

18 January 2022

**APPLICATION OF ABLE HUMBER PORTS LIMITED
FOR A MATERIAL CHANGE
TO
THE ABLE MARINE ENERGY PARK DEVELOPMENT CONSENT ORDER 2014
S.I. 2014 NO. 2935**

WRITTEN SUBMISSION

OF

C.RO PORTS KILLINGHOLME LIMITED

(To be submitted electronically for Deadline 3)

OUR REF: JPRK/TWHI/2040148.1

YOUR REF: TR030006



WRITTEN SUBMISSION OF C.RO PORTS KILLINGHOLME LIMITED

1 INTRODUCTION

- 1.1 This Written Submission is made on behalf of C.RO Ports Killingholme Limited ("**C.RO**") in connection with the Examination of an application made by Able Humber Ports Limited ("**AHPL**") for a Material Change to the Able Marine Energy Park Development Consent Order granted on 13 January 2014 (the "**DCO**") (the "**Proposed Material Change**").
- 1.2 This Written Submission is made at Deadline 3 of the Examination in response to certain matters as stated in the following Deadline 1 submissions:
- (a) AHPL's Comments on Relevant Representations (Ref: REP1-026); and
 - (b) AHPL's Responses to the Examining Body's ("**ExB**") First Written Questions ("**ExQ1**") (Ref: REP1-019).
- 1.3 C.RO requests that the contents of this Written Submission are considered by the ExB alongside matters already set out in C.RO's Written Representation (Ref: REP1-030) and Responses to ExQ1 (Ref: REP1-031).

2 C.RO'S WRITTEN SUBMISSIONS

2.1 Interaction with Other Development / Staged Development of AMEP

- 2.1.1 C.RO has had regard to AHPL's comments at Paragraphs 13.3 and 13.4 of Examination Document Ref: REP1-026 and also to AHPL's response to ExQ1 Q1.0.9.
- 2.1.2 In response, C.RO wishes to reiterate the point made at Paragraph 3.3 of its Written Representation (Ref: REP1-030), namely that provision by AHPL of an updated masterplan or series of masterplans covering development across the entirety of the land within the Order Limits during both construction and operational phases would be likely to:
- (a) help give credence to AHPL's current stated position (i.e. that an 'interim development scenario' does not give rise to more significant environmental effects than have already been assessed for the AMEP scheme as proposed); and
 - (b) allow C.RO, the ExB and other interested parties the opportunity to consider the current proposals for the Able Marine Energy Park ("**AMEP**") on a holistic basis - acknowledging as AHPL has itself set out (in Paragraph 13.4 of Examination Document Ref: REP1-026) the rapid pace of change within the renewable energy sector over the last decade.

2.2 Future Use of the Barge Berth

- 2.2.1 The ExB will already have noted the matters of concern as set out in C.RO's own response to ExQ1 Q3.0.2 (Ref: REP1-031), and also at Paragraph 3.5 of C.RO's Written Representation (Ref: REP1-030). As at the date of this Written Submission, and subject to the update provided in Paragraphs 2.2.3 and 2.2.4 below, those

matters relating to the future use of the proposed barge berth remain of some concern to C.RO.

2.2.2 C.RO has also since had regard to AHPL's response to ExQ1 Q3.0.2 and AHPL's comments at Paragraphs 13.6 and 13.7 of Examination Document Ref: REP1-026 and wishes to make the following additional points:

(a) Further information is provided in AHPL's response to ExQ1 Q3.0.2 as to the type of vessels which might use the barge berth. The information provided broadly mirrors C.RO's own understanding following previous engagement with AHPL. There is, however, a note at the end of ExQ1 3.0.2 regarding the possibility of the future use of the barge berth by 'occasional standard Ro-Ro vessels' in order to handle cargo which AMEP is permitted to handle. C.RO considers that it would be helpful for AHPL to make publically available further detail as to the intended frequency of future use by Ro-Ro vessels, alongside the level of assessment undertaken by AHPL to assess the likely impacts on existing vessel movements within the River Humber.

(b) Also set out in AHPL's response to ExQ1 3.0.2 is additional information regarding the anticipated frequency of movements in respect of the barge berth. In this context, AHPL estimate that the barge berth will handle 83 movements per year (being 1/6th of the overall berth traffic relating to the AMEP). This is, however, acknowledged by AHPL to be a 'best estimate' and it is therefore difficult to understand how AHPL have reached the conclusion in ExQ1 3.0.2 that use of the barge berth will not negatively affect C.RO's existing operations (noting also the absence of a relevant navigation simulation exercise at the time of reaching that conclusion). In C.RO's opinion, limited weight can be attributed to this conclusion as matters stand.

2.2.3 C.RO confirms that the navigation simulation exercise referred to in Paragraph 3.5.6 of C.RO's Written Representation (Ref: REP1-030) took place as scheduled on 6 January 2022. From C.RO's perspective, the navigation simulation was a helpful and worthwhile exercise, providing clarification on the likely scenarios and effects, and C.RO is grateful for AHPL's continued cooperation in this matter.

2.2.4 A written report (dated 13 January 2022) summarising the conclusions of the navigation simulation exercise was provided to C.RO by AHPL on 17 January 2022.

2.2.5 C.RO has not had an opportunity to consider the written report before Deadline 3 (18 January 2022). Therefore, and subject to C.RO's further review of the same, C.RO hopes to be in a position to confirm to the ExB (most likely in its response to the Second Written Questions which C.RO is aware have now been published) that the matters of concern noted in the paragraphs above have each been satisfactorily addressed by AHPL.

2.3 **Protective Provisions**

2.3.1 C.RO notes AHPL's comments at Paragraph 13.9 of Examination Document Ref: REP1-026 and also to AHPL's responses to ExQ1 Q2.0.4 and Q3.0.6.

2.3.2 Notwithstanding AHPL's current position that the existing protective provisions included for C.RO's benefit at Schedule 9, Part 6 to the Development Consent Order (the "**Protective Provisions**") remain fit for purpose, C.RO wishes to reiterate the fact that amendments to the Protective Provisions may well need to be sought where necessary in order to control and/or ameliorate any impacts on

C.RO's operations likely to arise as a result of the draft DCO Amendment Order, but that this can only be ascertained on review of the abovementioned report pursuant to the simulation which occurred on 6 January 2022.

- 2.3.3 There remain certain matters not yet agreed between the parties, and also substantive points of clarification yet to be provided by AHPL. Hence, the extent of likely impacts on C.RO's operations cannot yet be conclusively ascertained and the potential for further amendments to the Protective Provisions remains. If the simulation report provides sufficient comfort, then it is conceivable that the existing Protective Provisions are sufficient, but C.RO cannot confirm its position on that yet, as explained above.

3 **NEXT STEPS**

- 3.1 C.RO would be pleased to provide the ExB with further clarification in respect of any matters set out in this Written Submission.

Bryan Cave Leighton Paisner LLP

On Behalf of C.RO Ports Killingholme Limited

18 January 2022



Bryan Cave Leighton Paisner LLP
Governor's House 5 Laurence Pountney Hill London EC4R 0BR
Tel: +44 (0)20 3400 1000 Fax: +44 (0)20 3400 1111