



**Able Marine Energy Park
Development Consent Order 2014
Material Change no. 2**

Planning Inspectorate Reference: TR030006

**Written Representations by
the Environment Agency
Unique Reference Number: ABMC2-R19029**

14 December 2021

1.0 Introduction

- 1.1 On 13 August 2021 the Environment Agency (EA) made Relevant Representations, accepted into the Examination as ref: [RR-004](#), to the proposal by Able Humber Ports Ltd ('the Applicant') for a material amendment ('material change 2') to the Able Marine Energy Park ('the Project'), which was granted a Development Consent Order in 2014 ('the DCO') on land off Rosper Road, Killingholme, North Lincolnshire. The purpose of these Written Representations is to provide an update on the summaries contained in our Relevant Representations.

2.0 Scope of these representations

- 2.1 These Written Representations contain an update on the outstanding project issues (previously highlighted in the EA's Relevant Representations), which fall within our remit. They are given without prejudice to any future representations that we may make throughout the examination process. We may also have further representations to make if supplementary information becomes available in relation to the application.

3.0 Hydrodynamic and Sedimentary Regime

- 3.1 The Applicant has provided the EA with additional information to address the issues raised in paragraphs 4.1 to 4.8 of its Relevant Representations. This additional information is being included as Appendix 1 to the Statement of Common Ground (SoCG) between the Applicant and the EA, to be submitted at Deadline 1.
- 3.2 Appendix 1 to the SoCG includes reasonable responses to the queries and requests for clarity raised by the EA and acknowledges the limitations of drawing definitive conclusions from modelling the responses of a (estuary) system that is so dynamic. Whilst the EA is comfortable that the Applicant has made appropriate efforts to understand and predict the likely impacts of the proposals, it is the EA's view that definitive conclusions about future impacts/ the estuarine responses to change from the planned activities cannot be made. Monitoring and mitigation is key in this sort of situation to ensure the impacts on the environment can be managed.
- 3.3 Accordingly, the EA is satisfied that sufficient clarity has been provided with regards to the use of present-day data in the assessment, and that changes due to the impact of sea level rise do not need further consideration. The conclusions are reasonable, noting the agreed understanding that definitive conclusions cannot be made from modelling of a dynamic system, such as the Humber.

- 3.4 The Applicant has assessed that most material placed at the HU082 and HU081 disposal sites will disperse within a few years of placement, with a corresponding reduction to the magnitude of effect on wave conditions. Based on the transient nature of the small effects on waves, simulations of impacts from disposal activities relate to present day conditions. The EA is satisfied that sufficient clarity has been provided with regards to the use of present-day data in the assessment, and that changes due to the impact of sea level rise do not need further consideration. Again, the conclusions are reasonable, noting the agreed understanding that definitive conclusions cannot be made from modelling of a dynamic system, such as the Humber.
- 3.5 The EA requested that potential impacts from increased wave activity resulting in foreshore erosion to the west of Hawkins Point needed further consideration in respect of the risk to habitat/flood defences. The Applicant has provided an explanation of the impacts on the foreshore at Hawkins Point (included in Appendix 1 to the SoCG). The EA is now satisfied with the Applicant's assessment of this.
- 3.6 The EA stated (Relevant Representation paragraph 4.6) that to safeguard any consequences from the potential flow acceleration during the ebb tide off the downstream end of the quay, the additional mitigation set out in section 8.5.2 of the Updated Environmental Statement (UES) must be secured using an appropriate mechanism. It also requested that monitoring be undertaken for a minimum of 10 years, and that the Applicant should set out what remedial action will be taken if impacts arise. The Applicant has stated that this will be secured via the Marine Environmental Management and Monitoring Plan (MEMMP) that the Marine Management Organisation (MMO) must approve this pursuant to the DCO – the EA is a consultee to this document and this is satisfactory.
- 3.7 The flow acceleration for the amended quay on the ebb tide is predicted to occur slightly further inshore and over a smaller area than was the case for the consented quay. The increased ebb tide currents are in line with the Project quay and extend downstream for up to 500m on spring tides. Peak speeds on the ebb tide at South Killingholme Oil Jetty may increase by up to 0.3m/s and at the Immingham Gas Jetty by up to 0.1m/s. The EA does not expect that mitigation will be required for this effect.
- 3.8 The Applicant has provided a proposed monitoring schedule to the Environment Agency, to supplement the information in Section 8.5.2 of the UES (see Appendix 1 to the SoCG to be submitted by the Applicant into the Examination documents at Deadline 1). The monitoring includes for pre-construction activity, monitoring and compliance reporting during the dredging and continued monitoring post-construction. It is proposed that the post-construction monitoring be reviewed 3 years after disposal activities at HU081/82 is completed. Current measurements in proximity to South Killingholme Oil Jetty will

be made pre- and post- construction of AMEP on spring tides of a similar range. The Applicant proposes to commission bespoke LiDAR surveys of Hawkins Point to monitor changes to the site before, during and after completion of the disposal activities. The EA is satisfied with this proposal.

- 3.9 The Appendix 1 document to the SoCG suggests that the mitigation proposed (as set out in paragraph 8.5.2 of the UES) should be secured by minor changes to the Deemed Marine Licence (covering points 1-4) and points 5 and 6 can be addressed through the MEMMP. The EA is satisfied that this proposal will adequately secure the mitigation required.
- 3.10 In summary, the EA is satisfied that all issues relating to the hydrodynamic and sedimentary regimes are now resolved.

4.0 Water and Sediment Quality and the Water Framework Directive

- 4.1 The Applicant has provided the EA with a revised Water Framework Directive (WFD) assessment (dated 18 Nov 2021, release no. R04-00) and this document now includes 'Section 7: Cumulative effects assessment'. The focus of this is on approved projects that are not currently operational. The section concludes that no substantive deleterious cumulative impacts have been identified from the developments included in the Cumulative Assessment.
- 4.2 However, reasons for excluding certain projects from Cumulative Assessment (ES Section 6.4.0, Table 6-2) are stated as "*No likely cumulative effects predicted. AMEP was excluded from the cumulative assessment which accompanied this planning application.*". This provides no indication or evidence to justify why no cumulative effects are expected for these developments. The EA, therefore, requests that clarity is provided for these projects to substantiate exclusion from the Cumulative Assessment.
- 4.3 Please note that the EA's request for this clarification is not to imply that it is anticipating there to be any adverse cumulative effects where HR Wallingford has stated '*No likely cumulative effects predicted*', but that some level of justification needs to be stated.
- 4.4 The EA acknowledge that the updated 2021 baseline incorporates operational developments previously considered within the original cumulative assessment (including dredging activities). This is satisfactory.
- 4.5 With reference to paragraphs 9.5 to 9.6 of the EA's Relevant Representations, details of the SeDiChem tool have now been provided to us. However, the results have continued to be dismissed in the WFD assessment on the basis of the Maximum Allowable Concentrations (MAC-EQS) being at low values. This factor should be

largely irrelevant, unless there is an otherwise valid reason provided, for example limitations due to limits of detection.

- 4.6 The WFD assessment report states that where there are already PAH failures, the proposed development and proposed material change are not expected to be made to contribute to a worsening of the chemical status within the Humber Lower. The WFD assessment does state that the Humber Lower is failing overall for chemicals and that no deterioration in WFD water quality is predicted. However, this does not acknowledge a worsening of status for PAHs that are not currently failing. The EA requests the Applicant provides clarity on this.
- 4.7 The timeframes for dredging have been provided (2 weeks in Autumn 2022, 6 weeks in Spring 2023, 4 weeks Autumn 2023, 8 weeks early 2024 and 12 weeks Summer 2024) with a statement that elevated contaminants will reduce back to baseline water column levels within a short period (weeks). The WFD assessment states that in-plume and baseline water sampling will take place to verify PAH concentrations during dredging operations and will be added in to the MEMMP. We welcome this addition and the commitment to consult and agree this with the EA prior to works commencing.
- 4.8 Finally, we would highlight that the statement on page 27 of the WFD assessment that “*There are also no CAL 2 for PAHs*” is not correct and should be deleted.

5.0 Flood Risk and Drainage

- 5.1 We have no additional comments to make on the Applicant’s assessment of flood risk.
- 5.2 For information, the work to develop the new emerging flood risk management strategy for the Humber (H2100+) is ongoing and there are only limited outputs from that work available at this time. However, the EA has taken account of the developing strategy in making representations, and the Applicant has taken account of the updated water levels developed as part of the modelling for H2100+. UKCP18 sea level allowances have also been used in the Applicant’s assessments.
- 5.3 The EA is also in contact with the Applicant regarding the outstanding matter of entering into two new legal agreements to include two small areas of land on which the quay will be constructed. These areas are not yet in the Applicant’s ownership and have yet to be finally resolved but it is hoped that progress in relation to these will be made soon. However, the EA does not believe this has any specific implications for the material change application and can update the Inspector in due course if required.

6.0 Summary & Conclusions

- 6.1 The EA is satisfied that all issues, with the exception of those outlined above with regards to the WFD assessment, are now resolved. The outstanding WFD assessment issues are a matter of detail, rather than principle, and are capable of resolution. Accordingly, the EA has no in principle objection to the Material Change 2 application and does not wish to attend any issue specific hearings. However, the EA will be pleased to provide any further information the Examining Body may require through written submission.