov.uk/archived/publications/planningandbuilding/environmentalimpactassessment>

<sup>2</sup> DCLG guidance, 1999 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/155958.pdf>

## **Impacts arising from construction and decommissioning**

Any assessment of impacts arising from emissions due to construction and decommissioning should consider potential impacts on all receptors and describe monitoring and mitigation during these phases. Construction and decommissioning will be associated with vehicle movements and cumulative impacts should be accounted for.

We would expect the promoter to follow best practice guidance during all phases from construction to decommissioning to ensure appropriate measures are in place to mitigate any potential impact on health from emissions (point source, fugitive and traffic-related). An effective Construction Environmental Management Plan (CEMP) (and Decommissioning Environmental Management Plan (DEMP)) will help provide reassurance that activities are well managed. The promoter should ensure that there are robust mechanisms in place to respond to any complaints of traffic-related pollution, during construction, operation, and decommissioning of the facility.

## **Emissions to air and water**

Significant impacts are unlikely to arise from installations which employ Best Available Techniques (BAT) and which meet regulatory requirements concerning emission limits and design parameters. However, PHE has a number of comments regarding emissions in order that the EIA provides a comprehensive assessment of potential impacts.

When considering a baseline (of existing environmental quality) and in the assessment and future monitoring of impacts these:

- should include appropriate screening assessments and detailed dispersion modelling where this is screened as necessary
- should encompass all pollutants which may be emitted by the installation in combination with all pollutants arising from associated development and transport, ideally these should be considered in a single holistic assessment
- should consider the construction, operational, and decommissioning phases
- should consider the typical operational emissions and emissions from start-up, shut-down, abnormal operation and accidents when assessing potential impacts and include an assessment of worst-case impacts

- should fully account for fugitive emissions
- should include appropriate estimates of background levels
- should identify cumulative and incremental impacts (i.e. assess cumulative impacts from multiple sources), including those arising from associated development, other existing and proposed development in the local area, and new vehicle movements associated with the proposed development; associated transport emissions should include consideration of non-road impacts (i.e. rail, sea, and air)
- should include consideration of local authority, Environment Agency, Defra national network, and any other local site-specific sources of monitoring data
- should compare predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as UK Air Quality Standards and Objectives and Environmental Assessment Levels)
  - If no standard or guideline value exists, the predicted exposure to humans should be estimated and compared to an appropriate health-based value (a Tolerable Daily Intake or equivalent). Further guidance is provided in Annex 1
  - This should consider all applicable routes of exposure e.g. include consideration of aspects such as the deposition of chemicals emitted to air and their uptake via ingestion
- should identify and consider impacts on residential areas and sensitive receptors (such as schools, nursing homes and healthcare facilities) in the area(s) which may be affected by emissions, this should include consideration of any new receptors arising from future development

Whilst screening of impacts using qualitative methodologies is common practice (e.g. for impacts arising from fugitive emissions such as dust), where it is possible to undertake a quantitative assessment of impacts then this should be undertaken.

PHE's view is that the EIA should appraise and describe the measures that will be used to control both point source and fugitive emissions and demonstrate that standards, guideline values or health-based values will not be exceeded due to emissions from the installation, as described above. This should include consideration of any emitted pollutants for which there are no set emission limits. When assessing the potential impact of a proposed installation on environmental quality, predicted environmental concentrations should be compared to the permitted concentrations in the affected media; this should include both standards for short and long-term exposure.

*Additional points specific to emissions to air*

When considering a baseline (of existing air quality) and in the assessment and future monitoring of impacts these:

- should include consideration of impacts on existing areas of poor air quality e.g. existing or proposed local authority Air Quality Management Areas (AQMAs)
- should include modelling using appropriate meteorological data (i.e. come from the nearest suitable meteorological station and include a range of years and worst case conditions)
- should include modelling taking into account local topography

*Additional points specific to emissions to water*

When considering a baseline (of existing water quality) and in the assessment and future monitoring of impacts these:

- should include assessment of potential impacts on human health and not focus solely on ecological impacts
- should identify and consider all routes by which emissions may lead to population exposure (e.g. surface watercourses; recreational waters; sewers; geological routes etc.)
- should assess the potential off-site effects of emissions to groundwater (e.g. on aquifers used for drinking water) and surface water (used for drinking water abstraction) in terms of the potential for population exposure
- should include consideration of potential impacts on recreational users (e.g. from fishing, canoeing etc) alongside assessment of potential exposure via drinking water

## **Land quality**

We would expect the promoter to provide details of any hazardous contamination present on site (including ground gas) as part of the site condition report.

Emissions to and from the ground should be considered in terms of the previous history of the site and the potential of the site, once operational, to give rise to issues. Public health impacts associated with ground contamination and/or the migration of material off-site should be assessed<sup>3</sup> and the potential impact on nearby receptors and control and mitigation measures should be outlined.

Relevant areas outlined in the Government's Good Practice Guide for EIA include:

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<sup>3</sup> Following the approach outlined in the section above dealing with emissions to air and water i.e. comparing predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as Soil Guideline Values)

- effects associated with ground contamination that may already exist
- effects associated with the potential for polluting substances that are used (during construction / operation) to cause new ground contamination issues on a site, for example introducing / changing the source of contamination
- impacts associated with re-use of soils and waste soils, for example, re-use of site-sourced materials on-site or offsite, disposal of site-sourced materials offsite, importation of materials to the site, etc.

## **Waste**

The EIA should demonstrate compliance with the waste hierarchy (e.g. with respect to re-use, recycling or recovery and disposal).

For wastes arising from the installation the EIA should consider:

- the implications and wider environmental and public health impacts of different waste disposal options
- disposal route(s) and transport method(s) and how potential impacts on public health will be mitigated

## **Other aspects**

Within the EIA PHE would expect to see information about how the promoter would respond to accidents with potential off-site emissions e.g. flooding or fires, spills, leaks or releases off-site. Assessment of accidents should: identify all potential hazards in relation to construction, operation and decommissioning; include an assessment of the risks posed; and identify risk management measures and contingency actions that will be employed in the event of an accident in order to mitigate off-site effects.

The EIA should include consideration of the COMAH Regulations (Control of Major Accident Hazards) and the Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009: both in terms of their applicability to the installation itself, and the installation's potential to impact on, or be impacted by, any nearby installations themselves subject to the these Regulations.

There is evidence that, in some cases, perception of risk may have a greater impact on health than the hazard itself. A 2009 report<sup>4</sup>, jointly published by Liverpool John Moores University and the HPA, examined health risk perception and environmental problems using a number of case studies. As a point to consider, the report suggested: "Estimation of community anxiety and stress should be included as part of every risk or impact assessment of proposed plans that involve a potential

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<sup>4</sup> Available from: <http://www.cph.org.uk/showPublication.aspx?pubid=538>

environmental hazard. This is true even when the physical health risks may be negligible.” PHE supports the inclusion of this information within EIAs as good practice.

### **Electromagnetic fields (EMF) [include for installations with associated substations and/or power lines]**

There is a potential health impact associated with the electric and magnetic fields around substations and the connecting cables or lines. The following information provides a framework for considering the potential health impact.

In March 2004, the National Radiological Protection Board, NRPB (now part of PHE), published advice on limiting public exposure to electromagnetic fields. The advice was based on an extensive review of the science and a public consultation on its website, and recommended the adoption in the UK of the EMF exposure guidelines published by the International Commission on Non-ionizing Radiation Protection (ICNIRP):-

<http://www.hpa.org.uk/Publications/Radiation/NPRBArchive/DocumentsOfTheNRPB/Absd1502/>

The ICNIRP guidelines are based on the avoidance of known adverse effects of exposure to electromagnetic fields (EMF) at frequencies up to 300 GHz (gigahertz), which includes static magnetic fields and 50 Hz electric and magnetic fields associated with electricity transmission.

PHE notes the current Government policy is that the ICNIRP guidelines are implemented in line with the terms of the EU Council Recommendation on limiting exposure of the general public (1999/519/EC):

[http://www.dh.gov.uk/en/Publichealth/Healthprotection/DH\\_4089500](http://www.dh.gov.uk/en/Publichealth/Healthprotection/DH_4089500)

For static magnetic fields, the latest ICNIRP guidelines (2009) recommend that acute exposure of the general public should not exceed 400 mT (millitesla), for any part of the body, although the previously recommended value of 40 mT is the value used in the Council Recommendation. However, because of potential indirect adverse effects, ICNIRP recognises that practical policies need to be implemented to prevent inadvertent harmful exposure of people with implanted electronic medical devices and implants containing ferromagnetic materials, and injuries due to flying ferromagnetic objects, and these considerations can lead to much lower restrictions, such as 0.5 mT as advised by the International Electrotechnical Commission.

At 50 Hz, the known direct effects include those of induced currents in the body on the central nervous system (CNS) and indirect effects include the risk of painful spark discharge on contact with metal objects exposed to the field. The ICNIRP guidelines give reference levels for public exposure to 50 Hz electric and magnetic fields, and these are respectively  $5 \text{ kV m}^{-1}$  (kilovolts per metre) and  $100 \text{ } \mu\text{T}$  (microtesla). If people are not exposed to field strengths above these levels, direct effects on the CNS should be avoided and indirect effects such as the risk of painful



spark discharge will be small. The reference levels are not in themselves limits but provide guidance for assessing compliance with the basic restrictions and reducing the risk of indirect effects. Further clarification on advice on exposure guidelines for 50 Hz electric and magnetic fields is provided in the following note on the HPA website:

[http://www.hpa.org.uk/webw/HPAweb&HPAwebStandard/HPAweb\\_C/1195733805036](http://www.hpa.org.uk/webw/HPAweb&HPAwebStandard/HPAweb_C/1195733805036)

The Department of Energy and Climate Change has also published voluntary code of practices which set out key principles for complying with the ICNIRP guidelines for the industry.

[http://www.decc.gov.uk/en/content/cms/what\\_we\\_do/uk\\_supply/consents\\_planning/codes/codes.aspx](http://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/consents_planning/codes/codes.aspx)

There is concern about the possible effects of long-term exposure to electromagnetic fields, including possible carcinogenic effects at levels much lower than those given in the ICNIRP guidelines. In the NRPB advice issued in 2004, it was concluded that the studies that suggest health effects, including those concerning childhood leukaemia, could not be used to derive quantitative guidance on restricting exposure. However, the results of these studies represented uncertainty in the underlying evidence base, and taken together with people's concerns, provided a basis for providing an additional recommendation for Government to consider the need for further precautionary measures, particularly with respect to the exposure of children to power frequency magnetic fields.

The Stakeholder Advisory Group on ELF EMFs (SAGE) was then set up to take this recommendation forward, explore the implications for a precautionary approach to extremely low frequency electric and magnetic fields (ELF EMFs), and to make practical recommendations to Government. In the First Interim Assessment of the Group, consideration was given to mitigation options such as the 'corridor option' near power lines, and optimal phasing to reduce electric and magnetic fields. A Second Interim Assessment addresses electricity distribution systems up to 66 kV. The SAGE reports can be found at the following link:

<http://sagedialogue.org.uk/> (go to "Document Index" and Scroll to SAGE/Formal reports with recommendations)

The Agency has given advice to Health Ministers on the First Interim Assessment of SAGE regarding precautionary approaches to ELF EMFs and specifically regarding power lines and property, wiring and electrical equipment in homes:

[http://www.hpa.org.uk/webw/HPAweb&HPAwebStandard/HPAweb\\_C/1204276682532?p=1207897920036](http://www.hpa.org.uk/webw/HPAweb&HPAwebStandard/HPAweb_C/1204276682532?p=1207897920036)

The evidence to date suggests that in general there are no adverse effects on the health of the population of the UK caused by exposure to ELF EMFs below the guideline levels. The scientific evidence, as reviewed by PHE, supports the view that

precautionary measures should address solely the possible association with childhood leukaemia and not other more speculative health effects. The measures should be proportionate in that overall benefits outweigh the fiscal and social costs, have a convincing evidence base to show that they will be successful in reducing exposure, and be effective in providing reassurance to the public.

The Government response to the SAGE report is given in the written Ministerial Statement by Gillian Merron, then Minister of State, Department of Health, published on 16<sup>th</sup> October 2009:

<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm091016/wmstext/91016m0001.htm>

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_107124](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_107124)

HPA and Government responses to the Second Interim Assessment of SAGE are available at the following links:

[http://www.hpa.org.uk/Publications/Radiation/HPAResponseStatementsOnRadiationTopics/rpdadvice\\_sage2](http://www.hpa.org.uk/Publications/Radiation/HPAResponseStatementsOnRadiationTopics/rpdadvice_sage2)

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_130703](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_130703)

The above information provides a framework for considering the health impact associated with the proposed development, including the direct and indirect effects of the electric and magnetic fields as indicated above.

**Liaison with other stakeholders, comments should be sought from:**

- the local authority for matters relating to noise, odour, vermin and dust nuisance
- the local authority regarding any site investigation and subsequent construction (and remediation) proposals to ensure that the site could not be determined as 'contaminated land' under Part 2A of the Environmental Protection Act
- the local authority regarding any impacts on existing or proposed Air Quality Management Areas
- the Food Standards Agency for matters relating to the impact on human health of pollutants deposited on land used for growing food/ crops
- the Environment Agency for matters relating to flood risk and releases with the potential to impact on surface and groundwaters
- the Environment Agency for matters relating to waste characterisation and acceptance

- the Clinical Commissioning Groups, NHS commissioning Boards and Local Planning Authority for matters relating to wider public health

### **Environmental Permitting**

Amongst other permits and consents, the development will require an environmental permit from the Environment Agency to operate (under the Environmental Permitting (England and Wales) Regulations 2010). Therefore the installation will need to comply with the requirements of best available techniques (BAT). PHE is a consultee for bespoke environmental permit applications and will respond separately to any such consultation.

## Annex 1

### Human health risk assessment (chemical pollutants)

The points below are cross-cutting and should be considered when undertaking a human health risk assessment:

- The promoter should consider including Chemical Abstract Service (CAS) numbers alongside chemical names, where referenced in the ES
- Where available, the most recent United Kingdom standards for the appropriate media (e.g. air, water, and/or soil) and health-based guideline values should be used when quantifying the risk to human health from chemical pollutants. Where UK standards or guideline values are not available, those recommended by the European Union or World Health Organisation can be used
- When assessing the human health risk of a chemical emitted from a facility or operation, the background exposure to the chemical from other sources should be taken into account
- When quantitatively assessing the health risk of genotoxic and carcinogenic chemical pollutants PHE does not favour the use of mathematical models to extrapolate from high dose levels used in animal carcinogenicity studies to well below the observed region of a dose-response relationship. When only animal data are available, we recommend that the 'Margin of Exposure' (MOE) approach<sup>5</sup> is used

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<sup>5</sup> Benford D et al. 2010. Application of the margin of exposure approach to substances in food that are genotoxic and carcinogenic. Food Chem Toxicol 48 Suppl 1: S2-24

**Hannah Nelson**

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**From:** Technical Services [TechnicalServices@stockton.gov.uk]  
**Sent:** 11 December 2013 12:30  
**To:** Environmental Services  
**Subject:** Your Ref: TR030002 - York Potash Limited

Thank you for your communication of 06<sup>th</sup> December 2013 regarding the above. This matter will be fully considered by the Environment Agency, who may consult Technical Services at a later date. As such Technical Services have no comments to make at this time.

Yours sincerely,

Technical Services Division  
Stockton-on-Tees Borough Council  
PO Box 229  
Kingsway House  
Billingham  
TS23 2YL  
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\*\*\*\*\*  
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## **APPENDIX 3**

# **Presentation of the Environmental Statement**





## APPENDIX 3

### PRESENTATION OF THE ENVIRONMENTAL STATEMENT

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (SI 2264) (as amended) sets out the information which must be provided for an application for a development consent order (DCO) for nationally significant infrastructure under the Planning Act 2008. Where required, this includes an environmental statement. Applicants may also provide any other documents considered necessary to support the application. Information which is not environmental information need not be replicated or included in the ES.

An environmental statement (ES) is described under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) as a statement:

- a) 'that includes such of the information referred to in Part 1 of Schedule 4 as is reasonably required to assess the environmental effects of the development and of any associated development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile; but
- b) that includes at least the information required in Part 2 of Schedule 4'.

*(EIA Regulations Regulation 2)*

The purpose of an ES is to ensure that the environmental effects of a proposed development are fully considered, together with the economic or social benefits of the development, before the development consent application under the Planning Act 2008 is determined. The ES should be an aid to decision making.

The SoS advises that the ES should be laid out clearly with a minimum amount of technical terms and should provide a clear objective and realistic description of the likely significant impacts of the proposed development. The information should be presented so as to be comprehensible to the specialist and non-specialist alike. The SoS recommends that the ES be concise with technical information placed in appendices.

### ES Indicative Contents

The SoS emphasises that the ES should be a 'stand alone' document in line with best practice and case law. The EIA Regulations Schedule 4, Parts 1 and 2, set out the information for inclusion in environmental statements.

Schedule 4 Part 1 of the EIA Regulations states this information includes:

- '17. *Description of the development, including in particular—*

- (a) *a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;*
  - (b) *a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;*
  - (c) *an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc) resulting from the operation of the proposed development.*
18. *An outline of the main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects.*
19. *A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.*
20. *A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from:*
- (a) *the existence of the development;*
  - (b) *the use of natural resources;*
  - (c) *the emission of pollutants, the creation of nuisances and the elimination of waste,*
- and the description by the applicant of the forecasting methods used to assess the effects on the environment.*
21. *A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.*
22. *A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.*
23. *An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information'.*

*EIA Regulations Schedule 4 Part 1*

The content of the ES must include as a minimum those matters set out in Schedule 4 Part 2 of the EIA Regulations. This includes the consideration of 'the main alternatives studied by the applicant' which the SoS recommends could be addressed as a separate chapter in the ES. Part 2 is included below for reference:

## Schedule 4 Part 2

- A description of the development comprising information on the site, design and size of the development
- A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects
- The data required to identify and assess the main effects which the development is likely to have on the environment
- An outline of the main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects, and
- A non-technical summary of the information provided [*under the four paragraphs above*].

Traffic and transport is not specified as a topic for assessment under Schedule 4; although in line with good practice the SoS considers it is an important consideration *per se*, as well as being the source of further impacts in terms of air quality and noise and vibration.

## Balance

The SoS recommends that the ES should be balanced, with matters which give rise to a greater number or more significant impacts being given greater prominence. Where few or no impacts are identified, the technical section may be much shorter, with greater use of information in appendices as appropriate.

The SoS considers that the ES should not be a series of disparate reports and stresses the importance of considering inter-relationships between factors and cumulative impacts.

## Scheme Proposals

The scheme parameters will need to be clearly defined in the draft DCO and therefore in the accompanying ES which should support the application as described. The SoS is not able to entertain material changes to a project once an application is submitted. The SoS draws the attention of the applicant to the DCLG and the Planning Inspectorate's published advice on the preparation of a draft DCO and accompanying application documents.

## Flexibility

The SoS acknowledges that the EIA process is iterative, and therefore the proposals may change and evolve. For example, there may be changes to the scheme design in response to consultation. Such changes should be addressed in the ES. However, at the time of the application for a DCO, any proposed scheme parameters should not be so wide ranging as to represent effectively different schemes.

It is a matter for the applicant, in preparing an ES, to consider whether it is possible to assess robustly a range of impacts resulting from a large number of undecided parameters. The description of the proposed development in the ES must not be so wide that it is insufficiently certain to comply with requirements of paragraph 17 of Schedule 4 Part 1 of the EIA Regulations.

The Rochdale Envelope principle (see *R v Rochdale MBC ex parte Tew (1999)* and *R v Rochdale MBC ex parte Milne (2000)*) is an accepted way of dealing with uncertainty in preparing development applications. The applicant's attention is drawn to the Planning Inspectorate's Advice Note 9 'Rochdale Envelope' which is available on the Advice Note's page of the National Infrastructure Planning website.

The applicant should make every attempt to narrow the range of options and explain clearly in the ES which elements of the scheme have yet to be finalised and provide the reasons. Where some flexibility is sought and the precise details are not known, the applicant should assess the maximum potential adverse impacts the project could have to ensure that the project as it may be constructed has been properly assessed.

The ES should be able to confirm that any changes to the development within any proposed parameters would not result in significant impacts not previously identified and assessed. The maximum and other dimensions of the proposed development should be clearly described in the ES, with appropriate justification. It will also be important to consider choice of materials, colour and the form of the structures and of any buildings. Lighting proposals should also be described.

## Scope

The SoS recommends that the physical scope of the study areas should be identified under all the environmental topics and should be sufficiently robust in order to undertake the assessment. The extent of the study areas should be on the basis of recognised professional guidance, whenever such guidance is available. The study areas should also be agreed with the relevant consultees and local authorities and, where this is not possible, this should be stated clearly in the ES and a reasoned justification given. The scope should also cover the breadth of the topic area and the temporal scope, and these aspects should be described and justified.

### *Physical Scope*

In general the SoS recommends that the physical scope for the EIA should be determined in the light of:

- the nature of the proposal being considered
- the relevance in terms of the specialist topic

- the breadth of the topic
- the physical extent of any surveys or the study area, and
- the potential significant impacts.

The SoS recommends that the physical scope of the study areas should be identified for each of the environmental topics and should be sufficiently robust in order to undertake the assessment. This should include at least the whole of the application site, and include all offsite works. For certain topics, such as landscape and transport, the study area will need to be wider. The extent of the study areas should be on the basis of recognised professional guidance and best practice, whenever this is available, and determined by establishing the physical extent of the likely impacts. The study areas should also be agreed with the relevant consultees and, where this is not possible, this should be stated clearly in the ES and a reasoned justification given.

#### *Breadth of the Topic Area*

The ES should explain the range of matters to be considered under each topic and this may respond partly to the type of project being considered. If the range considered is drawn narrowly then a justification for the approach should be provided.

#### *Temporal Scope*

The assessment should consider:

- environmental impacts during construction works
- environmental impacts on completion/operation of the proposed development
- where appropriate, environmental impacts a suitable number of years after completion of the proposed development (for example, in order to allow for traffic growth or maturing of any landscape proposals), and
- environmental impacts during decommissioning.

In terms of decommissioning, the SoS acknowledges that the further into the future any assessment is made, the less reliance may be placed on the outcome. However, the purpose of such a long term assessment, as well as to enable the decommissioning of the works to be taken into account, is to encourage early consideration as to how structures can be taken down. The purpose of this is to seek to minimise disruption, to re-use materials and to restore the site or put it to a suitable new use. The SoS encourages consideration of such matters in the ES.

The SoS recommends that these matters should be set out clearly in the ES and that the suitable time period for the assessment should be agreed with the relevant statutory consultees.

The SoS recommends that throughout the ES a standard terminology for time periods should be defined, such that for example, 'short term' always refers to the same period of time.

## Baseline

The SoS recommends that the baseline should describe the position from which the impacts of the proposed development are measured. The baseline should be chosen carefully and, whenever possible, be consistent between topics. The identification of a single baseline is to be welcomed in terms of the approach to the assessment, although it is recognised that this may not always be possible.

The SoS recommends that the baseline environment should be clearly explained in the ES, including any dates of surveys, and care should be taken to ensure that all the baseline data remains relevant and up to date.

For each of the environmental topics, the data source(s) for the baseline should be set out together with any survey work undertaken with the dates. The timing and scope of all surveys should be agreed with the relevant statutory bodies and appropriate consultees, wherever possible.

The baseline situation and the proposed development should be described within the context of the site and any other proposals in the vicinity.

## Identification of Impacts and Method Statement

### *Legislation and Guidelines*

In terms of the EIA methodology, the SoS recommends that reference should be made to best practice and any standards, guidelines and legislation that have been used to inform the assessment. This should include guidelines prepared by relevant professional bodies.

In terms of other regulatory regimes, the SoS recommends that relevant legislation and all permit and licences required should be listed in the ES where relevant to each topic. This information should also be submitted with the application in accordance with the APFP Regulations.

In terms of assessing the impacts, the ES should approach all relevant planning and environmental policy – local, regional and national (and where appropriate international) – in a consistent manner.

### *Assessment of Effects and Impact Significance*

The EIA Regulations require the identification of the 'likely significant effects of the development on the environment' (Schedule 4 Part 1 paragraph 20).

As a matter of principle, the SoS applies the precautionary approach to follow the Court's<sup>5</sup> reasoning in judging 'significant effects'. In other words

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<sup>5</sup> See Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw (Waddenzee Case No C 127/02/2004)

'likely to affect' will be taken as meaning that there is a probability or risk that the proposed development will have an effect, and not that a development will definitely have an effect.

The SoS considers it is imperative for the ES to define the meaning of 'significant' in the context of each of the specialist topics and for significant impacts to be clearly identified. The SoS recommends that the criteria should be set out fully and that the ES should set out clearly the interpretation of 'significant' in terms of each of the EIA topics. Quantitative criteria should be used where available. The SoS considers that this should also apply to the consideration of cumulative impacts and impact inter-relationships.

The SoS recognises that the way in which each element of the environment may be affected by the proposed development can be approached in a number of ways. However it considers that it would be helpful, in terms of ease of understanding and in terms of clarity of presentation, to consider the impact assessment in a similar manner for each of the specialist topic areas. The SoS recommends that a common format should be applied where possible.

#### *Inter-relationships between environmental factors*

The inter-relationship between aspects of the environments likely to be significantly affected is a requirement of the EIA Regulations (see Schedule 4 Part 1 of the EIA Regulations). These occur where a number of separate impacts, e.g. noise and air quality, affect a single receptor such as fauna.

The SoS considers that the inter-relationships between factors must be assessed in order to address the environmental impacts of the proposal as a whole. This will help to ensure that the ES is not a series of separate reports collated into one document, but rather a comprehensive assessment drawing together the environmental impacts of the proposed development. This is particularly important when considering impacts in terms of any permutations or parameters to the proposed development.

#### *Cumulative Impacts*

The potential cumulative impacts with other major developments will need to be identified, as required by the Directive. The significance of such impacts should be shown to have been assessed against the baseline position (which would include built and operational development). In assessing cumulative impacts, other major development should be identified through consultation with the local planning authorities and other relevant authorities on the basis of those that are:

- projects that are under construction
  - permitted application(s) not yet implemented
  - submitted application(s) not yet determined
-

- all refusals subject to appeal procedures not yet determined
- projects on the National Infrastructure's programme of projects, and
- projects identified in the relevant development plan (and emerging development plans - with appropriate weight being given as they move closer to adoption) recognising that much information on any relevant proposals will be limited.

Details should be provided in the ES, including the types of development, location and key aspects that may affect the EIA and how these have been taken into account as part of the assessment.

The SoS recommends that offshore wind farms should also take account of any offshore licensed and consented activities in the area, for the purposes of assessing cumulative effects, through consultation with the relevant licensing/consenting bodies.

For the purposes of identifying any cumulative effects with other developments in the area, applicants should also consult consenting bodies in other EU states to assist in identifying those developments (see commentary on Transboundary Effects below).

#### *Related Development*

The ES should give equal prominence to any development which is related with the proposed development to ensure that all the impacts of the proposal are assessed.

The SoS recommends that the applicant should distinguish between the proposed development for which development consent will be sought and any other development. This distinction should be clear in the ES.

#### *Alternatives*

The ES must set out an outline of the main alternatives studied by the applicant and provide an indication of the main reasons for the applicant's choice, taking account of the environmental effect (Schedule 4 Part 1 paragraph 18).

Matters should be included, such as *inter alia* alternative design options and alternative mitigation measures. The justification for the final choice and evolution of the scheme development should be made clear. Where other sites have been considered, the reasons for the final choice should be addressed.

The SoS advises that the ES should give sufficient attention to the alternative forms and locations for the off-site proposals, where appropriate, and justify the needs and choices made in terms of the form of the development proposed and the sites chosen.



### *Mitigation Measures*

Mitigation measures may fall into certain categories namely: avoid; reduce; compensate or enhance (see Schedule 4 Part 1 paragraph 21); and should be identified as such in the specialist topics. Mitigation measures should not be developed in isolation as they may relate to more than one topic area. For each topic, the ES should set out any mitigation measures required to prevent, reduce and where possible offset any significant adverse effects, and to identify any residual effects with mitigation in place. Any proposed mitigation should be discussed and agreed with the relevant consultees.

The effectiveness of mitigation should be apparent. Only mitigation measures which are a firm commitment and can be shown to be deliverable should be taken into account as part of the assessment.

It would be helpful if the mitigation measures proposed could be cross referred to specific provisions and/or requirements proposed within the draft development consent order. This could be achieved by means of describing the mitigation measures proposed either in each of the specialist reports or collating these within a summary section on mitigation.

The SoS advises that it is considered best practice to outline in the ES, the structure of the environmental management and monitoring plan and safety procedures which will be adopted during construction and operation and may be adopted during decommissioning.

### *Cross References and Interactions*

The SoS recommends that all the specialist topics in the ES should cross reference their text to other relevant disciplines. Interactions between the specialist topics is essential to the production of a robust assessment, as the ES should not be a collection of separate specialist topics, but a comprehensive assessment of the environmental impacts of the proposal and how these impacts can be mitigated.

As set out in EIA Regulations Schedule 4 Part 1 paragraph 23, the ES should include an indication of any technical difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

### *Consultation*

The SoS recommends that any changes to the scheme design in response to consultation should be addressed in the ES.

It is recommended that the applicant provides preliminary environmental information (PEI) (this term is defined in the EIA Regulations under regulation 2 'Interpretation') to the local authorities.

Consultation with the local community should be carried out in accordance with the SoCC which will state how the applicant intends to consult on the

preliminary environmental information (PEI). This PEI could include results of detailed surveys and recommended mitigation actions. Where effective consultation is carried out in accordance with Section 47 of the Planning Act, this could usefully assist the applicant in the EIA process – for example the local community may be able to identify possible mitigation measures to address the impacts identified in the PEI. Attention is drawn to the duty upon applicants under Section 50 of the Planning Act to have regard to the guidance on pre-application consultation.

## Transboundary Effects

The SoS recommends that consideration should be given in the ES to any likely significant effects on the environment of another Member State of the European Economic Area. In particular, the SoS recommends consideration should be given to discharges to the air and water and to potential impacts on migratory species and to impacts on shipping and fishing areas.

The Applicant's attention is also drawn to the Planning Inspectorate's Advice Note 12 'Development with significant transboundary impacts consultation' which is available on the Advice Notes Page of the National Infrastructure Planning website

## Summary Tables

The SoS recommends that in order to assist the decision making process, the applicant may wish to consider the use of tables:

**Table X** to identify and collate the residual impacts after mitigation on the basis of specialist topics, inter-relationships and cumulative impacts.

**Table XX** to demonstrate how the assessment has taken account of this Opinion and other responses to consultation.

**Table XXX** to set out the mitigation measures proposed, as well as assisting the reader, the SoS considers that this would also enable the applicant to cross refer mitigation to specific provisions proposed to be included within the draft Development Consent Order.

**Table XXXX** to cross reference where details in the HRA (where one is provided) such as descriptions of sites and their locations, together with any mitigation or compensation measures, are to be found in the ES.

## Terminology and Glossary of Technical Terms

The SoS recommends that a common terminology should be adopted. This will help to ensure consistency and ease of understanding for the decision making process. For example, 'the site' should be defined and used only in

terms of this definition so as to avoid confusion with, for example, the wider site area or the surrounding site.

A glossary of technical terms should be included in the ES.

## Presentation

The ES should have all of its paragraphs numbered, as this makes referencing easier as well as accurate.

Appendices must be clearly referenced, again with all paragraphs numbered.

All figures and drawings, photographs and photomontages should be clearly referenced. Figures should clearly show the proposed site application boundary.

## Bibliography

A bibliography should be included in the ES. The author, date and publication title should be included for all references. All publications referred to within the technical reports should be included.

## Non Technical Summary

The EIA Regulations require a Non Technical Summary (EIA Regulations Schedule 4 Part 1 paragraph 22). This should be a summary of the assessment in simple language. It should be supported by appropriate figures, photographs and photomontages.