

ABLE MARINE ENERGY PARK, REFERENCE TR030001

APPLICANT'S COMMENTARY ON 26 OCTOBER DRAFT OF DEVELOPMENT CONSENT ORDER

1. Able Humber Ports Ltd is the applicant for development consent for the Able Marine Energy Park. The application was made on 19 December 2011.
2. On 9 October 2012, at the request of the examining authority the applicant provided an updated version of the Development Consent Order (DCO), together with a commentary on the changes that had been made since the previous version of 3 August 2012.
3. This is a commentary on the final draft of the DCO to be submitted by the applicant, which takes into account further representations made by interested parties and further negotiation with them.

General

4. Article and paragraph numbers have been renumbered to form a single numerical sequence – to avoid changing article numbers in previous drafts, new articles were inserted as e.g. 5A.

Article 2 (Interpretation)

5. Coordinates have been re-specified to accord with the standard requested by the Marine Management Organisation (MMO). A definition for Centrica has been included at that company's request. The definition for the compensation EMMP has been altered at Natural England's request. The definition of EMMP has been corrected. The coordinates for the pumping station and the quay have been moved from Schedule 8 at the MMO's request, as they are now used in Schedules and 8.

Article 23 (right to dredge)

6. This article has been removed altogether as all dredging activities are now covered by the Deemed Marine Licence in Schedule 8.

Article 41 (statutory undertakers)

7. Following concerns expressed by E.ON and National Grid that this article, despite being a model provision, could be interpreted as overriding protective provisions, together with concerns that s138 of the Planning Act 2008 requires certification that extinguishment of statutory undertakers' rights regarding apparatus is necessary for the development, this article has been replaced by one that introduces a test of necessity before any statutory undertakers' rights regarding apparatus are extinguished.

Schedule 1 (authorised development)

8. Coordinates for the quay works have been replaced by the definition now inserted at article 2. The dredging around the pumping station outfall has been added to the list of dredging, and the dredging at Cherry Cobb sands has been moved to be listed under the correct local authority.

Schedule 8 (deemed marine licence) (DML)

9. Coordinates for the areas remaining in this definition have been changed to accord with MMO standards. Definitions of marine piles and percussive piles have been added as several new piling conditions refer to these.

10. In paragraph 2, the MMO postal and email address have been amended at that organisation's request.

11. In paragraph 4, the details of the construction of the quay have been amended to accord with the Statement of Common Ground reached with the MMO, Environment Agency and Natural England. At the request of the MMO, it has been made clear that although passive provision is to be made for the later diversion of outfalls and intakes through the quay, the Order does not authorise any such diversions. The use of monitoring equipment has been extended to be before and after the piling works as well as during them.

12. In paragraph 5, the use of the dolphins has been removed at the MMO's request as this is not relevant to the DML. The name of the marine EMMP has been corrected.

13. In paragraph 6, the berthing pocket infill specification has been amended at the request of the MMO.

14. In paragraph 7, the construction of the pumping station has been altered in agreement with the MMO.

15. In paragraph 8, the requirement to dispose at the compensation site has been removed as some material may not be suitable to dispose there.

16. In paragraph 9, the wording has been revised to accord with new defined terms and the dredge depths for the pumping station outfall and Cherry Cobb sands channel have been corrected. In the table, some of the dredge amounts have been amended to accord with the Statement of Common Ground.

17. Paragraph 10 has been amended to restrict the life of maintenance dredging under the licence to three years, and to alter the pumping station outfall dredge depth. In the table, dredging of the E.ON and Centrica outfalls will be dispersed rather than being deposited.

18. At the MMO's request, time limits for capital and maintenance dredging have been added to paragraph 12.

19. At the MMO's request, work cannot be undertaken until four weeks after the marine EMMP has been supplied to the MMO in paragraph 13. Additional text has been added at Centrica's request.

20. The same goes for the vessel movement management plan at paragraph 14.

21. The MMO has requested an increase to ten working days for notification of the commencement of licensed activities in paragraphs 15 and 16.

22. The notification of the identities of agents etc. has been increased from five days to four weeks at the MMO's request in paragraph 17.

23. The notification of the identities of vessels has been increased from 24 hours to four weeks at the MMO's request in paragraph 19.

24. The berthing pocket dredging has correspondingly been changed in paragraph 23.

25. On 25 October the MMO requested that several further conditions be added to the DML, and these now form paragraphs 24 to 34 and 44 to 67.

26. The piling conditions at paragraphs 35 to 41 have been amended in consultation with the Environment Agency.

Schedule 9 (protective provisions)

Part 1 for the protection of the harbour master

27. Paragraph 4 has been amended to reflect changes to Schedule 8, and paragraph 21 has been amended to reflect the replacement of the 'right to dredge' article by Schedule 8.

Part 9 for the protection of E.ON

28. Paragraphs 75 and 80 have been amended to reflect the changes to article 41.

Part 10 for the protection of Centrica

29. Paragraph 78 has been amended since Centrica is now defined in article 2.

30. Paragraph 79 has been amended at Centrica's request to reflect that Centrica has a right to cross the Order land to maintain its pumping station.

31. Text has been added to paragraph 80 to accommodate Centrica's concerns (although the drafting is not as suggested by Centrica).

32. Paragraph 81 has been added at Centrica's request.

Part 11 for the protection of Anglian Water

33. Paragraph 85 has been amended at the request of Anglian Water.

34. Paragraphs 87 to 89 have been added at the request of Anglian Water.

Part 12 for the protection of Bethany Jayne Ltd

35. Paragraph 90 has been amended at the request of Bethany Jayne Ltd.

Part 13 for the protection of Royal Mail Group Ltd

36. Paragraphs 91 to 93 have been added at the request of Royal Mail Group Ltd.

Schedule 11 (requirements)

37. Paragraph 5 has been amended to reflect concerns by North Lincolnshire Council (NLC) about the external appearance of buildings.

38. Paragraph 8 has been amended at the request of Royal Mail Group Ltd.
39. Paragraphs 11 and 12 have been amended at the request of the Environment Agency.
40. Paragraph 17 has been amended at the request of Natural England and the Environment Agency.
41. Paragraph 19 has been amended at the request of Royal Mail Group Ltd.
42. Paragraph 20(3) has been added at the request of Natural England.
43. Paragraph 21 has been amended to deal with an issue raised in the statement of common ground with East Riding of Yorkshire Council and at the request of Royal Mail Group Ltd.
44. Paragraph 24 has been added in response to a request from NLC to address operational noise.
45. Paragraph 25 has been amended in response to issues raised at the 22 October hearing, and at the request of Royal Mail Group Ltd.
46. Paragraph 26 has been added in response to a request from NELC and as a result of issues raised at the 22 October hearing.
47. Paragraph 29(2) has been added in response to requests from Centrica and Royal Mail.
48. Paragraph 40 has been amended following discussions with Natural England.