

DATED ~ 20th ~ November ~ 2012

NORTH LINCOLNSHIRE COUNCIL

AND

NORTH EAST LINCOLNSHIRE COUNCIL

AND

ABLE HUMBER PORTS LIMITED

PLANNING OBLIGATION

(Relating to Land at North and South Killingholme, North Lincolnshire)

**W S Bell
Assistant Director: Democratic & Legal Services
Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB**

THIS PLANNING OBLIGATION is made the ~ 20th ~ day of ~ November ~ Two Thousand and twelve **BETWEEN NORTH LINCOLNSHIRE COUNCIL** of the Civic Centre, Ashby Road Scunthorpe in the District and County of North Lincolnshire ("the Lead Council") of the first part and **NORTH EAST LINCOLNSHIRE COUNCIL** of the Municipal Offices Town Hall Square, Grimsby, North East Lincolnshire DN31 1HU ("the Council") and

ABLE HUMBER PORTS LIMITED whose registered office is situate at Able House, ~~Oriel House, The Esplanade, St Helier, Jersey, JE4 9WG~~ ~~Billingham Reach Industrial Estate, Billingham, Teesside, TS23 1EX~~ ("the Developer") of the third part

WHEREAS:

- (1) The Lead Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 and the Highways Authority for the purposes of the Highways Act 1980 for the area within which the site hereinafter referred to is situate and is acting as lead Council for the purposes of this agreement.
- (2) The Developer is the Owner in fee simple in possession of the Site free from incumbrances
- (3) The Council is the Lead Council's neighbouring Authority and is the Highway Authority for the purposes of the Highways Act 1980 for part of the highways subject to the Highway Improvement provision of this agreement
- (4) By a written application dated the sixteenth day of December 2011 to the Infrastructure Planning Commission (now the National Infrastructure Directorate ("NID")) and bearing the application reference number TRO30001, the Developer applied for development consent for the Development.
- (5) Subject to the completion of the Planning Obligation the Lead Council and Council is minded to advise the NID accordingly

NOW THIS DEED WITNESSETH as follows:

1. **THIS DEED** is made in pursuance of section 106 of the Town and Country Planning Act 1990 and is a Planning Obligation for the purposes of that section
2. **THE LEAD COUNCIL** is the Local Planning Authority by whom the provisions of this Planning Obligation are intended to be enforceable. For the avoidance of doubt, a person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms

3. **THE FOLLOWING** terms shall have the following meanings:

"Development" means the development of the Site as applied for in the Development consent application to the IPC and detailed in Schedule 1 to this agreement.

"Development Consent" means the consent granted by Order by the NID for the Development;

"Commencement of the Development" means the date upon which the Development is begun by the carrying out of a material operation (as defined by Section 56 of the Town and Country Planning Act 1990) pursuant to the implementation of the Development with the exception of any works carried out in connection with any archaeological investigation of the Site or trial holes or other operations to establish ground conditions of the Site or any other preliminary investigations;

"Highways Contribution" means the sum of **One Million Four Hundred and Twenty Three Thousand pounds (£1,423,000.00)** to be paid to the Lead Council and the Council as set out in this Agreement towards Off-Site Highway and Transportation Works and future maintenance of the highways;

"Off Site Highway Transportation Works" means the improvement works to the highways detailed in Schedule 2 to this agreement to be carried out by the Lead Council and the Council respectively;

"Permission" means the planning permission referred to in Recital (4) above;

Consent is granted by order.

7. **THE DEVELOPER** hereby covenants to pay the Lead Council's legal costs reasonably incurred in the preparation and execution of this Planning Obligation
8. **THE LEAD COUNCIL** shall upon the written request of the Developer or any successor in title at any time after the obligations of the Developer hereunder have been performed or otherwise discharged issue written confirmation thereof.
9. **THE DEVELOPER** hereby warrants that no other person has any interest in the Site.

IN WITNESS whereof these presents have been duly executed as a deed by the parties hereto the
day and year first before written

**SCHEDULE I: DEVELOPMENT AS APPLIED FOR IN THE DEVELOPMENT
CONSENT**

1. The construction and operation of a 1320 metre quay and associated dredging and land reclamation;
2. the provision of onshore facilities for the manufacture, assembly and storage of wind turbines and related items;
3. the diversion or stopping up of a footpath that runs along the south shore of the Humber
4. any necessary upgrade works to surrounding roads (Rosper Road, Eastfield Road, the A160 and the A180);
5. the conversion of the railway into a private siding;
6. the diversion of a sludge main and a drainage ditch;
7. the re-siting of apparatus;
8. the interference with rights of navigation;
9. the creation of a harbour authority;
10. deemed consent under section 34 of the Coast Protection Act 1949;
11. a deemed licence under Part 2 of the Food and Environmental Protection Act 1985;
12. the modification of public and local legislation;
13. the creation of a compensatory environmental habitat on the north bank of the Humber; and
14. the compulsory acquisition of land and rights in land and powers of temporary occupation of the land to allow Able to carry out and operate the above development.

SCHEDULE 2 OFF SITE HIGHWAY TRANSPORTATION WORKS

Highways in North Lincolnshire (Lead Council)

1. Rosper Road/Humber Road

Improvements to the layout including 2 right turn lanes out of Rosper Road as detailed in Drawing number NEA1114/01 rev. D attached or any superceding drawing agreed in writing by the Lead Council

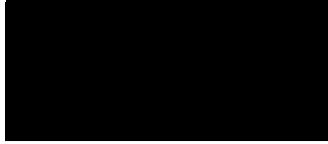
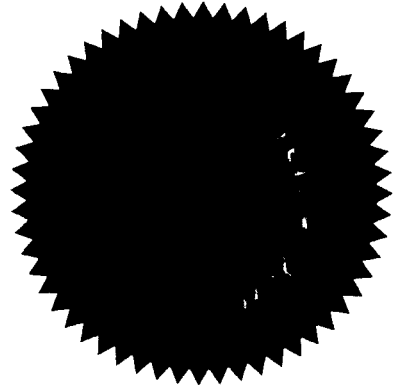
Highways in North East Lincolnshire (the Council)

2. A1173/North Moss Lane/Kiln Lane

Improvements to the layout by introducing a second lane to the North Moss Lane approach with stacking capacity and to extend the existing second lane on the A1173 west to increase the stacking capacity as detailed in Drawing number NEA1114/06 rev.B or any superceding drawing agreed in writing by the Council

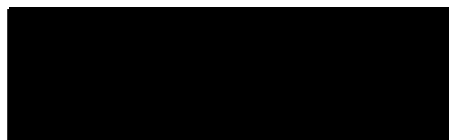
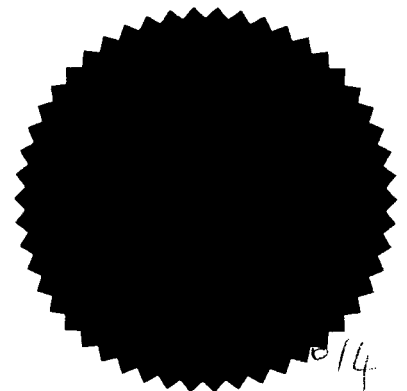
Seal No
7055

**THE COMMON SEAL of
NORTH LINCOLNSHIRE COUNCIL**
was hereunto affixed in the presence of:



Authorised Signatory

**THE COMMON SEAL of
NORTH EAST LINCOLNSHIRE COUNCIL**
was hereunto affixed in the presence of:



Authorised Signatory

014

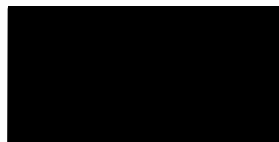
SIGNED as a ~~**DEED**~~ on behalf of
ABLE HUMBER PORTS LIMITED
in the presence of:



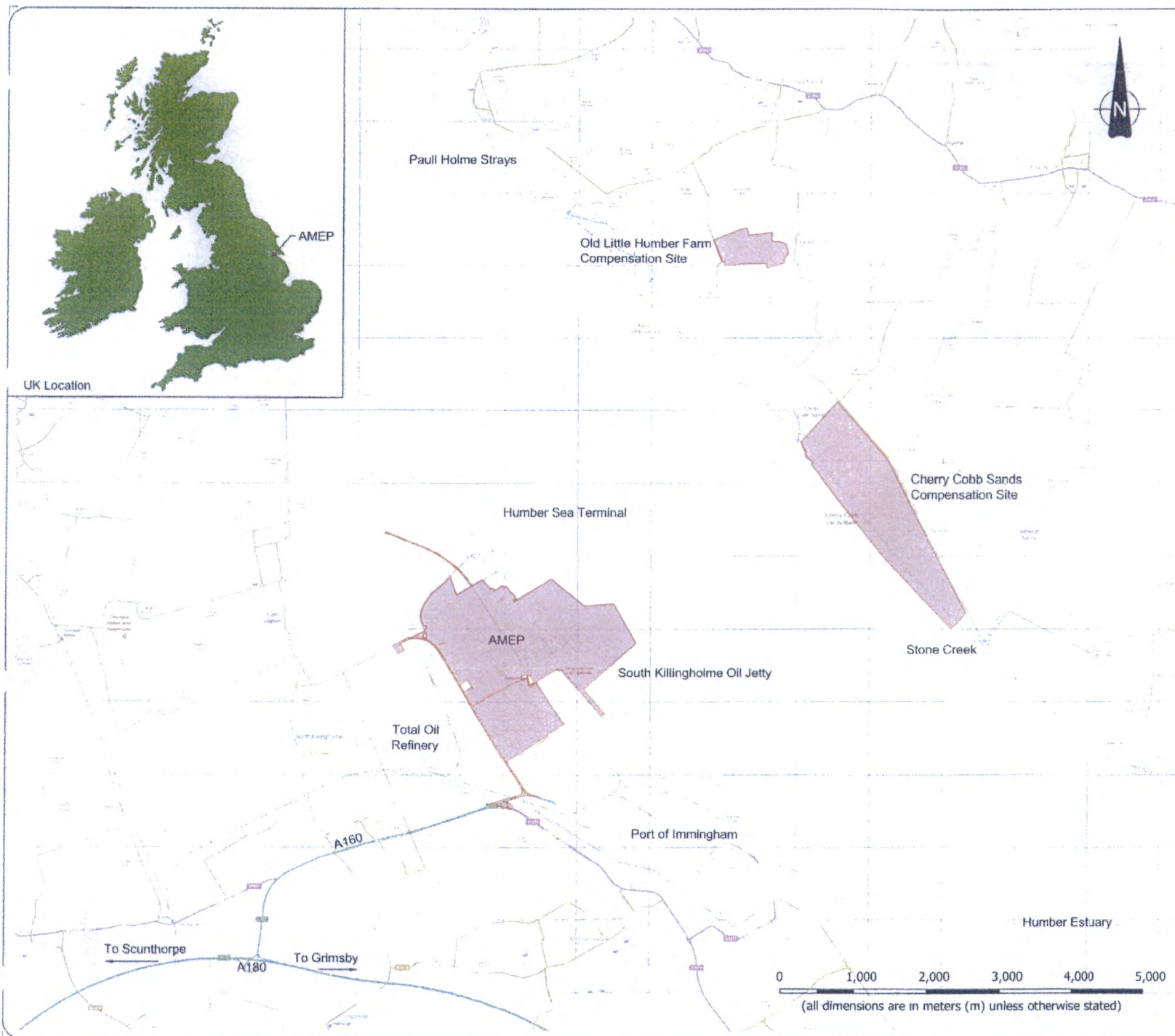
SIGNED as a **DEED** on behalf of
ABLE HUMBER PORTS LIMITED
in the presence of:



Philip Brown.
Director.



Stephen Osmont
Alternate Director



UK Location



KEY

Development Consent Order Boundary

Rev	Date	Comments	DRW	CHK	APP
A	12/12/11	Preliminary Issue	RK	RC	RC



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TS23 1PX

Project:	ABLE Marine Energy Park
Client:	ABLE UK Ltd
Title:	Site Location Plan

PRELIMINARY			
Scale:	Drawn:	Checked:	Approved:
1:50,000@A3	R Kelf	R Cram	R Cram
Date:	12/12/2011	14/12/2011	14/12/2011
Drawing No.	AME - 02000		Revision:
			A



KEY

 Development Consent Order Boundary

Rev	Date	Comments	Drw	Chk	App
A	12/12/11	Preliminary Issue	RK	RC	RC



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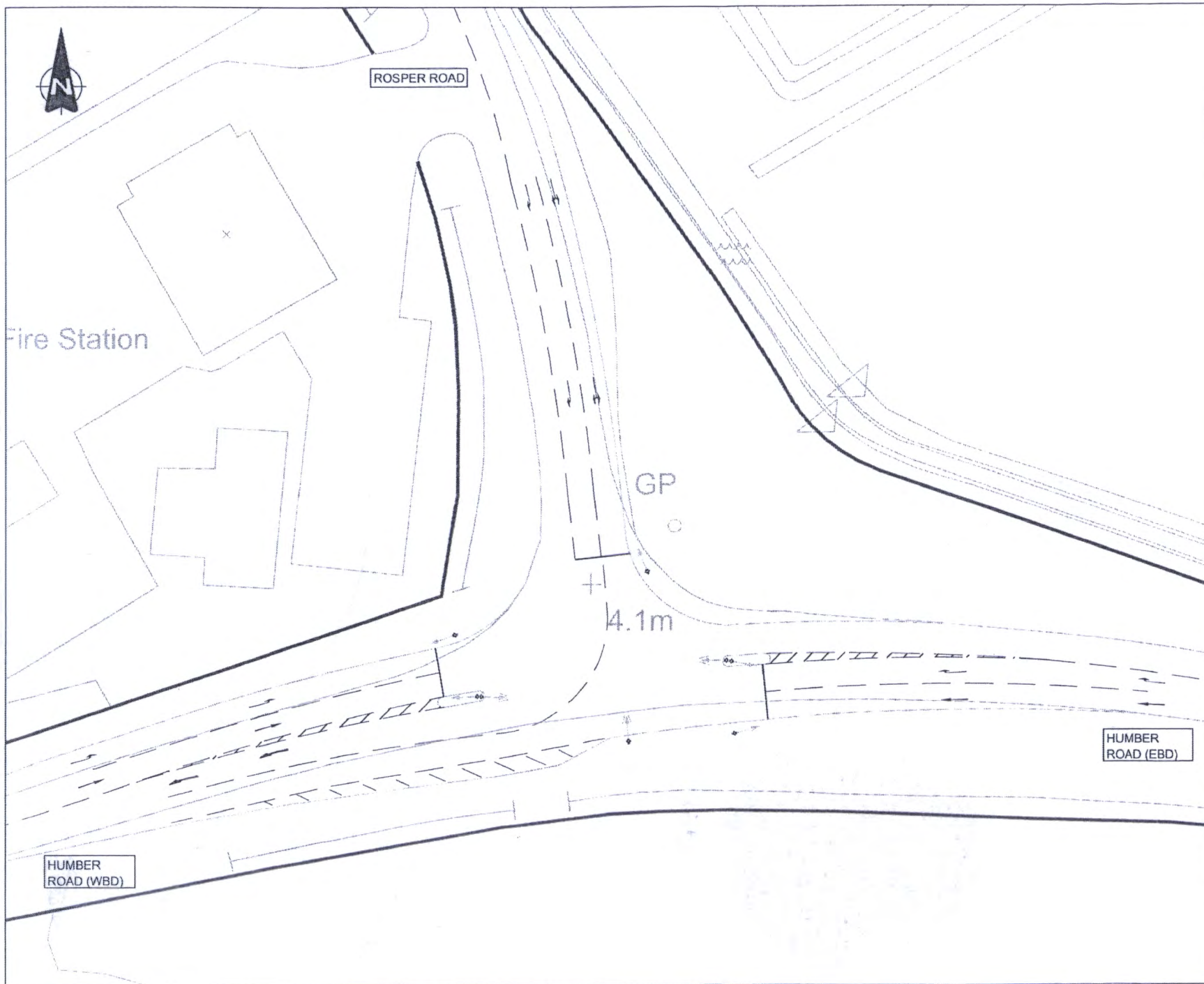
Project: ABLE Marine Energy Park

Client: ABLE UK Ltd

Title: Development Consent Order Boundary

PRELIMINARY

Scale:	Drawn	Checked	Approved
1:50,000 @ A3	R Kairl	R Cram	R Cram
Date	12/12/2011	12/12/2011	12/12/2011
Drawing No.	AME - 02001		Revision: A

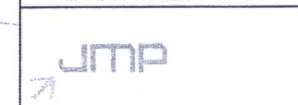


Key

- Road markings
- - - Proposed kerb line
- Approximate highway boundary

D	26/07/11	Updated as per audit comments	MM	DM
C	17/07/11	Revised layout	MM	DM
B	28/07/11	Updated lane layout	MM	DM
A	11/07/11	Delete left turn filter	RAB	DM

1. The above information is for the purpose of the design and is not to be used for any other purpose.

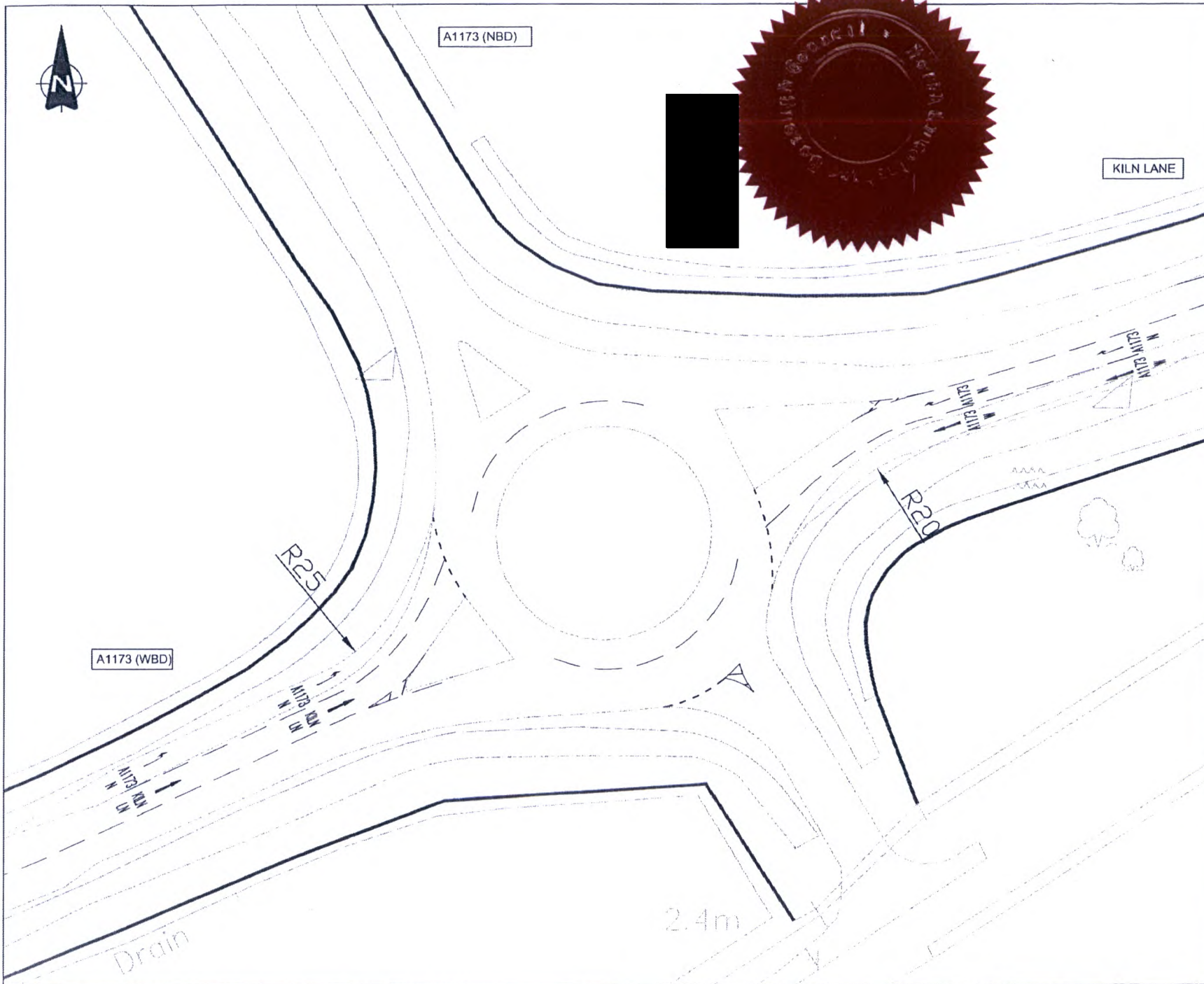


Able UK

Marine Energy Park

Junction C
Proposal for Humber Road / Rosper Road

RAB	DM	
A3	Mar 2011	1:500
INFORMATION	NEA1114/01	D



Key

- Road markings
- Proposed kerb line
- Approximate highway boundary

B 24/07/11 Updated as per audit comments
A 15/02/11 Delete mitigation on A1173 north

RMW DM
RAB DM

JMP

Able UK

Marine Energy Park

Junction H
Proposal for A1173 / North Moss Lane / Kiln Lane

RAB	DM	
A3	Mar 2011	1:500
DRAFT	NEA1114/06	B