



## **Able Marine Energy Park**

### *Material Change 2*

## **Statement of Common**

## **Ground with North**

## **Lincolnshire Council**

**MATERIAL CHANGE 2 TO THE ABLE MARINE ENERGY PARK DCO 2014**

**Planning Inspectorate Reference: TR030006**

**Statement of Common Ground**

**Between**

**ABLE HUMBER PORTS LIMITED**

**and**

**NORTH LINCOLNSHIRE COUNCIL**

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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 North Lincolnshire Council ('NLC') 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 NLC 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 NLC'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 representation made by NLC received by the Planning Inspectorate on 2 August 2021. The relevant representation did not itself raise any issues, but referred to NLC's response to the consultation carried out by the Planning Inspectorate in relation to the [Scoping Opinion](#) for the proposed Application. The matters addressed in this SoCG are:

- The Updated Environmental Statement (UES);
- NLC's interests in the Application; and

- The proposed diversion of the footpath.

## **1.2 Description of the DCO and material change application**

- 1.2.1 The Able Marine Energy Park 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.

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

## **1.3 North Lincolnshire Council**

- 1.3.1 NLC is the local authority for the area within which the DCO and the Application are located.
- 1.3.2 NLC submitted a relevant representation to the Planning Inspectorate regarding the Application (RR-001), received by the Planning Inspectorate on 16 August 2021.

## **1.4 Status of the SoCG**

- 1.4.1 This version of the SoCG represents the position between the Applicant and NLC at 1 February 2022.

## **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 NLC was included in the pre-application consultation carried out by the Applicant. NLC and Able Humber Ports Limited 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.

### *Relevant NLC policies*

- 3.1.1 The parties agree that the Applicant has considered all relevant NLC policies in preparing the Application. The document submitted at Deadline 1 listing the policies considered (REP1-005) has been updated to add policy CS3, and the updated version has been submitted at Deadline 3 with reference TR030006/D2/.

### *Updated Environmental Statement*

- 3.1.2 The Applicant notes that in its response to the Scoping consultation carried out by the Planning Inspectorate, NLC agreed with the proposed scope for the UES set out by the Applicant in the [Scoping Report](#). NLC agrees that the scope of the UES is appropriate, and is content with the conclusions reached, as further detailed in Table 3.1 below.

### *NLC's Interests*

- 3.1.3 The Applicant notes that NLC has interests in the following areas, as stated in its response to the Scoping consultation (referenced in its relevant representation (RR-001)) :
- (a) Ecology
  - (b) Contamination
  - (c) Noise
  - (d) Air Quality
  - (e) Light
  - (f) Cultural Heritage
  - (g) Drainage
  - (h) Highways/PRoW
  - (i) Landscape and Visual Impact
  - (j) Socio-Economic Impact

- 3.1.4 NLC has no current concerns regarding the Application in relation to any of these areas, as further detailed in Table 3.1 below.

*Footpath Diversion*

- 3.1.5 NLC is satisfied that the amended diversion route for Footpath 50 proposed in the Application is appropriate, and has no concerns with regards to the accessibility of the route.

*Written Scheme of Investigation*

- 3.1.6 In its response to the Scoping Opinion consultation NLC stated that it does not object to the proposal to scope out the historic environment from UES provided that the Marine WSI and the Lighthouse mitigation strategies were unchanged.
- 3.1.7 Because the Applicant had recently submitted (December 2020) an updated Marine WSI to NLC to discharge Requirement 17 of the DCO, the applicant scoped the Cultural Heritage in to the UES for the material change.
- 3.1.8 NLC did not approve the updated Marine WSI because it was considered there was insufficient information provided to justify the changes and the lack of further investigations at the design stage, together with a number of inconsistencies in the data presented.
- 3.1.9 The Applicant submitted a further version of the updated Marine WSI to NLC in April 2021 that did not resolve these issues.
- 3.1.10 At a meeting between the Applicant, NLC and Historic England held on 09/06/21 it was agreed to remove reference to the disputed updated WSI from the Cultural Heritage chapter of the UES as the Draft DCO would not change any mitigation agreed within the original WSI; Requirement 17 allows for the Marine WSI to be reviewed at any time.
- 3.1.11 The applicant submitted further versions of the updated WSI to NLC in July, September and November 2021 that resolved all outstanding issues. NLC is content with the updated Marine WSI dated 12/11/2021 (see document submitted at Deadline 1 with reference TR030006/D1/15).

*The Articles and Requirements in the draft DCO Amendment Order*

- 3.1.12 The Parties agree that there are no comments on or concerns regarding the Articles and Requirements contained within in the draft DCO Amendment Order.

Table 3.1: Details of matters which are fully agreed between North Lincolnshire Council and Able Humber Ports Limited

Matter	Status
<b>Ecology</b>	
<p>The Applicant’s Scoping Report scoped in various updates and amendments to the Environmental Statement chapters relating to ecology, and also proposed to provide an updated Habitats Regulations Assessment. NLC supports the approach set out in the scoping report, as stated in its response to the scoping consultation appended to the <a href="#">Scoping Opinion</a>.</p>	Agreed
<p>The Environmental Statement chapters which NLC identified in its scoping consultation response as potentially relevant to ecology were:</p> <ul style="list-style-type: none"> <li>• Geology, Hydrogeology and Ground Conditions;</li> <li>• Hydrodynamic and Sedimentary Regime;</li> <li>• Water and Sediment Quality;</li> <li>• Aquatic Ecology;</li> <li>• Terrestrial Ecology and Birds</li> </ul> <p>In its scoping consultation response NLC agreed that the proposed updates to these chapters were appropriate.</p>	Agreed
<p>Chapter 7 of the Updated Environmental Statement (UES) (APP-078) concludes that no additional assessment of geology, hydrogeology and ground conditions is required as a result of the proposed material change, for the reasons given in paragraphs 7.1.7 to 7.1.10. NLC agrees with this conclusion.</p>	Agreed
<p>Chapter 8 of the UES (APP-079) assesses potential effects on hydrodynamic and sedimentary regime as a result of the proposed material change, summarised at section 8.8.0. The chapter concludes that no significant additional effects are anticipated compared to the extant DCO. None of the potential effects considered relate to ecology.</p>	Agreed
<p>Chapter 9 of the UES (APP-080) assesses potential effects on water and sediment quality as a result of the proposed material change. This concludes that any additional impacts on the Humber Estuary resulting from the proposed material change are not significant (section 9.9.0), and that no further mitigation is required over and above that committed to in the original</p>	Agreed

DCO (section 9.5.8). NLC has no concerns regarding the conclusions reached in this chapter.	
Chapter 10 of the UES (APP-081) assesses potential effects on aquatic ecology as a result of the proposed material change. This concludes at 10.8.0 and 10.9.0 that there are no likely significant effects, and there is therefore no change to the effects identified in the original ES. No additional mitigation is required as a result of the proposed material change. NLC has no concerns regarding these conclusions.	Agreed
Chapter 11 of the UES (APP-082) assesses potential effects on terrestrial ecology as a result of the proposed material change. This summarises the effects identified (section 11.8.0) and concludes that there will be no additional effects on ecology as a result of the proposed material change (section 11.9.0). NLC has no concerns regarding the conclusions reached in this chapter.	Agreed
<b>Contamination</b>	
In its response to the Scoping Opinion consultation NLC agreed with the Applicant's proposal to undertake additional sampling of sediments and to assess any significant change in the levels of contaminants. Additional sampling has been undertaken in accordance with a Sample Plan provided by the MMO and is reported in UES Appendix 9-4. NLC is content that the updated sampling results have been provided to the relevant regulatory authorities.	Agreed
<b>Noise</b>	
In its response to the Scoping Opinion consultation NLC stated that it was content for noise be scoped out of further assessment in the UES. Chapter 16 of the UES (APP-087) assesses potential effects on noise and vibration resulting from the proposed material change. It concludes that there are no changes to construction or operation which would lead to greater noise and vibration effects (see section 16.4.0). NLC has no concerns regarding the conclusions reached in this chapter.	Agreed
<b>Air Quality</b>	
In its response to the Scoping Opinion consultation NLC stated that it agreed that no further assessment of impacts on air quality was required in the UES, given that the proposed amendments would not give rise to any new or different impacts on air quality. Chapter 17 of the UES (APP-088) assesses potential effects on air quality and concludes that there are no additional	Agreed

effects from construction or operation as a result of the proposed material change ((17.6.0) and no additional mitigation measures are required beyond those proposed within the original ES (17.5.7). NLC is content with this conclusion.	
<b>Light</b>	
In its response to the Scoping Opinion consultation NLC notes that no changes are proposed to external lighting levels as part of the proposed material change, and that precise arrangements for external lighting would require approval from the NLC under Schedule 11 paragraph 24 of the DCO. Chapter 19 of the UES (APP-090) confirms that impacts on light have been scoped out of the UES and summarises the reasons for this decision. NLC is content with this conclusion.	Agreed
<b>Cultural Heritage</b>	
In its response to the Scoping Opinion consultation NLC stated that it does not object to the proposal to scope out the historic environment from the UES provided that the Coastal and Marine WSI and the Lighthouse mitigation strategies were unchanged. NLC has since reviewed the updated WSI prepared by the Applicant to accompany the Application (see Appendix 2). It is content with the updated WSI.	Agreed
Chapter 18 of the UES (APP-089) assesses potential effects from the proposed material change on marine archaeology (see 18.8.0). This concludes that there are no additional construction or operational effects on the marine historic environment as a result of the proposed material change. NLC has no concerns regarding these conclusions.	Agreed
<b>Drainage</b>	
In its response to the Scoping Opinion consultation NLC noted that no changes are proposed to the arrangements from the disposal of surface water and foul water from the development site, and the proposed material change would therefore not give rise to any new or different impacts on drainage. The parties recognise that the drainage strategy for the AMEP project was approved by NLC on 5 August 2020. The Application does not propose any changes to this approved strategy.	Agreed
<b>Highways/PRoW</b>	
In its response to the Scoping Opinion consultation NLC agreed with the Applicant's conclusion that the amendments to the proposed design would	Agreed

<p>not give rise to any new or different effects on vehicle flow. Chapter 15 of the UES (APP-086) concluded that no additional assessments were required in relation to traffic and transport as a result of the proposed material change, for the reasons set out in paragraphs 15.1.5 to 15.1.9. NLC agrees with the conclusion that no further assessment is required and has no concerns in relation to this area of interest.</p>	
<p>The proposed amendment to the diversion of Footpath 50 has been discussed and agreed with NLC's Public Rights of Way officer, as noted in NLC's response to the Scoping Opinion consultation.</p>	<p>Agreed</p>
<p>As set out in paragraph 15.1.7 of chapter 15 of the UES (APP-086), the proposed amendment to the agreed diversion route to Footpath 50 around the AMEP site is proposed to avoid crossing the operational Killingholme Branch line. The proposed new route would, by means of a 440m diversion, relocate the path onto a closed section of the railway line where there is an existing agricultural crossing and no track. NLC agrees with the Applicant's conclusion that the addition to the length of the route is offset by the benefit to its users of removing a possible footbridge, especially to the ambulant disabled.</p>	<p>Agreed</p>
<p><b>Socio-economic Impact</b></p>	
<p>In its response to the Scoping Opinion consultation NLC agreed that no additional assessment of socio-economic impacts was required as a result of the proposed material change, as the amendments to the proposed design would not give rise to any new or different socio-economic impacts.</p>	<p>Agreed</p>
<p>Chapter 21 of the UES (App-092) concluded that the only potential effects requiring assessment as a result of the proposed material change were those relating to the amended diversion route of Footpath 50. NLC agrees with the Applicant's conclusion at 21.4.7 that, on balance, the overall magnitude of impact is negligible, and even allowing for the high sensitivity for the England Coast Path the resulting level of effect would be minor and not significant. It also agrees with the Applicant's conclusion at 21.4.9 that the proposed change to the route would cause negligible inconvenience to users of the Path, is not expected to noticeably affect users experience of the route in North Lincolnshire and would be inconsequential with regard to the impact of the tourism economy.</p>	<p>Agreed</p>

**4 Matters not yet agreed between the parties**

4.1 The following matters are subject to further discussion between the parties.

<b>Landscape and Visual Impact</b>	
In its response to the Scoping Opinion consultation NLC agreed that no additional assessment of landscape and visual impact was required as a result of the proposed material change. Chapter 20 of the UES (APP-091) concluded that the proposed material change was not likely to result in any significant changes from those assessed in the original ES, and that this topic could therefore be scoped out of the UES. NLC has no concerns regarding this conclusion but will review the additional photomontages that were submitted in response to the Examining Body's first set of questions.	Under discussion

Signed on Behalf of ABLE HUMBER PORTS LIMITED

Signature:

Name:

Position:

Date:

Signed on Behalf of the NORTH LINCOLNSHIRE COUNCIL

Signature:

Name:

Position:

Date: