



Able Marine Energy Park

Material Change 2

Applicant's responses to Written Representations

PINS REFERENCE TR030006

ABLE MARINE ENERGY PARK MATERIAL CHANGE 2 (AMEP MC2)

**APPLICANT'S COMMENTS ON THE WRITTEN REPRESENTATIONS AND
COMMENTS ON RESPONSES TO THE EXAMINING BODY'S FIRST WRITTEN
QUESTIONS**

DOCUMENT REFERENCE TR030006/D3/1

January 2022



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APPLICANT'S COMMENTS ON THE
WRITTEN REPRESENTATIONS AND
COMMENTS ON RESPONSES TO ExB's Q1

Date: January
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1. Introduction

- 1.1 This document consists of the comments of Able Humber Ports Ltd ('the Applicant') on the four Written Representations received by the Planning Inspectorate on the Applicant's application for a Material Change (MC2) to the Able Marine Energy Park Development Consent Order (AMEP DCO) ('the Application') and, where relevant, on other parties' responses to the Examining Body's First Written Questions
- 1.2 While the Applicant believes that the information provided with its Application is sufficient for it to be examined and determined, it acknowledges the concerns raised by the parties making representations and has accordingly provided additional information in response to them. It should be noted that the additional information supports the original conclusions reached in the Updated Environmental Statement (UES) and other application documents and does not change the project in any way. This additional information is provided in a series of supplementary documents that have been submitted at deadline 3.



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2. Representation No. 1 – Marine Management Organisation (MMO)

Written Representation

- 2.1 A written representation from the MMO was published by the Planning Inspectorate on 15th December 2021 (Examination Library Reference REP1-035), which is reproduced in full below.

4.1. *In Section 4.12 of our relevant representation [RR-005], the MMO noted that 'The MMO has previously suggested that if the formation of discrete mounds due to disposal via split-hopper barge appear to be hindering dispersal (as discussed in the appendix "Erosion of Placed Clay"), the subsequent use of a plough dredger to 'cap' the mounds and fill the adjacent troughs is a potential mechanism to aid dispersal of inerodible material and reduce potential risk associated with safe navigation. This is a potential mitigation measure which is not listed in Section 8.5 of the ES. The MMO do however note that the Applicant has stated in Table 8.2, "whilst a plough dredger could be used as a last resort to redistribute any high spots arising from disposal operations, extensive plough operations at the disposal site are not proposed". The MMO agree with this response, in that plough dredging should not be a primary mitigation measure, however, we would recommend that it still be added to the list of formal mitigation measures, in order to keep the option available, should it be deemed necessary by the MMO following subsequent monitoring'.*

4.2. *The applicant has shared a copy of the updated draft DML on 12 November 2021, in which they have added '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.' This is a welcomed addition to permit this activity, however condition 31 will remain on the DML, which requires a detailed method statement, for each stage of the works, to be submitted before works commence. The applicant will be expected to detail in the relevant method statement how and when this measure would be implemented.*

4.3. *In section 4.15 of our relevant representation [RR-005], we included the following comment: 'The MMO note that Chapter 26 of the ES states that no substantive deleterious cumulative impacts have been identified from multiple developments in the Zone of Impact from those addressed in the original ES and concludes that there are no additional significant cumulative effects arising from the development. The MMO and our advisors are unable to provide detailed comments on this point without reviewing the specific activities and licence conditions associated with the other developments'. The applicant has signposted the MMO to relevant information regarding cumulative impacts. The MMO has considered and reviewed these documents and are satisfied that any potential cumulative impacts associated with the proposed construction activities for AMEP have been appropriately considered.*

4.4. *In section 4.7 of our RR [RR-005], we note that we will review and comment on the East Marine Plan Compliance Table in subsequent responses. The MMO have now reviewed the submitted East Marine Plan Compliance Table [Examination Library Reference APP-105] and consider there are some amendments required. We note the following:*



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- *Policy BIO2 – The MMO does not consider that the applicant has fully understood the policy. The policy states that 'where appropriate, proposals for development should incorporate features that enhance biodiversity and geological interests'. The applicant has noted that they have identified the sensitive receptors that relate to marine ecology, biodiversity and geological conservation and assessed the magnitude of change (impact) and significance of effect of the development. The MMO would expect to see here how the applicant has incorporated features that enhance biodiversity and geological interests, and if they have not, to state that they have not and why.*
- *Policy CC1 – The MMO note that the assessment of the plan policy is not complete and request that the response is updated to demonstrate compliance with the policy.*
- *Policy EC1 – The MMO note that the assessment of the plan policy is not complete and request that this is completed and identifies how the project is compliant with this policy.*
- *Policy GOV1 – The MMO does not consider that the applicant has provided enough information to show compliance with this policy. The policy states that 'appropriate provision should be made for infrastructure on land which supports activities in the marine area and vice versa'. The applicant has stated that the updated ES considered whether there is an appropriate infrastructure in place to support the on-site activities in the marine area but should expand here and explain what the outcome of this consideration was.*
- *Policy GOV2 – The MMO does not consider that the applicant has provided enough information to show compliance with this policy. The policy states 'Opportunities for co-existence should be maximised wherever possible'. As above, the applicant has stated that the updated ES considered the impact of the development proposals on the surrounding area, and aims to maximise opportunities for coexistence, however the MMO would expect the conclusion of this consideration to be put in here.*
- *Policy GOV3, MPA1 and TR2 – The MMO does not consider that the applicant has provided enough information to show compliance with these policies. As noted above, the applicant needs to expand on their assessment and conclude what the consideration of the ES has shown.*

4.5 The MMO note that within Chapter 14: Commercial and Recreational Navigation of the Updated Environmental Statement [Examination Library Reference APP-085], it notes in section 14.5.7 that a number of alternate or additional risk control measures have been identified for navigation within the draft DML which were informed by stakeholder consultation, aimed at further reducing the residual risk during the construction and operation phases of the Project. The MMO are aware of these measures, notably the potential need for additional surveys of the study area to monitor sedimentation within and in vicinity of the AMEP berths, and consider that it may be necessary to add appropriate condition/s on the DML. The MMO would also like to note, that we have had sight of a more up to date DML than is currently in the examination library.



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4.6 The MMO note that the applicant has made the required changes which were suggested in our written representation [Examination Library Reference RR-005] and the MMO has since had a positive discussion with the applicant about further changes which we require. This includes us noting that conditions which are currently secured on the DML should not be removed without a robust justification and final agreement with the MMO. It also includes that the timeframes set for the MMO to respond to post consent submissions, in most cases, should be amended to 13 weeks, rather than 4. This is to allow for the MMO to review submitted documents, consult on them if necessary, and discharge the condition once it has been satisfied. There are also several non-material changes to the DML that have been suggested by the MMO to ensure current terminology is included. The MMO will review the DML internally and discuss any proposed changes further with the applicant. We will provide further comments at the next deadline.

4.7 The MMO would also like to note that we have had a positive discussion in regard to the Statement of Common Ground (SoCG) which we have reviewed and currently agreed with. We do, however, reserve the right to amend the SoCG and move certain matters which are currently agreed back into "under discussion" where we see fit. No matters are identified as 'not agreed.'

Applicant's Comments

4.1-4.2 - Plough dredging

- 2.2 The Applicant welcomes the MMO's confirmation that this has been satisfactorily resolved, noting the requirement for a method statement under Condition 31.

4.3 - Cumulative impacts

- 2.3 The Applicant welcomes the MMO's agreement that cumulative impacts have been appropriately considered.

4.4 - East Marine Plan Compliance Table

- 2.4 An amended East Marine Compliance Table has been submitted at deadline 3 (document reference TR030006/D3/2). This supersedes Appendix UES3-1 of the UES (Examination Library Reference APP-105). The amended East Marine Compliance Table addresses the comments raised in the MMO's written representation.

4.5-4.6 - Deemed Marine Licence

- 2.5 The Applicant notes that the most recent version of the related application to vary the DML was submitted at deadline 1 (Examination Library Reference REP1-011). The Applicant looks forward to receiving the MMO's comments on this application.
- 2.6 The Applicant notes that the MMO has submitted to the examination as additional submissions a copy of a separate application to vary the DML submitted to the MMO on 9 December 2021, related to the construction of the pumping station outfall channel and not relevant to the proposed material change (Examination Document References AS-008 to AS-014). Given that these documents are not relevant to the proposed material change, the Applicant assumes that the MMO has submitted them for information only.



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4.7 – SoCG

2.7 The Applicant notes the MMO's positive comments.



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3. Representation No. 2 – Environment Agency

Relevant Representation

- 3.1 A written representation from the Environment Agency was published by the Planning Inspectorate on 15th December 2021. Relevant extracts are reproduced below.

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.*



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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*

...

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.*

Applicant's Comments

Water Framework Directive Assessment

3.2 The EA's comments on the WFDa were based on Revision 4. The WFDa has been further revised to take into account the EA's comments as set out above, and the revised document (Revision 5) was submitted to the Planning Inspectorate at Deadline 1 (Examination Library Reference REP1-023).



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4. Representation No. 3 – C.GEN Killingholme Ltd ("C.GEN")

Written Representation

- 4.1 A written representation from C.GEN was published by the Planning Inspectorate Ltd on 15th December 2021. Relevant extracts are reproduced below.

3 C.GEN'S CURRENT POSITION

3.1 Overview

- 3.1.1 *C.GEN does not have an in-principle objection to the Proposed Material Change.*
- 3.1.2 *C.GEN does, however, remain concerned to ensure that the Proposed Material Change does not adversely impact on its ability to carry out its ordinary commercial operations.*
- 3.1.3 *C.GEN also seeks to protect the integrity of the existing infrastructure serving the Centrica Power Station site, noting that the cooling water infrastructure remains viable for providing cooling water abstraction and discharge (subject to an environmental permit and other consents as necessary) for future electricity generation uses.*
- 3.1.4 *As the Examining Body will be aware, C.GEN currently benefits from the following:*
- (a) protective provisions authorised to be included for C.GEN's benefit at Schedule 9, Part 5 to the DCO (the "C.GEN Protective Provisions"); and*
- (b) protective provisions authorised to be included for Centrica PLC's benefit at Schedule 9, Part 10 to the DCO (the "Centrica Protective Provisions") and which C.GEN inherited upon acquisition of the Centrica Power Station Site in 2016.*
- 3.1.5 *C.GEN's primary concern is to ensure that both the C.GEN Protective Provisions and the Centrica Protective Provisions remain fit for purpose, taking account of the operational and other effects anticipated to arise from the Proposed Material Change.*
- 3.1.6 *Whilst C.GEN welcomes the positive engagement with AHPL to date, there are still certain matters (summarised below) which are not yet agreed between the parties. From C.GEN's perspective, it is imperative that these matters are addressed as soon as possible.*
- 3.1.7 *C.GEN remains committed to collaborating with AHPL to identify and appropriately mitigate any such impacts at the earliest opportunity.*

3.2 Interaction with Other Development

- 3.2.1 *C.GEN has previously expressed concerns regarding the assessment of environmental effects undertaken by AHPL in light of the interaction between certain extant planning permissions for uses and development wholly unrelated to AMEP and the development authorised by the DCO (as proposed to be amended by the draft DCO Amendment Order and including the*



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associated development comprising the onshore facilities for manufacturing, assembly and storage).

- 3.2.2 Although certain alternative use permissions have recently expired, C.GEN is aware that AHPL has previously taken steps to renew such temporary change of use permissions where they have lapsed. C.GEN is of the view that there is no reason to suggest this would not or could not happen again. Indeed, whilst other permissions remain extant, C.GEN notes the potential future permanence in respect of alternative uses within the Order Limits which are currently authorised for a temporary period only.*
- 3.2.3 Therefore, and based on information made available by AHPL to date, it is not improbable so far as C.GEN is concerned that the implementation of later stages of the AMEP will be prevented by other permanent uses of areas of land within the Order Limits.*
- 3.2.4 Taking this into account, C.GEN queries whether it would help the Examination if AHPL could provide 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.*
- 3.2.5 In the first instance, this would help give credence to AHPL's current 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).*
- 3.2.6 C.GEN is of the view that publication of a series of updated masterplans would also help C.GEN, the Examining Body and other interested parties to consider the AMEP proposals on a holistic basis - acknowledging as AHPL has itself set out in recent correspondence, the rapid pace of change within the renewable energy sector over the last decade.*

3.3 The Existing Centrica Infrastructure

- 3.3.1 C.GEN has previously expressed concerns regarding potential impacts from the Proposed Material Change on the cooling water intake and outfall pipeline between the Power Station site and the River Humber, including pipework in the river.*
- 3.3.2 C.GEN acknowledges that, in response to these comments, AHPL reported additional assessment of impacts as recorded in Chapter 8 of the Updated Environmental Statement (UES) submitted with the application for the Proposed Material Change (APP-079). This assessment concluded that the change to the quay alignment would have a beneficial impact on C.GEN'S infrastructure.*
- 3.3.3 Notwithstanding the additional assessment undertaken by AHPL, C.GEN has at this stage identified three particular matters relating to the Centrica Protective Provisions which it requests are addressed via the draft DCO Amendment Order:*
- (a) In order to bring matters up to date, C.GEN should be expressly named on the face of the DCO as the beneficiary of the Centrica Protective Provisions (as well as, of course, any future successors in title).*



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- (b) *The matters listed at Paragraph 96(2) to Schedule 10 of the DCO (i.e. those matters which must be included within the construction method statement which AHPL is required to agree with C.GEN pursuant to Paragraph 96(1) before commencing any stage of the authorised development) are primarily concerned with the reinforcement and use of designated crossing points above the 'pipelines' (as defined). C.GEN's concern includes in respect of the offshore elements of the pipelines. C.GEN requests that Paragraph 96(2) is amended to include specific reference to those further measures which AHPL would need to agree with C.GEN (and subsequently implement) in order to ensure the future integrity of the existing cooling water intake and outfall pipeline.*

Implementation of any such measures must also remain consistent with relevant provisions and conditions included within both the current Deemed Marine Licence ('DML') and any future iterations of the same, noting that the temporal limitations imposed by Paragraph 14(3) to Schedule 8 of the DCO have been extended through the variations made by AHPL. C.GEN notes the previous salient provisions being Paragraphs 12(1)(e) and 25(2)(d) which between them required AHPL to carry out the Centrica outfall maintenance dredging.

- (c) *As well as the above matters, C.GEN wishes to ensure that the Proposed Material Change does not negatively impact the onshore elements of the pipelines; and given C.GEN's understanding of the uncertainties as acknowledged above regarding the extent and nature of future development within and adjacent to the Order Limits (and in the absence of an updated masterplan for the AMEP), C.GEN submits that the temporal scope of the Centrica Protective Provisions must be extended to secure equivalent protections for the pipelines during the operational phase of the AMEP project.*

4 PROTECTIVE PROVISIONS

- 4.1 *As explained above, C.GEN's primary concern is to ensure that both the C.GEN Protective Provisions and the Centrica Protective Provisions continue to remain fit for purpose.*
- 4.2 *Noting that there are certain matters not yet agreed between the parties, and also substantive points of clarification yet to be provided by AHPL, it remains the case that amendments to both sets of Centrica Protective Provisions may need to be sought by C.GEN where necessary to control and/or ameliorate any impacts on C.GEN's operations likely to arise as a result of the draft DCO Amendment Order.*
- 4.3 *C.GEN remains committed to collaborating with AHPL to identify and appropriately mitigate any such impacts at the earliest opportunity*

Applicant's Comments

Interaction with Other Development

- 4.2 The Applicant responded to this matter in its response to C.GEN's Relevant Representations and the Examining Body is referred to paragraphs 12.5 to 12.8



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of that response which was submitted at Deadline 1 (Examination Library Reference REP1-026). The matter is also addressed in paragraphs 3.3 to 3.5, 4.2 and 4.6 of the SoCG between C.GEN and the Applicant submitted at deadline 1 (the SoCG) (Examination Library Reference REP1-013).

- 4.3 With regard to C.Gen's request for masterplans showing possible future onshore development to be submitted as part of the Examination of the proposed material change, the Applicant does not consider that this would be appropriate or relevant, given that the proposed material change does not involve any land-based development. The Applicant notes that any change of use or other new development will require planning permission (including environmental assessment as appropriate) and C.GEN will be entitled to respond to such future applications when they are submitted. The appropriate time for any concerns to be raised by C.GEN is when any planning applications are being considered. Any additional planning controls which may be required will also be considered as part of the planning application process. It is not appropriate for the examination of the proposed material change to include consideration of potential planning applications which may or may not be made in the future.

The Existing Centrica Infrastructure

- 4.4 C.GEN purchased the Centrica site and its related infrastructure in 2016, after the AMEP DCO came into force on 29 October 2014. At the time of the purchase, the definition of 'Centrica' was set out in Article 2 of the AMEP DCO and C.GEN should have been aware of that definition when purchasing Centrica's assets. For ease of reference the definition is reproduced below:

' "Centrica" means Centrica Plc, company number 03033654, whose principal office is at Millstream, Maidenhead Road, Windsor, Berkshire, SL4 5GD, and all of its subsidiaries, and Group companies, transferees, assignees, etc., including but not limited to Centrica KPS Ltd, Centrica Storage Limited and Centrica Energy;'

- 4.5 On the basis that it is a transferee, C.GEN is included within this definition and therefore benefits from Centrica's protective provisions. In paragraph 3.6 of the SoCG, both parties recognise that C.GEN benefits from the protective provisions in Schedule 9 of the DCO, which provide protection for the former Centrica Power station and associated infrastructure (the 'Centrica Protective Provisions').

- 4.6 It is the Applicant's view that C.GEN's proposed amendments to Centrica's Protective Provisions are not linked to the Material Change at all. The UES reports that the Material Change has only a positive impact on the former Centrica infrastructure. In paragraph 3.8 of the SoCG C.GEN acknowledges that the change to the quay alignment would have a beneficial impact on C.GEN'S (formerly Centrica's) infrastructure. Given the beneficial impact of the proposed material change, the Applicant considers that there is no justification for amending Centrica's Protective Provisions to improve protections for C.GEN beyond those they have inherited as a transferee.

Protection of the Offshore Pipelines

- 4.7 As set out above, the Applicant's position is that there is no justification for the protective provisions benefiting C.GEN to be improved. The Applicant also disagrees with C.GEN's suggestion that amendments are required for clarity. With regards to the question of whether C.GEN benefits from the protective provisions, see paragraphs 4.4 to 4.5 above. With regards to Schedule 9 paragraph 96(2), given that Schedule 9 paragraph 96(1) clearly refers to 'a construction method



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statement to protect the pipelines (offshore and onshore)', (underline added), the Applicant sees no reason to amend paragraph 96(2) which merely specifies a minimum level of information to be included.

- 4.8 The Applicant disagrees with C.GEN's assertion in its response to ExBQ1 Q3.03 that, while protections for the construction stage of the development are sufficient, additional protections for C.GEN's pipelines may be required for the operational stage of the development. As noted above, the proposed material change will have a beneficial impact on C.GEN's infrastructure, and there is therefore no justification for strengthening protections for C.GEN. Where the existing pipelines run through the Applicant's land they benefit from an easement, which is protected under the existing protective provisions. This protection will continue through the operational stage of the development and amendments to the protective provisions are not justified.

Protective Provisions

- 4.9 The Applicant confirms that the existing protective provisions remain in place, and no amendment to the protective provisions is proposed as part of the Application.



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5. Representation No. 4 – C.RO Killingholme Ltd (“C.RO”)

Written Representation

- 5.1 A written representation from C.RO was published by the Planning Inspectorate on 15th December 2021. Relevant abstracts are reproduced below.

3 C.RO'S CURRENT POSITION

3.1 Overview

3.1.1 *C.RO does not have an in-principle objection to the Proposed Material Change.*

3.1.2 *C.RO does, however, remain concerned to ensure that the Proposed Material Change does not adversely impact on its ability to discharge its existing statutory functions or to carry out its established commercial operations.*

3.1.3 *These issues were considered at length during the Examination for the DCO itself, culminating in a suite of protective provisions authorised to be included for C.RO's benefit at Schedule 9, Part 6 to the DCO (the "Protective Provisions"). C.RO's primary concern is to ensure that those Protective Provisions remain fit for purpose, taking account of the operational and other effects anticipated to arise from the Proposed Material Change.*

3.1.4 *Whilst C.RO welcomes the positive engagement with AHPL to date, there are still certain matters (summarised below) which are not yet agreed between the parties. From C.RO's perspective, it is imperative that these matters are addressed as soon as possible.*

3.1.5 *C.RO remains committed to collaborating with AHPL to identify and appropriately mitigate any such impacts at the earliest opportunity.*

3.2 Construction Sequencing Changes

3.2.1 *It is acknowledged that the authorised development must be carried out in accordance with the design drawings listed in Paragraph 6(b) of Schedule 11 (Requirements) to the DCO. The draft DCO Amendment Order already seeks to substitute and/or remove the majority of these drawings. This is understood to reflect the fact that works are now proposed to commence at the southern end of the quay and to progress northwards in order to facilitate the early handover of an operational section of quay.*

3.2.2 *An additional submission has since been made by AHPL in respect of the draft DCO Amendment Order to further amend two of the construction sequencing design drawings (with reference to new drawing references AME-036-10009 (Rev D)) and AME-036-10010 (Rev D).*

3.2.3 *Whilst AHPL has provided a comprehensive explanation as to the rationale underpinning this additional submission and has shown the abovementioned drawings to C.RO on a without prejudice basis, neither of the drawings referenced in that submission have yet been made publically available for detailed inspection.*

3.2.4 Although C.RO does not have any in-principle concerns at this stage in terms of the proposed variation to the construction sequencing, C.RO reserves the right to make further representations to the Examining Body once the relevant drawings have been published.

3.3 Interaction with Other Development

3.3.1 C.RO has previously expressed concerns regarding the assessment of environmental effects undertaken by AHPL in light of the interaction between certain extant planning permissions for uses and development wholly unrelated to AMEP and the development authorised by the DCO (as proposed to be amended by the draft DCO Amendment Order and including the associated development comprising the onshore facilities for manufacturing, assembly and storage).

3.3.2 Although certain alternative use permissions have recently expired, C.RO is aware that AHPL has previously taken steps to renew such temporary change of use permissions where they have lapsed. C.RO is of the view that there is no reason to suggest this would not or could not happen again. Indeed, whilst other permissions remain extant, C.RO notes the potential future permanence in respect of alternative uses within the Order Limits which are currently authorised for a temporary period only.

3.3.3 Therefore, and based on information made available by AHPL to date, it is not improbable so far as C.RO is concerned that the implementation of later stages of the AMEP will be prevented by other permanent uses of areas of land within the Order Limits.

3.3.4 Taking this into account, C.RO queries whether it would help the Examination if AHPL could provide 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.

3.3.5 In the first instance, this would help give credence to AHPL's current 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).

3.3.6 C.RO is of the view that publication of a series of updated masterplans would also help C.RO, the Examining Body and other interested parties to consider the AMEP proposals on a holistic basis - acknowledging as AHPL has itself set out in recent correspondence, the rapid pace of change within the renewable energy sector over the last decade.

3.4 Additional Construction Vessel Movements

3.4.1 C.RO has sought to ascertain whether AHPL's proposed amendments to the construction methodology for AMEP will result in changes to construction vessel movements within the Humber Estuary.

3.4.2 Whilst AHPL has confirmed that there will be no additional construction vessel movements resulting from the proposed construction sequencing changes, a satisfactory explanation of the technical data and modelling underpinning this conclusion has only recently been forthcoming. Hence, C.RO has not yet had sufficient opportunity to review this data with the benefit of that explanation in order to ascertain the potential for other



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operational impacts as a result of future construction vessel movements within the Humber Estuary more generally.

3.4.3 In any event, C.RO's position remains that the existing management plan must continue to be utilised, alongside C.RO's current protective provisions and further provisions within the Deemed Marine Licence, to ensure that construction vessel movements are controlled and that scheduled commercial traffic retains river priority.

3.4.4 C.RO also reserves the right to request further protections within the DCO in the event that concerns are identified following further review of the technical data and modelling provided by AHPL or if it becomes apparent that changes to construction sequencing are likely to give rise to a reasonable prospect of foreseeable impacts on vessels accessing the C.RO facility.

3.4.5 The parties are continuing to discuss this topic.

3.5 Use of the Barge Berth

3.5.1 C.RO has requested further information on the types of vessels which would use the relocated barge berth and how that berth will be operated.

3.5.2 Whilst information on the types of vessels that could use the barge berth to the north of the quay are contained in Section 2.2.2 of the Navigation Risk Assessment (NRA) submitted as Appendix UES 14-1 (APP-144), assessment has only been undertaken with reference to load-on load-off (Lo-Lo) vessels rather than roll-on roll-off (Ro-Ro) vessels.

3.5.3 This is an important point of difference since, in C.RO's opinion, Ro-Ro vessels will be required to turn and approach the barge berth in a completely different manner compared to vessels berthing on the main quay. This is because the barge berth is set back from the main quay, with vessels needing to align their stern with the rear quay wall of the berth. Ro-Ro vessels typically unload from the stern. This is a restricted space to manoeuvre into. It would therefore increase the amount of time such vessels would remain within the approach channel to the existing C.RO facility.

3.5.4 At times of adverse weather and/or tide conditions, this manoeuvre may be more difficult to execute, with the potential to impact on C.RO's operations by interrupting scheduled vessel sailing. It may also create unacceptable navigational safety risks, including collision between a vessel manoeuvring at AMEP and a vessel approaching/leaving CPK, or a vessel being compromised in its approach to the CPK berth.

3.5.5 These risks are currently unknown, and not assessed, because AMEP has not carried out modelling of the use of the barge berth by any vessels, including Ro-Ro vessels.

3.5.6 Although, it has been agreed to carry out a navigation simulation exercise at the South Tyneside Marine College on 6 January 2022, C.RO remains particularly concerned that:

- (a) the intended future use of the barge berth has still not been fully explained or assessed by AHPL, including the rationale for relocating that berth from its current authorised location to the south;*



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- (b) *AHPL has not yet confirmed either the type of vessels which are likely to make use of the relocated barge berth, or indeed the intended frequency of such future use; and*
- (c) *the modelling data relating to the future use of the barge berth will not be available until almost mid-way through the current Examination, leaving C.RO (and others) with very limited opportunity to properly identify the likely safety, operational and other impacts arising from the current proposals, and for the Examining Body to consider the same. Indeed, C.RO would have expected that the feasibility of relocating the barge berth in navigational and operational terms would have been simulated by AHPL well in advance of submission of the Proposed Material Change application.*

3.5.7 Whilst AHPL's position remains that the Proposed Material Change will not give rise to any significantly different effects on the operation of CPK compared to the consented AMEP scheme (understood to be on the basis of advice provided by its advisor in marine matters, Captain Mike Nicholson), no justification or written evidence has been provided to C.RO in this respect. In C.RO's opinion, limited weight can be attributed to this conclusion as matters stand.

3.5.8 Therefore, C.RO considers that each of its current concerns could be most appropriately addressed, and any adverse impacts avoided, by retaining the barge berth in its existing authorised location to the south of the quay, the operational and environmental suitability of that location having already been established.

3.5.9 In the alternative, and to the extent that further information is made available by AHPL to satisfy each of the concerns above, C.RO would request that additional conditions be imposed within the draft DCO Amendment Order to, for example, restrict the use of the barge berth and thereby avoid any adverse effects on existing navigation to and from C.RO's and other facilities in the area.

4 PROTECTIVE PROVISIONS

4.1 As explained above, C.RO's primary concern is to ensure that the Protective Provisions continue to remain fit for purpose.

4.2 Noting that there are certain matters not yet agreed between the parties, and also substantive points of clarification yet to be provided by AHPL, it remains the case that amendments to the Protective Provisions may need to be sought by C.RO where necessary to control and/or ameliorate any impacts on C.RO's operations likely to arise as a result of the draft DCO Amendment Order.

4.3 C.RO remains committed to collaborating with AHPL to identify and appropriately mitigate any such impacts at the earliest opportunity.

Applicant's Comments

Construction Sequence Changes



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- 5.2 The plans relating to the construction sequence changes have been published on the Planning Inspectorate website (Examination Library Reference AS-007) and comments on the change to the construction sequence were invited by the ExB to be submitted for deadline 2. The Applicant notes that C.RO made no submissions on this issue at deadline 2, and therefore assumes that C.RO has no objection to the change in construction sequence.

Interaction with Other Development

- 5.3 The Applicant responded to this matter in its response to C.RO's Relevant Representations and the Examining Body is referred to paragraphs 13.3 and 13.4 of that response which was submitted at Deadline 1 (Examination Library Reference REP1-026). The matter is also addressed in paragraphs 3.11 to 3.13, 4.2 and 4.5 of the SoCG between C.RO and the Applicant submitted at deadline 1 ('the SoCG') (Examination Library Reference REP1-007).
- 5.4 With regard to C.RO's request for masterplans showing possible future onshore development to be submitted for examination, the Applicant does not consider that this would be appropriate or relevant, given that the proposed material change does not involve any land-based development. The Applicant notes that any future change of use will require planning permission (including environmental assessment as appropriate) and C.GEN will be entitled to respond to such future applications when they are submitted. The appropriate time for any concerns to be raised by C.GEN is when any planning applications are being considered. Any additional planning controls which may be required will also be considered as part of the planning application process. It is not appropriate for the examination of the proposed material change to include consideration of potential planning applications which may or may not be made in the future.


Construction Vessel traffic

- 5.5 The Applicant responded to this matter in its response to C.RO's Relevant Representations and the Examining Board is referred to paragraphs 13.5 to 13.8 of that response which was submitted at Deadline 1 (Examination Library Reference REP1-026). This matter is also addressed in the SoCG at paragraphs 3.14 to 3.18 and 4.6 to 4.8.

Use of Barge Berth

- 5.6 The Applicant provided information on the use of the barge berth in response to the first set of Examiner's Questions (Examination Library Reference REP1-019)- see question 3.0.2.
- 5.7 To further address the concerns raised by C.RO regarding potential impacts from the use of the barge berth, an additional navigation simulation exercise was carried out at the South Tyneside Marine College on 6 January 2022 (See report submitted at Deadline 3 with reference TR030006/D3/3). The simulations were agreed with C.RO and the Harbourmaster Humber in advance of the exercise, and demonstrated that the proposed material change to the quay will not adversely impact on vessels approaching or departing the C.RO berths. As in the consented scheme, vessels approaching and departing the two facilities will need to be managed by the Harbourmaster Humber to avoid conflict, although give the number of traffic movements, this should have a trivial impact on the operations of either facility

Protective Provisions

	<p style="text-align: center;">AMEP MATERIAL CHANGE 2</p> <p style="text-align: center;">APPLICANT'S COMMENTS ON THE WRITTEN REPRESENTATIONS AND COMMENTS ON RESPONSES TO ExB's Q1</p>	<p style="text-align: right;">Date: January 2022</p>
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- 5.8 The Applicant has not proposed any changes to the Protective Provisions as part of the Application, as it does not consider that there are any additional impacts on C.RO resulting from the proposed material change which justify additional protections. The protective provisions benefitting C.RO in Schedule 9 to the DCO will remain in place, and will continue to provide protection to C.RO.



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6. Representation No. 5 – Natural England (“NE”)

ExBQ1

- 6.1 While NE did not submit a written representation at Deadline 1, it made a number of comments on the shadow Habitats Regulations Assessment report in its [responses to the ExB's First Written Questions](#), Q5.0.1-Q5.0.3 and Q5.0.8-Q5.0.12.

Applicant's Comments

- 6.2 An updated version of the HRA report was submitted at deadline 3 under reference TR030006/D3/7. The Applicant considers that this addresses all of the points raised by NE.