

The Secretary of State for Transport
c/o Natasha Kopala
Head of Transport Infrastructure Planning Unit
Transport Infrastructure Planning Unit
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Our Ref
JBP/124645.0013
Date
26 February 2021

By Email

██████████@dft.gov.uk

Dear Sir

Able Marine Energy Park Development Consent Order 2014

We act for Able Humber Ports Ltd ('Able'). Able was granted the Able Marine Energy Park Development Consent Order 2014 - S.I. 2014 No. 2935 in January 2014 (the "DCO").

We wrote to you in November regarding Able's proposed material change to the DCO to extend the time limit for the exercise of authority to acquire land compulsorily over a single parcel of land ('MC1'). We are now writing to you regarding a second proposed material change application ('MC2'). MC2 would amend the DCO in order to make changes to the design of the quay (Work no. 1 in the DCO), to amend the approved diversion of footpath 50, and to make further changes as set out in more detail below and in section 2 of the enclosed scoping report (**Enclosure 1**).

In accordance with regulation 10 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (SI 2011/2055) ('the **2011 Regulations**'), Able must consult specified persons and authorities about its material change application. Regulation 19 of the 2011 Regulations requires Able to give notice of a material change application to specified persons and authorities. Under Regulations 10(2) and 19(3) respectively, the Secretary of State may give consent for specified parties not to be consulted and/or notified.

A list of the parties which the Applicant proposes to consult and notify regarding the proposed MC2 application is at Enclosure 2 to this letter. The Applicant has aimed to include all relevant specified persons and authorities in this list, adopting a precautionary approach where there is any doubt as to whether a party is required to be consulted (as explained further at Enclosure 2). We are writing to seek the Secretary of State's confirmation that he is content with this list and that there are no additional parties to be added pursuant to regulations 10(f) and 19(h) of the 2011 Regulations. In order to assist

Registered Office

One Bartholomew Close
London
EC1A 7BL
DX 339401 London Wall

50/60 Station Road
Cambridge
CB1 2JH
DX 339601 Cambridge 24

The Anchorage
34 Bridge Street
Reading, RG1 2LU
DX 146420 Reading 21

Grosvenor House
Grosvenor Square
Southampton, SO15 2BE
DX 38516 Southampton 3

T +44 (0)345 222 9222

W www.bdbpitmans.com

the Secretary of State in reaching a conclusion, we have provided reasons for the inclusion or exclusion of parties in the list at Enclosure 2.

We would be grateful for a response to this request as promptly as possible, as Able is aiming to start consultation on the proposed MC2 application by the end of March 2021. In this regard, you will be aware that Able has submitted an application for Government funding for the project, pursuant to the Offshore Wind Manufacturing Investment Scheme. If that bid is successful then Able is planning to commence construction of the quay in June 2022 and therefore needs to progress this application expeditiously and confirming the consultee list is plainly critical to this aim.

Material Change

The changes proposed in the application for MC2 can be summarised as follows:

- Changes to the proposed quay layout to reclaim the specialist berth at the southern end of the quay, and to set back the quay line at the northern end of the quay to create a barge berth;
- The addition of options to the form of construction of the quay whereby the piled relieving slab to the rear of the quay could be raised or omitted entirely (subject to detailed design), and the quay wall piles could be restrained with more conventional steel anchor piles and tie bars *in lieu* of flap anchors;
- A change to the approved diversion of footpath FP50 in North Lincolnshire to avoid crossing over the existing rail track at the end of the Killingholme Branch Line;
- Provision of a third cross dam within the reclamation area to enable staged completion and early handover of sections of the quay;
- A change to the consented deposit location for 1.1M tonnes of clay to be dredged from the berthing pocket, to permit its disposal at HU082 if required; and,
- An amendment to the sequencing of the quay works (as illustrated on the application drawings AMEP_P1D_D_101 to 103) to enable those works to commence at the southern end of the quay and progress northwards.

Able considers that the changes proposed in the application for MC2 constitute EIA development, as they could potentially result in new or different effects on the environment. An application to the Planning Inspectorate (the '**Inspectorate**') for a scoping opinion for MC2 was submitted on 19 December 2021. Following a request for further information, an updated scoping report was submitted to the Inspectorate on 29 January 2021 (the '**Scoping Report**'). A copy of the Scoping Report is enclosed at **Enclosure 1**.

Consultation on Material Change

A list of the parties which Able proposes to consult on the proposed material change is at Enclosure 2 to this letter. In compiling this list, Able considered the categories listed in Regulation 10(1) together with Table 1 at Schedule 1 of the 2011 Regulations. The list at Enclosure 2 sets out the relevant parties falling into each of these categories in relation to the proposed MC2. We have indicated which parties

Able proposes to consult on MC2, providing an explanation in each case. Able would note that the public and others who will not be consulted under Regulation 10 of the 2011 Regulations will still be able to make representations because of the publicising requirements under Regulation 14 of the 2011 Regulations and the opportunities to respond which that affords.

Notification of Application for Material Change

Able notes that the parties required to be notified of the material change application being made under Regulation 19(1) and Table 1 of Schedule 1 of the 2011 Regulations are the same as the parties required to be consulted under Regulation 10(1) and Table 1 of Schedule 1 of the 2011 Regulations. Able therefore considers that the list for notification should be the same as the list for consultation, although Able would also notify any parties who were not included on the consultation list but responded to the consultation. The requirements for public notices under the 2011 Regulations mean that those not notified directly under Regulation 19(1) would still be able to follow the progress of the application, and to make representations.

Yours faithfully



BDB Pitmans LLP

cc AbleMarineEnergyPark@planninginspectorate.gov.uk
enc Enclosure 1: Scoping Report, January 2021
 Enclosure 2: Proposed list of persons to be consulted and notified

AMEP DCO - Material Change 2
 Consultation list under The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (the '2011 Regulations')

	Consultee category	Circumstances when that person must be consulted about a proposed application	Relevant parties	Explanation	Proposed consultees
Regulation 10	Each person who may be directly affected by the changes proposed in the application	-	North Lincolnshire Council, Network Rail, Crown Estate Commissioners	The change to the alignment of the PtoW diversion will affect Network Rail, as the diverted PtoW would no longer require a new crossing of the railway. For this reason the Office for Rail and Road (ORR) is also a proposed consultee. Given that there may be impacts on pedestrians associated with the proposed amendments to the PtoW alignment North Lincolnshire Council will also be consulted (in particular its Principal Access and Commons Officer.) The area of the proposed changes to the quay is on land owned by the Crown Estate and formerly leased to Associated British Ports, specifically Parcel Nos 08001 and 09001. The lease was compulsorily acquired by Able Humber Ports Ltd (AHLPL) on 15 June 2015 and immediately surrendered back to the Crown. AHLPL now has an option to lease the land from the Crown Estate, and this option will be exercised immediately prior to Work No. 1 commencing. The Scoping Report for the proposed material change scopes in various matters relating to hydrodynamics and sedimentary regime during construction and operation, due to the potential for new or different environmental effects occurring. Parties have therefore also been identified as proposed consultees which, although not directly affected by the proposed changes, may be affected by these potential impacts (principally neighbouring operators). The Applicant also proposes to consult those parties which benefit from protective provisions in the DCO, on the basis that these parties have been particularly engaged in the DCO process to date.	North Lincolnshire Council (Principal Access and Commons Officer), Associated British Ports, Killingsholme Limited, Phillips 66 Limited, National Oil Products (UK) Ltd, Royal Mail Group Ltd, The Oil and Gas Authority
	Each person who has the benefit of the development consent order to which the application relates, unless that person is also the applicant	-	n/a	The applicant is the only person who has the benefit of the Able Marine Energy Park Order 2014.	None
	An authority which, in relation to the proposed application, is a relevant local authority	-	North Lincolnshire Council, North East Lincolnshire Council, West Lindsey Council, Bassetlaw Council, Doncaster Council, East Riding of Yorkshire Council, Lincolnshire County Council, Nottinghamshire County Council, South Yorkshire County Council	The land to which the proposed material change relates is in the area of North Lincolnshire Council, which is a unitary authority (a "B" authority under s.43 Planning Act 2008). North Lincolnshire Council shares a boundary with the other local authorities listed, these are therefore "A" authorities under s.43 Planning Act 2008.	North Lincolnshire District Council, North East Lincolnshire Council, West Lindsey District Council, Bassetlaw District Council, Doncaster Council, East Riding of Yorkshire Council, Lincolnshire County Council, Nottinghamshire County Council, South Yorkshire County Council
	The Marine Management Organisation (MMO) if the land is in one or more of the areas specified in subsection (1A) of section 102 (of the Planning Act 2008)	-	MMO	The land on which the proposed works to the quay are taking place, and to which the proposed material change therefore relates, is located in waters in England.	MMO
	The areas are— (a) waters in or adjacent to England up to the seaward limits of the territorial sea	-	n/a	The applicant has taken a precautionary approach in preparing this consultation list, and therefore considers that it contains all parties which are likely to have an interest in the proposed material change application.	None
	Any other person the Secretary of State considers should be consulted	-	n/a		None
	Category 1: A person is within Category 1 if the applicant, after making diligent inquiry, knows that the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land	-	Network Rail Infrastructure (Owner) The Crown Estate (Owner) Associated British Ports (Presumed Leaseholder) Able Humber Ports Limited (Presumed Leaseholder)	A land registry search of the parcels of land to which the proposed material change relates (parcels 08001, 09001 and 07001) was carried out in February 2021 in order to confirm relevant land interests in each category. Due to technical difficulties encountered by the land registry in processing the search request for plot 08001, the Applicant has not yet received the search results. The land interests listed are therefore based on a 2018 Land Registry search for this parcel. If the results of the February 2020 search reveal any additional land interests the Applicant will inform the Secretary of State. Nevertheless, given the nature of the plot, the Applicant does not anticipate that there will be any changes. Based on the book of reference for the original DCO, additional potential land interests have been included as consultees on a precautionary basis.	Network Rail Infrastructure The Crown Estate Associated British Ports
Category 2: A person is within Category 2 if the applicant, after making diligent inquiry, knows that the person— (a) is interested in the land, or (b) has power— (i) to sell and convey the land, or (ii) to release the land	-	Able Humber Ports Limited (Beneficiary of an Agreement for Lease)	A land registry search of the parcels of land to which the proposed material change relates (parcels 08001, 09001 and 07001) was carried out in February 2021 in order to confirm relevant land interests in each category. Due to technical difficulties encountered by the land registry in processing the search request for plot 08001, the Applicant has not yet received the search results. The land interests listed are therefore based on a 2018 Land Registry search for this parcel. If the results of the February 2020 search reveal any additional land interests the Applicant will inform the Secretary of State. Nevertheless, given the nature of the plot, the Applicant does not anticipate that there will be any changes. Based on the book of reference for the original DCO, additional potential land interests have been included as consultees on a precautionary basis.	None (Able Humber Ports Limited is the Applicant)	
Category 3: A person is within Category 3 if the applicant thinks that, if the order sought by the proposed application were to be made and fully implemented, the person would or might be entitled— (a) as a result of the implementing of the order, (b) as a result of the order having been implemented, or (c) as a result of use of the land once the order has been implemented, to make a relevant claim. A person is within Category 3 only if the person is known to the applicant after making diligent inquiry	-	None identified	A land registry search of the parcels of land to which the proposed material change relates (parcels 08001, 09001 and 07001) was carried out in February 2021 in order to confirm relevant land interests in each category. Due to technical difficulties encountered by the land registry in processing the search request for plot 08001, the Applicant has not yet received the search results. The land interests listed are therefore based on a 2018 Land Registry search for this parcel. If the results of the February 2020 search reveal any additional land interests the Applicant will inform the Secretary of State. Nevertheless, given the nature of the plot, the Applicant does not anticipate that there will be any changes. Based on the book of reference for the original DCO, additional potential land interests have been included as consultees on a precautionary basis.	None	
Schedule 1, Table 1	The Health and Safety Executive (HSE)	All cases	HSE	n/a	HSE
	The National Health Service Commissioning Board and the relevant clinical commissioning group	All proposed applications likely to affect land in England and Wales	National Health Service Commissioning Board, NHS North Lincolnshire Clinical Commissioning Group.	The proposed material change application is likely to affect land in England. As set out in the scoping report, no materially new or different effects on health are anticipated as a result of the proposed change and health has been scoped out of EIA. Nevertheless, taking a precautionary approach the Applicant proposes to consult these bodies.	National Health Service Commissioning Board, Commissioning Group.
	Natural England	All proposed applications likely to affect land in England	Natural England	The proposed material change application is likely to affect land in England.	Natural England
	The Historic Buildings and Monuments Commission for England	All proposed applications likely to affect land in England	Historic England	The proposed material change application is likely to affect land in England. As set out in the scoping report, no materially new or different effects on the historic environment are anticipated as a result of the proposed change and health has been scoped out of EIA. Nevertheless, taking a precautionary approach the Applicant proposes to consult Historic England.	Historic England
	The relevant fire and rescue authority	All cases	Humberstone Fire Authority	Under the 2011 Regulations "fire and rescue authority" has the same meaning as in section 1 of the Fire and Rescue Services Act 2004 (fire and rescue authorities). Under section 1(4) and sections 2 and 4 of the Fire and Rescue Services Act 2004, schemes may constitute fire and rescue authorities for particular areas. Humberstone Fire Authority was formed following the Humberstone Fire Services Combination Order 1995 being passed by Parliament, and Humberstone Fire and Rescue Service serves an area including North Lincolnshire Council (where the land to which the proposed material change application relates is located).	Humberstone Fire Authority
	The relevant police and crime commissioner	All cases	Keith Hunter, (the Police and Crime Commissioner for Humberstone)	Under the 2011 Regulations "police and crime commissioner" means a police and crime commissioner established under section 1 of the Police Reform and Social Responsibility Act 2011 (police and crime commissioners). Section 1(1) Police Reform and Social Responsibility Act 2011 states that "there is to be a police and crime commissioner for each police area listed in Schedule 1 to the Police Act 1996". Schedule 1 to the Police Act 1996 (police areas outside London) include the police area of Humberstone, which includes the non-metropolitan districts of the East Riding of Yorkshire, Kingston upon Hull, North East Lincolnshire and North Lincolnshire. The land to which the proposed material change application relates is located in the district of North Lincolnshire.	Keith Hunter, (the Police and Crime Commissioner for Humberstone)
	The Environment Agency	All proposed applications likely to affect land in England	Environment Agency	The proposed material change application is likely to affect land in England.	Environment Agency
	AONB Conservation Boards	All proposed applications likely to affect an AONB that is managed by a Conservation Board	n/a	The proposed material change application is not likely to affect an AONB that is managed by a Conservation Board. No new or different effects on the terrestrial environment are expected as a result of the proposed material change, and the nearest AONB (Lincolnshire Wolds) is some distance away from the site.	None
	The Joint Nature Conservation Committee (JNCC)	All proposed applications likely to affect the marine environment	JNCC	The proposed material change application may result in new or different environmental effects affecting the marine environment, as set out in the scoping report.	JNCC
	The Maritime and Coastguard Agency (MCA)	All proposed applications likely to affect the maritime or coastal environment, or the shipping industry	MCA	Navigation has been scoped in for assessment in the scoping report, due to the potential for new or different effects resulting from increased vessel movements and the change in the quay line.	MCA
	The Civil Aviation Authority (CAA)	All proposed applications relating to airports or which are likely to affect an airport or its current or future operation	CAA	The proposed application does not relate to an airport and is not likely to affect an airport. Aviation has been scoped out for EIA in the Scoping Report. Nevertheless, taking a precautionary approach the Applicant proposes to consult the CAA.	CAA
	The Secretary of State for Transport	All proposed applications likely to affect road or transport operation and/or planning on roads for which the Secretary of State for Transport is the highway authority	Secretary of State for Transport	The proposed material change application is not likely to affect roads or transport operation. The amendments to the proposed design will not give rise to any new or different effects on vehicle flows. The estimates for construction traffic and operational traffic remain the same regardless of the proposed changes. Nevertheless, taking a precautionary approach, the Applicant proposes to consult the Secretary of State for Transport.	Secretary of State for Transport
	Integrated Transport Authorities (ITAs) and Passenger Transport Executives (PTEs)	All proposed applications likely to affect transport within, to or from the relevant integrated transport area of the ITA or PTE	n/a	The proposed material change application will not give rise to any new or different effects on vehicle flows. The estimates for construction traffic and operational traffic remain the same regardless of the proposed changes. Although transport has been scoped in for EIA in the Scoping Report due to a change in the length of the footpath diversion, North Lincolnshire is not within a relevant integrated transport area.	None

