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Your reference

Our reference
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14 November 2012

Waived
DLA Piper UK LLP
~~Without prejudice~~ 20/11/2012

Dear Angus

OUR CLIENT: C.GEN KILLINGHOLME LIMITED ("C.GEN")
ABLE HUMBER PORTS LTD/AMEP - PROTECTIVE PROVISIONS

1. I am writing further to Able's version of the Development Consent Order ("DCO") of 26 October, and the proposed protective provisions ("PPs") at Part 5 of Schedule 9 for the benefit of C.GEN. The purpose of this letter is to seek to resolve several outstanding points of detail, and endeavour to agree a set of PPs, in advance of the Issue Specific Hearing ("Hearing") on the DCO on 21 and 22 November.

2. You may recall that C.GEN submitted comments on the DCO on 26 October. A copy of these comments is enclosed - I will not repeat the points made in those. C.GEN is content to withdraw its objection in so far as it relates to the protection sought in the PPs, if the enclosed draft of the PPs is adopted. If Able is willing to achieve this, it will need to confirm its acceptance of these provisions.

3. Alternatively, if your client has comments on these, and/or wishes to propose further amendments, I will need to hear from you in advance of the Hearing so that it can consider them. C.GEN is very willing to discuss the drafting, and my instructions are to meet with you in advance of the Hearing to achieve this if you can do so. Otherwise we can do this by phone or email.

4. My instructions are to appear at that Hearing and, as necessary, make further representations on behalf of C.GEN as to the need for C.GEN to be given appropriate protection for its future statutory undertaking through protective provisions ("PPs").

5. If I do not hear from you in advance of the Hearing, we reserve the right to waive the without prejudice status of this letter to protect our client's position.

DLA PIPER

Railway - paragraphs 48 and 49

6. I note that your amendments to these paragraphs deal with the section of the railway running through the Order Land given that Able no longer seeks powers over the whole Killingholme Branch Line ("Railway").

7. I also note that your drafting of paragraph 49 seeks to limit the number of trains C.GEN is permitted to operate on the Railway. Neither of these amendments is accepted.

8. However, if Able is granted powers to own and control the section of the Railway within AMEP, it will be able to affect the functioning of the whole length of the Railway, not just that part within AMEP. Able must, therefore, be required to allow access to and use of the part of the Railway within AMEP in a way that does not interrupt the proper and efficient functioning of the whole of the Railway. Further, it is entirely unacceptable for AMEP to limit the number of trains that can pass through AMEP when no such restrictions will exist for the remainder of the Railway. If Able has decided to withdraw its application for compulsory powers over the whole Railway, it must as a consequence accept that any powers it is granted must be exercised in a way that has full regard to the functioning - and lack of restrictions - on the remainder of the Railway.

9. It is not appropriate or acceptable to seek to restrict C.GEN's ability to service its development with fuel deliveries in this way.

Paragraphs 49 A and B / DCO Articles 13 and 14

10. As has been explained, Rosper Road is the main access to C.GEN. The additional wording sought in Articles 13 and 14 will protect C.GEN. It is standard, straightforward wording with a precedent.

11. If such wording is not included in the DCO, C.GEN must have protection. This is achieved by paragraphs 49A and 49B.

12. As you have not been able to confirm whether the revisions to Articles 13 and 14 are acceptable, C.GEN must continue to seek both those revisions and the relevant PPs. If you can confirm that the revisions to Articles 13 and 14 are acceptable, C.GEN can re-consider the need for protection through the PPs.

Indemnity - paragraph 51A

13. You have deleted the indemnity sought by C.GEN.

14. It is entirely appropriate that C.GEN is given an indemnity, bearing in mind the potential consequences for it should the construction and operation of the authorised development result in loss. At the meeting on 11 October I explained to you and Able the consequences of, for example, an interruption to freight train movements that prevented the delivery of solid fuel to supply the generating station.

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15. It is not acceptable to expect C.GEN to rely on seeking recompense through uncertain and expensive litigation. That is entirely unusual in PPs.

Conclusion

16. In order to be able to withdraw its objection on relevant matters, C.GEN requires the inclusion of the amendments set out in the enclosed draft PPs.

I look forward to your earliest response.

Yours sincerely

[redacted]

BENJAMIN DOVE-SEYMOUR
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DLA PIPER UK LLP

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Enc.

Document comparison by Workshare Professional on 13 November 2012 17:28:20

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Rendering set	dla standard

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Deleted cell	
Moved cell	
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Padding cell	

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C.GEN PROTECTIVE PROVISIONS

13 November 2012

PART 5

FOR THE PROTECTION OF C.GEN KILLINGHOLME LTD

47. For the protection of C.GEN Killingholme ~~Ltd ('C.GEN')~~Limited the following provisions shall, unless otherwise agreed in writing between the undertaker and C.GEN, have effect.

47A. In this part of this Schedule

'C.GEN' means C.GEN Killingholme Limited; and

'Killingholme Branch Line' means the branch railway line between Immingham and the vicinity of C.RO Ports Killingholme, part of which runs through the Order Limits.

48. The undertaker shall not in the exercise of the powers conferred by this Order prevent C.GEN's access to ~~the railway crossing the Order land~~and use of the Killingholme Branch Line.

49. (1) The construction and operation of the authorised development must not cause ~~unreasonable~~ interference with or prevent the free, uninterrupted and safe use by C.GEN of the ~~railway crossing the Order land by up to five trains per day.~~Killingholme Branch Line or any traffic on the Killingholme Branch Line.

(2) If any such interference is caused or takes place in consequence of the construction or operation of the authorised development the undertaker shall pay to C.GEN all reasonable expenses to which C.GEN may be put and compensation for any loss which it may sustain by reason of any such interference or obstruction.

49A. The undertaker shall not in the exercise of the powers conferred by this Order prevent C.GEN's access to and use of Rosper Road.

49B. (1) The construction and operation of the authorised development must not interfere with or obstruct the free, uninterrupted and safe use of Rosper Road or any traffic on Rosper Road, unless an alternative access that is suitable and commodious is provided prior to and for the duration of any such interference.

(2) If any such interference is caused or takes place in consequence of the construction or operation of the authorised development the undertaker shall pay to C.GEN all reasonable expenses to which C.GEN may be put and compensation for any loss which it may sustain by reason of any such interference or obstruction.

50. With the exception of any duty owed by C.GEN to the undertaker which is expressly provided for in this Part of this Schedule, nothing in this Order shall be construed as imposing upon C.GEN either directly or indirectly, any duty or liability to which C.GEN would not otherwise be subject and which is enforceable by proceedings before any court.

51. Unless otherwise agreed in writing, any dispute arising between the undertaker and C.GEN under this Schedule shall be determined by arbitration as provided in article 59 (arbitration).

51A. (1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, maintenance or failure resulting from any of the authorised development any damage is caused to any property of C.GEN or C.GEN suffers any loss (including but not limited to as a result of loss of revenue at C.GEN's power station at North Killingholme or as the result of delays or interruptions to the operation of the Killingholme Branch Line) the undertaker shall—

(a) bear and pay the cost reasonably incurred by C.GEN in making good such damage; and

(b) indemnify C.GEN against all claims, demands, proceedings, costs, damages and expenses which may be made against, or recovered from, or incurred by it

by reason or in consequence of any such damage or exercise by the undertaker of its powers conferred by this Order.

(2) Nothing in sub-paragraph (1) shall impose any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of C.GEN, its officers, servants, contractors or agents.

(3) C.GEN shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand with such assistance from C.GEN as may be reasonably necessary.

C.GEN Killingholme Limited ("C.GEN")

Able Marine Energy Park ("AMEP")

Comments on Able's draft Development Consent Order version 4, 9 October 2012

Provision	Amendment sought to version 4 by C.GEN	Explanation
Art 2	Amend the definition of "Authorised Development" as follows: "means the development and associated development described in Schedule 1 (authorised development) ~~and any other development authorised by this Order~~, being development within the meaning of section 32 of the 2008 Act"	C.GEN is concerned regarding the breadth of the other, unspecified, works that the DCO seeks to approve in the absence of any proper restriction on use. If a Requirement is included that is an adequate restriction on use of the whole authorised development (i.e. both the land side operations and the cargo to be handled) and on the physical development permitted, then this amendment may no longer be required.
	Amend the definition of "Order limits" to: "land within which the authorised development may be carried out".	C.GEN notes that Able has amended this definition to refer to the description of the [blue] line on the works plan. This should refer to "authorised development" as this is assumed to be to what "development and work" is referring. There is no definition of "development". This amendment will ensure consistency with the various defined terms.
	Insert the following definition of "limits of deviation": "means the limits of deviation for the scheduled works shown on the works plans"	Articles 5 and 5A allows the undertaker to deviate vertically from the levels of the authorised development shown on the sections. Limits of deviation are shown on the works plan and referred to in Article 5A. It is therefore necessary and a standard approach to drafting to define them. There is no reason not to.
	Insert a definition of "sections".	Articles 5 and 5A allows the undertaker to deviate vertically from the levels of the authorised development shown on the sections. Sections are provided and referred to in this Article and in other definitions. It is therefore necessary and a

Provision	Amendment sought to version 4 by C.GEN	Explanation
		standard approach to drafting to define them.
Art 10	Amend Art 10(1) as follows: "(1) Subject to paragraph (3) below the ~~the~~ undertaker may from time to time within the area of jurisdiction provide and operate such harbour facilities, together with works ancillary to those facilities, as may be necessary or convenient for the construction of the authorised development or the operation of the undertaking, and for this purpose the undertaker may construct and maintain roads, ~~railway lines~~, buildings, sheds, offices, workshops, depots, walls, foundations, fences, gates, tanks, pumps, conduits, pipes, drains, wires, mains, cables, electrical substations, signals, conveyors, cranes, container handling equipment, lifts, hoists, lighting columns, weighbridges, stairs, ladders, stages, platforms, catwalks, equipment, machinery and appliances and such other works and conveniences as may be necessary or expedient"	The amendment to make Art 10(1) subject to Art 10(3) is sought for the avoidance of doubt regarding the application of the GPDO. C.GEN notes the amendments made by Able to version 3 of the DCO to remove the scope of Part 11 of the GPDO. The deletion of "railway lines" relates to C.GEN's general concerns regarding Able's proposals for the Railway. As stated in its written representations, at the Issue Specific Hearing for land access and transport and at the Compulsory Acquisition Hearing ("CAH"), C.GEN is concerned that Able has not stated what works it proposed to carry out to the Killingholme Branch Line (the "Railway") apart from the possible construction in the future of a passing loop. Able has proposed this as a separate work. There is no identified need for other railway lines. C.GEN is concerned Able should not be empowered by the DCO to carry out any works to, or that may affect, the Railway. In particular, Able has referred to the suggestion that future tenants may require their own sidings (see paragraph 25 of Able's commentary on version 3 of the DCO). That would have an impact on the capacity and operation of the Railway. This has not been assessed and should not, therefore, be empowered by the DCO under the principles of the Rochdale Envelope.
Art 10(2)(c)	Amend Article 10(2)(c) as follows: "(c) landscaping ~~and other works to mitigate any adverse effect of the construction, maintenance and operation of the works or to benefit or protect any person or premises affected by the construction, maintenance~~	This provision is unnecessarily wide without any explanation of its purpose. It may authorise the construction of works that have not been specified or assessed. This should not be included under the principles of the Rochdale Envelope.

Provision	Amendment sought to version 4 by C.GEN	Explanation
	~~and operation of the works~~."	
Art 13	Insert the following sub-paragraph and re-number the remaining sub-paragraphs accordingly: "(4) No works permitted by this Article shall allow the closure of or impeding access via any of the streets specified in Schedule 2 to or from any premises on such street, unless a suitable and commodious alternative is provided prior to and for the duration of any works permitted by this Article."	Rosper Road will be the main access to C.GEN, including during its construction period. C.GEN needs this access to be maintained during the construction and operation of the C.GEN Project. Any works to Rosper Road that impede access to construction traffic, or deliveries, must be prevented unless an alternative access is provided. It is not appropriate to expect C.GEN to rely on the licencing authority. This provision will enable this.
Art 14	Amend Article 14(1)(b) as follows: "(b) subject to paragraph (2) and (3), prevent all persons from passing along the street"	As for Article 13. As stated above, Rosper Road is the main access to C.GEN. It is not appropriate to only seek to maintain vehicle access "where reasonably practicable" given that Rosper Road is the access road for the C.GEN Project. The stopping up of Rosper Road could have serious implications for the delivery, and thus continuity in supply of, equipment and other materials vital to the continuity of construction and operation of the C.GEN Project. In the worst case, the stopping up of Rosper Road, even on a temporary basis, could cause C.GEN to halt construction or operation of the powerplant, incurring significant loss as a result. These amendments to Article 14 will ensure that access to C.GEN is maintained.
	Amend Article 14(2) as follows: "(2) The undertaker shall provide reasonable access for pedestrians, and ~~where reasonably practicable~~ vehicles, going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.	
	Insert the following sub-paragraph and re-number the remaining sub-paragraphs accordingly: "(3) No street shall be wholly or partly stopped up under this Article unless a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and thereafter maintained by the undertaker, to the reasonable satisfaction of	

Provision	Amendment sought to version 4 by C.GEN	Explanation
	the street authority, between the commencement and termination points for the stopping up of the street until the completion and re-opening up of the street affected by the temporary stopping up."	
Art 22	Amend Art 22(1) as follows: "(1) Unless its construction has commenced within five years of the coming into force of this Order, no tidal work shall be constructed, ~~reconstructed, extended, enlarged, replaced~~ or relaid except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of state before that work is begun".	In version 3 of the DCO Able deleted the words "extend or enlarge" from Article 9. This is a related amendment. It is appropriate to remove these words as Able would not be permitted to reconstruct, extend, enlarge or replace any works in any event.
Art 29	Amend Article 29 by inserting the following sub-paragraph: "(6) Nothing in this Order shall permit the compulsory acquisition of interests in railway, track bed and associated structures from Network Rail Infrastructure Limited, being the parcels numbered 02008, 03013, 03014, 03015, 04004, 04014, 04024, 04025, 05023, 05024, 05025, 05026, 05027, 05028, 07001 in the land plans."	As stated in its written representations and at the CAH C.GEN objects to the compulsory acquisition of any of the Railway. This amendment removes the Railway from the scope of this Article (by amendment of the Book of Reference and land plans or otherwise). Able agree to remove the part of the Railway that passes through C.RO and C.GEN. The compulsory acquisition of the remainder of the Railway is not agreed.
Art 30	Amend Article 30, by inserting the following sub-paragraph and renumbering the remaining sub-paragraphs accordingly:	C.GEN has commenced the process of obtaining a connection agreement to serve the C.GEN Project. The first step, a Basic Services Agreement, is imminent. It is concerned to ensure that this connection agreement is

Provision	Amendment sought to version 4 by C.GEN	Explanation
	"(6) Nothing in this Article shall (a) apply to any easement or other right in which C.RO Ports Killingholme Limited or C.GEN Killingholme Limited has an interest in, or has the benefit of; or (b) override any agreement between Network Rail and either C.RO Ports Killingholme Limited or C.GEN Killingholme Limited relating to the rights to connect to and use Network Rail's railway."	protected. C.GEN is also in negotiation with Network Rail for the grant of easements to allow it to install, and maintain, infrastructure required for its project across the Railway. This is for the cooling water intake/discharge pipes, and the coal conveyor, which would be used to transport solid fuel delivered at the wharf at Killingholme Haven to the powerplant. These easements will be of vital importance to the operation of the power project. Able agree to remove the part of the Railway that passes through C.RO and C.GEN. C.GEN believes that whilst this concession may not affect any easements it obtains in the future, it leaves unresolved the impact on C.GEN's future connection agreement of their proposed acquisition of that section of the Railway that passes through AMEP. As a result, it remains the case that acquisition of the Railway by AMEP will, without appropriate restrictions on Able and protection for C.GEN, prevent the future terms of its connection from being effective. This is because neither C.GEN nor Network Rail would (in the absence of protection) be able to ensure that trains could travel along the Railway to/from C.GEN via the length of Railway though AMEP.
Art 34	Amend by inserting the following sub-paragraph and re-numbering the remaining sub-paragraphs accordingly: "(6) This article does not apply to any easement in relation to crossing the Killingholme Branch Line or other right to access and use the Killingholme Branch Line in which C.RO Ports Killingholme Limited or	As above.

Provision	Amendment sought to version 4 by C.GEN	Explanation
	C.GEN Killingholme Limited has an interest in, or has the benefit of."	
Art 47	Delete	In relation to Art 47(1), C.GEN's concerns regarding the lack of detail provided by Able regarding the Railway, and in particular how it proposes to use it, are relevant. In the absence of a need to use the Railway (and that need being reflected in specified Works in Schedule 1), Able should not be empowered to use the Railway or undertake ancillary works. Likewise in the absence of a need to use the Railway there is no need for Art 47(2), which authorises Able to enter into agreements relating to the Railway. Able would be authorised to enter into such agreements regardless of the existence of this provision.
Schedule 1	Amend paragraph 4 as follows: "....(b) Work No. 4 the provision of onshore facilities for the manufacture, assembly and storage of components and parts for offshore marine energy and related items; (c) Work No. 5 improvement works to Rosper Road, Eastfield Road, the A160 and the A180; (d) Work No. 6 - works to the Killingholme Branch Line (e) Work No. 7 [to include all proposed crossings] - construction of level crossings" and renumber the following sub-paragraphs accordingly.	The onshore facilities, road improvement works, works to the Railway and the construction of level crossings must be specified as Works and included in the Works Plans. Able appears to not want to specify the location, type and number of level crossings. Submissions have already been made on this point. Able is not empowered to acquire the Railway, as currently drafted this Schedule makes no provision to carry out work to alter or construct new level crossings.

Provision	Amendment sought to version 4 by C.GEN	Explanation
Schedule 9 Part 5 **For the Protection of C.GEN**	Amend paragraph 48 as follows: **"48.** The undertaker shall not in the exercise of the powers conferred by this Order prevent C.GEN's access to and use of the ~~railway crossing the Order land~~ Killingholme Branch Line."	Paragraph 48 has been amended so that C.GEN's future right to access to the entire Killingholme Branch Line is protected. Activities undertaken by Able could have implications for C.GEN's access to, or use of, the Railway beyond the section of the railway crossing the Order land.

Provision	Amendment sought to version 4 by C.GEN	Explanation
	Amend paragraph 49 as follows: "**49.** (1)The construction and operation of the authorised development must not cause ~~unreasonable~~ interference with or prevent the free, uninterrupted and safe use by C.GEN of the ~~railway crossing the Order land by up to five trains per day~~ Killingholme Branch Line or any traffic on the Killingholme Branch Line. (2) If any such interference is caused or takes place in consequence of the construction or operation of the authorised development the undertaker shall pay to C.GEN all reasonable expenses to which C.GEN may be put and compensation for any loss which it may sustain by reason of any such interference or obstruction. "	It is not appropriate to apply a test of reasonableness to interference in the absence of proper details of how the interaction of the construction and operation of AMEP with the Railway will be managed. It is also not appropriate to seek to limit the number of trains C.GEN is permitted to run along the line. Limits on the number of trains could have significant implications for the security of fuel supply for the proposed powerplant. Any restriction on train movements would mean that rail traffic to/from C.GEN might not be able to be accommodated, or at least would be severely limited. It is not appropriate or acceptable to seek to restrict C.GEN's ability to service its development with fuel deliveries on the basis of Able's priorities at AMEP. As has been clearly stated in C.GEN's representations (see for example paragraphs 11.5 to 11.9 of C.GEN's note for the CAH), operating the powerplant as an IGCC will require an average throughput of at least 4,500 tonnes of coal per day. This translates into a requirement for *an average of minimum five half coal trains per day (a total of ten movements)* along the Railway. C.GEN cannot know the exact number of train movements that would be required.

Provision	Amendment sought to version 4 by C.GEN	Explanation
		Paragraph 49(2) has been inserted to ensure that any expenses or loss to C.GEN as a result of any interference or obstruction are compensated by Able.
	Insert new paragraphs between paragraphs 49 and 50 as follows: *"Rosper Road* **49A.** The undertaker shall not in the exercise of the powers conferred by this Order prevent C.GEN's access to and use of Rosper Road. **49B.** (1) The construction and operation of the authorised development must not interfere with or obstruct the free, uninterrupted and safe use of Rosper Road or any traffic on Rosper Road, unless an alternative access that is suitable and commodious is provided prior to and for the duration of any such interference. (2) If any such interference is caused or takes place in consequence of the construction or operation of the authorised development the undertaker shall pay to C.GEN all reasonable expenses to which C.GEN may be put and compensation for any loss which it may sustain by reason of any such interference or obstruction."	As set out above, Rosper Road will be the main access to C.GEN, including during its construction period. C.GEN needs this access to be maintained during the construction and operation of the C.GEN Project. Any works to Rosper Road that impede access to construction traffic, or deliveries, must be prevented unless an alternative access is provided. This specific protection is sought for this reason and is appropriate and reasonable.

Provision	Amendment sought to version 4 by C.GEN	Explanation
	Insert a new paragraph before paragraph 52 as follows: "**51A**.(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, maintenance or failure resulting from any of the authorised development any damage is caused to any property of C.GEN or C.GEN suffers any loss (including but not limited to as a result of loss of revenue at C.GEN's power station at North Killingholme or as the result of delays or interruptions to the operation of the Railway) the undertaker shall— (a) bear and pay the cost reasonably incurred by C.GEN in making good such damage; and (b) indemnify C.GEN against all claims, demands, proceedings, costs, damages and expenses which may be made against, or recovered from, or incurred by it by reason or in consequence of any such damage or exercise by the undertaker of its powers conferred by this Order. (2) Nothing in sub-paragraph (1) shall impose any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of C.GEN, its officers, servants, contractors or agents. (3) C.GEN shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand with such assistance from C.GEN as may be reasonably necessary."	It is not accepted that C.GEN must rely on bringing (successful) court proceedings for any loss caused by AMEP. The Protective Provisions for the benefit of C.GEN include obligations that if not performed may lead to financial loss. An indemnity is required to ensure that those obligations are met and that C.GEN has a mechanism for redress if they are not met, or any other activities undertaken by Able in the course of carrying out the authorised development cause loss or damage to C.GEN.

Provision	Amendment sought to version 4 by C.GEN	Explanation
Schedule 11	Amend Requirement 3A as follows: *"~~Cargo~~ Restriction of operations* **3A.** (1) The cargo for which the authorised development is authorised to handle the embarkation and disembarkation shall be restricted to items associated with marine energy infrastructure and any cargo that is incidental or ancillary to such items. (2) The Authorised Development shall be operated only as a facility for the manufacture, assembly, storage and transport of components and parts for marine energy infrastructure and any incidental or ancillary items. ~~(2) If further categories of cargo are authorised by means of planning permission or an order under section 14 of the Harbours Act 1964 or section 1 of the Transport and Works Act 1992, then the implementation of such authorisations shall not constitute a breach of this order~~"	Able's proposed restriction only applies to the cargoes that are handled across the quay. This is not appropriate. The lack of assessment of alternative uses of AMEP applies equally to the Authorised Development/rest of the site as it does to the quay wall. For example, if the onshore area were to be used for logistics or storage, the impacts would be different to those assessed, including on the local road network and potentially the Railway. The restriction should apply to both cargo and on-shore operations. Requirement 3A(2) purports to avoid the need to amend the DCO in future. This is not acceptable to C.GEN in principle and is also ineffective. A Requirement cannot operate in this way and there is no precedent for providing in a DCO that the amendment of the DCO can be achieved by other means. There are specific procedures in the Planning Act 2008 and the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 for amending a DCO. C.GEN does not agree with Able's explanation (which accompanied version 3) that there is a precedent in the Associated British Ports (Hull) Harbour Revision Order 2006. Paragraph 2(4) of Schedule 1 to that Order deems subsequent provisions to be conditions imposed on a planning permission. As a result, they are enforceable by the local planning authority. It does not provide a mechanism for amending them (in fact no provision in the Order achieves that), nor does it provide that any future permission that might allow a breach of any of the specified conditions would not constitute such a breach. This Requirement should be deleted.

Provision	Amendment sought to version 4 by C.GEN	Explanation
	Amend Requirement 4 by inserting references to the sections referred to in Articles 5 and 5A.	See explanation in relation to Article 5A above.