

**PROPOSED ABLE MARINE ENERGY PARK**

**IPC REFERENCE: TR030001**

**STATEMENT OF COMMON GROUND**

**between**

**ABLE HUMBER PORTS LTD**

**and**

**HIGHWAYS AGENCY**

**Dated 21 May 2012**

SIGNED on behalf of **Able Humber Ports Ltd**

SIGNED on behalf of the **Highways Agency**

*Signature removed*

*Signature removed*

Signature

Signature

Name

RM CREAM

Name

DANIEL GAUNT

Position

DESIGN MANAGER

Position

ASSET MANAGER

Date

10-7-12

Date

10 JULY 2012

## CONTENTS

<b>SECTION 1: INTRODUCTION AND SCOPE .....</b>	<b>3</b>
Document Structure .....	3
General .....	3
Pre-Application Consultation .....	4
Brief Description of the Site .....	5
Brief Description of the Project .....	5
Planning History of the Site .....	6
Summary with reference to Environmental Statement .....	8
<b>SECTION 2: STATEMENT OF COMMON GROUND BETWEEN AHPL AND HIGHWAYS AGENCY .....</b>	<b>10</b>
Introduction .....	10
Chapter 15 Traffic and Transport (including Annexes 15.1 and 15.2) .....	10
Chapter 37 Transport .....	13

## **SECTION 1: INTRODUCTION AND SCOPE**

### **Document Structure**

1. This SoCG comprises two sections:

Section 1: Introduction and Scope

Section 2: Statement of Common Ground between AHPL and Highways Agency

### **General**

2. On 12 January 2012 the Infrastructure Planning Commission ('IPC') accepted an application ('the application') that was submitted by Able Humber Ports Limited ('AHPL') for a development Consent Order ('DCO') to construct and operate a harbour capable of handling over 5 million tonnes of material per year together with associated works.
3. The application incorporates three geographically distinct areas.
  - a. A harbour and associated industrial development on the south bank of the Humber within the administrative area of North Lincolnshire ('AMEP').
  - b. An intertidal compensatory habitat site on the north bank of the Humber within the administrative area of East Riding of Yorkshire ('the compensation site').
  - c. A wet grassland, Old Little Humber Farm, site also within the administrative area of the East Riding of Yorkshire ('OLHF').
4. This document is the statement of common ground ('SoCG') between AHPL and the Highways Agency.
5. The Infrastructure Planning (Examination Procedure) Rules 2010, defines a SoCG as, 'a written statement prepared jointly by the applicant and any interested party, which contains agreed factual information about the application'.
6. Section 87 of the Planning Act 2008 provides that when making any decision about how an application is to be examined, the Examining Authority must have regard to any guidance issued by the Secretary of State on how applications for development consent for nationally significant infrastructure projects ('NSIPs') are to be examined. In 2010, the Department for Communities and Local Government issued, 'Planning Act 2008: Guidance for the examination of applications for development consent for nationally significant infrastructure projects'. That guidance provides the following advice on the contents of an SoCG:
  - '63. *The statement of common ground is a written statement prepared jointly by the applicant and the main objectors, setting out the agreed factual information about the application. A statement of common ground is useful to ensure that the evidence at the examination focuses on the material differences between the main parties. Effective use of such statements is expected to lead to a more efficient examination process.*
  64. *The statement should contain basic information on which the parties have agreed, such as the precise nature of the proposed infrastructure, a description of*

the site and its planning history. In addition to basic information about the application, agreement can often be reached on technical matters and topics that rely on basic statistical data. For example, traffic evidence can be simplified and the issues refined by agreeing matters such as traffic flows, design standards, and the basis for forecasting the level of traffic the application would generate. The topics on which agreement might be reached in any particular instance will depend on the matters at issue and the circumstances of the case.

65. As well as identifying matters which are not in real dispute, it may also be useful for the statement to identify areas where agreement is not possible. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence. Agreement should also be sought before the examination commences about the requirements that any order granted should contain.

66. How such agreement is reached will vary depending on the nature and complexity of the application and the matters at issue. Where there are only two or three major parties involved and the issues are fairly straightforward, the Examining authority might simply encourage the parties at the preliminary meeting to get together with a view to producing a statement of common ground containing agreed facts. For major applications a more formal arrangement may be necessary, particularly where several parties are expected to bring evidence of a technical nature to the examination.

67. However, the duty of Examining authority is not simply to accept the statement of common ground or to react to the evidence presented. The role of the Examining authority is to ensure that all aspects of any given matter are explored thoroughly, especially with regard to the matters fundamental to the decision, rather than seemingly accepting the statement of common ground without question.

68. Consequently, the Examining authority should probe the evidence thoroughly if their judgment or professional expertise indicates that either.

- all of the evidence necessary for a soundly reasoned decision has not been put before them or,
- that a material part of the evidence they do have has not been adequately tested'

### Pre-Application Consultation

7. Before submitting the application to the IPC, Able UK Ltd (acting on behalf of AHPL) held a number of consultation meetings with HA; these are detailed in Table 1A and 1B below.

**Table 1A: Meetings Held with Highways Agency Before the s42 consultation**

Date	Present	Matters discussed
14/07/2010	North Lincolnshire Council Highways Agency	AMEP Transport Consultation
9/11/2010	North Lincolnshire Council Highways Agency	A160 / A180 Scheme Status

**Table 1B: Meetings Held with the Highways Agency Following the s42 consultation**

Date	Present	Matters discussed	Changes made
------	---------	-------------------	--------------

29/06/2011	North Lincolnshire Council Highways Agency	Transport Assessment and Framework Travel Plan	Travel Plan amended to clearly identify the process of mitigation if targets not met.
------------	--	--	---

### Brief Description of the Site

#### *The AMEP Site*

8. The AMEP site, excluding the area of ecological mitigation, covers approximately 265 ha, of which approximately 120 ha is covered by existing consent for port related storage, 100 ha is existing arable land that will be developed for industrial use and 45 ha is reclaimed land from the estuary to provide a new quay. A further 48 ha of existing arable land will be converted to managed grassland to mitigate for the effects of the development on ecological receptors including birds that use the adjacent Humber Estuary SPA.

#### *The Compensation Site*

9. The Compensation Site is located on the north bank of the Humber Estuary, within the East Riding of Yorkshire, opposite the AMEP site and some 4 km to the south-west of Keyingham. A new flood defence wall will be constructed landward of the existing flood defence to create a new intertidal area encompassing 100 ha.

#### *Old Little Humber Farm*

10. The site is existing agricultural land and will be developed as wet roosting and feeding habitat for SPA bird species.

### Brief Description of the Project

11. AMEP comprises a harbour development with associated land development, to serve the renewable energy sector. The harbour will comprise a quay of 1 279 m frontage, of which 1 200 m will be solid quay and 79 m will be a specialist berth. The harbour will be formed by the reclamation of intertidal and subtidal land within the Humber Estuary.

12. Associated development will include:

- dredging and land reclamation;
- the provision of onshore facilities for the manufacture, assembly and storage of wind turbines and related items;
- junction works to local roads and trunk roads;
- surface water disposal arrangements.

13. Ancillary matters will include:

- the diversion of two footpaths that run along the shore of the Humber, one on the south bank and one on the north bank;
- the conversion of a railway into a private siding;

- the interference with rights of navigation;
- the creation of a harbour authority;
- a deemed licence under section 66 of the Marine and Coastal Access Act 2009;
- the modification of public and local legislation; and
- the compulsory acquisition of land and rights in land and powers of temporary occupation of land to allow Able to carry out and operate the above development.

## Planning History of the Site

### *The AMEP Site*

14. The terrestrial areas of the application site includes land that has the benefit of extant planning consents for port related storage and land that has temporary consent as a lay-down area during the construction of a biomass fuelled power station, refer to Table 2.

**Table 2 Extant Planning Consents within the AMEP Site**

<b>Planning Ref.</b>	<b>Location</b>	<b>Details</b>	<b>Status</b>
PA/2010/1263	Land Off, Rosper Road, North Killingholme, DN40 3JP	Planning permission to construct a test foundation (12 x 12 m) and a tower (5 m diameter) with a total height of 67 m (approximately).	Granted 06/12/2010
PA/2008/1375	Area E, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Planning permission to vary Condition 3 on application PA/2006/0039 dated 01/08/2007 (relating to low level shrubbery and hedging) to replace the words 'Within ten months of the permission...' to 'Prior to the commencement of operation...'	Granted 22/12/2008
PA/2008/0571	Area D1 & D2, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Remove Condition 1 of planning permission 2004/1528 to make permanent the existing temporary consented use of vehicle storage and distribution, erect a single storey cabin, workshop and office building, raise ground levels to 3.1-4.0 m OD and surface with tarmac, install 3 m high electrified fencing with bird deflectors and erect 4 No. 30 m high lighting masts on land off Rosper Road.	Granted 22/12/2008
PA/2008/1428	Area G, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Remove Condition 1 (no access to and egress from Haven Road) and Condition 2 (the use shall be discontinued before 31/12/2008) on planning permission PA/2004/1601.	Granted 19/12/2008
PA/2008/1401	Area B Able Humber Port Facilities, Rosper Road, North Killingholme, DN40 3JP	Planning permission to remove condition 1 on PA/2004/1528 (use to be discontinued on or before 31 December 2008) and condition 9 on PA/2002/1828 (site to have a permeable surface at all times) in connection with use of land for vehicle distribution and storage.	Granted 18/12/2008

Planning Ref.	Location	Details	Status
PA/2007/0101	Area C, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Planning permission to tarmac the 22.11 ha site for port-related external storage, to include the construction of 2 workshop buildings, a modular office building, a modular security building, construction of a wash pad wash bay and associated staff and visitor car parking and install a 3 m high security fencing, lighting towers and a sewage treatment plant.	Granted 16/01/2008
PA/2005/0562	Area D, AHPF*, Rosper Road, North Killingholme, DN40 3JP	Planning permission to construct a port related storage facility including erection of various buildings, construction of car parking, erection of lighting towers and 2.4 m high electrified security fencing.	Granted 14/11/2006
DECC 01.08.10.04/43 9C	West of the MOD Tank Farm	Construction and operation of a biomass fuelled generating station at South Killingholme, near Immingham	Granted 10/08/2011

*The Compensation Site and Old Little Humber Farm*

15. There is one extant planning consent within the Old Little Humber Farm but none in the Compensation Site. Details of this and other nearby planning applications approved in the last 15 years are described in Table 3.

**Table 3: Extant Planning Consents within and near the Compensation Site (Source: ERYC Public Access for planning applications website)**

Planning Ref.	Location	Details	Status
08/01993/STP LFE	Humber Gateway onshore installation	Cross country cable from Easington to Saltend	Granted
96/61327/PLF	8 Cherry Cobb Sands Burstwick East Riding of Yorkshire HU12 9JU	Erection of an attached domestic garage.	Granted
98/00205/PLF	New House Farm Cherry Cobb Sands Road Burstwick East Riding of Yorkshire HU12 9JX	Erection of a general purpose agricultural storage building.	Granted
04/02377/PLF	Little Humber Farm Thorngumbald Road Paull East Riding of Yorkshire HU12 8AY	Erection of a replacement dwelling (renewal of planning permission 98/02287/PLF)	Granted
05/02858/PLF	Thorn Marsh Cottage Bellcroft Lane Thorngumbald East Riding Of Yorkshire HU12 9JR	Erection of a single and two storey extension	Granted
11/02438/OHL	OHL Replacement North West Of Little Humber Farm	Erection of 2no. additional poles for overhead line	No objections



Planning Ref.	Location	Details	Status
	Newlands Lane Paull East Riding Of Yorkshire		

### Summary with reference to Environmental Statement

16. The project comprises Schedule 1 development in accordance with Regulation 2(1) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) ('the EIA Regulations'). Accordingly, the application to the IPC in respect of AMEP included an Environmental Statement (ES) and the ES referred to in this SoCG is the document accepted by the IPC on 12 January 2012.
17. In accordance with Schedule 4 of the EIA Regulations, the ES provides:
- '(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.'*
18. The likely significant effects of the project were initially identified by AHPL in a Scoping Report accepted by the IPC on 13 September 2010. The IPC subsequently issued their Scoping Opinion on 27 October 2010 following consultation with prescribed consultees. It is agreed, nevertheless, that the Scoping Opinion does not limit the effects of the project that are to be considered and that all likely significant effects need to be assessed.
19. Chapters 1-3 of the ES provide a brief introduction to the project, the EIA process and the overall planning framework relating to the application. Since the completion of the ES, national planning policy has changed significantly with the publication of the National Planning Policy Framework. This publication, inter alia, revoked all Planning Policy Statements and Planning Policy Guidance documents.
20. Chapters 4-6 of the ES provide, respectively: a detailed description of the project; an explanation of why the project is needed and a review of the alternative sites considered by the applicant.
21. Chapters 7-24 of the ES report on the significant environmental effects of the proposed development on the south bank of the River Humber, while chapters 31-43 report on the significant effects of the proposed development on the north bank of the river. Each chapter of the ES addresses a specific environmental issue and provides:
- d. A review of the specific planning policy context relating that the topic;
  - e. A record of the existing baseline conditions;



- f. Identification of the receptors that are likely to be affected by the proposed development;
  - g. An assessment of the impact of the development alone on the receptors taking into account baseline conditions;
  - h. An assessment of the impact of the development cumulatively with the impacts of other projects that are not yet implemented but for which planning permission has been granted, or other projects for which an application for consent has been submitted.
  - i. Proposed mitigation measures where the impact of the development when added to the baseline is sufficient to have an effect on a receptor that is significant.
22. 'Baseline' means the assessment of the current situation at each location. 'Impact' means the impact of the construction and operation of AMEP and the compensation site. 'Receptor' is any component of the environment (population, flora, fauna, water, air, soil, geology, geomorphology, heritage and landscape), whether specifically protected by statute or not. 'Mitigation' means the measures that are proposed in the ES to reduce the impacts to a lower level than would otherwise occur.
23. For each chapter of the ES, the three agencies have identified the issues relevant to their statutory duties in Table 4 below. For chapters marked 'no interest', then that particular agency has no relevant statutory duty for any of the issues addressed in that chapter.
24. The structure of the SoCG that follows, then considers each relevant chapter of the ES in turn.

## **SECTION 2: STATEMENT OF COMMON GROUND BETWEEN AHPL AND HIGHWAYS AGENCY**

### **Introduction**

25. This Section of the SoCG reviews those chapters that are relevant to the Highways Agency.

### **Chapter 15 Traffic and Transport (including Annexes 15.1 and 15.2)**

#### *General*

26. Chapter 15 summarises the direct impacts resulting from road traffic generated by AMEP based on a project specific Transport Assessment (TA) included in Annex 15.1 of the Environmental Statement (ES). The TA includes the impacts of other projects which have been consented but that have not, at this time, been implemented. Thereby, the traffic assessment of AMEP, in-combination with other projects has been incorporated into the assessment.

#### *Study Area*

27. The extent of the study set out in Section 1.11 of Annex 15.1, and Sections 15.1 and 15.3 of the ES is agreed. The study area includes the junctions identified in Figure 3.2 in Annex 15.1 of ES, viz.

- A – A1173 / Manby Road
- B – Chase Hill Road / Rosper Road / Clough Road
- C – Rosper Road / Humber Road
- D – A160 / Top Road / Harbrough Road
- E – A160 / A1173 / Humber Road
- F – Eastfield Road / Chase Hill Road
- G – A1173 / Kings Road
- H – A1173 / North Moss Lane / Kiln Lane
- I – A180 / A1173
- J – A180 / A1136 / Europarc
- K – A160 / A1077
- L – A160 / Eastfield Road
- M – A160 / A180 Brocklesby Interchange

#### *Baseline*

28. It is agreed that the baseline traffic surveys listed in Section 4 of the TA provide a sound basis for the assessment of existing traffic flows

#### *Future Year Assessments*

29. It is agreed that since a large number of committed developments (some of which have not yet gained planning approval) have been taken into account and are included in the assessment, no additional traffic growth needs to be applied to future year assessments

### *Trip Generation & Distribution*

30. The employment and building schedule, detailed in Annex 4.3 of the ES, details employee trip generation. From the schedule the predicted number of employees per building and the shift patterns were taken. The Highways Agency agrees with the trip generation as set out in Section 15.3 the ES and the distribution modelling presented in Appendix M of TA.

### *Road Safety Analysis*

31. The analysis identified that traffic created by AMEP would have a negative impact on the road safety particularly as there are no highway improvement schemes that are proposed as mitigation for many previous planning approvals. However, once mitigation proposals (junction improvements set out in paragraph 15.8.9 to 15.8.23), have been put into place *"the scenario will be no worse off than the 'base + committed developments' scenario, and therefore road safety should not be compromised."* (paragraph 15.6.61 of ES).
32. The Highways Agency agrees with the road safety analysis as set out in paragraphs 15.6.60 and 15.6.61 and Section 15.8 of the Environmental Statement.
33. Stage 1 Road Safety Audits are included within the Supplementary Environmental Information.

### *Impact Assessment*

34. The Highways Agency agrees with the junction impact assessment as set out in the ES. Schedule 9 Part 4 of the draft Development Consent Order lists the junctions requiring improvements if AMEP is built. It is agreed that 5 trunk road junctions require improvement works to ensure that if AMEP is consented there will be no detriment to road users so far as reasonably practicable. These junctions are:

Junction D – A160/Top Road/Habrough Road,

Junction E – A160/A1173/Humber Road (Manby Road Roundabout),

Junction K – A160/A1077 Ulceby Road,

Junction L – A160/Eastfield Road (signalised junction), and

Junction M – A180/A160 Merge/Diverge (Brocklesby Interchange).

35. The Highways Agency note that without the A160 upgrade scheme, the traffic impacts cannot be reasonably mitigated to the extent that there is no detriment to road users, accordingly the HA accept that there will be some residual minor adverse effects. However, the proposed mitigation is considered sufficient in the short to medium term and represents the best that can be achieved within the constraints of the current highway.

### *Mitigating Measures*

36. The Highways Agency agrees that the junction improvements as set out in the following Drawings included in Appendix F and Q of the TA will mitigate, to the extent that is reasonably practicable, the significant effects of the development on the trunk road network:

#### *Appendix F*

- 52409-P-011: Proposed Highway Improvements A160 – A1077 Ulceby Road Junction
- 52409/P/004: Proposed Junction Improvements A160/A180

- 52409-P-002: Proposed Signalised Junction Scheme Eastfield Road/A160
- 52409-P-003: Proposed Roundabout Layout

The agreed Road Safety Audits for these junction improvement works are presented in the Supplementary Environmental Information.

*Appendix Q*

- NEA1114/02: Junction E – Proposal for A160/A1173/Humber Road.

*Construction Traffic*

37. It is agreed that construction traffic, including all HGVs, should use the same access and egress routes as the operational traffic and that construction traffic should be managed through a construction traffic management plan, to be approved in writing by the local planning authority and implemented as approved.

*Framework Travel Plan*

38. The Highways Agency notes the Framework Travel Plan in Annex 15.2 the ES. Both parties agree that implementation of detailed travel plans, by tenants, which accord with the Framework Travel Plan will be a necessary requirement of any Development Consent Order.

*Relationship between AMEP and A160 Upgrade Scheme*

39. Both parties agree that if the A160 upgrade scheme is completed prior to the AMEP development being occupied then that would remove the need for junction improvements set out in the ES and the Development Consent Order except for the following:

- Junction L – Eastfield Road/A160. This will be required whether or not the A160 Upgrade Scheme is implemented.

40. Both parties agree that a deferred implementation approach to constructing the junction improvements would be acceptable subject to further assessment of the staged impacts of the development on the trunk road network demonstrating the stage at which a particular junction needed to be improved to avoid detriment to the network.

*Statement of issues not yet agreed*

41. The Highways Agency considers that any deferred implementation of improvements to junctions should be detailed in Schedule 9 of the DCO. Such deferment proposals are currently under discussion between the Highways Agency and AHPL

## **Chapter 37 Transport**

### *General*

42. Chapter 37 provides an assessment of the impacts on traffic and transport which are expected during construction of the Compensation Site. The Highways Agency agree that the proposed development at Cherry Cobb Sands will have no detrimental effect on the trunk road network.

### *Statement of issues not yet agreed*

43. None

