



## **Able Marine Energy Park**

### *Material Change 2*

## **Updated Explanatory**

## **Memorandum**

**Able Humber Ports Limited**

**Able Marine Energy Park (Material Change 2)**

**TR030006/APP/5**

**The Able Marine Energy Park (Amendment) Order 202[\*]**

**Explanatory Memorandum**

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### 1 Summary

- 1.1 This memorandum explains the purpose and effect of the proposed material change to the Able Marine Energy Park Order 2014 (the **2014 Order**) (the **Application**), as required by Regulation 16(2)(e) of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (the **2011 Regulations**).<sup>1</sup>
- 1.2 The changes comprised in the Application would be made through the Able Marine Energy Park (Amendment) Order 202[\*] (the **Order**), a draft of which has been submitted with the Application. The Order would make a change to the Able Marine Energy Park Order 2014 (the **2014 Order**) under Article 153 and paragraph 3(1) of Schedule 6 to the Planning Act 2008 (the **2008 Act**).<sup>2</sup> Changes would also be made to the deemed marine licence at Schedule 8 to the 2014 Order (the **DML**), by means of a variation by the Marine Management Organisation under section 72 of the Marine and Coastal Access Act 2009.<sup>3</sup>

### 2 Purpose and Effect of the Application

#### *Background*

- 2.1 The Able Marine Energy Park (the **Project**) is a nationally significant infrastructure project which was consented through the 2014 Order, a development consent order made under the 2008 Act. Its purpose is to allow offshore energy components and parts to be manufactured, assembled and exported to their installation sites and elsewhere.
- 2.2 The 2014 Order was made on 13 January 2014, laid before Parliament on 10 February 2014 and came into force on 29 October 2014.<sup>4</sup> The 2014 Order permitted the construction and operation of a new quay and associated development near North Killingholme on the south bank of the Humber Estuary, the creation of an environmental habitat on the north bank of the Humber Estuary to compensate for the loss of land from the Humber Estuary Natura 2000 site, and ancillary matters including the diversion of a footpath on the north bank of the Humber Estuary.
- 2.3 Since it was made, the 2014 Order has been amended as follows:

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<sup>1</sup> SI 2011/2055

<sup>2</sup> c.29

<sup>3</sup> c.23

<sup>4</sup> SI 2014/2935

- 2.3.1 The Marine Management Organisation has made two variations to the DML, on 23 June 2017 and 16 September 2020 respectively. The first variation extended the period of the licence to 9 years from the date of the 2014 Order coming into force, with the construction and capital dredge activities to be carried out within the first 6 years and maintenance dredging permitted following capital dredging until the expiry of the licence, together with a number of other changes which are not relevant to the proposed material change application. The second variation further extended the period of the licence from 9 to 10 years from the date of the 2014 Order coming into force, with the construction and capital dredge activities to be carried out within the first 9 years and maintenance dredging permitted following capital dredging until the expiry of the licence.
- 2.3.2 A non-material change to the 2014 Order was applied for on 19 September 2018 under paragraph 2 of Schedule 6 to the 2008 Act, and the Able Marine Energy Park Development Consent (Amendment) Order 2021 (the **2021 Amendment Order**)<sup>5</sup> was made on 13 May 2021, coming into force the following day. The change moved an area proposed for ecological mitigation on the south bank of the Humber Estuary (referred to as "Mitigation Area A" in the 2014 Order) to a new site outside the 2014 Order limits, and excluded Mitigation Area A from the 2014 Order limits.

#### *Material Change*

- 2.4 Since the DCO came into force in October 2014, Able Humber Ports Limited (**Able**) has been working to ensure that the Project is delivered effectively and efficiently. As a result of this process, Able is now seeking consent from the Secretary of State to make a material change to the 2014 Order under section 3 and Schedule 6 of the 2008 Act, and under the 2011 Regulations (the **Application**).<sup>6</sup>
- 2.5 Changes to the 2014 Order are required in order to change the alignment of the quay, removing the specialist berth at the southern end of the quay and instead setting back the quay line at the northern end of the quay to create a barge berth. This is necessary due to changes in the vessels which it is anticipated will use the quay, meaning that the specialist barge berth is no longer required and an inset berth is required instead, which will be more resilient to future changes. The proposed changes to the Order will also permit changes to dredging linked to the new quay alignment, and changes to construction methodology which have been identified as efficacious during the design process. In addition, the route of the footpath diversion on the southern bank of the Humber is being amended to avoid the need for it to cross the tracks of the Killingholme branch railway at the north-western side of the site. Able is treating these changes to the 2014 Order as a material change, because there is a possibility that the changes may result in new or materially different environmental effects. An updated environmental

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<sup>5</sup> SI 2021/606

<sup>6</sup> The Application is referred to on the National Infrastructure Planning Website as "Material Change 2". "Material Change 1" relates to a proposed application to extend the time limit for compulsory acquisition of a single parcel of land. Although Able has engaged with the Planning Inspectorate in relation to the potential application for Material Change 1, no application has yet been made.

statement and habitats regulations assessment have therefore been prepared for the application.

2.6 The Application seeks to achieve the following—

- 2.6.1 changes to the proposed quay layout to reclaim the specialist berth at the southern end of the quay, and to set back the quay line at the northern end of the quay to create a barge berth;
- 2.6.2 the addition of options to the form of construction of the quay whereby the piled relieving slab to the rear of the quay could be raised or omitted entirely (subject to detailed design), and the quay wall piles could be restrained with more conventional steel anchor piles and tie bars in lieu of flap anchors;
- 2.6.3 a change to the approved diversion of footpath FP50 in North Lincolnshire to avoid crossing over the existing rail track at the end of the Killingholme Branch Line;
- 2.6.4 the inclusion of alternative options regarding the number of cross dams within the reclamation area, to enable greater flexibility for staged completion and early handover of sections of the quay;
- 2.6.5 a change to the consented deposit location for 1.1M tonnes of clay to be dredged from the berthing pocket, to permit its disposal at HU081 and HU082 ; and
- 2.6.6 an amendment to the sequencing of the quay works (as illustrated on the consented DCO drawings AMEP\_P1D\_D\_101 to 103; Indicative Sequence Plan View[s]) to enable those works to commence at the southern end of the quay and progress northwards, including the provision of alternative options as to how the quay works are sequenced

2.7 To effect these changes, amendments will also need to be made to the DML (Schedule 8 to the 2014 Order), as shown in the DML variation application submitted at deadline 4 (Examination Library Reference REP1-011). Under paragraph 5(6) of Schedule 6 to the 2008 Act the Secretary of State cannot make changes to a deemed marine licence or the conditions attached to a deemed marine licence. Able is therefore applying separately to the Marine Management Organisation for a variation of the DML under section 72 of the Marine and Coastal Access Act 2009.

### **3 Draft Order**

3.1 The purpose and effect of the provisions of the draft Order are now explained in sequence. While the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (S.I. 2009/2265) have been repealed, the model provisions (general and harbour) have been considered in drafting the Order. The draft Order also draws on precedent set by development consent orders that have been made to date, in particular the 2021 Amendment Order.

### *Article 1 – Citation and commencement*

- 3.2 Article 1 sets out the name of the Order, establishing how it may be cited in subsequent legislation. It is also the states the date on which the Order comes into force.

### *Article 2 – Amendment of The Able Marine Energy Park Development Consent Order 2014*

- 3.3 Article 2 sets out the amendments which the Order makes to the 2014 Order. The effect of each paragraph of Article 2 is further explained below.
- 3.4 Paragraph (1) states that the amendments set out in the following paragraphs will be made to the 2014 Order.
- 3.5 Paragraph (2) makes changes to Article 2 (Interpretation) of the 2014 Order. The realignment of the proposed quay to remove the specialist berth is reflected in a revised definition of “the berthing pocket” with new co-ordinates. A new definition of “the inset berth” is added to the 2014 Order, relating to the new set back barge berth at the northern end of the quay.
- 3.6 Paragraph (3) adds the inset berth to the list of areas which may be dredged, included as associated development in Schedule 1 (Authorised Development) to the 2014 Order, so that this reflects the new alignment of the quay.
- 3.7 Paragraph (4) amends the limits of the harbour to reflect the new quay alignment, inserting new co-ordinates and a new plan showing the revised harbour limits.
- 3.8 Paragraph (5) amends paragraph 6 of Schedule 11 (Requirements) to the 2014 Order (as amended by the 2021 Amendment Order). Paragraph 6 of Schedule 11 to the 2014 Order states that the Project must be constructed in accordance with the drawings listed in subparagraphs (a), (b) and (c). Paragraph (6) withdraws and substitutes a number of these drawings, to reflect changes made to the Project design and construction methodology. A table listing the drawings which have been substituted and withdrawn, and the reasons in each case, is at Appendix 1.
- 3.9 Paragraph (6) inserts an additional Article 55B into the 2014 Order listing the documents which are to be certified by the Secretary of State following the making of the Order. This follows the precedent of Article 55A of the 2014 Order, inserted by the 2021 Amendment Order in relation to further environmental documents to be certified following the making of the 2021 Amendment Order.

## APPENDIX 1

### List of drawings to be substituted or withdrawn

Withdraw	Substitute	Explanation
AME-02006 Indicative Masterplan	AME-036-20001 Indicative Masterplan (Rev B)	Quay line amended. Mitigation Area A omitted to reflect changes made in the 2021 Amendment Order.
AME-02007 Indicative Landscape Masterplan	AME-036-20002 Indicative Landscape Masterplan (Rev B)	Quay line amended. Mitigation Area A omitted to reflect changes made in the 2021 Amendment Order.
AME-02008 Building Key Plan	AME-036-20003 Building Key Plan (Rev A)	Quay line amended. Mitigation Area A omitted to reflect changes made in the 2021 Amendment Order.
AME-02010 Footpath No.50 Diversion Route Section Locations	AME-036-20004 Footpath No.50 Diversion Route Section Locations (Rev B)	Quay line amended. Detail A added to provide enlarged detail of the new diversion route. Mitigation Area A omitted to reflect changes made in the 2021 Amendment Order.
AME-02011 Footpath No.50 Diversion Route Indicative Sections	AME-02011 Footpath No.50 Diversion Route Indicative Sections (Rev C)	Notes amended to reflect new diversion route.
AMEP_P1D_D_001 Quay General Arrangement	AME-036-10001 Quay General Amendment (Rev C)	Quay line changed.
AMEP_P1D_D_002 Indicative Piling Layout	AME-036-10002 Indicative Piling Layout (Rev B)	Quay line changed.

<b>Withdraw</b>		<b>Substitute</b>	<b>Explanation</b>
AMEP_PID_D_003 Sections 1 of 2	Quay	AME-036-10003 Quay Sections 1 of 2 (Rev B)	Options to anchor and slab details added.
AMEP_P1D_D_004 Sections 1 of 2	Quay	AME-036-10004 Quay Sections 1 of 2 (Rev C)	Options to anchor and slab details added. Specialist berth reclaimed.
AMEP_P1D_D_005 Front Wall Elevation	Front Wall	AME-036-10005 Front Wall Elevation (Rev B)	Specialist berth reclaimed.
AMEP_P1D_D_006 Return Wall Elevation	Northern	AME-036-10006 Northern Return Wall Elevation (Rev B)	Set back quay introduced.
AMEP_P1D_D_007 Return Wall Elevation	Southern	AME-036-10007 Southern Return Wall Elevation (Rev B)	Specialist berth reclaimed.
AMEP_PID_D_009 Concrete Deck General Arrangement	Concrete	AME-036-10008 Indicative Concrete Deck General Arrangement (Rev C)	Deck is to be optional.
AMEP_P1D_D_101 Sequence Plan View 1/3	Indicative	AME-036-10009 Indicative Sequence Plan View 1/3 (Rev C) or AME-036-10009 indicative Sequence Plan View 1/3 (Rev D)	Quay line changed. Alternative options regarding the number of cross dams and the sequencing of the works.
AMEP_P1D_D_102 Sequence Plan View 2/3	Indicative	AME-036-10010 Indicative Sequence Plan View 2/3 (Rev C)	Quay line changed. Works planned from south to north. Alternative options regarding the number of



<b>Withdraw</b>	<b>Substitute</b>	<b>Explanation</b>
	or AME-036-10010 Indicative Sequence Plan View 2/3 (Rev D)	cross dams and the sequencing of the works. Surcharge details amended.
AMEP_P1D_D_103 Indicative Sequence Plan View 3/3	AME-036-10011 Indicative Sequence Plan View 3/3 (Rev C)	Quay line changed. Works planned from south to north.
AMEP_P1D_D_106 Proposed Site Facilities and Access	None	Plan not required
AMEP_PID_D_104 Indicative Sequence Cross Section	AME-036-10012 Indicative Sequence Cross Section 1 of 2 (Rev C)	Tie back system options added.
AMEP_PID_D_105 Indicative Sequence Cross Section 2/2	AME-036-10013 Indicative Sequence Cross Section 2 of 2 (Rev C)	Tie back system options added. Relieving slab optional.
AME-02018-A – Old Little Humber Farm Compensation Site Indicative Layout	None - Plan listed in error	This part of the application was withdrawn during the application and was erroneously listed in Schedule 11 to the 2014 Order.
AMEP_PID_D_107 Proposed Site Facilities and Access 2/2	None - Plan not required	Plan not required.