



Able Marine Energy Park

Material Change 2

Statement of Common

Ground with MMO

ABLE MARINE ENERGY PARK DCO 2014

MATERIAL CHANGE 2

Planning Inspectorate Reference: TR030006

Statement of Common Ground

Between

ABLE HUMBER PORTS LIMITED

and

MARINE MANAGEMENT ORGANISATION

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1 Introduction and Purpose

1.1 Purpose of Statement of Common Ground

1.1.1 This Statement of Common Ground ('SoCG') is between Able Humber Ports Limited ('the Applicant') and Marine Management Organisation ('MMO') in relation to an application ('the Application') for a material change to the Able Marine Energy Park Development Consent Order 2014 (the 'DCO'). The Application was made pursuant to section 153 and paragraphs 3 and 4 of Schedule 6 of the Planning Act 2008, and Regulation 16 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011.

1.1.2 The Planning Inspectorate allocated the Application the reference number TR030006, and published documents relating to the Application on its website under the title "Material Change 2". The Applicant submitted the Application to the Planning Inspectorate on 25 June 2021.

1.1.3 The Applicant and MMO are collectively referred to in this SoCG as 'the parties'. The parties have been, and continue to be, in direct communication in respect of the interface between the application and MMO's interests.

1.1.4 The purpose and possible content of SoCGs is set out in paragraphs 58 – 65 of the Department for Communities and Local Government's guidance entitled "*Planning Act 2008: examination of applications for development consent*" (26 March 2015). Paragraph 58 of that guidance explains the basic function of SoCGs:

"A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence."

1.1.5 SoCGs are therefore a useful and established means of ensuring that the evidence at the examination focuses on the material differences between the main parties, and so aim to help facilitate a more efficient examination process.

1.1.6 The purpose of this SoCG is to set out agreed factual information about the Application. It is intended that this SoCG should provide matters on which the Parties agree. As well as identifying matters which are not in dispute, the SoCG may also identify areas where agreement has not been reached.

1.1.7 This SoCG has been prepared in response to the relevant representations made by MMO received by the Planning Inspectorate on 19 August 2021. The matters addressed are:

- The articles of the draft DCO Amendment Order;
- The article of the existing DCO;
- The time limits specified in Marine Licence Variation 2;

- The adequacy of the Updated Environmental Statement ('UES') in assessing the baseline and any impacts.

1.1.8 It is envisaged that this SoCG will evolve during the examination phase of the DCO material change application.

1.1.9 Subsequent drafts will be agreed and issued, with the version numbers clearly recorded in the 'Document Control' table at the beginning of the document.

1.2 Description of the DCO and material change application

1.2.1 The Able Marine Energy Park ('AMEP') is a proposed 1288m long quay on the south bank of the Humber Estuary approximately 14 miles south-east of Hull, and north of North Killingholme. It is comprised of a quay, reclaimed estuarine habitat and facilities to allow offshore energy components and parts to be manufactured, assembled, stored and exported to their installation sites and elsewhere. The development is located the administrative areas of North Lincolnshire Council and East Riding of Yorkshire Council (although the Application relates to part of the development located in the administrative area of North Lincolnshire Council only).

1.2.2 The DCO came into force on 29 October 2014. Since this time, construction of the pumping station has commenced.

1.2.3 On 25 June 2021 the Applicant submitted the Application which comprised the following proposed changes:

- (a) a realignment of the proposed quay (within its existing limits of deviation) to remove a berth pocket at the southern end and introduce a setback at the northern end;
- (b) changes to the construction methodology to allow the relieving slab at the rear of the quay to be at the surface as an alternative to being buried or to be omitted altogether, and the use of anchor piles as an alternative to flap anchors;
- (c) consequential changes to dredging; and
- (d) unrelated to the quay changes, the realignment of a footpath diversion to the north west of the site to go round the end of a railway track instead of crossing it.

1.2.4 Further details of the material change can be found in the Application cover letter [\[APP-001\]](#) which accompanies the material change application.

1.2.5 Those aspects of the project that involve amending the Deemed Marine Licence (DML) at Schedule 8 to the DCO will be the subject of a separate application to the MMO, since a DML cannot be amended via an application to amend a DCO (by virtue of paragraph 5(6) of Schedule 6 to the Planning Act 2008). Issues related to the amendment of the DML are included for reference only.

1.3 Marine Management Organisation

- 1.3.1 The MMO was established by the Marine and Coastal Access Act 2009 (the “2009 Act”) to contribute to sustainable development in the marine area and to promote clean, healthy, safe, productive, and biologically diverse oceans and seas.
- 1.3.2 The responsibilities of the MMO include the licensing of construction works, deposits and removals in English inshore and offshore waters and for Northern Ireland offshore waters by way of a marine licence. Inshore waters include any area which is submerged at mean high water spring (“MHWS”) tide. They also include the waters of every estuary, river, or channel where the tide flows at MHWS tide. Waters in areas which are closed permanently or intermittently by a lock or other artificial means against the regular action of the tide are included, where seawater flows into or out from the area.
- 1.3.3 The MMO is responsible for post-consent monitoring, variation, enforcement, and revocation of provisions relating to the marine environment of consents issued under both Acts.
- 1.3.4 MMO submitted a relevant representation (RR) to the Planning Inspectorate regarding the Application, received by the Planning Inspectorate on 19 August 2021.

1.4 Status of the SoCG

- 1.4.1 This version of the SoCG represents the position between the Applicant and MMO at 13 December 2021.

2 Summary of Consultation

- 2.1 Consultation carried out by the Applicant and the way in which it has informed the Application is set out in full in the Consultation Report [[APP-061](#)] submitted with the Application.
- 2.2 MMO were included in the pre-application consultation carried out by the Applicant. MMO and the Applicant have continued direct communication in respect of the Application.

3 Matters which are fully agreed between the parties

- 3.1 This section of the SoCG describes the ‘matters agreed’ in detail between the parties.

The articles of the draft DCO Amendment Order

- 3.2 MMO agree that there are no comments on or concerns regarding the Articles within the draft DCO Amendment Order.

The articles of the existing DCO

- 3.3 The Applicant does not object to the amendment to Article 57 of the AMEP DCO proposed by the MMO which clarifies that the process of arbitration does not apply to decisions made under the DML, although it is not an issue that arises as a result of the Material Change 2 application; it is for the Examining Body to decide whether such amendments are appropriate as part of a material change application.

Updated Environmental Statement

- 3.4 The parties agree that the MMO's previous consultation comments and responses to the Preliminary Environmental Impact Report are summarised within the UES and the MMO is satisfied that these previous comments have been adequately assessed.
- 3.5 The MMO agrees with the assessment of potential impacts on aquatic ecology receptors, as detailed in Chapter 10 of the UES (APP-081). The MMO accepts the conclusion that the Application does not affect the significance of potential impacts to aquatic ecology.
- 3.6 The MMO is satisfied that changes to tidal currents and wave climatology will be localised and not result in significant impacts to coastal and physical processes, including no effect on the ongoing erosion of Hawkins Point and the managed realignment sites to the east.
- 3.7 The parties agree that the majority of material disposed of at HU081 and HU082 is considered likely to erode and disperse over a period of years due to hydrodynamic processes.
- 3.8 The parties agree that the proposed design will not cause significant changes in water levels on the regional tidal regime; and changes in the annual maintenance dredge budgets of the proposed project and existing operations within nearby infrastructure are anticipated but are not considered to be significant and are similar to those described in the original authorised development.
- 3.9 The Applicant has agreed that the use of a plough dredger would be an option if deemed necessary by the MMO (see table 8-2 in Chapter 8 of the UES (APP-079)), based on bathymetric surveys during or on completion of disposal activities. The Applicant's application for an variation to the deemed marine licence proposes an amendment to paragraph 12 (maintenance dredging) to permit plough dredging at HU081 and HU082 (see Appendix 1 to this SoCG).
- 3.10 The MMO is satisfied that the hydrodynamic and sediment transport modelling described in Section 8.2 of the UES, which underpins many of the studies investigating potential impacts on coastal and physical processes associated with the proposed works, is sufficiently appropriate and accurate.
- 3.11 The MMO is satisfied with the description of fisheries and fish ecology in the vicinity of the AMEP site, which is largely informed by data collected during the 2013 baseline otter trawl, beam trawl and seine net surveys, and the 2016-2017 fyke net surveys. The MMO considers this to provide an appropriate site characterisation of fish species present in the area.
- 3.12 (For information only), the Applicant has agreed to replace the term 'licence holder' with 'the undertaker' in future iterations of the DML and in particular will make such changes when applying to amend the DML as part of this project. A mark-up showing the Applicant's proposed changes to the DML, current at the date this SoCG was signed and updating the mark-up appended to the Explanatory Memorandum (APP-060), is at Appendix 1.
- 3.13 (For information only) the MMO agrees to the Applicant's intention to amend paragraphs 40 and 41 of the DML, submitted as Appendix UES1-2 Marine Licence Variation 2 (APP-102), in order to make plain that only marine piling is affected by the timing restrictions set out therein. This would reduce the risk to fish species including: Atlantic Salmon, Sea Trout, River and Sea Lamprey, Eel, Herring, Sole and Place. The Applicant's proposed amendments are shown in the mark-up at Appendix 1 to this SoCG.

- 3.14 At paragraph 4.15 of MMO's RR, the MMO noted that UES Chapter 26 appeared to lack detail of the cumulative impacts of the amended project with other projects in the Zone of Impact. The MMO notes that the cumulative effects of other projects are more fully reviewed in UES Chapter 6 and are now satisfied that any potential cumulative impacts have been appropriately considered.

4 Matters under Discussion between the parties

East Marine Plan

- 4.1 As of 13 December 2021, the Marine Plan Compliance Schedule at Appendix UES3-1 has not been agreed with the MMO.

The Deemed Marine Licence

- 4.2 As of 13 December 2021, the MMO has not fully reviewed the proposed amendments to the DML.

Signed on Behalf of ABLE HUMBER PORTS LIMITED

Signature:

Name:

Position:

Date:

Signed on Behalf of MARINE MANAGEMENT ORGANISATION

Signature:

Name:

Position:

Date:

[Header]

APPENDIX 1

[Footer]

SCHEDULE 8

Article 44

DEEMED MARINE LICENCE

PART 1

INTRODUCTORY

Interpretation

1. (1) In this Schedule:—

“the 2009 Act” means the Marine and Coastal Access Act 2009(a);

“BHD” – means backhoe dredger

“the Centrica outfall” means the area bounded by co-ordinates (53°39.670’N, 00°13.696’W), (53°39.713’N, 00°13.570’W), (53°39.666’N, 00°13.523’W) and (53°39.623’N, 00°13.647’W) and shown on sheet 5 of the works plans;

“clay” means dredged materials with a diameter of less than 31.25 micrometres;

“CSD” – means cutter suction dredger;

“the E.ON outfall” means the area bounded by co-ordinates (53°39.557’N, 00°13.561’W), (53°39.600’N, 00°13.426’W), (53°39.550’N, 00°13.382’W) and (53°39.508’N, 00°13.517’W) and shown on sheet 5 of the works plans;

“earthworks season” means the period from April to October or such other period set out in British Standard 6031;

“gravel” means dredged materials with a diameter of at least 2 and less than 64 millimetres;

“HU080” means the area bounded by co-ordinates (53°36.30’N, 00°00.62’W), (53°36.47’N, 00°02.32’W), (53°36.95’N, 00°03.47’W) and (53°36.55’N, 00°00.42’W);

“HU081” means the area bounded by co-ordinates (53°37.12’N, 00°02.80’W), (53°37.45’N, 00°03.77’W), (53°37.13’N, 00°03.79’W) and (53°37.44’N, 00°03.14’W);

“HU082” means the area bounded by co-ordinates (53°37.47’N, 00°02.27’W), (53°37.25’N, 00°00.80’W), (53°36.97’N, 00°00.81’W) and (53°37.12’N, 00°02.29’W);

~~“licence holder” means the undertaker and any agent or contractor acting on its behalf;~~

“licensable activity” means an activity licensable under section 66 of the 2009 Act; “licensed activity” means any activity described in Part 2 of this Schedule;

“marine piles” means piles that will be in a free water condition during construction;

“mean high water springs” means the average of high water heights occurring at the time of spring tides;

“named vessel” means a vessel whose name and type has been notified to the MMO in writing;

“percussive piles” means driven piles but excludes the handling, placing and vibro-driving of piles;

“sand” means dredged materials with a diameter of at least 62.5 micrometres and less than 2 millimetres;

“sea bed” means the ground under the sea;

“silt” means dredged materials with a diameter of at least 31.25 and less than 62.5 micrometres; ~~and~~

“TSHD” – means trailing suction hopper dredger; and

“the undertaker” means the undertaker and any agent or contractor acting on its behalf.

(2) Unless otherwise specified, all geographical co-ordinates given in this Schedule are in latitude and longitude degrees and minutes to two decimal places.

(3) Tonnages of dredged materials are expressed in wet tonnes.

(a) 2009 c.23.

Addresses

2. (1) Unless otherwise advised in writing by the MMO, the address for postal correspondence with the MMO for the purposes of this Schedule is the Marine Management Organisation, Marine Licensing Team, Lancaster House, Newcastle Business Park, Newcastle upon Tyne, NE4 7YH and where contact to the MMO District Office is required, the following contact details should be used: Estuary House, Wharnccliffe Road, Grimsby, Lincolnshire, DN31 3QL. Tel: 01472 355112 email: grimsby@marinemanagement.org.uk.

(2) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this Schedule is infrastructure@marinemanagement.org.uk.

PART 2

LICENSED ACTIVITIES

3. For the purpose of constructing and maintaining the authorised development the ~~undertaker licence holder~~ may carry out the activities set out in this Part as if those activities were licensed under the 2009 Act.

Construction of the quay

4. (1) The ~~undertaker licence holder~~ is permitted to construct the quay (Work No. 1) and carry out associated land reclamation within the quay limits and according to the following specification:—

- (a) no more than 650 tubular and 1300 sheet steel perimeter piles may be driven into the bed of the estuary to form the external face of the quay, where such piles are to be installed from named vessels moored in the estuary;
- (b) 2 return walls may be constructed between the ends of the quay and the existing flood defence wall, comprising no more than 500 tubular and 1000 sheet piles driven into the bed of the estuary from named vessels and also earthwork revetments with no more than 100,000 tonnes of rock armour protection, such revetments and rock armour to be constructed using land-based plant;
- (c) ~~no more than 750 flap anchor piles may be fixed to the landward face of the perimeter piles and seated in a trench on the bed of the estuary, to be installed from named vessels moored in the estuary;~~
no more than 850 anchor piles may be tied to the landward face of the perimeter piles;
- (d) ~~the anchor piles referred to in sub-paragraph 4(1)(c) may consist of either –~~
 - i. ~~flap anchor piles seated in a trench on the bed of the estuary, to be installed from named vessels moored in the estuary; or~~
 - ii. ~~tubular steel anchor piles driven into the bed of the estuary;~~~~no more than 100 steel anchor piles may be driven into the bed of the estuary and fixed to perimeter piles, to be installed from named vessels moored in the estuary;~~
- (e) the area of estuary approximately 50 metres landward of the quay perimeter piles may be reclaimed by depositing marine dredged sands and gravels from named vessels using rainbowing techniques;
- (f) the remaining area of estuary enclosed by the quay perimeter piles and the two return walls may be reclaimed using marine dredged sands and gravels by constructing up to three ~~two~~ granular dams that extend from the existing flood defence wall to the area reclaimed under paragraph (e), so that the dams divide the remaining reclaim area into up to four ~~three~~ approximately equal cells, after which named vessels are to pump fluidised granular material into each cell in sequence, allowing estuarine water that is retained within each cell to overflow the dams as the fluidised material is deposited and settles within the cell, such activity to continue until all cells attain their design levels; and

- (g) steel plates may be attached to the perimeter piles by welding and bolting, and then a fender may be attached to each steel plate by bolts, all such works being undertaken from a man basket suspended from a crane located on land.
- (2) Drainage and disposal outfalls and cooling water outfalls may be incorporated into the quay but for the avoidance of doubt the use of these outfalls is not licensed by this Schedule.
- (3) Monitoring equipment fixed to buoys must be deployed at locations in the estuary before, during and after the piling works permitted by sub-paragraph (1) in accordance with the marine environmental management and monitoring plan.

Temporary dolphins

5. (1) The **undertaker licence holder** is permitted to construct and remove up to seven temporary dolphins within the berthing pocket, such that each dolphin comprises three tubular steel piles driven into the bed of the estuary from named plant moored in the estuary, after which the piles must be braced with interconnecting steelwork.
- (2) Monitoring equipment fixed to buoys must be deployed at locations in the estuary during the piling works permitted by sub-paragraph (1) in accordance with the marine environmental management and monitoring plan referred to in paragraph 15.
- (3) Each temporary dolphin must be removed as soon as practicable once the activities for which they have been constructed have been completed.

Berthing pocket infill

6. Following or during the dredging of the berthing pocket **and inset berth**, the **undertaker licence holder** is permitted to deposit up to 250,000 tonnes of gravel and rock from named vessels into the berthing pocket **and inset berth** up to a maximum level of -11.5 metres chart datum and must not undertake maintenance dredging below the level of -11 metres chart datum.

Pumping station

7. (1) The **undertaker licence holder** is permitted to construct a pumping station at the pumping station outfall according to the following specification—
- (a) a temporary steel cofferdam for the installation of up to six drainage pipes may be installed through the existing flood defence and extend onto the foreshore, after which the flood defence wall must be reinstated to its original seaward profile using inert soil materials and concrete;
- (b) a stone mattress may be placed within the drainage channel created under (a) over a distance of 20 metres seawards of the outfall pipes; and
- (c) a pumping station may be constructed such that its seaward extent is above the stone mattress.
- (2) Works outside the cofferdam must be undertaken using land based plant operating from a berm formed within the south-eastern return wall of the quay.

Compensation site creation

8. The **undertaker licence holder** is permitted to remove a 250 metre section of the existing flood wall to create the Cherry Cobb Sands breach under the following conditions—
- (a) the Cherry Cobb Sands breach must not be created until a new flood defence has been constructed landward of the existing flood defence;
- (b) the Cherry Cobb Sands breach must not be created until a channel has been excavated from the site of the breach to the foreshore at the level of the breach; and
- (c) all material is to be removed using land-based plant.

Rock armour

9. The **undertaker licence holder** is permitted to deposit rock armouring to the northern extent of the flood defence breach at Cherry Cobb Sands under the following conditions –

- (a) the quantity of rock to be placed must be agreed with the MMO at least 4 weeks prior to works commencement;
- (b) the exact location must be agreed with the MMO at least 4 weeks prior to works commencement; and
- (c) the placement of rock armouring must only be carried out in accordance with the agreed location and rock quantity.

Temporary bog matting

10. (1) The **undertaker licence holder** is permitted to deposit temporary bog matting upon the foreshore at the Cherry Cob Sands site for the purposes of construction plant movement.

(2) The **undertaker licence holder** must ensure the bog matting is removed as soon as practicable once the activities for which they have been deposited have been completed.

Capital dredging

11. (1) The **undertaker licence holder** is permitted to carry out capital dredging at the following locations–

- (a) the area within the quay limits to a depth of ~~-7~~ **6.5** metres Chart Datum;
- (b) the berthing pocket **and inset berth** to a depth of -14.5 metres Chart Datum;
- (c) the approach channel to a depth of -9 metres Chart Datum;
- (d) the turning area to a depth of -9 metres Chart Datum;
- (e) the pumping station outfall to a depth of +2.0 metres Chart Datum; and
- (f) the Cherry Cobb Sands breach to a depth of +3.0 metres Chart Datum.

(2) The materials must be dredged in the approximate quantities and deposited at the locations according to the following table–

<i>Location</i>	<i>Material</i>	<i>Maximum tonnage per year</i>	<i>Deposit location</i>	<i>Total licensed tonnage</i>
Area within the quay limits	Gravel	50,000	HU080	725,000
	Sand	110,000		
	Silt	390,000		
	Clay	175,000	HU082	
	Gravel	5,000	HU080	
	Sand	50,000		
	Silt	145,000		
	Clay	535,000	HU082	

The berthing pocket	Clay	1,100,000	The terrestrial area landward of the existing Killingholme Marshes flood defence wall	1,835,000
The approach channel	Gravel	150,000	Within the quay limits	1,650,000
	Gravel	150,000	HU080	
	Sand	600,000		
	Silt	500,000		
The turning area	Clay	250,000	HU082	250,000
	Gravel	35,000	HU080	
	Sand	95,000		
	Silt	80,000		
The pumping station outfall	Clay	40,000	HU082	8,000
	Sand	500	HU080	
The Cherry Cobb Sands breach	Silt	7,500		10,000
	Sand	2,000	If the dredged material is suitable, the area within the proposed managed realignment site	
	Silt	8,000		

<i>Location</i>	<i>Material</i>	<i>Maximum tonnage per year</i>	<i>Deposit Location</i>	<i>Total licensed tonnage</i>
Area within the quay limits	Gravel	60,500	HU080 for material dredged by TSHD;	605,000
	Sand	181,500		
	Silt	211,750	Equally into HU081 and HU082 for material dredged by BHD or CSD	
	Clay	151,250		
The berthing pocket	Gravel	183,500	HU080 for material dredged by TSHD;	1,835,000
	Sand	550,500		
	Silt	642,250	Equally into HU081 and HU082 for material dredged by BHD or CSD	
	Clay	458,750		
The approach Channel	Gravel	165,000	HU080 for material dredged by TSHD;	1,650,000
	Sand	495,000		
	Silt	577,500	Equally into HU081 and HU082 for material dredged by BHD or CSD	
	Clay	412,500		
The turning area	Gravel	25,000	HU080 for material dredged by TSHD;	250,000
	Sand	75,000		
	Silt	87,500	Equally into HU081 and HU082	
	Clay	62,500		

			for material dredged by BHD or CSD	
The pumping station outfall	Sand	500	HU080	8,000
	Silt	7,500		
The Cherry Cobb Sands breach	Sand	2,000	If the dredged material is suitable, the area within the proposed managed realignment site	10,000
	Silt	8,000		

Maintenance dredging

12. (1) The ~~undertaker licence holder~~ is permitted to carry out maintenance dredging at the following locations within the period specified in paragraph 14(3)

- (a) the berthing pocket and inset berth to a depth of -11 metres Chart Datum;
- (b) the approach channel to a depth of -9 metres Chart Datum;
- (c) the turning area to a depth of -9 metres Chart Datum;
- (d) the E.ON outfall to keep it free of siltation by means of plough dredging;
- (e) the Centrica outfall to keep it free of siltation by means of plough dredging;
- (f) the pumping station outfall to a depth of +2.0 metres Chart Datum; and
- (g) the Cherry Cobb Sands breach to a depth of +3.0 metres Chart Datum.

(2) The dredging under sub-paragraph (1) may only be carried out for the purpose of—

- (a) maintaining the authorised development;
- (b) maintaining access to the authorised development;
- (c) maintaining access to neighbouring developments; and
- (d) removing siltation caused by the authorised development.

(3) The undertaker is permitted to carry out plough dredging at deposit sites HU081 and HU082 to even out deposited material above a level of -5.3 metres Chart Datum.

(4) The materials must be dredged in the approximate quantities and deposited at the locations according to the following table—

<i>Location</i>	<i>Material</i>	<i>Maximum tonnage per year</i>	<i>Deposit location</i>	<i>Total licensed tonnage</i>
The berthing pocket	Sand	80,000	HU080	3,000,000
	Silt	920,000		
The approach channel	Sand	100,000	HU080	375,000
	Silt	25,000		
The turning area	Sand	100,000	HU080	375,000
	Silt	25,000		
The Uniper outfall	Sand	500	None	7,500
	Silt	2,000		
The CGEN outfall	Sand	500	None	7,500
	Silt	2,000		
The pumping station outfall	Sand	50	HU080	300
	Silt	50		

<i>Location</i>	<i>Material</i>	<i>Maximum tonnage per year</i>	<i>Deposit location</i>	<i>Total licensed tonnage</i>
The berthing pocket	Sand	150,000	HU080	3,225,000
	Silt	925,000		
The approach channel	Sand	10,000	HU080	150,000
	Silt	40,000		
The turning area	Sand	10,000	HU080	150,000
	Silt	40,000		
The E.ON outfall	Sand	500	None	7,500
	Silt	2,000		
The Centrica outfall	Sand	500	None	7,500
	Silt	2,000		
The pumping station outfall	Sand	50	HU080	300
	Silt	50		

PART 3

ENFORCEMENT

13. Any breach of this Schedule does not constitute a breach of this Order but is subject to the enforcement regime in Chapter 3 of Part 4 of the 2009 Act as if this Schedule were a licence granted under that Act.

PART 4

CONDITIONS

General conditions

14. (1) The conditions set out at paragraphs 15 to 69 are licence conditions attached to the deemed marine licence granted by article 44 (deemed marine licence).

(2) For such of the licensed activities that involve the construction, alteration or improvement of works in or over the sea or on or under the sea bed, the conditions apply to any person who for the time being owns, occupies or enjoys any use of the licensed activity.

(3) This licence is for 10 years from the date of coming into force of this Order whereby—

- (a) the construction and capital dredge activities are carried out within the first 10 years ~~9-years~~; and;
- (b) maintenance dredging is permitted following capital dredging until the expiry of this licence.

15. (1) No licensed activities are to be carried out until 4 weeks after a marine environmental management and mitigation plan has been supplied to the MMO, Natural England and the Environment Agency in accordance with paragraph 19(2) of Schedule 11 (requirements).

(2) Before commencing any licensed activities, the ~~undertaker licence holder~~ must consult the harbour master, C.RO, E.ON and Centrica on the contents of the marine environmental management and monitoring plan in relation to those elements of the maintenance dredging licensed under paragraph 12 that may affect those parties' interests.

(3) The ~~undertaker licence holder~~ must have regard to any consultation responses received from the harbour master, C.RO, E.ON and Centrica.

16. No licensed activity involving the use of a vessel is to be carried out until a vessel movement management plan has been agreed in writing by the MMO, and the licensed activities must be carried out in accordance with the vessel movement management plan. The vessel movement management plan must be submitted to the MMO at least 4 weeks prior to the commencement of the licensed activity.

17. The MMO must be notified by the ~~undertaker licence holder~~ at least 10 working days before the commencement of any licensed activity of its acceptance of the provisions of this Schedule and that the undertaker and any agents or contractors employed by it to carry out the licensed activities have knowledge of the provisions of this Schedule.

18. The ~~undertaker licence holder~~ must ensure that the MMO District Marine Office is notified of the timetable of works and operations at least 10 days prior to the commencement of any licensed activity.

19. The MMO must be notified by the ~~undertaker licence holder~~ in writing of any agents, contractors or sub-contractors that will be carrying out any licensed activity on behalf of the ~~undertaker licence holder~~ at least 4 weeks before the commencement of the licensed activity.

20. The ~~undertaker licence holder~~ must ensure that a copy of this Schedule and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors or subcontractors that will be carrying out any licensed activity on behalf of the ~~undertaker licence holder~~.

21. The **undertaker licence holder** must ensure that the names of vessels are provided to the MMO at least 4 weeks prior to the commencement of works, such notification setting out —

- (a) the vessel type;
- (b) the vessel International Maritime Organization (IMO) number; and
- (c) the vessel owner or operating company.

The list must be agreed in writing by the MMO prior to the commencement of works.

22. The **undertaker licence holder** must ensure that a copy of this Schedule and any subsequent revisions or amendments has been provided to, read and understood by the master of any vessel being used to undertake any licensed activity, and that a copy of this Schedule is held on board any such vessel.

23. Should the **undertaker licence holder** become aware that any of the information on which the granting of this deemed marine licence was based has changed or is likely to change, the **undertaker licence holder** must notify the MMO at the earliest opportunity.

Project wide conditions

24. The works must be carried out in accordance with a works schedule to be agreed in writing between the **undertaker licence holder** and the MMO prior to the commencement of the works, and any changes to the works schedule are also to be agreed in writing with the MMO.

25. (1) The following dependencies apply to the licensed activities in paragraphs 4 to 12.

(2) If the **undertaker licence holder** carries out any of the activities licensed under paragraph 4 (construction of the quay), then it must:

- (a) carry out the activity licensed under paragraph 8 (compensation site creation) in the June following the creation of the compensation site, which in turn must be done during the first earthworks season following the commencement of the activity licensed under paragraph 4;
- (b) carry out the activity licensed under paragraph 7 (pumping station);
- (c) carry out the activity licensed under paragraph 12(1)(d) (the E.ON outfall maintenance dredging) unless agreed in writing with E.ON; and
- (d) carry out the activity licensed under paragraph 12(1)(e) (the Centrica outfall maintenance dredging) unless agreed in writing with Centrica.

(3) If the **undertaker licence holder** carries out the activity licensed under paragraph 11(1)(b) (berthing pocket capital dredging) then it must carry out the activity licensed under paragraph 6 (berthing pocket infill) but must not undertake maintenance dredging below the level of -11 metres Chart Datum.

26. The **undertaker licence holder** must ensure that any coatings and treatments used are approved by the Health and Safety Executive as suitable for use in the marine environment and are used in accordance with Environment Agency Pollution Prevention Control Guidelines.

27. (1) The **undertaker licence holder** must only work and access the works site within a defined and marked out area so as to limit personnel and plant access to the site.

(2) Co-ordinates (in WGS84) and plan diagrams of the work area and access routes must be submitted to the MMO at least 4 weeks prior to the commencement of works.

(3) The written approval of the co-ordinates and plan diagrams by the MMO is required prior to works commencing.

28. The **undertaker licence holder** must ensure that during the works all wastes are stored in designated areas that are isolated from surface water drains, open water and bunded to contain any spillage.

29. The **undertaker licence holder** must ensure that any equipment, temporary structures, waste and debris associated with the works are removed within 6 weeks of completion of the works

30 .(1) The **undertaker licence holder** must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment.

(2) Concrete and cement mixing and washing areas should be contained and sited at least 10 metres from any watercourse or surface water drain to minimise the risk of run off entering a watercourse.

31 . (1) Prior to any works commencing below the level of Mean High Water Springs, the **undertaker licence holder** must submit detailed method statements to the MMO for approval for each stage of works at least 4 weeks prior to the commencement of works.

(2) All works must be undertaken in accordance with agreed and approved method statements.

32. The **undertaker licence holder** must install bunding and storage facilities to contain and prevent the release into the marine environment of fuel, oils and chemicals associated with plant, refuelling and construction equipment, ensuring that secondary containment is used with a capacity of not less than 110% of any container's storage capacity.

33. (1) The **undertaker licence holder** must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team: 0870 785 1050 (office hours), 07770 977 825 (outside office hours) and dispersants@marinemanagement.org.uk or such replacement numbers or email address notified to the **undertaker licence holder** by the MMO in writing.

34. The **undertaker licence holder** must ensure that a Notice to Mariners is issued at least 10 days prior to works commencing warning of the start date for the construction of the works and updated as appropriate.

35. The **undertaker licence holder** must ensure that all materials used in construction of any part of the development (including the compensation site) are suitable and approved for use within the marine environment.

36 . (1) The **undertaker licence holder** must ensure that a protocol for archaeological discoveries (PAD) is in place before works commence for the reporting of unexpected remains made during construction activities. This protocol must draw upon the format outlined in the BMAPA/English Heritage (2005), COWRIE (2007) and the Crown Estate (2010) guidelines.

(2) This protocol must be submitted to the MMO at least 4 weeks prior to the commencement of works.

Percussive Piling conditions

37. (1) No operations consisting of percussive piling are to commence until a piling method statement has been submitted to and agreed in writing by the MMO, following consultation with the Environment Agency and Natural England, such statement to include the following—

- (a) the use of pile pads and pile shrouds at all times;
- (b) the maximum pile diameter to be 2.1 metres unless otherwise agreed in writing by the MMO, following consultation with Natural England and the Environment Agency;
- (c) soft start procedures to be followed to include a requirement for a soft start of at least 180 seconds for percussive piling of marine piles;
- (d) marine mammal observation (within 100 metres of the pile being driven) and the cessation of piling while any marine mammals are within this zone;
- (e) implementation of an active monitoring scheme under paragraph 39; and
- (f) details of the anticipated spread of piling activity throughout a working day.

(2) Percussive piling must only be carried out in accordance with the relevant piling method statement.

38. No operations consisting of percussive piling are to commence until a cold weather piling restriction strategy is submitted and agreed with the MMO, following consultation with Natural England, such strategy to include—

- (a) a requirement for temporary cessation of percussive piling (other than to finish driving any pile that is in the process of being driven at the point of imposition of the temporary cessation) following 7 consecutive days of zero or sub-zero temperatures (such “freezing days” to be fully defined in the strategy);
- (b) the establishment of 3 temperature monitoring points within the Humber Estuary;
- (c) provision for the restriction on percussive piling to be lifted on a probationary basis after 24 hours of above freezing temperatures if Meteorological Office forecasts indicate that freezing conditions will not return for the next 5 days (“the probationary period”) on the proviso that if any day within the probationary period is a freezing day the restriction on percussive piling will be imposed at the end of that day; and
- (d) provision for the restriction on percussive piling to be lifted entirely on expiry of the probationary period if none of the days in that period are freezing days (until such a time as the conditions in paragraph (a) are met).

(2) Percussive piling must only be carried out in accordance with the cold weather piling restriction strategy.

39. (1) No percussive piling is to be commenced until an active monitoring scheme has been submitted to and agreed in writing by the MMO, following consultation with the harbour master, Environment Agency and Natural England, such scheme to include the following details—

- (a) the location of active monitoring buoys and the depth and design of sensors;
- (b) the frequency of measurement of temperature and dissolved oxygen;
- (c) an appropriate mechanism for recording when percussive piling activities are being undertaken. To be monitored 24 hours a day, 7 days a week;
- (d) when monitoring is to commence and cease, to include a 2-week period of pre- and post-construction monitoring to establish baseline conditions and the return to baseline conditions respectively;
- (e) a log of the number and approximate locations of piling rigs that are in operation on any given day;
- (f) details of how the monitored information will be accessed by or communicated to the site contractor, the harbour master, MMO, the Environment Agency and Natural England as necessary; and
- (g) a minimum of 3 days baseline assessment of underwater noise monitoring in advance of percussive piling and 6 days of underwater noise monitoring during percussive piling.

(2) The development must be carried out in accordance with the relevant active monitoring scheme.

(3) No percussive piling is to take place while the data from the relevant active monitoring scheme shows either the temperature to be above 21.5 degrees Celsius or dissolved oxygen to be below 5 milligrams per litre, or both.

40. No percussive piling is to take place **in the marine environment** between 7 April and 1 June inclusive in any calendar year.

41. (1) Percussive piling **in the marine environment** is to be restricted at other times as follows:—

- (a) from 2 June to 22 July inclusive in any year, the maximum amount of percussive piling permitted within any 4-week period must not exceed—
 - (i) 101 hours where a single piling rig is in operation; or
 - (ii) a total of 168 hours where two or more rigs are in operation;
- (b) from 23 July to 10 September inclusive in any year, the maximum amount of percussive piling permitted within any week-long period must not exceed—
 - (i) 25 hours where a single piling rig is in operation; or
 - (ii) a total of 42 hours where 2 or more rigs are in operation;

- (c) from 11 September to 31 October inclusive in any year, the maximum amount of percussive piling permitted within any 4-week period must not exceed—
 - (i) 134 hours where a single piling rig is in operation, or
 - (ii) a total of 224 hours where 2 or more rigs are in operation;
- (d) from 1 November in any year to 6 April in the following year inclusive, the maximum amount of percussive piling permitted within any eight-week period must not exceed—
 - (i) 336 hours where a single piling rig is in operation; or
 - (ii) a total of 560 hours where 2 or more rigs are in operation.

(2) The measurement of time during each work-block must begin at the start of each timeframe, roll throughout it, then cease at the end, where measurement will begin again at the start of the next timeframe, such process to be repeated until the end of piling works.

42. No percussive piling is to take place before 0600 hours or after 2200 hours on any day.

43. The maximum diameter of marine piles is to be 2.54 ~~2.1~~ metres unless otherwise agreed in writing with the MMO, following consultation with the harbour master, Natural England and the Environment Agency.

General dredging and disposal conditions

44. Conditions 32 to 69 apply to licensed activities consisting of dredging and disposal.

45. (1) The ~~licence holder~~ **undertaker** must submit a dredge and disposal strategy with the MMO at least 4 weeks before the commencement of any licensed activities.

(2) All dredging and disposal activities must be carried out in accordance with the dredge and disposal strategy.

46. The ~~licence holder~~ **undertaker** must ensure that—

(a) as a result of the capital dredging activities referred to in paragraph 11 **no more than 4,358,000 tonnes of material overall is deposited into sites HU080, HU081 and HU082 of which:**

- (i) no inerodible material and no more than 2,218,000 tonnes of erodible material ~~—site~~ is disposed of to site HU080; and
- (ii) no erodible material and no more than **1,254,000** ~~1,000,000~~ tonnes of inerodible material is disposed of to site HU082; ~~and~~
- (iii) **no erodible material and no more than 1,254,000 tonnes of inerodible material is disposed of to site HU081; and;**

(b) as a result of the maintenance dredging activities referred to in paragraph 12 no inerodible material and no more than ~~1,180,100~~ **1,500,000** tonnes of erodible material per year is disposed to site HU080.

47. (1) The ~~licence holder~~ **undertaker** must ensure that certified returns of quantities of dredged material deposited under this licence are submitted to the MMO by 31 January (for the months August to January inclusive) and 31 July (for the months February to July inclusive) each year.

(2) The returns must specify the full licence number and amounts deposited (in tonnes) each calendar month at each authorised deposit area.

(3) Where no deposit is made in a given period a NIL return is required.

(4) The disposal method used must also be submitted with the returns.

48. (1) ~~The licence holder must ensure that dredged material is passed through grid screens no larger than 30 centimetres to minimise the amount of man-made materials disposed of at sea.~~

~~(2) Any man-made material must be separated from the dredged material and disposed of to land. The undertaker shall take all reasonable measures to ensure no man made material is disposed of to sea.~~

49. Should disposal of material be found to be the cause of any detrimental effects to the disposal site then disposal must cease with immediate effect.

Capital dredging and disposal conditions

50. The ~~undertaker licence holder~~ must ensure that during the course of disposal, non-erodible material is placed in the depressions of HU082 or in HU081, and that the sites are ~~the site is~~ filled to a gradient in keeping with the surrounding bathymetry and ensure that no depths within the disposal site are reduced to less than 5.3 metres below admiralty Chart Datum at its shallowest point.

51. The ~~undertaker licence holder~~ must undertake regular bathymetric surveys to ensure that the disposal of dredged material at site HU082 and site HU081 has been undertaken in line with the requirements of this licence.

~~52. (1) The licence holder must ensure that no gravel is disposed of to HU080 until sampling of the existing seabed has been undertaken and an assessment made which demonstrates that disposal of gravel to the site is acceptable.~~

~~(2) The assessment must be submitted to and agreed by the MMO, prior to disposal activity being undertaken.~~

~~(3) If following the assessment gravel is found not to be suitable to disposal to site HU080 the gravel material must be reused or disposed of elsewhere.~~

52. The ~~undertaker licence holder~~ must ensure that during the course of disposal, material is distributed evenly over disposal site HU080.

53. (1) The ~~undertaker licence holder~~ must employ methods to minimise resuspension of sediment during the construction and dredging operations.

(2) The methodology must be submitted to the MMO at least 4 weeks prior to the commencement of the works.

(3) Written approval by the MMO is required prior to works commencing.

(4) Maintenance dredging and disposal conditions

54. (1) The ~~undertaker licence holder~~ must undertake sampling and chemical analysis for contaminated sediments within the 6 months prior to the commencement of any maintenance dredge and disposal operation to ensure the material is still suitable for sea disposal.

(2) The ~~undertaker licence holder~~ must consult the MMO on the sampling plan and methodology for chemical analysis prior to sampling and analysis being undertaken.

(3) No disposal at sea can take place without the approval of the MMO.

55. The ~~undertaker licence holder~~ must ensure that during the course of disposal, material is distributed evenly over disposal site HU080.

56. (1) The ~~undertaker licence holder~~ must monitor disposal site HU080 to ensure that the material is dispersing as predicted.

(2) A Monitoring Plan must be agreed in writing with the MMO at least 4 weeks prior to the commencement of works.

(3) The monitoring must be carried out in accordance with the Monitoring Plan agreed.

57. (1) The ~~undertaker licence holder~~ must notify the Conservancy Authority of the need to update the Humber Maintenance Dredge Protocol and Water Framework Directive Compliance Baseline Document

2011 or any document replacing it (“the baseline document”), to incorporate the dredging and disposal of dredged material consented.

(2) The updated baseline document must be submitted with any subsequent application made to the MMO for maintenance dredging activities.

58. The berthing pocket **and inset berth** must be maintained to no deeper than -11.0m CD to ensure that no gravel infill material migrates from the berthing pocket **and inset berth** or is dredged and disposed of to unsuitable disposal grounds.

59. (1) The **undertaker licensee holder** must employ methods to minimise resuspension of sediment during dredging operations.

(2) The methodology must be submitted to the MMO at least 4 weeks prior to the commencement of the maintenance dredge.

(3) Written approval by the MMO to the methodology is required prior to the maintenance dredge commencing.

Placement of rock and gravel materials below mean high water springs

60. (1) Any rock or gravel material to be placed within the marine environment must be from a recognised source agreed by the MMO.

(2) Details of such information must be provided to the MMO at least 4 weeks prior to the commencement of works.

61. Any rock armour surplus to that specified in paragraph 4(1)(b) must be returned to land.

62. Any rock or gravel surplus to that specified in paragraph 6 must be returned to land.

63. (1) The **undertaker licensee holder** must ensure that a full method statement and location of the transshipment area and barge approach routes is submitted to the MMO at least 4 weeks prior to the commencement of works.

(2) Written approval by the MMO is required prior to works commencing.

64. The **undertaker licensee holder** must ensure that pre-works and post-works trawl surveys are conducted within any transshipment area and barge approach routes, or Fisheries Liaison Officers are employed on the transshipping vessel to observe all transshipment operations and record any losses.

65. (1) The **undertaker licensee holder** must ensure that any vessels used for rock and gravel transshipment or delivery operations are suitably constructed and loaded to prevent rock and gravel falling over the side by accident.

(2) Suitable screening must be used to prevent rock and gravel loss through drainage holes.

66. The **undertaker licensee holder** must ensure that sea-going tug or tugs capable of towing the barge in a loaded condition can be made available within a 12 hour period to tow the barge to sheltered waters in adverse weather conditions.

67. Subject to paragraph 68, the **undertaker licensee holder** must ensure that any rock misplaced or lost below mean high water springs is reported to the MMO District Marine Office within 48 hours, and located and recovered.

68. Any rock that is misplaced or lost below mean high water springs and cannot be recovered must be located and its position notified to the MMO within 48 hours.