



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008 and  
The Infrastructure Planning (Changes to, and Revocation of,  
Development Consent Orders) Regulations 2011

**Able Marine Energy Park Material Change 2**

Examining Body's Report  
of Findings and Conclusions

and

Recommendation to the Secretary of State for  
Transport

---

Examining Body

**Alan Novitzky** B.Arch (Hons) MA(RCA) PhD RIBA

**16 May 2022**

This page is intentionally blank

# OVERVIEW

File Ref: TR030006

The Application, dated 25 June 2021, for an amendment to the Able Marine Energy Park Development Consent Order 2014 (S.I. 2014/2935) to accommodate a material change, was received in full by The Planning Inspectorate on 25 June 2021.

The Applicant is Able Humber Ports Limited (Able).

On 23 September 2021, the Secretary of State for Transport (SoSdFT) decided that it was necessary for an Examining body (ExB) to examine the application [OD-001].

The Examination of the application began on 16 November 2021 and was completed on 16 March 2022.

The Able Marine Energy Park (AMEP) aims to provide a substantial manufacturing and installation base for the offshore marine energy sector on the south bank of the Humber Estuary. As well as having a quay to receive and export raw materials and products, the development would provide facilities to allow the manufacture and assembly of offshore components, including wind turbines, for loading onto installation vessels for direct transport to offshore development sites.

The Application seeks changes to the 2014 Order to alter the alignment of the quay, removing the specialist berth at the southern end of the quay and setting back the quay line at the northern end, creating a barge berth. This is required because of changes in the type of vessels which are expected to use the quay. The Proposed Changes to the Order would also allow amendments to dredging and sediment disposal patterns arising from the new quay alignment, and the option of a more efficient construction methodology, identified during the design process. In addition, the route of the footpath diversion on the southern bank of the Humber would be amended to avoid it crossing the tracks of the Killingholme branch railway. Able is treating these changes to the 2014 Order as a material change, because they might result in new or materially different environmental effects.

## **Summary of Recommendation:**

The ExB recommends that the Secretary of State should make the Order in the form attached.

# REPORT TABLE OF CONTENTS

1.	INTRODUCTION .....	1
1.1.	STRUCTURE OF THIS REPORT .....	1
1.2.	INTRODUCTION TO THE EXAMINATION.....	1
1.3.	The Site .....	3
1.4.	Relevant Planning History .....	4
1.5.	APPOINTMENT OF THE EXAMINING BODY .....	5
1.6.	THE PERSONS INVOLVED IN THE EXAMINATION .....	5
1.7.	THE EXAMINATION and PROCEDURAL DECISIONS.....	5
1.8.	ENVIRONMENTAL IMPACT ASSESSMENT .....	9
1.9.	HABITATS REGULATIONS ASSESSMENT.....	9
1.10.	UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS.....	9
1.11.	OTHER CONSENTS.....	10
2.	LEGAL AND POLICY CONTEXT .....	11
2.1.	THE PLANNING ACT 2008 (PA2008) and the CHANGE REGULATIONS 2011...	11
2.2.	NATIONAL POLICY STATEMENT.....	11
2.3.	MARINE AND COASTAL ACCESS ACT 2009 .....	11
2.4.	HABITAT REGULATIONS ASSESSMENT.....	11
2.5.	EUROPEAN LAW AND RELATED UK REGULATIONS .....	12
2.6.	The Water Framework Directive .....	12
2.7.	The Air Quality Directive .....	12
2.8.	OTHER LEGAL PROVISIONS .....	13
2.9.	TRANSBOUNDARY EFFECTS .....	13
2.10.	THE NATIONAL PLANNING POLICY FRAMEWORK .....	14
2.11.	THE DEVELOPMENT PLAN and LOCAL POLICIES.....	14
3.	THE PLANNING ISSUES.....	15
3.1.	MAIN ISSUES IN THE EXAMINATION .....	15
3.2.	Drainage Strategy .....	15
3.3.	Flood Risk .....	15
3.4.	The proposed footpath diversion .....	16
3.5.	Order Limits .....	16
3.6.	Marine Archaeology .....	17
3.7.	MAIN ISSUES.....	18
3.8.	HARBOUR OPERATIONS IN THE HUMBER ESTUARY.....	18
3.9.	HYDRODYNAMICS AND THE SEDIMENT REGIME .....	21
3.10.	WATER AND SEDIMENT QUALITY .....	24
3.11.	BIODIVERSITY .....	26
3.12.	INCREASED CRANE HEIGHT .....	31
3.13.	CLIMATE CHANGE.....	38
3.14.	CUMULATIVE AND IN-COMBINATION EFFECTS.....	39
3.15.	DRAFT AMENDMENT ORDER.....	40
3.16.	CONCLUSIONS ON THE MAIN ISSUES.....	42

4.	FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT .....	43
4.2.	RELEVANT EUROPEAN SITES .....	45
4.3.	POTENTIAL IMPACTS.....	46
4.4.	IN-COMBINATION ASSESSMENT .....	47
4.5.	FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS.....	48
4.6.	CONSERVATION OBJECTIVES .....	54
4.7.	FINDINGS IN RELATION AEOI .....	55
4.8.	AEOI from the Proposed Changes Alone .....	56
4.9.	The Applicant’s assessment: Humber Estuary SPA and bird features of the Humber Estuary Ramsar .....	58
4.10.	Examination .....	59
4.11.	ExB conclusion .....	65
4.12.	AEOI from the Proposed Changes in-combination with other plans or projects.....	66
4.13.	DEROGATIONS.....	67
4.14.	HRA CONCLUSIONS .....	69
5.	CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT .....	70
5.2.	CONFORMITY WITH THE NATIONAL POLICY STATEMENT FOR PORTS .....	70
5.3.	CONFORMITY WITH THE EAST MARINE PLAN .....	70
5.4.	CONFORMITY WITH THE NPPF, THE DEVELOPMENT PLAN and LOCAL POLICIES. ....	71
5.5.	THE ENVIRONMENTAL IMPACT ASSESSMENT .....	71
5.6.	THE WATER FRAMEWORK DIRECTIVE .....	72
5.7.	THE HABITATS REGULATIONS ASSESSMENT .....	72
5.8.	THE OVERALL PLANNING BALANCE .....	72
5.9.	CONCLUSIONS .....	73
6.	DRAFT AMENDMENT ORDER .....	74
7.	RECOMMENDATION .....	75
	APPENDIX A: THE EXAMINATION.....	II
	APPENDIX B: EXAMINATION LIBRARY .....	III
	APPENDIX C: LIST OF ABBREVIATIONS .....	IV
	APPENDIX D: THE RECOMMENDED AO .....	V
	APPENDIX E: TABLES SETTING OUT THE EXB’S HRA CONCLUSIONS FOR THE HUMBER ESTUARY SAC, SPA AND RAMSAR SITE .....	VI

**List of Figures**

Figure 1: Site Location Plan [APP-058] .....	4
--	---

## List of Tables

Table 1:	
Sites identified in the Applicant’s LSE Report .....	45
Table 2:	
LSEs identified by the Applicant for bird qualifying features of the Humber Estuary SPA/Ramsar (Table 14 of the LSE Report [APP-067] .....	49
Table 3:	
Issues raised by the ExB and IPs in relation to the Applicant’s screening of LSE’s .....	50
Table 4:	
Habitat loss from the Proposed Changes compared with the AMEP DCO .....	57
Table 5:	
Issues raised during the Examination by NE, the EA and the ExB in relation to effects on integrity .....	60

# 1. INTRODUCTION

## 1.1. STRUCTURE OF THIS REPORT

1.1.1. The structure of this Report is as follows:

- **Chapter 1** describes the application, the site, and the process of the Examination.
- **Chapter 2** records the legal and policy context for the SoSDfT's decision.  
**Chapter 3** sets out and assesses the planning issues that arose from the Application and during the Examination.
- **Chapter 4** considers effects on European Sites and Habitats Regulations Assessment (HRA).  
**Chapter 5** sets out the balance of planning considerations arising from Chapters 3 and 4, in the light of the factual, legal and policy information in Chapters 1 and 2.
- **Chapter 6** considers the implications of the matters arising from the preceding chapters for the Amendment Order (AO).
- **Chapter 7** sets out the ExB's recommendation to the SoSDfT.

1.1.2. This Report is supported by the following Appendices:

- **Appendix A** – the Examination Events.
- **Appendix B** – the Examination Library.
- **Appendix C** – list of Abbreviations.
- **Appendix D** – the Recommended AO.
- **Appendix E** – tables setting out the ExB's HRA conclusions for the Humber estuary SAC, SPA and RAMSAR site

## 1.2. INTRODUCTION TO THE EXAMINATION

1.2.1. The application, made by Able Humber Ports Limited (Able), seeks to amend the Able Marine Energy Park Development Consent Order 2014 (S.I. 2014/2935) to accommodate a material change (referred to in this Report as the 'Proposed Changes'). It was made under Schedule 6 section 3 of the Planning Act 2008 (PA2008) and section 4 of The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (Change Regulations 2011).

1.2.2. The Able Marine Energy Park (AMEP) aims to provide a substantial manufacturing and installation base for the offshore marine energy sector on the south bank of the Humber Estuary. As well as having a quay to receive and export raw materials and products, the development would provide facilities to allow the manufacture and assembly of offshore components, including wind turbines, for loading onto installation vessels for direct transport to offshore development sites.

1.2.3. At the Preliminary Meeting, the Applicant requested a modification to the Proposed Changes to allow an alternative construction sequence [AS-003, AS-005, AS-007, AS-017]. This was accepted as an additional submission by procedural decision [PD-006] and comprises the

Application as examined. The Updated Explanatory Memorandum [REP4-014] notes that the Application seeks to achieve the following:

- 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;
- 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;
- 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;
- 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;
- 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 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 Views) 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.

1.2.4. The ExB notes that, in addition, the maximum height of quayside crane would increase from 165m to 200m above the level of the quay.

1.2.5. To effect these changes, amendments will also be required to the Deemed Marine Licence (DML) (Schedule 8 to the 2014 Order), as shown in the DML variation application submitted at deadline 4 [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. The Applicant has therefore applied separately to the Marine Management Organisation for a variation of the DML under section 72 of the Marine and Coastal Access Act 2009.

1.2.6. The Applicant's Overall Summary of Case [REP6-002] sets out the benefits of the Proposed Changes. It notes that the gains of the original project in terms of employment and its contribution to renewable energy targets all remain, the latter target having increased from an 80% reduction on 1990 greenhouse gas emissions to a 100% reduction (net zero), thus increasing the need for the project. The need has been further increased by the specific target of installing 40GW of offshore wind capacity by 2030, which this project will assist in achieving.

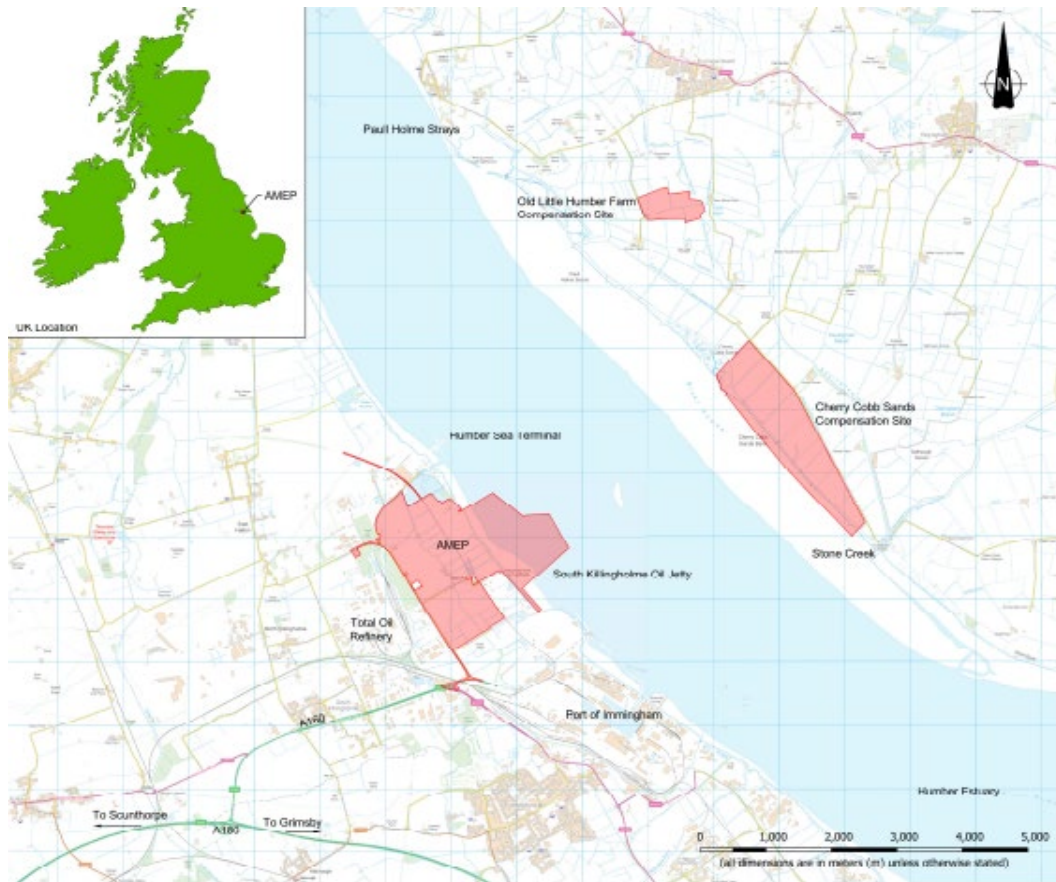
1.2.7. The material change would allow the quay to more easily handle vessels now likely to deliver offshore marine energy infrastructure. Moreover, the increased crane height would allow larger turbines to be processed.



- 1.2.8. The amendment to the footpath diversion, which has the support of Network Rail [RR-008], means it would go around the end of the line, instead of having to cross it, thus enhancing safety.

### **1.3. The Site**

- 1.3.1. The site is located east of North Killingholme, within North Lincolnshire, on the south bank of the River Humber. It lies downstream of the Humber Sea Terminal (HST) and immediately upstream of the South Killingholme Oil Jetty with the Port of Immingham a little further south.
- 1.3.2. The site, excluding the area of ecological mitigation, covers approximately 268 ha, part of which has existing consents for port related storage, part is existing or former arable land to be developed for industrial use and some 45 ha is land to be reclaimed from the Humber Estuary, to provide a new quay. A further area of existing arable land of approximately 48 ha would be converted to managed grassland to mitigate the effects of the development on ecological receptors including birds using the adjacent Humber Estuary Special Protection Area (SPA).
- 1.3.3. The Killingholme Branch Line, presently inactive and overgrown, passes through the site, and a redundant sewage works is located to the south west of the site. Former clay pits to the north of the site, now flooded, North Killingholme Haven Pits, are classified as a Site of Special Scientific Interest (SSSI). To the west of the site lies the Total oil refinery and a raised embankment along the eastern boundary supports a flood defence wall, which protects the site from tidal flooding.
- 1.3.4. The DCO incorporates three distinct areas, the terrestrial 'AMEP Site' and the 'Compensation Site' on the north bank of the Humber at Cherry Cobb Sands, as well as the quay within the Humber Estuary which is referred to as the 'Marine Site'. The Proposed Changes relate entirely to the AMEP Site and the Marine Site. The Compensation Site is not affected by the Proposed Changes.



**Figure 1: Site Location Plan [APP-058]**

## **1.4. Relevant Planning History**

- 1.4.1. The DML at Schedule 8 of the DCO has been varied twice by the Marine Management Organisation at the Applicant's request. The first variation was issued on 23rd June 2017 and the second on 16th September 2020. A copy of the later variation, which is the extant DML operating alongside the DCO, is provided within Technical Appendix UES1-2 [APP-102].
- 1.4.2. In addition, on 27th July 2020, the SoSDfT approved an application to extend the 5-year time limit for the commencement of the tidal works required under Article 23 of the DCO.
- 1.4.3. An application for a non-material amendment to the DCO was submitted to the SoSDfT in August 2018. It sought to move an area proposed for ecological mitigation (Area A) to a new site outside the Order Limits next to two other areas currently being used for ecological mitigation (Halton Marshes Wet Grassland Scheme), thereby allowing all three areas to operate as a single unit. This application was determined by the SoSDfT in early 2021, and the Able Marine Energy Park Development Consent (Amendment) Order 2021 was made on 13th May 2021, coming into force on 14th May 2021. A copy of the Amendment Order is available in Appendix UES1-3 [APP-103].
- 1.4.4. The Applicant has also discussed with the Planning Inspectorate the possibility of an application to extend the time limit for compulsory

acquisition of a single parcel of land (Material Change 1). However, no application has yet been made.

- 1.4.5. After the Amendment Order came into force, the DCO was formally implemented in Quarter2 2021 with the construction of a surface water pumping station. This forms part of the associated development supporting the wider AMEP scheme.
- 1.4.6. Therefore, the Proposed Changes (Material Change 2) considered within the Updated Environmental Statement (UES), seek to amend the DCO as already implemented on site. The extant DCO, as currently amended and implemented, represents the 'fall back' position should the Material Change 2 (MC2) not be consented by way of a further Amendment Order.
- 1.4.7. Planning permissions granted within the AMEP site since 2012 are shown at Appendix UES1-4 [APP-104] and in Table 3.2 of UES Chapter 3: Changes to Planning Policy and Legislation [APP-074].

## **1.5. APPOINTMENT OF THE EXAMINING BODY**

- 1.5.1. On 29 September 2021, Alan Novitzky was appointed as the Examining Body (ExB) for the application under Regulation 22 of The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 [PD-001].

## **1.6. THE PERSONS INVOLVED IN THE EXAMINATION**

- 1.6.1. The persons involved in the Examination were:
  - Persons entitled to be Interested Parties (IPs) because of their relevant representation (RR) or a statutory party who requested IP status.
  - Other Persons, invited to participate in the Examination by the ExB because they were either affected by it in some other relevant way.

## **1.7. THE EXAMINATION and PROCEDURAL DECISIONS**

- 1.7.1. The principal components of and events around the Examination are summarised below. A fuller description with timescales and dates can be found in Appendix A.

### **The Preliminary Meeting**

- 1.7.2. On 19 October 2021, The ExB wrote to all IPs, Statutory Parties and Other Persons under Regulation 27 and 28 of the Change Regulations 2011 (the Regulation 27/28 Letter [PD-002]) inviting them to the Preliminary Meeting (PM), and outlining:
  - the arrangements and agenda for the PM;
  - an Initial Assessment of the Principal Issues (IAPI);
  - the draft Examination Timetable; and
  - the availability of RRs and Application documents.

- 1.7.3. The PM took place on 16 November 2021 at The Royal Humber Hotel, Littlecoates Road, Grimsby DN34 4LX. A video recording [EV1-001], a transcript [EV1-003], and a note of the meeting [EV1-002] were published on the Planning Inspectorate National Infrastructure website.

## **Key Procedural Decisions**

- 1.7.4. The ExA's procedural decisions and the revised Examination Timetable, provided in the Regulation 29/30 Letter [PD-004], dated 23 November 2021, took account of matters raised at the PM. These were:
- That all IPs have until Deadline 1 (D1), (14 December 2021) to comment on the submitted plans in case any confusion was caused by the Planning Inspectorate inadvertently publishing and subsequently withdrawing earlier (and now superseded) versions of the plans;
  - That Associated British Ports (ABP) in its statutory role as Harbour Authority is an IP and that ABP in its role as commercial operator will be treated as if it were an IP; and
  - The Applicant had notified the Planning Inspectorate that it wished to submit plans with alternative construction methods. The ExB confirmed that a Procedural Decision on whether to accept the change to the application would be made when the Applicant's assessment of whether the change would have any significant environmental effects is available and has been considered. This has now been received and the ExB confirms that the change is accepted.
- 1.7.5. Other key procedural decisions comprise:
- PD-005 – decision to remove further superseded versions of plans and documents inadvertently published in the Examination Library, in addition to those notified at the PM, and an invitation to comment by Deadline 2 (D2).
  - PD-006 and PD-008 -Notifications of the ExB's decision not to hold hearings, since none were requested by IPs and none thought necessary by the ExB.

## **Site Inspections**

- 1.7.6. The ExB held the following Unaccompanied Site Inspections (USIs):
- USI 1, 15 November 2021, taking in views from the sea wall bordering the site;
  - USI 2, 16 November 2021, viewing the outlook south across the Humber Estuary from the north bank.

A site note providing a procedural record of the USIs can be found in the Examination Library [EV2-001].

- 1.7.7. The ExB held the following Accompanied Site Inspection (ASI):
- On 10 February 2022 taking in principal points of interest and viewpoints relevant to the Examination on both sides of the Humber Estuary.

- 1.7.8. The itinerary for the ASI can be found in the Examination Library [AS-015].

## **Hearing Processes**

- 1.7.9. No hearings, either Open Floor Hearings or Issue Specific Hearings were requested, nor were any considered necessary by the ExB. No compulsory acquisition is proposed, therefore Compulsory Acquisition Hearings were not required. Reliance on the written processes was thought appropriate and adequate [PD-006].

## **Written Processes**

- 1.7.10. Examination under PA2008 is primarily a written process, in which the ExB has regard to written material forming the Application and arising from the Examination. All this material is recorded in the Examination Library (Appendix B) and published online. Individual document references to the Examination Library in this Report are enclosed in square brackets []. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExB's conclusions. The ExB has considered all important and relevant matters arising from them.

## **Relevant Representations**

- 1.7.11. 14 RRs were received by the Planning Inspectorate [RR-001 to RR-014]. All makers of RRs received the Regulation 27/28 Letter [PD-002] and were provided with an opportunity to become involved in the Examination as IPs.

## **Written Representations and Other Examination Documents**

- 1.7.12. The Applicant and IPs were provided with opportunities to:
- make written representations (WRs) D1;
  - comment on WRs made by the Applicant and other IPs (Deadline 3) (D3);
  - make other written submissions requested or accepted by the ExA; and
  - comment on documents issued for consultation by the ExB including:
    - the submitted plans (in case any confusion was caused by the Planning Inspectorate inadvertently publishing superseded versions of the plans which were subsequently withdrawn) by D2 [PD-005];
    - the Applicant's proposed alternative construction sequence [AS-003, AS-007] by D2 [PD-006];
    - the draft Amendment Order (DAO) [Rep1-017] published on 14 December 2021 by D3; and
    - a Report on Implications for European Sites (RIES) [PD-009] published on 15 February 2022 by Deadline 6 (D6).

## Statements of Common Ground

- 1.7.13. A Statement of Common Ground (SoCG), a statement agreed between the Applicant and one or more IPs, records matters that are agreed between them and identifies outstanding differences.
- 1.7.14. By the end of the Examination, the Applicant and the following bodies had completed and signed final SoCGs:
- The Environment Agency (EA) [REP5-013 and REP5-014];
  - The Marine Management Organisation (MMO) [REP5-015, REP5-016 and REP6-006];
  - North East Lindsey Drainage Board (NELDB) [REP1-018];
  - Associated British Ports-Humber Estuary Services (ABP-HES) [REP3-010];
  - North Lincolnshire Council (NLC) (the Council) [REP5-019 and REP5-020];
  - C.RO Ports Killingholme C.RO [REP5-011 and REP5-012];
  - C.GEN Killingholme Limited (C.GEN) [REP5-009 and REP5-010]; and
  - Natural England (NE) [REP6-004 and REP6-005]
- 1.7.15. Except for two principal matters not agreed with C.GEN, and one principal matter not agreed with C.RO, all matters were fully resolved. The unresolved matters relate, for both C.GEN and C.RO, to the assessment of the effects of development made under separate extant planning permissions granted since the DCO; and, for C.GEN, to the need to amend protective provisions in the existing DCO.
- 1.7.16. The ExB agrees with the Applicant that neither of these matters are relevant to the Application for the material change. With regard to extant planning permissions, consultation would have included C.GEN and C.RO before the decision was taken, and the same applies to future applications for planning permission on the AMEP site. The matter of protective provisions is covered in the main issue dealing with the DAO, below, paragraph 3.15.6.

## Written Questions

- 1.7.17. The ExB asked 3 rounds of written questions:
- First written questions (ExQ1) [PD-003] were issued on 19 November 2021 with responses due at D1.
  - Second written questions (ExQ2) [PD-007] were issued on 13 January 2022 with responses due at Deadline 4 (D4).
  - Third written questions (ExQ3) [PD-010] were issued on 16 February 2022 with responses due at Deadline 5 (D5).
- 1.7.18. A request by the ExB for further information and comments under Regulation 44 of The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 was issued on 14 March 2022 [PD-011] and a response from the Applicant received on 16 March 2022 [AS-017].

## **Requests to Join and Leave the Examination**

- 1.7.19. ABP in its role as a commercial operator was confirmed as an IP through a Procedural Decision issued on 23 November, set out in the Regulation 29/30 letter [PD-004]. Although ABP had not made a RR, the ExB agreed that their interests should be represented in the Examination because of their geographical proximity.
- 1.7.20. No parties wrote to the ExB formally recording the settlement of their issues and the withdrawal of their representations.

## **1.8. ENVIRONMENTAL IMPACT ASSESSMENT**

- 1.8.1. On 29 January 2021, the Applicant submitted a Scoping Report [APP-110] to the SoSDfT under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations). The Applicant requested a Scoping Opinion for the UES to be prepared for the Proposed Changes, which would be based on the ES prepared for the consented AMEP proposal. It follows that the Applicant is deemed to have notified the Secretary of State under Regulation 6 of the EIA Regulations of its intention of providing an ES in respect of the Project.
- 1.8.2. On 10 March 2021 the Planning Inspectorate provided a Scoping Opinion [APP-111]. Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the Proposed Changes were determined to be EIA development, and the application was accompanied by the UES. Alternatives to the Proposed Changes were considered at UES Chapter 4: Description of Changes to Development and Alternatives, section 4.4.0 [APP-075]. Consideration is given to the adequacy of the UES in Chapter 5 of this Report.

## **1.9. HABITATS REGULATIONS ASSESSMENT**

- 1.9.1. The Applicant provided an HRA Report for the Proposed Changes. The European sites of relevance to the Application are the Humber Estuary Special Area of Conservation (SAC), the Humber Estuary SPA, and the Humber Estuary Ramsar site. These are identified in the Preliminary Ecological Appraisal, Appendix UES11-1 [APP-136], alongside SSSIs, local wildlife sites, and priority habitats.
- 1.9.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapter 4 of this Report. The ExB published a RIES [PD-009] on 15 February 2022.

## **1.10. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

- 1.10.1. By the close of the Examination, no parties had entered into separate new formal undertakings, obligations or agreements with the Applicant which would be important and relevant considerations for the SoSDfT. All relevant considerations bearing on the Amendment Order (AO) are addressed in this Report.

## **1.11. OTHER CONSENTS**

1.11.1. The Application documentation and the questions asked during the Examination identified the following consent that must be obtained in addition to the Amendment Order under PA2008.

- Variation of the Deemed Marine Licence (DML) which appears as Schedule 8 of the DCO. The MMO acts as licensing and consenting body and is able to vary a DML in accordance with section 72 of the Marine and Coastal Access Act 2009. The latest version of the DML, with proposed variations, is attached as Appendix 1 to the MMO SoCG [REP5-015].
- At the close of the Examination, confirmation that the DML had been granted was not available.

1.11.2. In relation to the outstanding consent recorded above, the ExB has considered the available information and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no apparent impediments to the implementation of the Proposed Changes, should the SoSDfT grant the Application.



## **2. LEGAL AND POLICY CONTEXT**

### **2.1. THE PLANNING ACT 2008 (PA2008) and the CHANGE REGULATIONS 2011**

2.1.1. Schedule 6, section 3 of the PA2008 sets out the SoSDfT's powers to make changes to, or revoke, orders granting development consent. Section 47 of the Change Regulations 2011 states that, in deciding any application, the SoSDfT must have regard to:

- a. any National Policy Statement (NPS) which has effect in relation to development of the description authorised by the development consent order the subject of the application (a relevant NPS);
- b. the appropriate marine policy documents determined in accordance with section 59 of the Marine and Coastal Access Act 2009;
- c. any matters prescribed in relation to development of the description authorised by the DCO; and
- d. any other matters which the SoSDfT thinks are both important and relevant to the decision.

### **2.2. NATIONAL POLICY STATEMENT**

2.2.1. The National Policy Statement for Ports (NPSP) has effect in relation to the AMEP DCO. In this Report, an assessment of the Proposed Changes will be carried out in accordance with the NPSP's principles and considerations, both within each main issue in Chapter 3 and as a whole in Chapter 5.

### **2.3. MARINE AND COASTAL ACCESS ACT 2009**

2.3.1. The East Inshore Marine Plan (the East Marine Plan), prepared within the framework of the Marine Policy Statement (MPS) under the Marine and Coastal Access Act 2009, has effect in relation to the Proposed Changes. In this Report, an assessment of the Proposed Changes will test compliance with the East Marine Plan policies, both within each main issue in Chapter 3 and as a whole in Chapter 5.

### **2.4. HABITAT REGULATIONS ASSESSMENT**

2.4.1. The Conservation of Habitats and Species Regulations (2010) were updated in 2017, and then again in 2019 to make them operable from 1 January 2021, with functions transferred to ministers from the European Commission. The Regulations transpose the Habitats Directive and the Birds Directive into English and Welsh law. The aim of the Directives is to conserve key habitats and species across the European Union (EU) by creating and maintaining a network of sites known as the Natura 2000 network.

2.4.2. The Regulations require that competent authorities, before granting consent for a plan or project, carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects.

- 2.4.3. The AA must consider the implications of the plan or project for the European site's conservation objectives and the appropriate nature conservation body must be consulted under Regulation 63(3). If the AA demonstrates that the integrity of a European site would be affected then consent for the plan or project can only be granted if there are no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (IROPI), and compensatory measures are provided which maintain the ecological coherence of the Natura 2000 network.
- 2.4.4. The site is close to the Humber Estuary SAC, Humber Estuary SPA, and the Humber Estuary Ramsar Site. Hence there is an obligation to undertake a further HRA assessment process, beyond that carried out in relation to the AMEP site when the DCO was granted, for the site incorporating the Proposed Changes.
- 2.4.5. SAC and SPA in the UK no longer form part of the EU's Natura 2000 ecological network. Under the 2019 Regulations, a 'national site network' on land and at sea has been created which includes existing SACs and SPAs and new SACs and SPAs designated under the 2019 Regulations. However, for convenience, these sites are referred to as European sites in this Report.

## **2.5. EUROPEAN LAW AND RELATED UK REGULATIONS**

- 2.5.1. The UK left the E U as a member state on 31 January 2020. The European Union (Withdrawal Agreement) Act provides for, amongst other things, EU law to be retained as UK law.
- 2.5.2. This Report has been prepared on the basis of retained law and references to it in European terms such as habitats have also been retained for consistency with the Examination documents. However, the SoSDfT will note that the Environment Act 2021 received Royal Assent on 9 November 2021. It will therefore be a matter for the SoSDfT to be satisfied as to the position on retained law and obligations at the point of decision.

## **2.6. The Water Framework Directive**

- 2.6.1. The Water Framework Directive (WFD) 2000 was transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. Chapters 3 and 5 give further detailed consideration to these matters.

## **2.7. The Air Quality Directive**

- 2.7.1. The Air Quality Directive (AQD) 2008 sets limit values for compliance and establishes control actions where the limit values (LV) are exceeded for ambient air quality with respect to sulphur dioxide (SO<sub>2</sub>), mono-nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene and carbon monoxide (CO). The Air Quality Standards Regulations 2010 give direct statutory effect to the AQD.

- 2.7.2. UES Chapter 17: Air Quality concludes by noting that there would be no changes to the residual effects identified within the ES. The ExB sees no reason to disagree.

## **2.8. OTHER LEGAL PROVISIONS**

### **The Historic Built Environment**

- 2.8.1. Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, requires the decision-maker to have regard to the desirability of preserving the listed buildings affected by the Proposed Changes or their settings or any features of special architectural or historic interest which they possess. This reflects the duty with regard to planning permission in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2.8.2. The ExB's assessment has had regard to the duty under Regulation 3 in Chapter 3 of this Report.

### **The Public Sector Equality Duty (PSED)**

- 2.8.3. The Equalities Act 2010 established a duty (the PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable to the ExB in the conduct of this Examination and in reporting, and to the SoSDfT in decision-making. The ExB has endeavoured to carry out this duty since its appointment.

## **2.9. TRANSBOUNDARY EFFECTS**

- 2.9.1. A transboundary screening was undertaken by the Planning Inspectorate on behalf of the SoSDfT on 16 August 2012, following submission of the application for the AMEP DCO. The potential for transboundary effects on commercial fisheries, commercial and recreational navigation, and ecology (marine mammals, designated sites, and birds) was considered. Iceland was notified under Regulation 24 of the 2009 EIA Regulations.
- 2.9.2. A second screening took place on 29 September 2021, under Regulation 32 of the 2017 EIA Regulations, following submission of the Application for the Proposed Changes. The Planning Inspectorate concluded that the Proposed Changes are not likely to have a significant effect on the environment in an European Economic Area (EEA) state and, therefore, no notification is necessary.
- 2.9.3. Paragraphs 26.3.1-17 of UES Chapter 26: Assessment of Cumulative and In-Combination Effects [APP-097], deal with Transboundary Effects. The UES concluded that the Proposed Changes would not raise any additional or alternative transboundary effects beyond those considered in the ES and that no further consultation need be undertaken.
- 2.9.4. The ExB concludes that there are no transboundary effects relevant to the Proposed Changes.

## **2.10. THE NATIONAL PLANNING POLICY FRAMEWORK**

- 2.10.1. The National Planning Policy Framework (NPPF) and its accompanying Planning Practice Guidance (PPG) sets out planning policies for England. The NPPF must be taken into account in preparing development plans and is a material consideration in planning decisions.
- 2.10.2. NPPF paragraph 5 states that it does not contain specific policies for nationally significant infrastructure projects (NSIPs) but may be a relevant matter in decisions made under PA2008 and relevant NPSs. Its policies will be considered within relevant main issues in Chapter 3 and as a whole in Chapter 5.

## **2.11. THE DEVELOPMENT PLAN and LOCAL POLICIES**

- 2.11.1. The elements of the development plan relevant to the Proposed Changes comprise the North Lincolnshire Local Plan (2003) (Saved Policies) and the North Lincolnshire Core Strategy (2011). Assessment in this Report of the Proposed Changes will consider development plan policies within each main issue in Chapter 3 and as a whole in Chapter 5. The Draft North Lincolnshire Local Plan (Publication Plan, October 2021) is yet to be submitted for examination and will not be considered in the assessment.
- 2.11.2. The site lies outside the areas covered by the North East Lincolnshire Local Plan (2013–2032) but its policies on landscape, visual, and biodiversity matters may be considered within relevant main issues in Chapter 3. The East Riding Local Plan (adopted April 2016) applies only to the Cherry Cobb Sands compensation Site which would not be affected by the Proposed Changes.

## **3. THE PLANNING ISSUES**

### **3.1. MAIN ISSUES IN THE EXAMINATION**

#### **Background**

- 3.1.1. The Initial Assessment of Principal Issues appears in Annex C of the Regulation 27/28 letter [PD-002]. A set of main issues, based on this initial assessment, emerged during the course of the Examination.

### **3.2. Drainage Strategy**

- 3.2.1. Drainage strategy is no longer considered relevant as a main issue, since material changes in drainage strategy are not proposed in the application. Any consequential effects arising, for instance, from alterations to the geometry of the quay, would be subject to existing DCO provisions. In particular, Schedule 11 Requirement 13 prohibits commencement of any stage of the authorised development without approval of a detailed surface water drainage strategy [REP1-012].
- 3.2.2. The SoCG between the Applicant and North East Lindsey Drainage Board (NELDB) was signed and submitted at D1 [REP1-018], recording agreement between the parties that all matters had been resolved. The ExB's questions on drainage strategy are satisfied by the Applicant's responses to ExQ1:Q8.0.1 to Q8.0.3 [REP1-019].

### **3.3. Flood Risk**

- 3.3.1. Flood risk is no longer considered relevant as a main issue. UES Chapter 13: Flood Risk and Drainage of the Updated Environmental Statement [APP-084] refers to the Flood Risk Assessment carried out as part of the original Environmental Impact Assessment (EIA) on which the DCO was granted. The Proposed Changes do not impact the existing tidal flood defences on the south bank of the Humber Estuary.
- 3.3.2. In its RR [RR-004], the Environment Agency (EA) confirmed that the flood risk assessment is appropriate to the scale, nature, and location of the Proposed Changes. In its WR [REP1-032], the EA confirmed that it considered the new emerging flood risk strategy for the Humber (H2100+) when it made representations, and that the Applicant has taken account of the updated water levels developed as part of the modelling for H2100+.
- 3.3.3. The SoCG between the Applicant and the EA was signed and submitted at D5 [REP5-013]. It confirms that flood risk matters are fully agreed between the parties but makes the point, at paragraph 3.15, that Table 13.1 and paragraph 13.2.11 of the UES do not accurately reflect the provisions of the legal agreement [APP-141] completed alongside the DCO. The Applicant agrees, in the SoCG, that the 'improvement works' must be maintained for 20 years, while the elements of the quay that comprise strategic flood defences must be maintained until the quay is

removed and replaced with an alternative flood defence. The UES should be modified accordingly.

- 3.3.4. The ExB's questions on flood risk are satisfied by the Applicant's responses to ExQ1:Q7.0.1 to Q7.0.5 and Q7.0.7 [REP1-019], and the EA's responses to ExQ1:Q7.0.1, Q.7.0.3, Q7.0.4, Q7.0.6 and Q7.0.7 [REP1-033].

### **3.4. The proposed footpath diversion**

- 3.4.1. The proposed footpath diversion is no longer considered relevant as a main issue. In its RR, Network Rail Infrastructure (NR) [RR-008] welcomed, on safety grounds, the realignment of FP50, which would go around the end of the railway rather than crossing it. The signed SoCG between the Applicant and NLC [REP5-019] notes at Paragraph 3.1.5 that NLC is satisfied the route proposed is appropriate and has no concerns with regards to the accessibility of the route.
- 3.4.2. In its RR, South Killingholme Parish Council (SKPC) [RR-002] stated its belief that the diversion around the railway track would be too far for wheelchair users and recommended a bridge instead. SKPC appeared and spoke on other matters at the PM but made no further representations of any kind. The ExB considers a bridge would be an excessive and perhaps impracticable solution for wheelchair users. This is because the length of bridge ramps necessary would be disproportionately large in relation to the additional distance arising from the change to the route of the footpath diversion
- 3.4.3. C.RO Ports Killingholme (C.RO), in their response to statutory consultation [APP-061, Appendix E], question the purpose of the diversion but observe that any impact on amenity is a matter for the local highway authority.
- 3.4.4. The ExB's questions on the proposed footpath diversion are satisfied by the Applicant's responses to ExQ1:Q10.0.1 and Q10.0.2 [REP1-019].

### **3.5. Order Limits**

- 3.5.1. The question of the Order Limits is no longer considered relevant as a main issue. C.RO noted in its RR [RR-014] and WR [REP1-30] that the route of the Killingholme Branch Line, currently not in use and overgrown, lies within the Order Limits and that it would be sensible to exclude this section of the branch line from the Order Limits. C.RO is keen to preserve its ability to operate freight trains on this line in the future.
- 3.5.2. In the signed version of the SoCG between the Applicant and C.RO [REP5-011], the Applicant confirms that the branch line is within the Order Limits. The Applicant notes, however, that the area was removed from the Order Land, apart from four discrete parcels of Network Rail land enabling the Applicant to acquire crossing easements, following Network Rail's objection to its inclusion in the DCO application. Further,

the Applicant has no control whatsoever over the line and is not seeking to change the rights granted by the s127 Certificate.

- 3.5.3. C.RO acknowledges the Applicant's position and is grateful for confirmation that the retention of the rail corridor within the Order Limits would not give rise to adverse impacts on existing rail operations or capacity enjoyed by C.RO. C.RO has no remaining concerns in this regard but, as a matter of principle, remains of the view that there is no good reason why the Order Limits could not be amended through the DAO.
- 3.5.4. ExQ1:Q2.0.6, the ExB's question regarding the Order Limits, is satisfied by the Applicant's response [REP1-019]. In its response, the Applicant also explains that the re-siting of Mitigation Area A and associated changes to the Order Limits has already taken effect through the AMEP Development Consent (Amendment) Order 2021.

### **3.6. Marine Archaeology**

- 3.6.1. UES Chapter 18: Marine Archaeology assesses the effects of the Proposed Changes on coastal and marine heritage. It was drawn up because the Scoping Opinion (UES Chapter 5: Scoping and Consultation, paragraph 5.2.49 [APP-076]) observed that an updated assessment should be undertaken regarding the impacts of the altered quay alignment on heritage receptors. Furthermore, that it should be informed by an assessment of impacts on the hydrodynamic and sedimentary regime.
- 3.6.2. The UES notes that, under DCO Schedule 11 Requirement 17, a written scheme of investigation (WSI) must be submitted to and approved by NLC before the commencement of any stage of the development. Also, at paragraph 18.1.5, that no change in the WSI prepared in 2012 for the ES [APP-146] is proposed. Nevertheless, as Reported in the Applicant's response to ExQ1:Q11.0.1 [REP1-019], a revised WSI dated 7 September 2021 [REP4-006], was agreed with NLC. The revised WSI tells us that it was updated to include method statements for the planned dredging works and an updated scheme of investigation for any future potential works.
- 3.6.3. The ExB's questions (ExQ1:11.0.1-11.0.8 [REP1-019] and ExQ2:11.01-11.04 [REP4-002]) explore the effects of the Proposed Changes on marine archaeology, including the effects of altered berthing and hence modified dredging patterns. The questions received satisfactory responses. The signed SoCG between the Applicant and NLC [REP5-020] notes that NLC has no concerns regarding the UES conclusions at paragraph 18.8.0. These conclusions state that there would be no additional construction or operational effects on the marine historical environment resulting from the proposed material change. Although NLC did not comment on the Applicant's proposed alternative construction sequence [AS-007], the ExB regards it as extremely unlikely that it would have an impact on marine archaeology.

- 3.6.4. Heritage matters generally were not seen as a principal issue by the ExB and have not been considered as a separate main issue. However, they are relevant in respect of the proposed increased crane height.

### **3.7. MAIN ISSUES**

- 3.7.1. The remaining main issues assess the acceptability of the Proposed Changes with regard to:

- Harbour Operations in the Humber Estuary
- Hydrodynamics and the Sediment Regime
- Water and Sediment Quality
- Biodiversity
- Increased Crane Height
- Climate Change
- Cumulative and In-Combination effects
- Draft Amendment Order (DAO)

### **3.8. HARBOUR OPERATIONS IN THE HUMBER ESTUARY**

#### **Applicant's Approach**

- 3.8.1. UES Chapter 14: Commercial and Recreational Navigation [APP-085], assesses the effects of the Proposed Changes on harbour operations in the Humber Estuary. This includes, as Appendix UES14-1, a Navigational Risk Assessment (NRA) [APP-144] which updates the original NRA completed in 2011 for the authorised development.
- 3.8.2. Anticipated patterns of arrival, departure, and movement of vessels, during both construction and operation have been assessed in the UES. It predicts that vessel movements during the construction phase, including those associated with disposal of dredged materials, would be no more than those identified in the original ES. This is the case, despite the original intention being to deposit a proportion of the dredged material on land rather than, as now proposed, at licensed marine sites (UES Chapter 4: Description of Changes to Development, paragraphs 4.3.9-4.3.11 [APP-075]).
- 3.8.3. The 2011 NRA and original ES considered a study area from Immingham Oil Terminal to King George Dock. For the purposes of the UES this has been extended to incorporate the dredge deposit sites. Cumulative impacts to the wider river area have also been considered in section 4.1 of the NRA. A navigation simulation exercise was carried out on 6 January and the report submitted to the Examination at D3 [REP3-004].
- 3.8.4. The UES notes at paragraph 14.4.46 that consultation with the Harbour Master did not establish any potential additional cumulative effects of significance to shipping and navigation beyond those contained within the ES. Moreover, the Applicant's response to ExQ1:Q13.0.3 observes that only the dredging of adjacent berths acts in-combination with AMEP in relation to navigation. However, the traffic movements involved are routine and part of the baseline traffic [REP1-019].



- 3.8.5. It concludes at paragraph 14.9.1 that, overall, the Proposed Changes would have a minimal effect on the existing risk profile which should be managed and contained in compliance with existing embedded mitigation, regulations, and procedures governing movements, pilotage, towage, and vessel traffic services (VTS).

## **Planning Issues Raised**

### **C.RO Ports Killingholme (C.RO)**

- 3.8.6. C.RO is the harbour authority and owner and operator of C.RO Ports Killingholme, a six-berth roll on-roll off (ro-ro) ferry port located immediately upstream from the AMEP site. It continuously services scheduled ro-ro ferry sailings to and from northern continental ferry ports. It benefits from protective provisions in the DCO [REP1-012] which establish priority for its ferry services and protect the harbour and approaches from harm arising from the construction or operation of AMEP. In response to ExQ1:Q2.0.4 [REP1-019], the Applicant confirmed that there would be no need for the protective provisions to change.
- 3.8.7. C.RO submitted a RR [RR-014], a WR [REP1-030], made comments on D1 submissions [REP3-017], and responded to the ExB's questions [REP1-031, REP4-030]. Under this main issue, C.RO had concerns regarding additional risks associated with new or additional construction vessel movements. Also, with the use of the repositioned barge berth, particularly during vessel manoeuvring operations.
- 3.8.8. In response to ExQ2:Q3.0.4 [REP4-030], C.RO confirmed its satisfaction with the navigation simulation exercise and report, subject to continuation of the existing protective provisions and DML. Answering ExQ2:Q3.0.1, C.RO welcomed the Applicant's commitment, made in its response to ExQ1:Q3.0.1, to an approved vessel movement management plan arising from paragraphs 66(1) and (2) of the protective provisions, and confirmed that the management plan provides sufficient protection for its existing and future operations.
- 3.8.9. C.RO also confirmed that no further protections are required to address impacts related to construction vessel movements (ExQ2:Q3.0.5) and that it has no immediate concerns regarding the proposals for alternative construction sequencing [AS-007] (ExQ2:Q3.0.6). C.RO completed a signed SoCG [REP5-011] in which matters falling within this main issue were fully agreed with the Applicant.

### **Associated British Ports Humber Estuary Services (ABP-HES)**

- 3.8.10. ABP-HES is the statutory harbour authority for the Humber Estuary. It did not make a RR but responded to the Applicant's pre-application consultation. It completed a signed SoCG [REP3-010] in which all matters were fully agreed with the Applicant.
- 3.8.11. Under this main issue, ABP-HES expressed concern that any additional movement of dredgers in the Humber Estuary might challenge the capacity of ABP-HES to provide pilotage services.

- 3.8.12. ABP-HES and the Applicant agree that the protective provisions should remain unaltered and that, for the avoidance of doubt, they require the submission and approval of a dredge and disposal strategy for all works associated with the construction and maintenance of the quay (Work No 1, Schedule 1 of the DCO) [APP-101]. The parties note the Applicant's assurance that its marine contractors would obtain pilotage exemption certificates to relieve pressure on ABP-HES's provision of pilotage services [REP3-010].

## **ExB Assessment**

- 3.8.13. The NRA shows a general decrease in risk scores across all hazard categories when compared to the 2011 NRA. In its conclusions and recommendations (section 10), it attributes this, among other reasons, to the decline in vessel movements in the Humber generally and the anticipated reduction in construction phase dredging vessel movements for the AMEP development. The NRA also attributes the decrease in risk scores to the simplification of the quay design arising from the removal of the specialist berth, and to the embedding of many of the originally proposed additional mitigation measures into the AMEP project design.
- 3.8.14. Although all hazards were scored as low as reasonably practical (ALARP) or lower, the NRA recommends consideration of possible additional risk control measures set out in Table 15. The ExB agrees, although many of the points would probably already have been taken on board, such as the restriction of simultaneous vessel movements and management of the availability of pilots. In any event, additional measures, not already required through the DCO and not specifically needed because of the nature of the Proposed Changes, cannot be used for comparison purposes.
- 3.8.15. The navigation simulation exercise report finds, in its conclusions and recommendations at section 5, no evidence to suggest that the berth itself, or any vessels alongside, would constitute a hazard or an obstacle to vessels passing or manoeuvring in the area, or would increase the difficulty of navigation adjacent to the berth. The report recommends, amongst other measures, a set of conditions dictating the time and manner of berth movements, to be agreed between the Applicant and ABP-HES. Also, that the Humber Passage Plan definitions be reviewed and amended if necessary to include the size of vessels anticipated. The ExB understands that implementation of these recommendations would flow from existing controls.
- 3.8.16. Possible cumulative impacts were discussed in section 4.1 of the NRA. Whilst consultation did not establish any projects of significance for consideration, it was noted that Goole, Hull, Immingham, and the AMEP development have been granted Free-Port status so the Humber may see a general increase in overall capacity in future. Also, further berths at C.RO's base may come into use. However, some of the cumulative projects considered within the 2011 NRA were not taken forward. All future changes would be subject to existing controls on operations.

- 3.8.17. As noted in the Applicant's response to ExQ1:Q13.0.3 [REP1-019], in-combination effects would be confined to routine maintenance dredging of adjacent berths which form part of the assessment baseline. The UES concluded that the residual effects of the revised scheme would be the same or lower than those assessed in the ES.
- 3.8.18. In respect of this main issue, the Proposed Changes accord generally with the provisions of the NPSP and the local development plan, as well as with the NPPF, in particular section 9: Promoting sustainable transport. It also accords with the East Marine Plan.
- 3.8.19. Having considered the material on this issue, the ExB concludes that the Proposed Changes would be acceptable with respect to harbour operations in the Humber Estuary.

## **3.9. HYDRODYNAMICS AND THE SEDIMENT REGIME**

### **Applicant's Approach**

- 3.9.1. UES Chapter 8: Hydrodynamics and Sediment Regime [APP-079] assesses the effects of the Proposed Changes within this issue. The areas of consideration mainly comprise:
- An updated assessment of the sediment plume dispersion arising from construction dredging activities.
  - An assessment of the erosion rates for the increased volumes to be placed at the marine disposal sites.
  - Updated modelling of the effects of the disposal of material on tides and waves, and the effects at Hawkins Point on the north bank of the Humber.
  - Updated hydrodynamic modelling based on current bathymetry, which has evolved since the DCO assessment, and the changes proposed to the quay.
  - Sediment modelling based on changes proposed to the quay to give information about mud and sand transport.
  - A qualitative description of altered wave impacts arising from the changes proposed to the quay.
- 3.9.2. The UES concluded at paragraph 8.9.0 that the effects on water levels, bed shear stresses, and waves arising from the Proposed changes would be similar to those predicted in the ES. There would be changes to the dredging requirements and small differences in the peak flow patterns on the ebb tide.
- 3.9.3. Responding to ExQ1:Q13.0.3 [REP1-019], the Applicant noted that since there are no current or committed capital marine developments in the vicinity of the quay, there would be no cumulative construction effects. Regarding dredging during operation, the ES assessment remains valid since the residual effects identified are unchanged and, for projects consented since the DCO, will have been considered in conjunction with the project's own residual effects and appropriate mitigation applied.

### **Planning Issues Raised**

### **The Environment Agency (EA)**

- 3.9.4. The EA submitted a RR [RR-004], a WR [REP1-032], responded to the ExB's written questions [REP1-033, REP4-028, REP5-025]. In its D3 submission [REP3-018] the EA confirmed its agreement with the conclusions of the ES addendum report modelling sediment plume dispersal [AS-003] arising from the alternative construction sequence proposed [REP3-018]. The signed SoCG between the Applicant and the EA [REP5-013] summarises the points of difference set out in the earlier documents and confirms that there are now no outstanding matters to be agreed between the parties.

### **The Marine Management Organisation (MMO)**

- 3.9.5. The MMO submitted an RR [RR-005], a WR [REP-1-035], made comments on other IPs' RRs [REP3-019], and responded to the ExB's written questions [REP1-035, REP4-031, REP5-026]. The MMO made representations on the alternative construction sequence proposed [REP3-019] but, after the Applicant's response [REP4-009], confirmed it had no further comments [REP5-026].
- 3.9.6. The East Onshore and East Offshore Marine Plan Compliance Table was submitted as Appendix UES3-1 [APP-105], followed by updated versions [REP3-003, REP5-006]. Confirmation of agreement with the MMO on 1 February 2022 is recorded in paragraph 3.15 of the MMO's SoCG [REP4-022].
- 3.9.7. The signed SoCG between the Applicant and the MMO [REP5-015] sets out the matters previously under discussion, now fully agreed between the parties, and identifies no outstanding matters. The DML, amended following MMO's comments, is attached to the SoCG as Appendix 1 for information.

### **ExB's Assessment**

- 3.9.8. The ExB is content with the UES study area which, as in the ES, extends from Spurn Head in the east, to Trent Falls in the west (the confluence of the River Ouse and the River Trent), and with the hydrodynamic and sediment transport modelling used (UES section 8.2).
- 3.9.9. The Proposed Changes, because of the altered vessel berthing and manoeuvring arrangements, involve a pattern of dredging which differs from that previously considered. The overall quantities of dredged material would be similar to those considered when the DCO was made. However, some material (up to 1.1M tonnes) was to be deposited on land, to build up levels for shore operations, and the remainder (up to 1M tonnes) deposited at HU082 licensed marine site (UES 8.4.26). The terrestrial fill is no longer required, and it is now intended to deposit all the excavated material at licensed marine sites (UES 4.3.9-4.3.11) in accordance with variations to be incorporated in the DML.
- 3.9.10. To counter potential effects, including those on tides and waves, and consequent erosion at Hawkins Point foreshore on the north bank of the

Estuary, additional mitigation is proposed (UES 8.5.2). This mitigation, together with a monitoring schedule applicable for at least 10 years (SoCG Appendix 1, paragraph 4.6 [REP5-013]), has been agreed with the EA. The EA also considers aspects of the monitoring necessary to guard against any consequences of ebb tide flow acceleration off the downstream end of the quay arising from the omission of the specialist berth, as described in paragraph 3.12 of the SoCG.

- 3.9.11. The mitigation and monitoring would be secured through minor changes to the DML and the operation of the Marine Environmental Management and Monitoring Plan (MEMMP) [REP1-016]. Under DCO Schedule 11 Requirement 19(2), the MEMMP must be submitted to and approved by the MMO after consultation with the EA, Natural England (NE), and NLC. The process is set out in paragraph 3.14 of the EA's SoCG.
- 3.9.12. Moreover, the MMO notes at paragraph 3.6 of its SoCG [REP5-015] that changes to tidal currents and wave climatology would be localised and not result in significant impacts on coastal and physical processes, including on continuing erosion at Hawkins Point and the managed realignment of sites to the east. The MMO agrees that most of the material deposited at HU081 and HU082 would be likely to erode and disperse within a few years. However, at the MMO's suggestion, the Applicant agreed to the use of a plough dredger to level mounds and fill troughs at the disposal sites, if deemed necessary by the MMO. This would be secured by varying the DML, as set out in paragraph 3.9 of the MMO's SoCG.
- 3.9.13. Paragraph 3.8 of the MMO's SoCG records the MMO's agreement with the Applicant that the Proposed Changes would not cause significant alterations in tidal regime water levels. Also, that the dredging maintenance patterns anticipated, which would be similar to those previously authorised, would not involve significant change.
- 3.9.14. In its RR [RR-004], the EA had expressed concern about the use of only one wave condition to assess the impact of changes to hydrodynamics at Hawkins Point, and concern that the assessment was undertaken using only present-day conditions, rather than considering future rising sea levels. The Applicant's response, set out in Appendix 1 to the EA SoCG [REP5-013], removed these concerns. It would be the larger waves that would be affected by the disposal mounds and almost all of these come from the direction chosen in the Applicant's analysis. Moreover, the use of present-day conditions was justified because of the relatively short duration the mounds would be expected to remain in place.
- 3.9.15. The ExB's concerns regarding the impacts of the dredging processes on the Uniper and C.GEN intakes and outfalls were satisfied by the Applicant's response to ExQ1:Q4.0.6, which referred to paragraphs 8.4.7-8 and 8.4.12 of the UES Chapter 8.
- 3.9.16. Turning to cumulative and in-combination effects, the ExB understands from the Applicant's response to ExQ1:Q13.0.3 [REP1-019] that there are no other capital marine developments involving dredging and

disposal under way or planned in the vicinity of the quay. In-combination effects would be confined to the baseline activities of routine maintenance dredging and disposal at licensed sites.

- 3.9.17. The Proposed Changes accord generally, in respect of this issue, with the provisions of the NPSP, particularly section 5.3: Coastal change, and with the local development plan, as well as with the NPPF, in particular Coastal change in section 14. It also accords with the East Marine Plan, in particular Policy DO1, concerned with dredging and disposal.
- 3.9.18. The ExB has considered the material on this issue, regarding the effects of the Proposed Changes and concludes that the Proposed Changes would be acceptable with regard to hydrodynamics and the sediment regime.

## **3.10. WATER AND SEDIMENT QUALITY**

### **Applicant's Approach**

- 3.10.1. UES Chapter 9: Water and Sediment Quality [APP-080] assesses the effects of the Proposed Changes within this issue.
- 3.10.2. The UES considered the same receptors as did the original EIA, comprising all direct surface water receptors which might be influenced by the site, including Killingholme Marsh and the Humber Estuary, but excluding Cleethorpes Beach which was considered too distant from the site. Also considered were groundwater receptors below the site, and areas within the Humber Estuary where impacts associated with dredging or deposition might be possible.

### **Water Framework Directive Assessment**

- 3.10.3. The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 revoked and replaced the 2003 Regulations which were current when the approved development was examined and consented.
- 3.10.4. An updated WFD assessment (WFDa) was prepared for the present examination [APP-70]. It was informed, where appropriate, by updated monitoring and modelling agreed with the EA.
- 3.10.5. The WFDa presented an assessment of WFD compliance, in relation to the proposed material change, for the Humber Lower transitional waterbody, the Keyingham Drain (part of Sands/Keyingham/Roos Drain from Source to Humber artificial water body) and the Otteringham Drain water body. It considered the changes to the proposed quay layout; a change to the consented deposit location for dredge arisings from the berthing pocket (to permit its disposal at Disposal Site HU081 if required, in addition to HU080 and HU082); and an increase in the amount of sediment to be deposited in the estuary. The WFDa predicted that the development, including the Proposed Changes, would not cause deterioration to the current status of any WFD water body nor should they prevent future status objectives being achieved.

- 3.10.6. An amended version of the WFDa was submitted to the Examination at D1 [REP1-004] in response to ExQ1:Q6.0.1-6.0.5 [REP1-019]. A further version was submitted at D4 [REP4-020] in response to ExQ2:Q.6.0.3 [REP4-002] and the EA's RR [RR-005] and its other contributions relating to the planning issues raised, including the D3 submission [REP3-018].

## **Planning Issues Raised**

### **The Environment Agency (EA)**

- 3.10.7. In its RR [RR-004], the EA expressed concern about the Applicant's coverage of cumulative effects and about the impact of the Proposed Changes on benthic receptors. It also requested further information and the predicted Environmental Quality Standard exceedances of Polycyclic Aromatic Hydrocarbons as a result of dredging. Moreover, it noted that the chemical analysis of sediment (SeDiChem analysis) had not been submitted by the Applicant.
- 3.10.8. Although the EA repeated these concerns in its WR [REP1-032], the ExB notes that Applicant was working with the EA towards their resolution prior to the issue of the amended WFDa at D1.
- 3.10.9. The EA's response to ExQ2:Q6.0.4 [REP4-028] confirmed that satisfactory details of the SeDiChem analysis were provided at D1 [REP1-021]. It also records that no further clarity is required in respect of PAH status. The signed EA SoCG [REP5-013] records that, following further discussions resulting in the expanded information contained in section 7 of the amended version of the WFDa submitted at D4 [REP4-020], no further evidence is required to justify the exclusion of certain projects from the cumulative assessment. The EA confirmed that the conclusions of the WFDa were agreed.

### **ExB's Assessment**

- 3.10.10. The Applicant submitted a Dredge Disposal Benthic Invertebrate Scheme at D1 [REP1-025]. In response to ExQ2:Q6.0.2, the EA [REP4-028] noted that the Proposed Changes seek authority for the disposal of non-erodible dredged material at HU081, in addition to the currently authorised disposal at HU082. Accordingly, the EA advised that the benthic scheme should be amended to include the use of HU081 and that steps should be taken to ensure that the monitoring proposal remains appropriate.
- 3.10.11. The ExB drew attention to this point through ExQ3:Q1.0.10 [PD-010]. In its response [REP5-002], the Applicant explained that it expects the benthic scheme would require only minor amendments to incorporate details of disposal at HU081 and that these would be arranged following a decision on the application. The changes would be consolidated within the MEMMP, secured through the existing provisions of the DCO Schedule 11 Requirement 19(2), as noted in the Applicant's response to ExQ2:Q6.0.2 [REP4-002].

- 3.10.12. The Applicant has responded satisfactorily to the ExB's questions regarding PAH status expressed in ExQ1:Q6.0.5 and ExQ2:Q6.0.3; and the SeDiChem analysis, expressed in ExQ1:Q6.0.6, and ExQ2:Q6.0.4 [REP1-019, REP4-002]. Moreover, section 7 of the agreed WFDa fully and clearly sets out an analysis of cumulative effects and concludes that the project components (alone and in-combination) with the material change are unlikely to have a non-temporary effect on the status of WFD parameters significant at waterbody level.
- 3.10.13. Furthermore, the Applicant's response to ExQ1:Q13.0.3 [REP1-019] noted that ES document Ex44.1 deals with cumulative impacts, explaining how risks can be controlled. This assessment remains valid as the residual effects of the original scheme are unchanged and projects given approval since the DCO would have considered the residual effects of AMEP cumulatively with their own impacts and incorporated appropriate mitigation.
- 3.10.14. The Proposed Changes accord generally, in respect of this issue, with the provisions of the NPSP, particularly section 5.6: Water quality and resources; and with the local development plan, particularly North Lincolnshire Local Plan (2003) Saved Policy DS11: Polluting Activities, and Saved Policy DS15: Water Resources. They also generally accord with the NPPF, in particular paragraph 174(e) regarding the prevention of unacceptable levels of water pollution, and with the East Marine Plan, including Policy BIO1 concerning water and sediment quality.
- 3.10.15. The ExB concludes that the Proposed Changes would be acceptable with regard to their effects on water and sediment quality. Further, that the Proposed Changes would not lead to the deterioration of the status of any WFD waterbody, nor would they prevent future status objectives being achieved.

## **3.11. BIODIVERSITY**

### **Introduction**

- 3.11.1. The effects of the Proposed Changes on biodiversity, including nationally and locally designated sites, and on protected species, are assessed in the main issue. Section 4 of this Report sets out the ExB's findings and conclusions in relation to the HRA, which deals specifically with European sites.
- 3.11.2. The Humber Estuary, an SPA, was notified as a SSSI on 3 February 2004. According to the citation, it is a nationally important site with a series of important habitats. It supports important numbers of wintering wildfowl and passage waders, together with a nationally important assemblage of breeding birds of lowland open waters and their margins. It is also important for a breeding colony of grey seals, river lamprey, sea lamprey, a vascular plant assemblage and an invertebrate assemblage.
- 3.11.3. North Killingholme Haven Pits (NKHP) nature reserve, part of the Humber Estuary SPA/Ramsar site, was notified as a SSSI on 15 October 1996.



The reserve is situated on the inland side of the sea wall, to the south of Haven Road, immediately north of the AMEP site. It consists of a complex of flooded clay extraction pits with fringing reed beds, rough grassland and scrub. The citation tells us that a range of saline lagoon and freshwater habitats support a diverse fauna, including several scarce and endangered invertebrates, and a variety of waders and wildfowl.

## **Applicant's Approach**

- 3.11.4. UES Chapter 11: Terrestrial Ecology and Nature Conservation [APP-082], and Chapter 10: Aquatic Ecology [APP-081] address the effects of the Proposed Changes on biodiversity. Appendix UES11-1: Preliminary Ecological Appraisal [APP-136], identifies local wildlife sites and other priority habitats and provides an overview of protected species records and an assessment of current habitat suitability. It concludes that no changes have taken place since the production of the original ES that would be likely to make a material change to its assessment of the ecological impact of the AMEP development on terrestrial species.
- 3.11.5. In response to the Scoping Opinion, the baseline for terrestrial habitat and species was updated and incorporated into the assessment, including an updated habitat survey and updated ornithological data. The possibility of additional noise impacts arising from altered piling activity was considered, as was the question of whether the compensation site at Cherry Cobb Sands would remain adequate.
- 3.11.6. The assessment methodology adopted was the same as that used for the original ES. It was found that the bird populations of importance were broadly similar to those documented in the original ES baseline. Changes in terrestrial habitat largely reflected losses arising from the partial implementation of the consented scheme, together with additional natural saltmarsh colonisation.
- 3.11.7. Regarding other protected species, great crested newts found on the AMEP site have been removed under licence and translocated to Mitigation Area B at the junction of Chase Hill Road and Haven Road; the water vole population was seen to have benefitted from an improved system of drainage ditches; the quantity of bat habitat has shrunk as land is used to implement the consented development; and no significant evidence of badger activity within the site was found during either the ES or the update surveys.
- 3.11.8. The construction effects of the Proposed Changes, set out at UES Chapter 11 paragraphs 11.4.3-11.4.9, were found to be insignificant. There would be no change in the extent of noise disturbance as the quay piling would be no closer to protected sites and no more extensive than under the ES. Moreover, no additional operational or cumulative effects were identified.
- 3.11.9. Mitigation and compensation measures required under the DCO remain suitable. These include the provision of compensatory habitat at Cherry Cobb Sands to address losses in intertidal and subtidal habitat associated

with establishing the footprint of the AMEP quay; provisions under the DML including constraints on aspects of works timing, including 'soft start', to reduce impacts from underwater noise and vibration arising from piling operations; and the provision of greenfield terrestrial foraging and roosting habitat in place of that lost to AMEP, and to reduce noise and lighting impacts (originally Mitigation Area A, but now relocated and implemented at Halton Marshes Wet Grassland Mitigation Area).

- 3.11.10. As there are no changes in the construction effects arising from the Proposed Changes compared to those identified in the original ES, no further mitigation is required to counter impacts on terrestrial ecology. No significant additional operational effects were identified in the UES. The Applicant's response to ExQ1:Q5.0.15 [REP1-019] notes that whilst vessels berthed at the inset quay would be closer to NKHP than in the consented scheme, they merely displace port activity that would otherwise take place. The 200m rail crane would not operate alongside the berth and so would be more remote from NKHP. Moreover, vessels associated with C.RO port already operate significantly closer to NKHP than would AMEP vessels.
- 3.11.11. Overall, there are no changes to the residual effects identified within the ES. Additional cumulative effects are unlikely, since projects approved since the DCO will have taken the residual effects identified in the ES into account.
- 3.11.12. Turning to aquatic ecology, paragraph 10.2.15 of UES Chapter 10 notes additional consultation undertaken at a meeting on 25 March 2021 with the MMO, the EA and NE. It was agreed that a new baseline would not be required for the benthic ecology of the disposal grounds. Also, that agreed measures set out in the DML at paragraphs 37-43, to mitigate impacts on marine mammals and the fish community from piling, would remain relevant since there would be no significant alteration to construction techniques.
- 3.11.13. The UES reaches the following conclusions:
- 3.11.14. Regarding impacts on saltmarsh vegetation communities, at paragraphs 10.4.15 to 10.4.17 the UES concludes that the amendment to the quay footprint would not create any further loss of intertidal saltmarsh compared to that already expected and accommodated within the compensation site. Moreover, no significant alterations to the hydrodynamics operating around the quay are expected. (This point is considered in greater detail in the main issue, 3.4: Hydrodynamics and the Sediment Regime, above).
- 3.11.15. At paragraphs 10.4.33 the UES concludes that no significant changes to direct impacts on intertidal and subtidal invertebrate communities, exceeding those in the ES, were identified. Paragraph 10.4.41 notes that indirect impacts to invertebrate fauna may arise from alteration to the dredging and dredge disposal plans. (This aspect has been considered in the main issue 3.5: Water and Sediment Quality, above).

- 3.11.16. Regarding impacts on the fish assemblage, the UES notes at paragraph 10.4.63 that there would be no changes to direct impacts on fish arising from construction operations compared to the original ES. Moreover, the mitigation measures incorporated in the DCO and the DML (mainly regarding timing restrictions to piling works to avoid sensitive periods, such as the migration of lamprey), remain appropriate.
- 3.11.17. Regarding impacts on marine mammals, the UES observes, at paragraphs 10.4.75-78, that the receptors in the aquatic environment are not materially different to those identified in the original ES and that the impacts are substantially similar. Mitigation measures to counter noise and vibration were incorporated in the existing consent, including the requirement for a certified marine management observer to be present on site during critical construction phases.
- 3.11.18. Potential exists for indirect impacts on marine mammals through changes in prey composition and availability. However, the UES assessments indicate that invertebrate and fish communities remain the same as identified in the original ES and any implications for marine mammal status would not be measurable in the context of natural variability.
- 3.11.19. At paragraphs 10.4.86-10.4.89, the UES observes that additive effects to adjacent waterbodies compared to the ES assessment are not expected. No changes to potential operational impacts relevant to aquatic ecology have been identified. Neither have any substantive deleterious cumulative impacts, since the assessment baseline includes relevant activities such as maintenance dredging.

## **Planning Issues Raised**

### **Natural England (NE)**

- 3.11.20. In its RR [RR-007] NE agrees with the Applicant that the Proposed Changes would not incur impacts additional to those identified in the ES for nationally protected species, European protected species, or Local Wildlife Sites (LWS).
- 3.11.21. NE notes that clarity is required on whether the Proposed Changes would damage features of interest of the Humber Estuary and North Killingholme Haven Pits SSSIs. Many of the species included in the Humber Estuary SPA/Ramsar waterbird assemblage are also part of the SSSIs' citations and have the potential to have impact on the notified features of the SSSIs. In particular, clarification is required regarding changes in habitat loss, and on construction and operational impacts arising from changes to the design of the quay which might lead to disturbance to wildlife at NKHP nature reserve.
- 3.11.22. The signed SoCG between NE and the Applicant [REP6-004] refers, at paragraph 3.9, to the reissue of Appendix UES11-2 [APP-139], updated to carry accurate tables relating to habitat changes in the short, medium, and long terms, and a rationale for the focus on short term impacts. Consequently, NE is satisfied that the compensatory habitat at Cherry Cobb Sands will remain adequate.

- 3.11.23. NE also confirms that it is satisfied there would be no change in noise disturbance impinging on NKHP reserve, either during construction, because there would be no material change in quay piling, or during operation, despite the proximity of vessels. NE notes there would be some change in the lighting regime to accommodate the new quay alignment but, since lighting levels are subject to approval under DCO Requirement 24, is satisfied that potential impacts would be adequately controlled.
- 3.11.24. In its response to questions raised in the RIES [REP6-007], NE confirmed that sufficient information had now been provided on the alternative construction sequence proposed [AS-007] (see also the SoCG [REP6-004] paragraphs 3.14-3.15) to justify the conclusions of the sediment plume modelling report [AS-005]. Details appear in the attachment to the Applicant's letter [AS-017]. Also, that sufficient clarification had been provided with regard to mitigation measures, and that in-combination impacts have been satisfactorily addressed.

### **Marine Management Organisation (MMO)**

- 3.11.25. In the signed SoCG between the MMO and the Applicant [REP5-015], the MMO confirms, at paragraph 3.5, that it agrees with the assessment of potential impacts on aquatic ecology receptors set out in UES Chapter 10 and accepts the conclusion that the Proposed Changes would not add to the potential impacts set out in the ES. At paragraph 3.11, the MMO notes that it is satisfied with the description of fisheries and fish ecology in the vicinity of the AMEP site and considers it provides an appropriate site characterisation of fish species present in the area.
- 3.11.26. At paragraph 4.15 of the MMO's RR [RR-005], the MMO noted that UES Chapter 26: Assessment of Cumulative and In-combination Effects [APP-097] appeared to lack detail. At paragraph 3.14 of the MMO SoCG, the MMO notes that other projects which might lead to cumulative effects are more fully reviewed in UES Chapter 6: Description of Committed Developments [APP-077] and is now satisfied that any potential cumulative impacts have been appropriately considered.
- 3.11.27. The MMO commented in detail on the proposed alternative construction sequence plume modelling [REP3-019], to which the Applicant responded at [REP4-009]. In answering ExQ3:Q1.0.6 [REP5-026], the MMO confirmed that it was content the Applicant had responded clearly to each point and had no further questions on the matter.

### **ExB's Assessment**

- 3.11.28. The ExB agrees with NE and the MMO that the Proposed Changes would not materially affect the two SSSIs and the locally designated sites, including their features of interest, over and above the effects predicted in the ES. Also, that protected species would not experience additive effects.
- 3.11.29. Adverse cumulative and in-combination effects arising from the Proposed Changes are unlikely, since the residual terrestrial and aquatic effects

would be no more than those set out in the ES. The committed developments described in UES Chapter 6 [APP-077] are unlikely to interact unfavourably and, in any event, would have been required to take AMEP into account in their assessments. The only marine project that acts in-combination with AMEP is the maintenance dredging of adjacent berths but this forms part of the ES baseline.

- 3.11.30. The Proposed Changes accord with policy on biodiversity set out in section 5.1 of the NPSP. They also accord with the local development plan, including saved Policy LC2 (Sites of Special Scientific Interest) of the North Lincolnshire Local Plan (2003), and Policy CS17 (Biodiversity) of the North Lincolnshire Core Strategy (2011); and the policies of the East Marine Plan including Policies BIO1, BIO2, and ECO1, which aim to protect biodiversity and ecology. In addition, they are consistent with paragraphs 179-182 (Habitats and Biodiversity) of the NPPF.
- 3.11.31. The Proposed Changes are acceptable with respect to biodiversity.

## **3.12. INCREASED CRANE HEIGHT**

### **Introduction**

- 3.12.1. The scoping opinion accepted that aviation could be scoped out of the UES because no new exceedance of the safeguarding surfaces for Humberside Airport were proposed at that time (UES Chapter 5: Scoping and Consultation, paragraph 5.2.54 [APP-076]). However, the Applicant later included Chapter 22: Aviation [APP-093] in the UES. This was specifically to assess aviation effects associated with the new potential for quay craneage to reach a maximum height of 200m above ground level (agl), to cater for increasingly larger turbines. This would exceed the maximum height of structures considered in the ES.
- 3.12.2. Terrestrial historic environment, and landscape and visual matters, were both scoped out of the UES (Chapter 5, paragraphs 5.2.49 and 5.2.52). However, the ExB has considered aspects of these matters, where thought important and relevant, particularly within the context of increased crane height.

### **Applicant's Approach**

- 3.12.3. UES Chapter 22, at paragraphs 22.4.1-22.4.7, assesses the impact of increased crane height in terms of aviation obstacle hazard (normally mitigated by using warning lighting or markings, or both), and also deals with bird strike hazard. The proximity of Humberside Airport is relevant to both hazards.
- 3.12.4. Regarding bird strike, the indirect impact significance associated with the potential for bird activity to migrate towards Humberside Airport was assessed in the ES as Major/Intermediate. However, it was anticipated that birds would move to the mitigation and compensation sites planned. These sites were specifically designed to provide alternative habitat for displaced birds at locations relatively distant from the Airport. The increased crane height now proposed would not affect this process.

Accordingly, the risk arising would be reduced to Neutral (UES paragraphs 22.4.3-22.4.5).

- 3.12.5. The Applicant's response to ExQ1:Q9.0.5 [REP1-006] notes that lights can disorientate flying birds, especially during migration, and cause them to divert from efficient migratory routes, or even collide with significant structures. However, significant impacts in relation to avian risk can be avoided through best practice lighting design.
- 3.12.6. Research shows that birds are more sensitive to blue rather than other wavelengths of light, and that red warning lights have a reduced impact on birds compared to white lights. The low and medium intensity red lighting recommended for the present situation may, therefore, go a significant way towards reducing or avoiding residual harm. In any event, the bird hazard has been considered within the ecological assessments undertaken in support of the ES and would not change with increased crane height.
- 3.12.7. Turning to aviation obstacle hazards, the impact significance of quayside tall structures was assessed as Major in the UES. The maximum height of structures (turbines or cranes) considered in the ES was 165m agl. This represents a worst-case scenario, since it is now current practice to transport turbines in sections for assembly at sea, or to a land site, rather than as complete structures. This height falls below the safeguarding Outer Horizontal Surface (OHS) level for Humberside Airport, above which new objects should not extend. However, it exceeds the height of 150m agl, over which en-route obstructions should be lit under Civil Aviation Authority (CAA) controls. Accordingly, as a minimum, the extreme elements of a group of turbines or cranes should be lit.
- 3.12.8. Under the Proposed Changes, the mitigation required might be greater than that prescribed through the DCO because of the increased height. Civil Aviation Publication (CAP) 738: Safeguarding of Aerodromes and CAP 1096: Guidance to Crane Users recommend night lighting at four separate levels for a crane of height 200m. In addition, flashing daytime lighting or warning markings would normally be used. To avoid daytime nuisance glare and potentially harmful effects on local avian populations, the UES concluded that coloured warning patterning should be used, rather than flashing lights. The Applicant is consulting with key stakeholders, the CAA, and Humberside Airport on a solution involving warning markings.
- 3.12.9. These measures would reduce the risk level to Intermediate/Minor, the level which applies to other exceedance obstacles near Humberside Airport. Submission of a lighting scheme, and approval by NLC after consultation with the CAA, is necessary under DCO Schedule 11 Requirement 35 before the erection of any structure over 45m agl. However, the mitigation, together with the modification of air mapping and other necessary action, would be required under separate controls in any event.

- 3.12.10. None of the committed developments identified in the UES (Chapter 6: Description of Committed Developments [APP-077]) include potential for structures over 150m agl. Therefore, both avian and aviation related cumulative effects arising from the increase in crane height can be ruled out.

### **Planning Issues Raised**

- 3.12.11. Any increase in potential harm to birds beyond that assessed in the ES would be extremely small and ecological assessments effectively cover cumulative and in-combination effects. The effects of the Proposed Changes on aviation are satisfied by the UES and by responses to the ExB's associated questions, ExQ1:Q9.0.1, Q9.0.4, and Q9.0.6 [REP1-006].
- 3.12.12. The ExB's remaining concerns focussed on the effects of the increased crane height and associated lighting on landscape character, visual amenity, and heritage receptors.

### **ExB's Assessment**

#### **Landscape Character and Visual Amenity**

##### *Landscape Character*

- 3.12.13. In response to ExQ1:Q9.0.7, the Applicant prepared Figure 1: Zone of Theoretical Visibility (ZTV) [Appendix A, REP1-015], illustrating the area where a crane of height 200m, located on the quayside, could theoretically be seen. Since it involves a bare earth analysis, the potential screening by the built and natural environment is excluded and the ZTV should therefore be regarded as showing a worst-case scenario.
- 3.12.14. Moreover, in response to ExQ1:Q9.0.9 and ExQ2:Q9.0.8 [REP4-002], the Applicant prepared amended photomontages to help inform assessment of the effects of the increased crane height on landscape character and visual amenity [Appendix A, REP1-015 and REP4-005]. They are derived from the photomontages used for the ES and include night views. In addition, the Applicant adapted the tabular analysis of effects on landscape character and visual amenity used in the ES, to show the change arising from the increased crane height [REP1-015].
- 3.12.15. This information was found useful at the ASI of 10 February 2022. Because of the increased crane height, the ZTV shows a slightly extended zone of visibility compared to that of the ES. However, it would be difficult to see cranes from the new areas since they generally lie 20km or more distant from the quay.
- 3.12.16. Regarding effects on landscape character, the increased crane height would be seen in the context of existing large scale industrial and port development. A new, incongruous element would not be introduced into the landscape. The ExB agrees with the Applicant that, where identifiable within the scale of the existing landscape, there would be no change to the original assessment.

### *Visual Amenity - Close Views*

- 3.12.17. With respect to effects on visual amenity, the public footpath (FP No 50) running along the seawall on the south bank of the Humber, which is to be diverted as it passes the site, offers the closest views of the quay craneage.<sup>1</sup> The ES identifies locations of Viewpoints (VPs). (VP1) represents a typical outlook from the footpath, a little north of the site.
- 3.12.18. The magnitude of change was assessed as Large in the ES and the significance of impact as Moderate to Major. A 200m height of crane, some 35m higher than previously assessed, would exert a dramatic visual effect, which would increase as the viewer moves along the path towards the structure. However, the ambience would be one of an active port with a continuous industrial backdrop. Moving quayside scenarios would take place, varying and constantly changing as vessels arrive, are serviced, and depart. The structure would not appear incongruous in this milieu.
- 3.12.19. Similarly, at night, the warning lighting would not appear intrusive, despite its height, within the context of a substantial background of warning lights and general illumination associated with the existing port and nearby industrial development. The very large oil refinery backing on to the site is particularly dominant in terms of lighting.
- 3.12.20. VP2, the view from Haven Road across North Killingholme Haven Pits, should be considered together with views from the walkway and hide within the wetland reserve. Although intermittently screened by low foliage, the change envisaged under the ES was assessed as Large, with the introduction of substantial wind turbine components arranged in tightly packed groups as a close backdrop to the reserve, together with partly visible buildings associated with the core development areas. This contrasts with the open outlook at present over the marshes, interrupted only by lamp standards and distant structures to the south. The significance of impact was assessed as Major.
- 3.12.21. The fundamental change in visual character from that which exists at present arises from the substantive development already granted consent. In this context, the increased crane height would not introduce a new or incongruous element but would marginally increase the scale of change.
- 3.12.22. Overall, regarding close views, the ExB agrees that the Applicant's original assessments of magnitude of change and significance of impact would not change.

### *Middle Distance Views from the West*

- 3.12.23. The settlements of South Killingholme, North Killingholme, and East Halton lie 3 or 4km to the west of the proposed quay. VPs 11, 12, and 13 represent a selection of views towards the site. The intervening

---

<sup>1</sup> The ES identifies locations of Viewpoints (VPs) in Chapter 20: Landscape and Visual, Figure 20.3b



landscape is largely occupied by an extensive oil refinery complex with dense accumulations of storage and processing facilities, stacks and towers reaching approximately 130m agl, together with some power station buildings.

- 3.12.24. The AMEP facility would be largely screened by the intervening existing industrial development from the more southerly viewpoints near South and North Killingholme, VP11 and VP12. Even if visible, any upward projection of structures from the quay would not appear substantial or incongruous.
- 3.12.25. VP13, the most northerly viewpoint, near East Halton, looks out over agricultural land towards the site. The ES notes that the upper parts of structures would be visible above the line of existing hedgerows, whilst the buildings associated with the AMEP supply chain would be fully screened by hedgerows. However, the Applicant's response to ExQ1:Q9.0.8 [REP1-015] is not consistent with this analysis since it notes that the proposed crane would be screened from view by intervening vegetation. Even allowing for some change in the extent of hedgerow foliage in the interval between the analyses, this seems unlikely and, in any event, should not be given great weight.
- 3.12.26. However, any views would be distant and partly shielded, and would not be incongruous in the context of serial views experienced in the vicinity of prominent industrial development. Overall, the ExB considers that the increased crane height would not be significant, seen in middle distance views from the west.

#### *Views from the South*

- 3.12.27. The Applicant points to three representative viewpoints to the south of the site. VP8, at Marsh Lane, immediately adjacent to the site boundary, near the listed lighthouse group, is set in an area of open, flat farmland with hedgerows. Large industrial buildings in the core development area would be clearly visible at short range along with external storage areas. The receptor was assessed in the ES as likely to experience a Large magnitude of change with Major significance of impact.
- 3.12.28. The proposed crane height might increase visibility somewhat, but within the context of an industrial environment already generating the maximum level of impact, it would not appear out of place. The ExB considers that the marginal change would not be significant in this view.
- 3.12.29. VP9 lies in the middle distance, at the Homestead Lake Public Park and Play Area, on the northern edge of Immingham, some 3 or 4km from the site. It is set in open land with hedgerows, having the oil refinery as its backdrop. Some of the taller structures associated with AMEP would be partly visible in the distance. The increased crane height proposed would add to the impact but, because of the distances involved and the existing industrial context, the ExB does not consider the change to be significant in this view.

3.12.30. VP15 at Brocklesby, lies in farmland, with clumps of mature woodland, some 8km to the south west of the site. The ES notes that wind turbines associated with AMEP would be visible as small elements in association with the oil refinery. Because of the distance involved and the existing industrial backdrop, the ExB does not consider that the change would be significant in this view.

#### *Views from the North*

3.12.31. The nature of views from land to the north of the Humber depend very much on weather conditions and can easily be obscured entirely by mist or rain. The character of the landscape seen from the north lies in the perception of varying gradations of foreground, water and sky in changing light. Conditions were good at the ASI, offering clear views over distances of several kilometres to the south bank.

3.12.32. The coastal footpath is represented by VP3 looking out over the Humber at the south eastern limit of the Cherry Cobb Sands compensation site. The existing docks, port and industrial development are seen profiled in a spikey arrangement of stacks, cranes and silos against the horizontal sweep of the shoreline and the Estuary's vast body of water. The ES observes that the AMEP development will be more prominent than other industrial elements on the south bank because of its scale and proximity to the Estuary.

3.12.33. Under the Proposed Changes, the crane would be higher than other elements on the south bank by some margin. By comparison, the ABP silos to the south of the site are 60m agl (ExQ3:Q1.0.4 [REP5-024]), and the existing lamp standards at the northern end of the site are 30m agl (ExQ3:Q1.0.3 [REP5-002]). Moreover, it is understood that the tallest of the oil refinery stacks stands at some 130m agl and its prominence seen from the north is reduced because it is set back from the shore line. However, the proposed structure would represent a continuation of the view's existing character and would not disrupt the overall broad sweep of the landscape.

3.12.34. No access was available to the viewing point and parking area at Paull, VP4, which covers a related outlook from a more westerly location. However, the ExB agrees with the Applicant that the magnitude of change and the significance of impact would probably be less than at VP3. Similar considerations apply to VP16, Sunk Island, a little east and inland from VP3. Also, to VP10, Keyingham, further inland, where the magnitude of change would be almost imperceptible, as it would at VP6, King George's Dock on the eastern fringe of Hull.

3.12.35. At night, as the photomontage exercise shows [REP4-005], the whole of the coastline is seen from the north as a continuously illuminated strip. Although higher than other warning lights, the crane lighting proposed would hardly be noticed in this context. The ExB does not consider that the increased crane height proposed would be materially harmful in views from the north.

## **Heritage**

- 3.12.36. There are two instances of heritage assets whose settings might be affected by the Proposed Changes. They are the group of three South Killingholme Lighthouses, listed at Grade II, bordering the site to the south; and the Brick and Tile Kiln including chimney, East Halton, also Grade II listed, lying within the seawall a little to the north of North Killingholme Haven.
- 3.12.37. Regarding the lighthouse group, at Appendix 18.4 the ES notes that their position on the riverbank preserves the principle of the original setting which required open views onto the Estuary. Also, that views from the lighthouses across and along the Humber to other surviving lighthouses of the Humber Estuary Lights series are fundamental to the group's significance.
- 3.12.38. The ES observes that, despite there being extensive modern industrial development to the south and west, the addition of high structures, the new quay, cranes and temporary towers would no longer allow clear visibility from the river. A high adverse impact is predicted. However, the ExB considers that the proposed increase in crane height would not exacerbate the harm identified in the ES.
- 3.12.39. Turning to the Brick and Tile Kiln, the ES notes that the asset represents part of the early industrial development of the area. The former clay quarry pits to the south have now been filled in and there is already a distant backdrop of modern industrial development in views south from the Kiln. However, the AMEP industrial development would occupy the foreground in these views and, in the judgment of the ES, produce a minor adverse effect.
- 3.12.40. The increased crane height might add marginally to this effect, but the ExB does not think this would be in any way critical. Any loss of significance would be less than substantial and would be outweighed by the public benefit of the Proposed Changes, including AMEP's enhanced ability to contribute to the supply of renewable energy. This contribution has gained increased emphasis with the publication of the updated British Energy Security Strategy (BESS) on 7 April 2022.

## **Overall Conclusions**

- 3.12.41. Overall, the ExB considers that the Proposed Changes would not significantly exacerbate the harm identified to heritage assets. Since none of the committed developments identified in UES Chapter 6: Description of Committed Developments [APP-077], include potential for structures over 150m agl, cumulative effects arising from increased crane height on landscape character, visual amenity, and heritage are unlikely.
- 3.12.42. The Proposed Changes accord with the NPSP with regard to the increased crane height, in particular section 4:10: Criteria for good design for port infrastructure, section 5.11: Landscape and visual impacts, and section 5.12: Historic environment. They also accord with the local development plan, including saved Policy HE5 (Development affecting listed buildings)

of the North Lincolnshire Local Plan (2003); and with Policy CS6 (Historic environment) of the North Lincolnshire Core Strategy (2011). In addition, they accord with Policy 42 (Landscape) of the North East Lincolnshire Local Plan 2013-2032 and with the NPPF, including section 15: Conserving and enhancing the natural environment, and section 16: Conserving and enhancing the historic environment. They comply with the policies of the East Marine Plan, including Policy SOC1 and SOC2 which aim to protect heritage assets, and terrestrial and marine character.

3.12.43. In addition, the Proposed Changes accord with Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, regarding the protection of listed buildings.

3.12.44. The Proposed Changes are acceptable in respect of increased crane height.

### **3.13. CLIMATE CHANGE**

#### **Applicant's Approach**

3.13.1. The UES chapters relating to climate change are Chapter 25: Other Environmental Issues [APP-096]; Chapter 17: Air Quality [APP088]; Chapter 13: Flood Risk and Drainage [APP-084]; and Chapter 5: Scoping and Consultation, paragraphs 5.2.70-72 (Climate and Climate Change) [APP-076]. In addition, the Updated Regulation 6 Statement sets out the current energy policy context [APP-156].

3.13.2. The ES showed calculations of the carbon footprint for the AMEP development arising from transport use during operation (Annex 6.2). It covered road, rail, and shipping transportation involving all elements in the chain of manufacture and delivery. Its primary purpose was to compare development alternatives. UES paragraph 17.7.8 notes that this assessment would be no different under the Proposed Changes. No calculations were made of the carbon footprint which would be incurred during the construction, and during the manufacture of construction components and materials, for the AMEP development.

3.13.3. ExQ1:Q12.0.1 [REP1-019] queried possible changes in the carbon footprint incurred during construction brought about by the Proposed Changes. The Applicant observed that the quantities of materials used in construction would not be significantly different but there would be less land and seabed reclamation and less piling, suggesting a possible decrease.

3.13.4. A greater quantity of dredged sediment would be disposed of at sea under the Proposed Changes, rather than on land as originally intended. This might imply a greater quantity of carbon generated from marine transport than was originally intended, even though vessel movements to cover disposal at sea of all dredged sediment were included in the ES. However, this should be seen against the savings in the carbon which would have been generated by disposal on land and possible transportation off site.

- 3.13.5. In response to ExQ1:Q12.0.3 the Applicant observed that the project would be built, and helping to meet the 2050 Net Zero Target, by the time the sixth carbon budget takes effect. In particular, it would be helping to meet the drive for 40GW of offshore wind by 2030, which was increased to 50GW in the recently updated BESS.
- 3.13.6. Regarding flood risk, responding to ExQ1:Q12.0.2, the Applicant noted that current climate change allowances for sea level rise have been applied.

### **Planning Issues Raised**

- 3.13.7. The main planning issue raised is how the Proposed Changes would perform in relation to climate change.

### **ExB's Assessment**

- 3.13.8. The Proposed Changes would almost certainly lie within the performance characteristics of the DCO approved scheme in relation to its carbon footprint and other measures regarding climate change. Moreover, the Proposed Changes would allow the handling of larger and more powerful wind turbines than would be possible under the approved scheme, enhancing AMEP's ability to play a positive role in moderating climate change.
- 3.13.9. Cumulative and in-combination effects are at the core of this issue. However, the Proposed Changes would not contribute to these effects beyond those predicted in the ES.
- 3.13.10. The Proposed Changes accord with the NPSP with respect to climate change, in particular section 4.12: Climate change mitigation; and with the local development plan including Policy CS18 of the North Lincolnshire Core Strategy (2011) (Sustainable resource use and climate change). They also accord with the environmental objective (8c) of section 2: Achieving sustainable development of the NPPF, and with section 14: Meeting the challenge of climate change. The Proposed Changes are compliant with the East Marine Plan, particularly Policies CC1 and CC2 concerning climate change and the emission of greenhouse gases.
- 3.13.11. The Proposed Changes are acceptable with respect to climate change.

## **3.14. CUMULATIVE AND IN-COMBINATION EFFECTS**

### **Applicant's Approach**

- 3.14.1. UES Chapter 26: Assessment of Cumulative and In-Combination Effects [APP-097] relates to this main issue, as does UES Chapter 6: Description of Committed Developments [APP-077]. Also, in response to ExQ1:Q13.0.3 [REP1-019], the Applicant developed the conclusions on cumulative impacts set out in each chapter of the UES.

### **Planning Issues Raised**

- 3.14.2. The main planning issue raised is whether the Proposed Changes would give rise to adverse cumulative or in-combination effects beyond those identified in the ES.
- 3.14.3. Both the EA and the MMO questioned the adequacy of the Applicant's cumulative or in-combination assessments in their RRs [RR-004, RR-005]. However, in their respective SoCGs [REP5-013, REP5-015], they confirmed that, following exchanges during the Examination, they were satisfied. The details are set out in paragraphs 3.10.9 and 3.11.26 above.

### **ExB's Assessment**

- 3.14.4. Following responses to ExQ1:Q13.0.1-7 [REP1-019] and ExQ2:Q13.0.1-02 [REP4-002], the ExB is content with the choice of projects included and those excluded from the Applicant's assessment. Cumulative and in-combination effects have been assessed within each of the main issues. In all instances, no significant effects were identified arising from the Proposed Changes.
- 3.14.5. The Proposed Changes accord with the NPSP with respect to cumulative and in-combination effects, in particular paragraphs 4.7.3-4. They also accord with the local development plan, the NPPF, and the East Marine Plan, including Policy ECO1 which deals with cumulative impacts affecting the Plan area. The Proposed Changes are acceptable with respect to cumulative and in-combination effects.

## **3.15. DRAFT AMENDMENT ORDER**

### **Introduction**

- 3.15.1. An updated version [REP1-017] of the DAO [APP-059] was submitted at D1, taking account of the alternative construction sequence submissions, accepted by the ExB under procedural decision [PD-004]. A further updated version [REP4 -012] was submitted with amendments to the Explanatory Note, clarifying the consequences of the alternative construction sequence submissions, in response to ExQ2:Q2.0.1 [REP4-002].
- 3.15.2. The Applicant made no further amendments to the DAO.

### **Issues Raised**

#### *Protective Provisions (Schedule 9 of the DCO)*

- 3.15.3. In response to ExQ1:Q2.0.4 [REP1-019], the Applicant stated that Proposed Changes do not give rise to any need to vary protective provisions.
- 3.15.4. However, C.GEN, who purchased the Centrica site and its related infrastructure in 2016, wished to see Centrica's DCO protective provisions amended to reflect the change in ownership [REP1-029]. The Applicant pointed out in its Comments on WRs and Responses to ExQ1

[REP3-002] that as a transferee, C.GEN benefits fully from Centrica's protective provisions. Since the change of ownership is not linked to the material change Application, no justification exists for amending the protective provisions to improve protections for C.GEN beyond those they inherited as a transferee.

- 3.15.5. The signed SoCG between C.GEN and the Applicant [REP5-010] identifies this as a matter not agreed but under discussion. C.GEN links it to the treatment of its inlet and outfall pipelines on shore and in the Estuary, where the Applicant has responsibilities to Centrica, and agreement with Centrica would be required on matters to be carried out under the DCO and the DML. C.GEN would like to see protective provisions on these matters addressed to itself.
- 3.15.6. The ExB agrees with the Applicant. As transferee, C.GEN benefits fully from Centrica's protective provisions and references to Centrica in the DCO should be taken to mean C.GEN. Moreover, since the Proposed Changes do not affect the pipelines, there is no need for additional or modified protective provisions on their account.

*Amendment to Article 57 of the DCO proposed by MMO*

- 3.15.7. In its RR [RR-005] the MMO pointed out that Article 57 of the DCO states that any difference under any provision of the Order must be referred to and settled by a single arbitrator. The MMO does not consider that the Article was intended by Parliament to apply to disagreements between the undertaker and the MMO as regulator.
- 3.15.8. The MMO points out that once the DCO is granted, the DML must be dealt with in exactly the same way as any other Marine Licence, and any decisions and determinations made through the provisions of the DML fall within the regime set up under the Marine and Coastal Access Act 2009 (the 2009 Act). The MMO advise that a qualification should be added to Article 57 to make clear that the arbitration arrangements do not apply to matters arising under the DML.
- 3.15.9. In its Comments on RR [REP1-026], the Applicant noted that it does not object to the amendment proposed by the MMO, which confirms that the process of arbitration is not applicable to decisions made under the DML. However, it is not an issue that arises as a result of the Application, and it is for the ExB to decide whether such amendments are appropriate as part of the material change application.
- 3.15.10. As part of Q2:Q2.0.4, the ExB observed that, to advance the amendment, the Applicant would need to request a change to the application and submit a revised DAO to this effect. The ExB would then consider whether any further consultation by the Applicant would be required, and whether this could be done during the Examination, before making a procedural decision on the requested change.
- 3.15.11. The Applicant confirmed that it did not wish to take the amendment forward as part of the material change application at this stage of the process as it does not relate to the subject matter of the application.

## **Conclusions**

- 3.15.12. The ExB concludes that no changes arising from the issues raised in the Examination are required to the amended version of the DAO [REP4-012].

### **3.16. CONCLUSIONS ON THE MAIN ISSUES**

- 3.16.1. General conclusions as a whole on the main issues are considered in Chapter 5: Conclusion on the Case for the Amendment Order.



## **4. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT**

### **INTRODUCTION**

- 4.1.1. This Chapter sets out the ExB's analysis and conclusions relevant to the HRA. This will assist the Secretary of SoSDfT, as the Competent Authority, in performing duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').
- 4.1.2. The Proposed Changes are not directly connected with, or necessary to, the management of a European site<sup>2</sup> or a European marine site. Therefore, the implications of the Proposed Changes with respect to adverse effects on potentially affected sites must be assessed by the SoSDfT. Consent for the Proposed Changes may only be granted if, having assessed the potential adverse effects the Proposed Changes could have on European sites, the Competent Authority considers it acceptable in light of the requirements stipulated in the Habitats Regulations.
- 4.1.3. Policy considerations and the legal obligations under the Habitat Regulations are described in Chapter 2 of this Report.
- 4.1.4. The ExB has been mindful throughout the Examination of the need to ensure that the SoSDfT has such information as may reasonably be required to carry out their duties as the Competent Authority. The ExB has sought evidence from the Applicant and the relevant IPs, including Natural England as the Appropriate Nature Conservation Body (ANCB), through written questions.

### **Proposed Changes and relevant HRA Documentation**

- 4.1.5. As detailed in in Chapter 1 of this Report, the Applicant has applied to the SoSDfT for an Amendment Order (AO) to the AMEP DCO. The AMEP DCO permits the development and operation of a marine energy park comprising a new quay together with facilities for the manufacture, assembly and storage of marine energy components, primarily offshore wind turbines.
- 4.1.6. The HRA for the AMEP DCO concluded that there would be adverse effects on integrity (AEoI) of the Humber Estuary SAC, SPA and Ramsar

---

<sup>2</sup> The term European sites in this context includes Special Areas of Conservation (SAC), Sites of Community Importance (SCI), candidate SACs, possible SACs, Special Protection Areas (SPA), potential SPAs, Ramsar sites and proposed Ramsar sites for which the UK is responsible. For a full description of the designations to which the Habitats Regulations apply, and/ or are applied as a matter of Government policy, see the Planning Inspectorate's Advice Note 10.

site and therefore compensation was proposed and agreed during the Examination. The AMEP decision letter (18 December 2013) issued by the Secretary of State concluded that the project:

*"satisfies all legal and regulatory requirements, including the international obligations of the United Kingdom Government and that the project can proceed without putting the UK Government in breach of the Habitats Directive".*

- 4.1.7. The Proposed Changes are described in Chapter 1 of this Report. The changes of particular relevance to the HRA are the works relating to the new quay (Work No.1 of the AMEP DCO) and associated dredge and disposal operations.
- 4.1.8. The Applicant provided a HRA report with the AO Application which comprised the following three parts:
- TR030006/APP/7A – Habitats Regulations Assessment Part 1: Likely Significant Effects (LSE) report (the LSE Report) [APP-067];
  - TR030006/APP/7B – Habitats Regulations Assessment Part 2: Report to Inform an Appropriate Assessment (the RIAA) [APP-068]; and
  - TR030006/APP/7C – Habitats Regulations Assessment Part 3 & 4: Alternative Solutions and IROPI (the Derogations Report) [APP-069].
- 4.1.9. This suite of application documents updated the HRA that was undertaken for the AMEP DCO and focused on the Proposed Changes to the consented scheme.
- 4.1.10. Revised versions of the LSE Report and the RIAA were submitted within a combined HRA Report at D1 [REP1-023], D3 [REP3-008] and D5 [REP5-007]. The Derogations Report was not revised during the Examination.
- 4.1.11. In response to a request in the Regulation 28 letter [PD-002], the Applicant submitted screening and integrity matrices for the Humber Estuary SAC, SPA and Ramsar site [AS-004] at the PM. These were revised at Deadline 4 [REP4-018].
- 4.1.12. The LSE Report [APP-067] confirmed that the assessment relates only to the AMEP site. There would be no change to the Cherry Cobb Sands compensation site<sup>3</sup> (or any Material Change on that site<sup>4</sup>), so it has not been considered as part of the assessment. NE did not raise any concerns regarding this approach during the Examination.

---

<sup>3</sup> Described in the SoSDfT decision letter for the AMEP DCO (dated 18 December 2013) as *"A Managed Realignment and Regulated Tidal Exchange ("RTE") scheme providing some 101.5 hectares of inter-tidal area at Cherry Cobb Sands on the north bank of the Humber Estuary directly opposite the AMEP site; this would provide replacement, managed mudflat habitat that is sustainable in the long term and would provide a feeding area for wading birds to replace the ecological function that would be lost as a result of the AMEP development."*

<sup>4</sup> As described in Chapter 1 of this Report.

## Report on the Implications for European Sites (RIES) and Consultation

- 4.1.13. The ExB produced a RIES [PD-009] which documented and signposted HRA-relevant information provided in the AO application and Examination representations up to Deadline 4 (1 February 2022). The RIES was issued to set out the ExB’s understanding of HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Changes on European Sites at that point in time. Consultation on the RIES took place between 15 February 2022 and 8 March 2022. Comments were received from the Applicant [REP6-003] and NE [REP6-007] at Deadline 6 (8 March 2022). These comments have been taken into account in the drafting of this Chapter.
- 4.1.14. The ExB’s recommendation is that the RIES, and consultation on it, represents an appropriate body of information to enable the Secretary of State to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations.

## 4.2. RELEVANT EUROPEAN SITES

- 4.2.1. The Applicant’s LSE Report [APP-067] considered European sites within 20km of the Proposed Changes, and more distant sites where there could be an ecological link to the project (described in Section 4 of the LSE Report [APP-067]). The European sites identified by the Applicant, for which the UK is responsible, are detailed in Table 1 below.

**Table 1: Sites identified in the Applicant’s LSE Report**

Name of European Site	Distance from application site (nearest point)
Humber Estuary SAC	Overlaps
Humber Estuary SPA	Overlaps
Humber Estuary Ramsar site	Overlaps
Greater Wash SPA	18km
Southern North Sea SAC	35km
The Wash and North Norfolk Coast SAC	69km
Berwickshire and North Northumberland Coast SAC	210km

- 4.2.2. The qualifying features of these sites are shown in Tables 6 to 8 in Appendix E of this Report.
- 4.2.3. No additional European sites were identified during the Examination as being potentially affected, either by the Applicant or other IPs.
- 4.2.4. The Applicant has not identified any potential impacts on European sites in EEA States. Only European sites which form part of the UK National

Site Network are addressed in this Report. No such impacts were raised for discussion by any parties during the Examination.

**Greater Wash SPA, Southern North Sea SAC, the Wash and North Norfolk Coast SAC and Berwickshire and North Northumberland Coast SAC**

- 4.2.5. Section 6 of the LSE Report [APP-067] concluded no LSE for the following sites due to the distance from the Application site, the nature of the Proposed Changes and a lack of evidence of any ecological link:
- Greater Wash SPA;
  - Southern North Sea SAC;
  - Wash and North Norfolk Coast SAC; and
  - Berwickshire and North Northumberland Coast SAC.
- 4.2.6. These sites were therefore not considered further in the LSE Report, with the assessment focussing on impacts to the Humber Estuary SAC, SPA and Ramsar site. NE agreed with this conclusion in its response to the PEIR and draft HRA (dated 26 May 2021) which was provided in ES Appendix UES11-4 [APP-139], however NE did not comment on these sites during the Examination.
- 4.2.7. The ExB is content that due to the distances from the application site, there would be no LSE on the Greater Wash SPA, Southern North Sea SAC, the Wash and North Norfolk Coast SAC and Berwickshire and North Northumberland Coast SAC. The ExB also notes that effects on these sites were not assessed within the AMEP DCO Shadow HRA (sHRA) [REP4-017] and that the SoSDfT HRA for the AMEP DCO considered effects on the Humber Estuary SAC, SPA and Ramsar site only. The ExB is satisfied that no additional European sites would be affected by the Proposed Changes.

### **4.3. POTENTIAL IMPACTS**

- 4.3.1. The potential impacts identified in Section 8 of the LSE Report [APP-067] in respect of the Humber Estuary SAC, SPA and Ramsar site were:
- construction phase:
    - direct loss of intertidal feeding, staging and loafing habitat within the Humber Estuary SPA/Ramsar/SAC through construction of project infrastructure and transformation of intertidal mudflat to saltmarsh in the longer term (Table 12 of [APP-068]);
    - indirect loss of intertidal habitat within the Humber Estuary SPA/Ramsar/SAC<sup>5</sup>;
    - loss of fish habitat within the Humber Estuary SPA/Ramsar/SAC;

---

<sup>5</sup> Described in paragraphs 5.4.3 and 5.4.14 of the AMEP DCO sHRA [REP4-017] and paragraph 2.1.1 of UES11-2 [APP-127] as changes to habitats south of the reclamation site resulting from changes in sediment distributions caused by the presence of the new quay and areas potentially disturbed by operational activity on the quay (275m disturbance zone).

- loss of terrestrial habitat functionally linked to the Humber Estuary SPA/Ramsar/SAC;
  - disturbance to birds, fish and marine mammals (noise and visual);
  - underwater noise disturbance affecting fish and marine mammals;
  - dredging and other construction effects on water quality;
  - disposal of dredge spoil; and
  - cumulative effects.
- operational phase:
    - disturbance to birds (noise and visual);
    - maintenance dredging impacts, including boat disturbance;
    - lighting impacts; and
    - maintenance dredging.

4.3.2. A potential impact zone made up of the application site boundary plus a precautionary buffer of 300m was applied, although consideration was also given to effects over a wider area as appropriate (e.g wider effects on seals and fish).

4.3.3. Although NE requested further information to assess impact pathways during the Examination (see Sections 1.5 and 1.7 of this Chapter), it did not identify any additional pathways which the Applicant had failed to assess.

- The ExB notes that the impacts considered for the Proposed Changes accord with those assessed for the AMEP DCO in the original sHRA [REP4-017] and agreed for that project in the SoCG with NE and the MMO (dated August 2012).
- The ExB identified some inconsistencies in the Applicant's description of potential impacts between the LSE Report, the RIAA and the screening and integrity matrices. These were set out in Section 6 of the RIES and the responses to the RIES from the Applicant [REP6-003] have been taken into account in the ExB's assessment of effects as reported in this Chapter.
- The ExB is content that no additional impact pathways are likely to arise from the Proposed Development and is therefore satisfied that all relevant potential impacts have been assessed by the Applicant.

## **4.4. IN-COMBINATION ASSESSMENT**

4.4.1. The plans and projects considered in the Applicant's in-combination assessment are detailed in Section 5 of the LSE Report [APP-067] and section 8 of the RIAA [APP-068]. These are:

- Able Logistics Park – PA/2009/0600 – NLC;
- North Killingholme Generating Station (DCO Application);
- Hornsea Offshore Wind Farm (Zone 4) Project 2 (DCO Application);
- Yorkshire Energy Park (17/01673/STOUTE – East Riding of Yorkshire Council);
- Outstrays to Skeffling Managed Realignment Site; and
- South Humber Gateway Mitigation Areas (including Cress Marsh, Novartis and the former Huntsman Tioxide site).

- 4.4.2. During the Examination, the EA sought justification for the exclusion of certain projects from the cumulative assessment undertaken in the WFDa; specifically those projects which had excluded AMEP from their own cumulative assessments. The ExB queried the Applicant on this matter in (ExQ2:Q13.0.1 [PD-007]), and whilst acknowledging that this matter was not raised in relation to HRA, the ExB considers it to also be applicable to the HRA in-combination assessment.
- 4.4.3. The Applicant provided reasoning for screening out the Hedon Haven Development, Welwick to Skeffling Managed Realignment Scheme, Outstrays Managed Realignment Scheme, Winteringham Ings to South Ferriby Flood Relief Scheme and South Humber Bank Energy Centre in response to ExQ2:Q13.0.1 [REP4-002].
- 4.4.4. Given the time that has passed since the AMEP DCO, the plans and projects considered in the in-combination assessment have, quite rightly, been updated from the original HRA. The ExB notes NE's confirmation (ExQ2:Q13.0.3 [REP4-032]) that all relevant schemes have been assessed and that the EA has confirmed it does not require further evidence to justify the reasons for excluding projects from the WFDa (paragraph 4.2 of [REP4-021]).
- The ExB is therefore satisfied that the Applicant has assessed in-combination effects from all relevant plans or projects.

## **4.5. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS**

- 4.5.1. Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have Likely Significant Effects (LSE) on a European site, either alone or in combination with other plans or projects. The purpose of this test is to identify any LSE on European sites that may result from the Proposed Changes and to identify the need for an AA, and the activities, sites or plans and projects to be included for further consideration in the AA.

### **LSE from the Proposed Changes Alone**

- 4.5.2. The Applicant concluded that there would be no change to the LSEs identified for the AMEP DCO arising from the Proposed Changes (paragraph 9.13, Table 14 and Appendices 4 and 5 of the LSE Report [APP-067]).
- 4.5.3. This included LSEs to habitat features of the Humber Estuary SAC/Ramsar from:
- permanent direct loss of estuarine habitat (H1130), intertidal mudflat/sandflat (H1140 / H1310) and saltmarsh (H1330) from reclamation to construct the quay;
  - indirect effects (indirect habitat loss due to habitat changes) on estuarine habitat (H1130), intertidal mudflat and mudflat with pioneer saltmarsh (H1140 / H1310) and saltmarsh (H1330); and

- disturbance to grey seal (S1364), sea lamprey (S1095) and river lamprey (S1099) from piling of the quay.

4.5.4. In respect of the Humber Estuary SPA/Ramsar site, LSEs were identified in Table 14 of the LSE Report [APP-067] for: bar-tailed godwit, black-tailed godwit, dunlin, redshank, shelduck, curlew, lapwing, ringed plover, marsh harrier, avocet, mallard, shoveler and teal. The table is reproduced below.

**Table 2: LSEs identified by the Applicant for bird qualifying features of the Humber Estuary SPA/Ramsar (Table 14 of the LSE Report [APP-067])<sup>6</sup>**

Effect	Internationally important Populations of Regularly Occurring Annex I Species			Internationally Important Migratory Species		Other Species of Waterfowl Assemblage
	Breeding	Passage	Wintering	Passage	Wintering	
Permanent direct loss of intertidal mudflat	-	-	Bar-tailed godwit	Black-tailed godwit, dunlin and redshank	Black-tailed godwit, dunlin, redshank and shelduck	Curlew, lapwing and ringed plover
Indirect changes in intertidal mudflat		-	Bar-tailed godwit	Black-tailed godwit, dunlin and redshank	Black-tailed godwit, dunlin, redshank and shelduck	Curlew, lapwing and ringed plover
Loss of terrestrial habitat	Marsh harrier	-				Curlew and lapwing
Disturbance to birds at KMFS and NKHP	Avocet and marsh harrier	-	Avocet and bar-tailed godwit	Black-tailed godwit, dunlin and redshank	Black-tailed godwit, dunlin, redshank and shelduck	Curlew, lapwing, mallard, ringed plover, shoveler and teal
Loss of NKHP as a roost site due to loss of intertidal mudflats at KMFS	-	-	Bar-tailed godwit	Black-tailed godwit, dunlin and redshank	Black-tailed godwit, dunlin, redshank and shelduck	Curlew, lapwing and ringed plover

4.5.5. These conclusions were unchanged in the revised versions of the HRA Report [REP1-023][REP3-008][REP5-007].

4.5.6. However, Table 3 below details the key matters queried by the ExB and IPs during the Examination in relation to screening for LSEs. The ExB's consideration of these matters, having had regard to Examination documents, is set out in the 'ExB conclusion' column. Questions seeking minor clarifications have not been detailed in Table 3.

<sup>6</sup> KMFS = Killingholme Marshes Foreshore  
NKHP = North Killingholme Haven Pits

Indirect changes in intertidal mudflat: The Applicant confirmed in [REP6-003] that indirect effects on the intertidal mudflat are those that would result from disturbance. This is called 'indirect functional habitat loss' elsewhere in this Chapter.

Table 3: Issues raised by the ExB and IPs in relation to the Applicant's screening of LSE's

ID	Site	Issue	Applicant's response and relevant docs	ExB comment/ conclusion
1	Humber Estuary SAC	<p><b>Conclusion of no LSE</b></p> <p>The ExB (ExQ1:Q5.0.4 [PD-003]) requested further evidence to support the assertion that that following features are outside the potential impact zone:</p> <ul style="list-style-type: none"> <li>• H1110 sandbanks;</li> <li>• H1150 coastal lagoons (priority habitat);</li> <li>• H2110 embryonic shifting dunes;</li> <li>• H2120 shifting dunes along the shoreline with <i>Ammophila arenaria</i> ("white dunes") (shifting dunes with marram);</li> <li>• H2130 fixed dunes with herbaceous vegetation ("grey dunes") (dune grassland) (priority habitat); and</li> <li>• H2160 dunes with <i>Hippophae rhamnoides</i> (dunes with sea-buckthorn)</li> </ul>	<p>Q5.0.4 of [REP1-019] presented the location of habitats H110, H1150, H2110, H2120, H2130 and H2160.</p> <p>Plan AME-036-30006 [REP1-020] showed the location of sandbanks.</p>	<p>On the basis of the mapping provided, the ExB is content that the habitats H1110, H1150, H2110, H2120, H2130 and H2160 are located outside any potential impact zone and agrees that LSEs to these qualifying features can be excluded.</p>
2	Humber Estuary SAC	<p><b>Coastal lagoons</b></p> <p>The ExB (ExQ2:Q5.0.17 [PD-007]) requested clarification as to why paragraphs 7.33 and 9.10 of the LSE</p>	<p>Q5.0.17 of [REP4-002] confirmed that the closest lagoon is North Killingholme Pits, which forms part of the Humber</p>	<p>The ExB is content with the clarification provided by the Applicant and agrees that LSEs to coastal</p>



ID	Site	Issue	Applicant's response and relevant docs	ExB comment/conclusion
		<p>Report identify the potential for coastal lagoons, as a supporting habitat to the Humber Estuary SPA, to be affected by the Proposed Changes, whereas a LSE for this feature of the Humber Estuary SAC is excluded in the screening matrices on the basis that the feature is outside of the development impact zone.</p>	<p>Estuary SPA but is not located within the Humber Estuary SAC.</p>	<p>lagoons of the Humber Estuary SAC can be excluded.</p>
3	Humber Estuary SAC	<p><b>Estuaries</b></p> <p>The ExB sought clarification [PD-011] as to why the Applicant concluded a LSE and AEoI to the Humber Estuary SAC from indirect effects on estuarine habitat (H1130) in paragraph 9.14 and Appendix 5 of the LSE Report [REP5-007]. A LSE was also identified in the Applicant's matrices [REP4-018].</p>	<p>The Applicant confirmed [AS-017] the indirect habitat losses are detailed in Table 13 of the HRA Report and [REP5-008] UES11-2 [REP1-027]. No indirect habitat losses were identified for estuaries (H1130).</p>	<p>The Applicant did not explain why a LSE and AEoI was identified in [AS-017]. The ExB notes that NE has agreed with the habitat loss figures provided by the Applicant [REP6-004] (see ID 2 of Table 5 of this Chapter for further details). On the basis of there being no indirect loss of estuaries identified within these agreed tables, the ExB considers there would not be a LSE to</p>

ID	Site	Issue	Applicant's response and relevant docs	ExB comment/conclusion
				estuaries from indirect habitat loss.
4	Humber Estuary SPA	<p><b>Waterbird assemblage – little ringed plover and sanderling</b></p> <p>NE (Q5.0.1 of [REP1-036]) noted that a LSE has been identified for little ringed plover and sanderling, but these species are not considered in the AA.</p>	<p>Paragraph 9.4 of the LSE Report [APP-067] explained there is no LSE to sanderling as they were not recorded during surveys.</p> <p>Paragraph 9.4 of the LSE Report was revised at Deadline 5 [REP5-007] to confirm that a LSE was excluded for little ringed plover as the population of the species is so low as to be insignificant.</p>	<p>NE (Q5.0.2 of [REP4-032]) confirmed it was satisfied no LSE with regard to sanderling. NE did not confirm agreement regarding little ringed plover, however this was agreed in the SoCG for the consented AMEP DCO.</p> <p>The ExB is content a LSE to little ringed plover and sanderling can be excluded on this basis.</p>

## **LSE from the Proposed Changes in combination with other plans or projects**

- 4.5.7. Paragraph 9.14 of the LSE Report [APP-067] stated that the habitat qualifying features for which LSE had been excluded from the project alone would not be affected at all by AMEP; hence an in-combination assessment for them is not necessary.
- 4.5.8. In respect of the bird species for which the Applicant had concluded that there would be no LSE from the project alone, paragraph 9.8 of the LSE Report [APP-067] stated that in-combination effects would not occur for one of the following reasons:
- the species was not reliant on the habitats lost (including coot, heron and gadwall);
  - there were only records of one or two birds; or
  - the species occurrence represented such a small percentage of the Humber Estuary population as to be insignificant.
- 4.5.9. These conclusions were unchanged in the revised versions of the HRA Report [REP1-023][REP3-008][REP5-007].
- 4.5.10. In response to the RIES, NE [REP6-007] confirmed that it was satisfied in-combination effects have been satisfactorily addressed.

## **ExB conclusion on LSEs**

- 4.5.11. The ExB has provided a breakdown of its conclusions regarding LSEs for all qualifying features of the Humber Estuary SAC, SPA and Ramsar in Tables 6 to 8 in Appendix E of this Report. However, to summarise:
- The ExB agrees with the Applicant that the Proposed Changes are likely to have significant effects on the qualifying features detailed in paragraph 4.5.2 and Table 2 above of this Chapter (for habitat and bird qualifying features, respectively) and that these accord with the LSEs identified for the AMEP DCO.
  - Having had regard to the application documents and Examination submissions (including responses to the RIES), the ExB considers there are additional LSEs to those detailed in paragraph 4.5.2 and Table 2 of this Chapter, as detailed below:
    - Habitat loss to avocet of the Humber Estuary SPA. LSEs were not identified in Table 14 of the LSE Report [APP-067] (replicated in Table 2 above), however habitat loss for this species was identified as LSE in the Applicant's screening matrix [AS-004]. The LSE Report confirms that more than 1% of the Humber Estuary population uses the KMFS for both feeding and roosting. The RIAA [APP-068] considered habitat loss to this species. For clarity, the ExB therefore considers there is also a LSE to avocet from habitat loss.
    - Habitat loss and disturbance to red knot of the Humber Estuary SPA and Ramsar. LSEs were not identified in Table 14 of the LSE

Report [APP-067] (replicated in Table 2 above), however the Applicant confirmed [REP6-003] that there should be a LSE.

- Although the LSE Report [APP-067] stated that there is no change between the LSE's reported in the AMEP DCO and the Proposed Changes, the ExB notes that paragraph 5.5.11 and Annex D of the original AMEP DCO sHRA [REP4-017] conclude no LSE to grey seal, whereas a LSE is identified by the Applicant for the Proposed Changes. The Applicant confirmed [REP6-003] that the conclusion of no LSE within the AMEP DCO relied upon the implementation of mitigation measures. The ExB agrees that, further to the CJEU decision *People Over Wind and Sweetman v Coillte Teoranta* (C-323/17), LSE should be screened in on the basis that mitigation is proposed in respect of these potential effects.
- As detailed at ID 2 of Table 3 above of this Chapter, the ExB does not consider that there would be a LSE to estuaries of the Humber Estuary SAC as a result of indirect habitat loss. This potential impact pathway has therefore not been considered in respect of effects on integrity of the site.
- The ExB considers that an assessment of the potential for AEOI of the Humber Estuary SAC, SPA or Ramsar site resulting from the Proposed Changes should be undertaken for the qualifying features and potential impacts identified with a tick under the 'LSE alone or in combination' column in Tables 6 to 8 in Appendix E of this Report.
- The ExB is satisfied with the approach to the assessment of in combination likely significant effects. The ExB agrees with the Applicant's conclusion that, for the qualifying features for which no LSE was identified from the project alone, no in combination effects would occur.

## **4.6. CONSERVATION OBJECTIVES**

4.6.1. The conservation objectives for the Humber Estuary SAC and SPA were provided in Section 7 of the RIAA [APP-068]. These are detailed below.

### **Humber Estuary SAC**

4.6.2. The conservation objectives for the Humber Estuary SAC are to:

*Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;*

- *The extent and distribution of qualifying natural habitats and habitats of qualifying species;*
- *The structure and function (including typical species) of qualifying natural habitats;*
- *The structure and function of the habitats of qualifying species;*
- *The supporting processes on which qualifying natural habitats and habitats of qualifying species rely;*
- *The populations of qualifying species; and,*
- *The distribution of qualifying species within the site.*

## **Humber Estuary SPA**

4.6.3. The conservation objectives for the Humber Estuary SPA are to:

*Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;*

- *The extent and distribution of the habitats of the qualifying features;*
- *The structure and function of the habitats of the qualifying features;*
- *The supporting processes on which the habitats of the qualifying features rely;*
- *The population of each of the qualifying features; and,*
- *The distribution of the qualifying features within the site. Applicant's assessment of integrity.*

## **4.7. FINDINGS IN RELATION AEOI**

4.7.1. The Humber Estuary SAC, SPA and Ramsar sites were further assessed by the Applicant to determine if they could be subject to AEOI from the Proposed Changes, either alone or in combination. The assessment of AEOI was made in light of the conservation objectives for the European sites and on the basis of inclusion of the mitigation measures detailed below.

4.7.2. A summary of the Applicant's assessment of effects and relevant matters discussed during the Examination are detailed further below.

### **Mitigation**

4.7.3. Section 9 of the RIAA [APP-068] stated that the mitigation measures identified as part of the AMEP DCO remain suitable and fit for purpose without any need for modification. Measures are secured through the approval of various plans and method statements as specified in Schedule 8 (Deemed Marine Licence (DML)) and 11 (Requirements) of the AMEP DCO.

4.7.4. Paragraph 8.28 of the RIAA [APP-068] identified the following specific mitigation measures secured within the AMEP DCO that were taken into account in the Applicant's assessment of effects on integrity:

- the provision of replacement foraging and roosting habitat<sup>7</sup> – Schedule 11 Requirement 19 of the AMEP DCO;
- protection from disturbance - Schedule 11 Requirement 42 of the AMEP DCO;
- implementation of a lighting plan – Schedule 11 Requirement 24 of the AMEP DCO; and
- measures for managing piling activities - Schedule 8 (DML) paragraphs 37-43 of the AMEP DCO.

---

<sup>7</sup> Initially proposed at 'Mitigation Area A' but subsequently transferred to Halton Marshes Wet Grassland Mitigation Area further to the non-material change detailed in Chapter 1 of this Report.

- 4.7.5. No new mitigation was proposed for the Proposed Changes within the application version of the RIAA [APP-068]. However, additional measures to mitigate impacts from dredging and disposal were included in the RIAA at Deadline 3 [REP3-008]. See ID1b of Table 5 of this Chapter for further information.
- 4.7.6. In addition, NE requested [RR-007] procedural clarifications in the way mitigation and compensation were addressed in the Applicant's HRA Report submitted with the application. However, in [REP1-036] NE confirmed it was content that this had been addressed in the revised HRA Report [REP1-023].

## **4.8. AEOI from the Proposed Changes Alone**

### **The Applicant's assessment: Humber Estuary SAC and habitat features of the Humber Estuary Ramsar**

- 4.8.1. The Applicant's assessment of effects on the Humber Estuary SAC and habitat features of the Humber Estuary Ramsar is summarised in Table 12 of the RIAA [APP-068]. In summary, the RIAA stated that the same conclusions had been reached as those made for the AMEP DCO.
- 4.8.2. In respect of habitat loss and change, the Proposed Changes would reduce the quay alignment footprint from 45ha for the AMEP DCO to 43.6ha (paragraph 28.1.6 of [APP-099]). The RIAA [APP-068] therefore explained that there would be some changes to the extent of impacts compared to the consented AMEP scheme.
- 4.8.3. The Applicant (Q5.0.14 of [REP1-019]) further explained that "*[direct habitat loss would include] a small reduction in the loss of estuarine sub-tidal and intertidal mudflat, and a commensurate small new loss of colonising saltmarsh (as this community has recently colonised the site naturally)<sup>8</sup>. Regarding indirect functional loss through disturbance, this would affect a reduced area of intertidal mudflat but an increased area of colonising saltmarsh and more established saltmarsh (as a result of colonisation of this area since 2012)*".
- 4.8.4. The habitat losses from the proposed changes compared to the AMEP DCO are detailed in Table 4 below. (Obtained from Table 11 of the RIAA [REP5-007] and UES11-2 [REP-1-027]).

---

<sup>8</sup> Saltmarsh has colonised some of the functional mudflat since the AMEP DCO was consented (following accretion on the foreshore in the lee of Humber International Terminal).

**Table 4: Habitat loss from the Proposed Changes compared with the AMEP DCO**

Habitat type	SAC qualifying feature	Permanent direct loss within the reclamation site		Indirect effects (south of the reclamation site)	
		AMEP DCO	Proposed changes	AMEP DCO	Proposed changes
Sub-tidal habitat	H1130 - Estuaries	13.5ha	10.4ha	n/a	n/a
Intertidal mudflat and mudflat with pioneer saltmarsh	H1140 - Mudflats and sandflats not covered by seawater at low tide; Intertidal mudflats and sandflats  And H1310 - <i>Salicornia</i> and other annuals colonising mud and sand; Glasswort and other annuals colonising mud and sand	31.5ha <sup>9</sup>	31.3ha	11.6ha	7.7ha
Colonising saltmarsh	H1330 - Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> )	0ha	1.9ha	0ha	4.7ha

4.8.5. There would also be an increase in loss of saltmarsh (H1330) at the Cherry Cobb Sands compensation site from the channel across the foreshore from the existing flood defence to Cherry Cobb Sands Creek; from 1.8ha reported in the ES for the AMEP DCO to 2.0ha for the Proposed Changes.

<sup>9</sup> Supports a range of waterfowl

- 4.8.6. As such, paragraph 8.19 and Table 12 of the RIAA [APP-068] concluded that there would be AEOI for the loss of estuarine habitat (H1130), intertidal mudflat/sandflat (H1140 / H1310) and saltmarsh (H1330) from reclamation to construct the quay. The RIAA did not differentiate between direct habitat loss and indirect habitat loss (habitat changes). However, the Applicant's matrices concluded an AEOI for both effects on all of the above habitats (see footnotes a and b of Matrix 5 in [REP4-018]).
- 4.8.7. With regard to disturbance to grey seal, river lamprey and sea lamprey, paragraph 8.20 the RIAA [APP-068] stated that there would be no change to the original conclusion for the AMEP DCO of no AEOI.
- 4.8.8. These conclusions were unchanged in the revised versions of the HRA Reports [REP1-023][REP3-018][REP5-007].

#### **4.9. The Applicant's assessment: Humber Estuary SPA and bird features of the Humber Estuary Ramsar**

- 4.9.1. The Applicant's assessment of effects on the Humber Estuary SPA and bird features of the Humber Estuary Ramsar is summarised in Table 13 of the RIAA [APP-068]. This stated that the same conclusions had been reached for the Proposed Changes as had been reached for the AMEP DCO.
- 4.9.2. Paragraph 8.22 and Table 13 of the RIAA [APP-068] therefore concluded there would be AEOI for the Humber Estuary SPA and Ramsar as follows:
- from (i) direct habitat loss (estuarine and intertidal mudflat) and (ii) indirect functional habitat loss through disturbance (from the combination of noise, lighting and visual impacts) for:
    - avocet;
    - marsh harrier;
    - bar-tailed godwit;
    - black-tailed godwit;
    - dunlin;
    - knot;
    - redshank;
    - shelduck; and
    - six wintering waterbird assemblage species (curlew, lapwing, mallard, ringed plover, shoveler and teal).
  - from displacement of the following waders from high tide NKHP roost sites<sup>10</sup>:

---

<sup>10</sup> Paragraph 8.22 of the RIAA [APP-068] stated that "*It could also not be ruled out that the continued use of NKHP as a roost site by waders from KMFS, particularly black-tailed godwit, could be affected once mudflats at KMFS were lost*". The Applicant's integrity matrices [AS-004] clarified that the qualifying features/Ramsar criterion detailed in this bullet point list would be subject to AEOI.



- black-tailed godwit;
- avocet;
- dunlin;
- bar-tailed godwit;
- redshank;
- SPA waterbird assemblage qualification;
- Ramsar criterion 5 - assemblages of non-breeding waterfowl; and
- Ramsar criterion 6 – dunlin, black-tailed godwit, redshank, bar-tailed godwit.

4.9.3. With regard to the other features and potential impacts for which a LSE was identified, paragraph 8.23 and Table 13 of the RIAA [APP-068] confirmed the conclusion of no AEOI reached within the AMEP DCO remains. Therefore, there would be no AEOI:

- for loss of terrestrial supporting habitat;
- for disturbance within NKHP;
- for lighting effects on NKHP; and
- from piling.

4.9.4. These conclusions were unchanged in the revised versions of the HRA Reports [REP1-023][REP3-018][REP5-007].

## **4.10. Examination**

4.10.1. NE (Q5.0.8 of [REP1-036]) confirmed its agreement with the Applicant's conclusion of no AEOI for the grey seal, sea lamprey and river lamprey of the Humber Estuary SAC.

4.10.2. NE [RR-007] did not dispute the AEOI identified by the Applicant for the Humber Estuary SAC, SPA and Ramsar. However, it was not satisfied that it could be excluded beyond reasonable scientific doubt that there would not be additional AEOI of these sites. It stated that further information was required to assess potential impacts.

4.10.3. The key issues discussed during examination in relation to effects on integrity and relevant documents are detailed in Table 5 below. The ExB's consideration of these matters, having had regard to Examination documents, is set out in the 'ExB conclusion' column. Note that questions seeking minor clarifications have not been detailed in Table.

**Table 5: Issues raised during the Examination by NE, the EA and the ExB in relation to effects on integrity**

ID	Site	Issue	Relevant documents	Matter agreed with IP?
1a	Humber Estuary SAC/ Ramsar	<p><b>Impacts on estuarine and intertidal mudflat habitat</b></p> <p>Schedule 8 of the AMEP DCO provides for up to 1M tonnes of clay dredged material to be deposited at the offshore disposal site HU082 and for 1.1M tonnes to be deposited on land (to be used as fill within the terrestrial areas of the AMEP site). However, paragraphs 4.3.9 to 4.3.11 [APP-075] confirm that ground raising over most of the site has been undertaken pursuant to planning permissions under the Town and Country Planning Act and therefore an alternative disposal site is required. The Proposed Changes therefore seek to permit an additional 1.1M</p>	<p><u>Vessel movements and dredge volumes</u></p> <p>The Applicant updated Appendix 11-2 of the Updated Environmental Statement (UES) [REP1-026] and confirmed [REP1-026] that the total number of dredge vessel movements are provided in Appendix UES14-1 (Navigation Risk Assessment) of the UES [APP-147]. The Applicant stated [REP1-026] that dredging volumes are set out in UES Appendix 4-2, and are very similar to those in the original application. Paragraph 8.8 and Table 12 of the RIAA were updated at Deadline 3 [REP3-008] to conclude no AEoI from capital and maintenance dredging as there would be no material change in vessel movements.</p>	<p>Yes</p> <p>Agreed with NE (paragraphs 3.6-3.8 of [REP-004]).</p>
1b			<p><u>Mitigation</u></p> <p>Alternate and additional measures to mitigate impacts from the changes to dredging and disposal were included in paragraph 8.5.2 of the UES [APP-079]. These were subsequently added to the RIAA at Deadline 3 (paragraphs 8.8-8.12 of the Deadline 3 RIAA [REP3-008]). The Applicant initially stated at Deadline 4 (Q5.0.11 of [REP4-002] that these additional mitigation measures</p>	<p>Yes</p> <p>Agreed with NE (paragraph 3.13 of [REP6-004]).</p>

ID	Site	Issue	Relevant documents	Matter agreed with IP?
		tonnes to be deposited offshore at both HU081 and HU082 (paragraph 8.4.27 of [APP-079]). In addition, a greater volume of maintenance dredge arisings are predicted which would be disposed at HU080 as per the AMEP DCO (Table 4-2 of [APP-075]).	<p>would reduce impacts but are not required to reach a conclusion of no AEoI.</p> <p>The Applicant confirmed in Q4.0.1 of [REP4-002] that the measures amount to supplementary monitoring which would sit within the Marine Environmental Management and Monitoring Plan (MEMMP) secured through Schedule 11 Requirement 19(2) of the AMEP DCO (and cross referenced in the DML Schedule 8 paragraph 15). The MEMMP is to be approved by the MMO following consultation with NE and the EA.</p>	
1c		NE [RR-007] Requested further information on the effects of additional dredging activities (ie vessel movements) and the effects of additional disposal of dredged material to sea.	<p><u>Change to construction sequence</u></p> <p>NE ([REP4-023] and Q.5.0.6 of [REP4-032]) queried whether the additional information on dredging took into account the construction sequence change proposed in [AS-007] and supported by the report entitled '<i>Modelling of sediment plume dispersion from AMEP construction activities</i>' [AS-005].</p> <p>NE advised [REP5-017] that further information was required to conclude the construction sequence change would not have any environmental effects which are new or different from those assessed for the material change application. However, it subsequently confirmed at Deadline 6 [REP6-004] that further to the information provided by the Applicant in document with reference TR030006/SPD (submitted in [AS-017])</p>	Yes Agreed with NE [REP6-004].

ID	Site	Issue	Relevant documents	Matter agreed with IP?
			the conclusion of the HRA submitted at Deadline 5 was justified.	
2		<p><b>Clarification about change in habitat loss from AMEP DCO</b></p> <p>NE [RR-007] sought clarification regarding the impacts of direct loss of estuarine and intertidal mudflat habitat due to the footprint of the development. It stated that an audit trail was required.</p> <p>NE [REP1-036][REP3-014] further stated that the sHRA and UES11-2 should be updated with information on medium and long term changes. NE also sought clarification as to how figures for habitat change have been calculated.</p>	<p>The Applicant updated UES11-2 at Deadline 1 [REP1-027].</p> <p>Paragraph 8.5 of the RIAA was revised at Deadline 3 [REP3-008] to clarify that immediate short-term impacts have been presented and that medium-term and long-term impacts are deemed to be less significant due to natural changes that would occur over time at the foreshore without the scheme (ie mudflat to saltmarsh).</p> <p>The Applicant reiterated this position in Q5.0.9 of [REP4-002].</p>	<p>Yes</p> <p>Agreed with NE (paragraph 3.9 of [REP6-004]).</p>
3	Humber Estuary	<p><b>Noise disturbance to SPA/Ramsar birds</b></p>	<p>The Applicant [REP1-002] referred to Section 16.4.0 of [APP-087] which confirmed no change to the extent of noise disturbance from quay piling.</p>	<p>Yes</p> <p>Agreed with NE (Q5.0.3 and</p>

ID	Site	Issue	Relevant documents	Matter agreed with IP?
	SPA/Ramsar	NE [RR-007][REP1-002][REP3-014] requested further information on impacts from noise disturbance to SPA/Ramsar birds using NKHP during construction and operation, particularly from vessel traffic and port activity, due to the change in the design of the quay.	<p>The Applicant confirmed (Q5.0.15 of [REP1-019]) that <i>"whilst vessels berthed on the inset quay would be closer to NKHP than in the consented scheme, the new berth is merely displacing port activity that is consented in that location."</i></p> <p>Paragraph 2.5 of the LSE Report and paragraphs 8.7 and 8.17 of the RIAA were revised at Deadline 3 [REP3-008] to state that construction and operational noise contours are shown diagrammatically in Appendix 16.8 of the ES for the consented AMEP DCO, and that operational noise at NKHP would be lower than baseline levels.</p>	Q5.0.4 of [REP4-032] and paragraph 3.11 of REP6-004]].
4		<p><b>Lighting impacts</b></p> <p>NE [REP1-002][REP3-014] sought further clarification as to the potential impacts from lighting as a result of the changes to the quay design.</p>	<p>The Applicant confirmed that the higher crane makes no difference to lighting levels on the ground (Q5.0.9 of [REP1-019]).</p> <p>The LSE Report and RIAA were revised at Deadline 3 (paragraphs 2.4 and 8.17 respectively of [REP3-008]) to confirm lighting columns would be repositioned but that light spill would be controlled and that external lighting details are subject to further consultation with NE, pursuant to Schedule 11 Requirement 24 of the AMEP DCO. Positional changes were shown on drawing AME-03942B [REP4-015].</p> <p>Lux levels from the consented AMEP DCO were presented in the original ES Appendix 9, submitted by the Applicant at Deadline 4 [REP4-016]. The Applicant</p>	Yes Agreed with NE (Paragraphs 3.10-3.12 of [REP6-004]).

ID	Site	Issue	Relevant documents	Matter agreed with IP?
			stated at Deadline 4 (Q5.0.5 of [REP4-002]) that lux levels from the amended scheme will not change in any material way from the original scheme.	
5	Humber Estuary SAC	<p><b>Disturbance to grey seals, river lamprey and sea lamprey</b></p> <p>The ExB sought evidence to support conclusion of no AEOI from disturbance. (ExQ1 Q5.0.7 [PD-003] and ExQ2 Q5.0.8 [PD-007]).</p>	<p>The Applicant (Q5.0.7 of [REP1-019]) referred to the following parts of the original sHRA undertaken for the AMEP DCO:</p> <ul style="list-style-type: none"> <li>- River and sea lamprey section 6.5</li> <li>- Grey seal – paragraphs 5.4.25 et seq.</li> </ul> <p>It stated that the Proposed Changes would not result in any significant change in the impacts on these three species during construction or operation, so the previous conclusion of no AEOI remains.</p> <p>The original sHRA was submitted at Deadline 4 [REP4-017].</p>	n/a – matter raised by ExB.

## 4.11. ExB conclusion

- 4.11.1. In reaching the consenting decision for the original AMEP DCO, the SoSDfT assessed the magnitude and extent of effects on the qualifying features of the Humber Estuary SAC, SPA and Ramsar and concluded that there would be a number of adverse effects. Taking into account the Proposed Change application documents and Examination material, the ExB is of the view that the scale, location and nature of the Proposed Changes would not significantly alter the magnitude or extent of effects that have previously been assessed. The ExB therefore agrees with the Applicant's conclusions that the AEOI identified for the AMEP DCO would also apply to the Proposed Change application and that there would be no additional AEOI to those identified for the AMEP DCO.
- 4.11.2. The ExB notes NE's confirmation within its final SoCG [REP6-004] that all matters have been resolved and that no other IPs have disputed the Applicant's conclusions regarding AEOI.
- 4.11.3. Further details of the ExB's consideration of effects is given below:

### Habitats of Humber Estuary SAC/Ramsar

- The ExB is content that compared to the AMEP DCO, there would be no change to the number of vessel movements (see ID 1a of Table 5).
- The ExB is satisfied that the Proposed Changes would result in marginally less land being reclaimed from the Humber Estuary and that there would be a small reduction in estuarine sub-tidal (H1130) and intertidal mudflat (H1140 and H1310) direct and indirect losses compared to the AMEP DCO. There would also be a small new loss of colonising saltmarsh (H1330); this is the result of colonisation since the AMEP DCO was consented. In respect of these qualifying features, the ExB considers that the Proposed Changes would still result in an adverse impact on the extent and distribution of qualifying natural habitats, meaning that the site's Conservation Objective to maintain such habitats would not be met. The ExB therefore concludes that an AEOI remains for direct habitat loss of features H1130, H1140, H1310 and H1330 and indirect habitat loss of features H1140, H1310 and H1330<sup>11</sup>. The ExB is satisfied that the AO application has not identified any changes to the levels of disturbance experienced by grey seals, river lamprey and sea lamprey compared with the AMEP DCO. The ExB concludes that the Proposed Changes would not impede the population or distribution of these qualifying features.

### Bird species of Humber Estuary SPA/Ramsar

- The ExB concludes that the Conservation Objectives for the site would still be contravened as a result of the Proposed Changes, in particular that (i) the extent and distribution of the estuarine and intertidal habitats supporting the qualifying features would not be maintained;

---

<sup>11</sup> As noted in paragraph 4.5.11 of this Chapter, the ExB concluded no LSE to estuaries (H1130) from indirect habitat loss.

and (ii) that the population and distribution of the qualifying features could be impacted upon by disturbance.

- The ExB notes that the Proposed Changes do not change the requirement for the provision of replacement foraging and roosting terrestrial habitat (secured through Schedule 11 Requirement 19 of the AMEP DCO) and is therefore content that there would be no change to the conclusion of no AEOI in respect of terrestrial habitat loss.
- On the basis of the additional assessment information relating to the lighting and disturbance, the ExB is content that, compared to the AMEP DCO, the Proposed Changes would not alter lighting or noise levels and resultant disturbance to SPA/Ramsar bird species. As such, the ExB agrees that, in accordance with the conclusions of the AMEP DCO sHRA, disturbance from piling of the quay or operational lighting would not result in AEOI. (However, the ExB agrees there is a potential for AEOI from lighting, visual and noise disturbance combined, as concluded by the Applicant).

## **Mitigation**

- The majority of the mitigation measures proposed within the RIAA to avoid adverse effects were initially proposed within the AMEP DCO. They were subject to scrutiny within the Examination for that application and deemed suitable and appropriate by the SoSDfT in the making of that Order. The ExB considers the mitigation measures identified in paragraph 8.28 of the RIAA [APP-068] (detailed in paragraph 4.7.4 of this Chapter) to be adequate and appropriately secured.
- The Applicant proposed additional measures to further mitigate dredging impacts but stated that these are not required to reach the conclusion of no AEOI of the Humber Estuary SAC, SPA and Ramsar site; this has not been disputed. Nevertheless, the ExB is content that these measures are adequately secured through the MEMMP in the AMEP DCO.
- On the basis that the Proposed Changes have not resulted in any materially different effects to the AMEP DCO, the ExB sees no reason to either amend the existing mitigation or secure any further additional mitigation.

4.11.4. The ExB has provided a breakdown of its conclusions regarding AEOI for all qualifying features of the Humber Estuary SAC, SPA and Ramsar in Tables 6 to 8 in Appendix E of this Report.

## **4.12. AEOI from the Proposed Changes in-combination with other plans or projects**



4.12.1. The Applicant's approach to the in-combination assessment is described in Section 4.4 of this Chapter. The Applicant's conclusion in Section 8 of the RIAA [APP-068] is that

*"...with mitigation measures implemented...it is likely that cumulative / in-combination impacts across developments will be reduced to minor levels, and that there would be no adverse effect on integrity for these effects for the proposed material change".*

4.12.2. Whilst no concerns were raised by IPs regarding the outcomes of the in-combination assessment, the ExB considered that the assessment presented in the RIAA [REP1-023] was couched in general terms without referring to specific impacts and features; it therefore sought a more detailed in combination assessment to substantiate the Applicant's conclusions (ExQ2 Q13.0.2 of [PD-007]).

4.12.3. In response, the Applicant stated (Q13.0.2 of [REP4-002]) that

*"...in combination effects only occur if there are residual effects of a project because impacts of the project have not been fully mitigated (or compensated) which could then cause a significant impact when taken together with another project that has not fully mitigated its impacts."*

4.12.4. The Applicant further explained that, as with the AMEP DCO, all impacts from the project alone are either fully mitigated or compensated for.

4.12.5. In response to the RIES, NE [REP6-007] confirmed that it was satisfied that in combination effects have been satisfactorily addressed.

### **ExB conclusion**

4.12.6. The ExB has considered the submissions made by the Applicant during the Examination and representations from IPs and is satisfied that all adverse effects from the Proposed Changes alone would be fully mitigated or compensated for, and as such there is no pathway for in combination effects with other plans or projects.

## **4.13. DEROGATIONS**

4.13.1. If the competent authority cannot conclude the absence of an AEoI, such that no reasonable scientific doubt remains, then under the Habitats Regulations the project can proceed only if there are no alternative solutions and there are IROPI why the project must be carried out. Suitable compensation measures must also be secured to ensure the overall coherence of the UK National Site Network. These are collectively known as 'Derogations'.

4.13.2. The Applicant submitted a Derogations Report [APP-069] which provided a review and, where relevant, updates to the information that was submitted for the consented AMEP DCO. In respect of alternatives, this included updates to:

- the zero-option;
- alternative sites;

- alternative scale of development;
- alternative designs; and
- alternative operation of the facility.

4.13.3. In respect of project objectives and IROPI, this included updates to:

- achieving energy targets including those within the Climate Change Act 2008, the Paris Agreement, and the government target of 40GW of offshore wind electricity generation by 2030;
- the need to decarbonise energy production;
- the need for security of UK energy supply;
- the need for large capacity offshore turbines;
- the need to rebalance the UK economy;
- the need for growth in UK manufacturing; and
- the need to regenerate the Humber sub-region.

4.13.4. The HRA Report was revised at D1 [REP1-023] to explain that a compensation scheme was agreed for the AMEP DCO. It concluded that given the magnitude of impacts would be slightly reduced as a result of the Proposed Changes, the agreed scheme is expected to provide the appropriate quantum of compensation. Details of the losses and compensation ratios for the habitat that would be lost were provided in Technical Appendix UES11-2 (submitted in [APP-137] and revised in [REP1-027]).

### **Examination**

4.13.5. No representations were received during the Examination with regard to alternatives and IROPI.

4.13.6. NE [RR-007] [REP1-002][REP4-023] confirmed that compensatory habitat at Cherry Cobb Sands will remain adequate and advised [REP1-002] that it should be created as soon as practically possible and commenced at the latest 7 months prior to construction of the quay.

### **ExB conclusion on derogations**

4.13.7. The case regarding alternative solutions and IROPI for the AMEP project was tested and accepted within the SoSDfT HRA for the AMEP DCO. Similarly, the compensation secured within the AMEP DCO has been subject to scrutiny within the Examination for that application and was deemed suitable and appropriate by the SoSDfT in the making of that Order.

4.13.8. The ExB has considered the Proposed Changes and the stated objectives and is of the opinion that these do not materially alter the proposed objectives that underpinned the original derogation case, except to highlight the increasing need for delivery of new renewable energy infrastructure.

- 4.13.9. Furthermore, the ExB notes that the compensation scheme<sup>12</sup> has not been altered, despite a slight reduction in the extent of effects. The ExB is therefore content that, as stated in the Applicant's Overall Summary of Case [REP6-002], there would be a slightly greater ratio of compensatory habitat being provided to that being lost, when compared to the AMEP DCO.
- 4.13.10. The ExB has concluded that the Proposed Changes would not materially change the outcomes of the original assessment, and most importantly, would not result in additional adverse effects. The ExB therefore considers that the derogations case for the AMEP DCO can be relied upon for the Proposed Changes.

## **4.14. HRA CONCLUSIONS**

- 4.14.1. The ExB's consideration of HRA matters for the Proposed Changes has been discussed above and detailed for each feature of the Humber Estuary SAC, SPA and Ramsar site in the tables in Appendix E of this Report.
- 4.14.2. Overall, the ExB agrees with the Applicant that the Proposed Changes do not alter the conclusions drawn by the SoSDfT's HRA for the consented AMEP DCO. The ExB considers that the Derogations case for the AMEP DCO can be relied upon for the Proposed Changes and therefore concludes that the project can proceed without putting the UK Government in breach of the Habitats Regulations.
- 4.14.3. In drawing this conclusion, the ExB notes that NE has signed a SoCG agreeing with the Applicant's HRA and conclusions [REP5-017].

---

<sup>12</sup> Secured by Requirement 19 of Schedule 11 (Requirements) and paragraph 8 of Schedule 8 (Deemed Marine Licence) of the AMEP DCO.

## **5. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT**

### **INTRODUCTION**

- 5.1.1. During the course of the Examination the Initial Assessment of Principal Issues were developed and resolved, in the context of written submissions and responses to questions, into a set of main issues. These have been considered and assessed in Chapter 3: The Planning Issues.
- 5.1.2. Conformity with the NPSP, the East Marine Plan, the NPPF, the local development plan, local policies, and other relevant provisions is set out within the assessment of each main issue in Chapter 3. There were found to be no conflicts with these policies.

### **5.2. CONFORMITY WITH THE NATIONAL POLICY STATEMENT FOR PORTS**

- 5.2.1. In general, the Proposed Changes meet Government policy for ports set out in section 3.3 of the NPSP, including encouraging sustainable development. By staying within the parameters of the consented scheme, the Proposed Changes also meet many of the objectives set out at NPSP paragraph 3.3.3 including contributing to local employment, preserving marine and terrestrial biodiversity, providing high standards of protection for the natural environment, and adequately maintaining protection of heritage assets.
- 5.2.2. Environmental Impact Assessment aspects identified at NPSP section 4.7, including consideration of the Water Framework Directive (NPSP paragraph 4.6.5) and Alternatives (NPSP paragraph 4.9.1), are dealt with below. Matters concerning the Habitats and Species Regulations Assessment (NPSP paragraph 4.8.1) are also considered below.

### **5.3. CONFORMITY WITH THE EAST MARINE PLAN**

- 5.3.1. The UK vision for the marine environment, as set out the UK Marine Policy Statement<sup>13</sup> is for 'clean, healthy, safe, productive and biologically diverse oceans and seas'. The Proposed Changes meet many of the East Marine Plan's Objectives, on which its policies are based, for achieving this and achieving its own vision for 2034.<sup>14</sup>
- 5.3.2. These include supporting activities that create employment; conserving heritage assets, landscapes and seascapes; and protecting biodiversity. The Proposed Changes would also help enable the objective of realising sustainably the potential of renewable energy, particularly offshore wind farms; and of facilitating action on climate change adaptation and mitigation.

---

<sup>13</sup> UK Marine Policy Statement, March 2011, paragraph 2.1

<sup>14</sup> East Inshore and East Offshore Marine Plans, April 2014, paragraph 50

## **5.4. CONFORMITY WITH THE NPPF, THE DEVELOPMENT PLAN and LOCAL POLICIES.**

- 5.4.1. In addition to the particular NPPF assessments in Chapter 3, the Proposed Changes are consistent with the environmental objective set out at NPPF paragraph 8. Also, as part of the AMEP development's enabling role in the production of renewable energy, the Proposed Changes are consistent with Section 4 of the NPPF, Meeting the challenge of climate change.
- 5.4.2. Policy CS1 (Spatial Strategy for North Lincolnshire) of the North Lincolnshire Core Strategy (2011) points to support for the development of key strategic employment sites at the South Humber Bank. This includes the development of the nationally important South Humber Bank ports, with which the Proposed Changes are consistent. They are also consistent in their enabling role with Policy CS18 (Sustainable Resource Use and Climate Change).
- 5.4.3. Saved Policy IN10 (Wharves) of the North Lincolnshire Local Plan (2003) states that proposals for new or extended port facilities on the River Humber will be permitted provided there is no adverse impact on concerns including sites of nature conservation interest, the landscape of coastal margins, and the flood defence system. The Proposed Changes fall within the parameters of the consented scheme with respect to this Policy, and accord with the development plan as a whole.

## **5.5. THE ENVIRONMENTAL IMPACT ASSESSMENT**

- 5.5.1. Subject to the following points which arose during the Examination, the ExB considers the UES to be adequate:
- At paragraph 3.3.3 of this Report, it is recorded that the EA, in its SoCG with the Applicant [REP5-013] makes the point that Table 13.1 and paragraph 13.2.11 of UES Chapter 13: Flood Risk and Drainage, do not accurately reflect the provisions of the legal agreement completed alongside the DCO. The Applicant agrees that the 'improvement works' must be maintained for 20 years while the elements of the quay that comprise strategic flood defences must be maintained until the quay is removed and replaced with alternative flood defence.
  - At paragraph 3.11.22 of this Report, the issue of updated Appendix UES11-2 [APP-139] is recorded.
- 5.5.2. The UES should be modified accordingly.

### **Alternatives**

- 5.5.3. The EIA Regulations require a description of the main alternatives to any scheme that have been reasonably considered by the Applicant. Paragraph 4.4.2 of UES Chapter 4: Description of Changes to Development and Alternatives [APP-075] observes that the ES contains the principal consideration of alternatives.

- 5.5.4. The UES provides an update on the alternative quay geometries considered in Appendix UES4-4: Quay Alternatives [APP-109]. The analysis found there to be less impact from erosion and sedimentation with the upstream inset berth proposed, than with a downstream berth.
- 5.5.5. As described in paragraph UES 4.4.3, alternatives to rerouting FP50 around the end of the railway track were considered. These took the form of a footbridge, which would be a significant structure and a potential barrier to the ambulant disabled; a level crossing, which has safety implications; and moving the buffers which would almost certainly have been unacceptable to C.RO and C.GEN who have use rights.
- 5.5.6. The ExB agrees with the Applicant's conclusions on the alternatives considered and has no reason to believe that further alternatives should be addressed.

## **5.6. THE WATER FRAMEWORK DIRECTIVE**

The WFDa is considered in Section 3.5 of this report (Water and Sediment Quality). PAH status and the SeDiChem analysis, together with cumulative and in-combination effects, were matters which required clarification, but these were resolved during the Examination.

- 5.6.1. The EA confirmed its agreement with the final version of the WFDa [REP4-020] in the signed SoCG with the Applicant [REP5-013]. The ExB concluded, at paragraph 3.10.15 that the Proposed Changes would not lead to the deterioration of the status of any WFD waterbody, nor would they prevent future status objectives being achieved.

## **5.7. THE HABITATS REGULATIONS ASSESSMENT**

- 5.7.1. Consideration of the HRA submitted with the Application was conducted in Chapter 4 of this Report (Findings and Conclusions in Relation to the HRA).
- 5.7.2. The ExB's conclusions on HRA matters is set out at Section 4.14 of the report. Overall, the ExB agrees with the Applicant that the Proposed Changes do not alter the conclusions drawn by the SoSDfT's HRA for the AMEP DCO. The ExB considers that the Derogations case for the AMEP DCO can be relied upon for the Proposed Changes and therefore takes the view that the project can proceed without placing the Government in breach of the Habitats Regulations.
- 5.7.3. In reaching this conclusion, the ExB notes that NE's signed SoCG [REP5-017] confirms agreement with the Applicant's HRA and conclusions.

## **5.8. THE OVERALL PLANNING BALANCE**

- 5.8.1. The ExB considers that the Proposed Changes are acceptable with respect to each of the main issues analysed in this Report, and that the legal and policy context is satisfied both within the issues and overall. Important and relevant considerations do not alter this conclusion.

5.8.2. The overall planning balance is in favour of the Proposed Changes.

## **5.9. CONCLUSIONS**

5.9.1. As well as their acceptability with respect to the overall planning balance, the ExB considers that the Proposed Changes do not alter the conclusions drawn by the SoSDfT's HRA for the AMEP DCO.

5.9.2. The Applicant submitted a Derogations Report [APP-069] which reviewed and updated the information provided for the AMEP DCO, including alternatives, project objectives, and IROPI. There would be no additional adverse effects and the magnitude of impacts would be slightly reduced because of the Proposed Changes. However, the compensation scheme would remain unchanged, and the overall ecological coherence of the Natura 2000 network would be protected.

5.9.3. The ExB considers that the Proposed Changes do not alter the conclusions drawn by the the SoSDfT's HRA for the AMEP DCO. The Derogations case for the AMEP DCO can be relied upon for the Proposed changes and, in the ExB's opinion, the project can proceed without putting the UK Government in Breach of the Habitats Regulations.

5.9.4. Following the Examination, the ExB is of the opinion that the Proposed Changes are acceptable.

## **6. DRAFT AMENDMENT ORDER**

### **THE AMENDMENT ORDER AS APPLIED FOR**

6.1.1. The DAO submitted with the Application [APP-059] sets out changes to the DCO considered necessary to encompass the altered geometry of the quay and the amended footpath route of the Proposed Changes, as follows:

- Article 2 (Interpretation), in the definition of “the berthing pocket”, the co-ordinates are amended.
- Article 2 (interpretation), a new definition is added, “the inset berth”, together with co-ordinates identifying the boundary of its area.
- Schedule 1 (Authorised Development), ‘and inset berth’ is added to Associated Development (dredging).
- Schedule 10 (Limits of Harbour), the co-ordinates are amended, and a plan substituted.
- Schedule 11 (Requirements), the list of drawings in Requirement 6 is amended.
- Article 55B (Certification of additional plans etc.) is inserted.

6.1.2. These changes are shown overmarked on the DCO at [REP1-012].

6.1.3. In addition, the DAO adds an Explanatory Note, which is not part of the Order.

### **CHANGES DURING EXAMINATION**

6.1.4. An updated version [REP1-017] of the DAO [APP-059] was submitted at D1, taking account of the alternative construction sequence submissions, accepted by the ExB under procedural decision [PD-004]. A further updated version [REP4 -012] was submitted with amendments to the Explanatory Note, clarifying the consequences of the alternative construction sequence submissions. This was in response to ExQ2:Q2.0.1 [REP4-002].

6.1.5. All requests from IPs for clarification regarding the alternative construction sequence were resolved during the Examination. These are reported in Chapter 3 of this Report, at paragraphs 3.8.9, 3.9.4, 3.9.5, 3.11.24, 3.11.27.

6.1.6. There were no outstanding matters arising from ExB questions concerning the DAO.

### **CONCLUSIONS**

6.1.7. The ExB concludes that the DAO is acceptable in its final updated form [REP4-012].



## **7. RECOMMENDATION**

- 7.1.1. The Legal and Policy Context concerning decisions on material changes to DCOs made under Section 47 of the Change Regulations 2011 is summarised in Chapter 2 of this Report.
- 7.1.2. The Proposed Changes satisfy NPSP (the relevant NPS), in respect of each main issue and in general. They also accord with the requirements of the Marine and Coastal Access Act 2009, in particular in respect of the policies of the East Marine Plan; with the NPPF, the local development plan, and other local policies. They are also consistent with the WFD and the AQD. Moreover, the Infrastructure Planning (Decisions) regulations 2010 are met, particularly regarding the protection of listed buildings, and the ExB is content that there are no transboundary effects bearing on the Proposed Changes.
- 7.1.3. The ExB considers that there are no relevant and important considerations, or any other reason, to recommend against the Proposed Changes. The ExB has endeavoured to carry out all responsibilities under the PSED in relation to the Examination process as a whole.
- 7.1.4. The position with regard to the HRA, including alternative solutions, IROPI, and compensatory measures, is set out in Chapters 4 and 5 of this Report. In the ExB's view, the Proposed Changes do not alter the conclusions drawn by the SoSDfT's HRA for the AMEP DCO.
- 7.1.5. Having regard to the acceptability of the Proposed Changes in terms of policy and the overall planning balance, the EIA, the HRA, and all other important and relevant considerations, the ExB recommends that the SoSDfT should make the Order in the form attached.

# APPENDICES

APPENDIX A: THE EXAMINATION .....	II
APPENDIX B: EXAMINATION LIBRARY .....	III
APPENDIX C: LIST OF ABBREVIATIONS .....	IV
APPENDIX D: THE RECOMMENDED AO.....	V
APPENDIX E: TABLES SETTING OUT THE EXB'S HRA CONCLUSIONS FOR THE HUMBER ESTUARY SAC, SPA AND RAMSAR SITE.....	VI

## **APPENDIX A: THE EXAMINATION**

## APPENDIX A: THE EXAMINATION

The table below lists the main events that occurred during the Examination and the procedural decisions taken by the Examining Authority

Date	Examination Event
16 November 2021	Examination Begins
19 November 2021	<p><b>Publication by the ExB</b></p> Publication of the ExB's Written Questions (ExQ1)
23 November 2021	<p><b>Issue by the ExB</b></p> Issue by the ExB of the Examination timetable
14 December 2021	<p><b>Deadline 1</b></p> Deadline for receipt by the ExB of: <ul style="list-style-type: none"> <li>- Responses to ExQ1</li> <li>- Comments on any updates to Application documents submitted by the Applicant before the PM</li> <li>- Comments on Relevant Representations (RR)</li> <li>- Written Representations (WRs)</li> <li>- Summaries of any WRs and RR exceeding 1500 words</li> <li>- Applicant's revised draft Amendment Order (DAO) to be submitted in an editable format with any revisions made to the preceding version shown using track changes (if required)</li> <li>- Revised Protective Provisions</li> <li>- Draft SoCGs</li> <li>- Notification by Statutory Parties of wish to be considered as Interested Parties (IP) by the ExB</li> <li>- Submission by IPs of suggested locations and justifications for an Accompanied Site Inspection (ASI)</li> <li>- Notification of requests to be present at the ASI</li> <li>- Notification of wish to speak at any future Issue Specific Hearings (ISH)</li> <li>- Notification of wish to speak at an Open Floor Hearing (OFH)</li> <li>- Responses to any further information requested by the ExB</li> <li>- Any requests from the ExB for further written information (if required)</li> </ul>

06 January 2022	<p><b>Deadline 2</b></p> <p>Deadline for receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Applicant's draft ASI itinerary</li> <li>- Comments on the documents removed from the website (see Procedural Decision of 2 December 2021 for further details)</li> </ul>
18 January 2022	<p><b>Deadline 3</b></p> <p>Deadline for receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Comments on WRs and responses to comments on RRs</li> <li>- Post Hearing submissions, including written submissions of oral cases</li> <li>- Comments on any amendments made to the DAO by the Applicant at Deadline 1 (if required)</li> <li>- Updated SoCGs</li> <li>- Responses to any further information requested by the ExB</li> <li>- Any requests from the ExB for further information (if required)</li> </ul>
1 February 2022	<p><b>Deadline 4</b></p> <p>Deadline for receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Responses to ExQ2</li> <li>- Applicant's revised DAO to be submitted in an editable format with any revisions to the preceding version shown using tracked changes (if required)</li> <li>- Updated SoCGs</li> <li>- Comments on any additional information/submissions received</li> <li>- Any further written information requested by the ExB</li> </ul>
10 February 2022	<p><b>Date reserved for Accompanied Site Inspection (ASI)</b></p> <p>Date reserved for Accompanied Site Inspection (ASI)</p>
15 February 2022	<p><b>Publication by the ExB of the RIES</b></p> <p>Publication by the ExB of The Report on the Implications for European Sites (RIES)</p>
22 February 2022	<p><b>Dates reserved for ISHs and OFHs (if required)</b></p> <p>22 and 23 February 2022</p>
24 February 2022	<p><b>Alternative date for ASI (if required)</b></p>

1 March 2022	<p><b>Deadline 5</b></p> <p>Deadline for receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Post-Hearing submissions, including written submissions of oral cases (if required)</li> <li>- Final DAO to be submitted by the Applicant in the SI template with the SI validation report</li> <li>- Final Explanatory Memorandum</li> <li>- Final SocGs</li> <li>- Any further written information requested by the ExB</li> <li>- Comments on any additional information or submissions received at Deadline 3</li> </ul>
8 March 2022	<p><b>Deadline 6</b></p> <p>Deadline for the receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Comments on any additional information/submissions received at Deadline 4</li> <li>- Comments on the RIES</li> </ul>
16 March 2022	<p><b>End of Examination</b></p> <p>The ExB is under a duty to complete the Examination of the application by the end of the period of 4 months</p>
16 March 2022	Examination closed

## **APPENDIX B: EXAMINATION LIBRARY**

# **Able Marine Energy Park Material Change 2 Examination Library**

**Updated – 17 May 2022**

This Examination Library relates to the Able Marine Energy Park Material Change 2 application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.



**TR030006 – Able Marine Energy Park Material Change 2****Examination Library - Index**

<b>Category</b>	<b>Reference</b>
<a href="#">Application Documents</a>  As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
<a href="#">Relevant Representations</a>	RR-xxx
<a href="#">Procedural Decisions and Notifications from the Examining Authority</a>  Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
<a href="#">Additional Submissions</a>  Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination including responses to Rule 6 and Rule 8 letters	AS-xxx
<a href="#">Events and Hearings</a>  Includes agendas for hearings and site inspections, audio recordings, responses to notifications and applicant's hearing notices	EV-xxx
<a href="#"><b>Representations – by Deadline</b></a>	
<a href="#">Deadline 1:</a>  Deadline for receipt by the ExB of: - Responses to ExQ1 - Comments on any updates to Application documents submitted by the Applicant before the PM - Comments on Relevant Representations (RR) - Written Representations (WRs) - Summaries of any WRs and RR exceeding 1500 words	REP1-xxx

<ul style="list-style-type: none"> <li>- Applicant’s revised draft Amendment Order (DAO) to be submitted in an editable format with any revisions made to the preceding version shown using track changes (if required)</li> <li>- Revised Protective Provisions</li> <li>- Draft SoCGs</li> <li>- Notification by Statutory Parties of wish to be considered as Interested Parties (IP) by the ExB</li> <li>- Submission by IPs of suggested locations and justifications for an Accompanied Site Inspection (ASI)</li> <li>- Notification of requests to be present at the ASI</li> <li>- Notification of wish to speak at any future Issue Specific Hearings (ISH)</li> <li>- Notification of wish to speak at an Open Floor Hearing (OFH)</li> <li>- Responses to any further information requested by the ExB</li> <li>- Any requests from the ExB for further written information (if required)</li> </ul>	
<p><a href="#">Deadline 2:</a></p> <p>Deadline for receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Applicant’s draft ASI itinerary</li> <li>- Comments on the documents removed from the website (see Procedural Decision of 2 December 2021 for further details)</li> </ul>	REP2-xxx
<p><a href="#">Deadline 3:</a></p> <p>Deadline for receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Comments on WRs and responses to comments on RRs</li> <li>- Post Hearing submissions, including written submissions of oral cases</li> <li>- Comments on any amendments made to the DAO by the Applicant at Deadline 1 (if required)</li> <li>- Updated SoCGs</li> <li>- Responses to any further information requested by the ExB</li> <li>- Any requests from the ExB for further information (if required)</li> </ul>	REP3-xxx
<p><a href="#">Deadline 4:</a></p> <p>Deadline for receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Responses to ExQ2</li> <li>- Applicant’s revised DAO to be submitted in an editable format with any revisions to the preceding version shown using tracked changes (if required)</li> <li>- Updated SoCGs</li> <li>- Comments on any additional information/submissions received</li> <li>- Any further written information requested by the ExB</li> </ul>	REP4-xxx

<p><a href="#">Deadline 5:</a></p> <p>Deadline for receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Post-Hearing submissions, including written submissions of oral cases (if required)</li> <li>- Final DAO to be submitted by the Applicant in the SI template with the SI validation report</li> <li>- Final Explanatory Memorandum</li> <li>- Final SocGs</li> <li>- Any further written information requested by the ExB</li> </ul>	<p>REP5-xxx</p>
<p><a href="#">Deadline 6:</a></p> <p>Deadline for the receipt by the ExB of:</p> <ul style="list-style-type: none"> <li>- Comments on any additional information/submissions received at Deadline 4</li> <li>- Comments on the RIES</li> </ul>	<p>REP6-xxx</p>
<p><a href="#">Other Documents</a></p> <p>Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents</p>	<p>OD-xxx</p>

**TR030006 – Able Marine Energy Park Material Change 2****Examination Library****Application Documents**

APP-001	<a href="#">Able Humber Ports Ltd</a> Application Letter
APP-002	<a href="#">Able Humber Ports Ltd</a> Acceptance Application Index
APP-003	<a href="#">Able Humber Ports Ltd</a> Context Document
APP-004	<a href="#">Able Humber Ports Ltd</a> Core Development Areas (Revision C)
APP-005	<a href="#">Able Humber Ports Ltd</a> Key Development Statistics (Sheet 1 of 2) (Revision C)
APP-006	<a href="#">Able Humber Ports Ltd</a> Existing Ground Levels - AMEP South Bank (Revision A)
APP-007	<b>Removed following procedural decision by the ExB</b> Indicative Masterplan (Revision G)
APP-008	<b>Not in use</b>
APP-009	<a href="#">Able Humber Ports Ltd</a> Indicative Masterplan - Mitigation Area A Omitted (Revision B)
APP-010	<b>Removed following procedural decision by the ExB</b> Indicative Landscape Masterplan (Revision E)
APP-011	<b>Not in use</b>
APP-012	<a href="#">Able Humber Ports Ltd</a> Indicative Landscape Masterplan - Mitigation Area A Omitted (Revision B)
APP-013	<b>Removed following procedural decision by the ExB</b> Building Key Plan (Revision D)
APP-014	<a href="#">Able Humber Ports Ltd</a> Building Key Plan - Mitigation Area A Omitted (Revision A)
APP-015	<b>Removed following procedural decision by the ExB</b> Maximum Building Dimensions (Revision A)
APP-016	<b>Not in use</b>
APP-017	<a href="#">Able Humber Ports Ltd</a> Footpath No. 50 Diversion Indicative Sections (Revision C)
APP-018	<b>Removed following procedural decision by the ExB</b> Footpath No. 50 Diversion Section Locations (Revision D)
APP-019	<a href="#">Able Humber Ports Ltd</a> Footpath No.50 Diversion Section Locations - Mitigation Area A Omitted (Revision B)
APP-020	<b>Removed following procedural decision by the ExB</b> Lighting Column Details 30m & 50m (Revision A)
APP-021	<b>Removed following procedural decision by the ExB</b> Surface Water Pumping Station Indicative Layout (Revision A)
APP-022	<b>Removed following procedural decision by the ExB</b> Surface Water Pumping Station Indicative Elevation (Revision A)

APP-023	<b>Removed following procedural decision by the ExB</b> Cherry Cobb Sands Compensation Site General Arrangement (Revision A)
APP-024	<b>Removed following procedural decision by the ExB</b> Cherry Cobb Sands Compensation Site Detail and Section (Revision A)
APP-025	<b>Not in use</b>
APP-026	<a href="#">Able Humber Ports Ltd</a> Quay General Arrangement (Revision C)
APP-027	<b>Not in use</b>
APP-028	<a href="#">Able Humber Ports Ltd</a> Quay Sections (Sheet 1 of 2) (Revision B)
APP-029	<b>Not in use</b>
APP-030	<a href="#">Able Humber Ports Ltd</a> Quay Sections (Sheet 2 of 2) (Revision C)
APP-031	<b>Not in use</b>
APP-032	<a href="#">Able Humber Ports Ltd</a> Indicative Piling Layout (Showing Anchor Piles) (Revision B)
APP-033	<b>Not in use</b>
APP-034	<a href="#">Able Humber Ports Ltd</a> Typical Front Wall Elevation (Revision B)
APP-035	<b>Not in use</b>
APP-036	<a href="#">Able Humber Ports Ltd</a> Indicative Elevation Northern Return Wall (Revision B)
APP-037	<b>Not in use</b>
APP-038	<a href="#">Able Humber Ports Ltd</a> Indicative Elevation Southern Return Wall (Revision B)
APP-039	<b>Not in use</b>
APP-040	<a href="#">Able Humber Ports Ltd</a> Indicative Concrete Decking General Arrangement (Revision C)
APP-041	<b>Not in use</b>
APP-042	<b>Not in use</b>
APP-043	<b>Not in use</b>
APP-044	<a href="#">Able Humber Ports Ltd</a> Indicative Sequence Plan View 1 of 3 (Revision C)
APP-045	<a href="#">Able Humber Ports Ltd</a> Indicative Sequence Plan View 2 of 3 (Revision C)
APP-046	<a href="#">Able Humber Ports Ltd</a> Indicative Sequence Plan View 3 of 3 (Revision C)
APP-047	<b>Not in use</b>
APP-048	<b>Not in use</b>
APP-049	<a href="#">Able Humber Ports Ltd</a> Indicative Sequence Cross Section (1 of 2) (Revision C)
APP-050	<a href="#">Able Humber Ports Ltd</a> Indicative Sequence Cross Section (2 of 2) (Revision C)
APP-051	<b>Removed following procedural decision by the ExB</b> Rights of Way - Key Plan (Revision 1)
APP-052	<b>Removed following procedural decision by the ExB</b> Rights of Way Plan (Sheet 5 of 12) (Revision 1)
APP-053	<a href="#">Able Humber Ports Ltd</a> Updated Rights of Way Plan (Revision 1)

APP-054	<a href="#">Able Humber Ports Ltd</a> Updated Works Plans (Revision 1)
APP-055	<b>Removed following procedural decision by the ExB</b> Works Plan (Sheet 8) (Revision 5)
APP-056	<b>Removed following procedural decision by the ExB</b> Works Plan (Sheet 9) (Revision 5)
APP-057	<a href="#">Able Humber Ports Ltd</a> Updated Ecology Plans (Revision 1)
APP-058	<a href="#">Able Humber Ports Ltd</a> Site Location Plan (Revision 1)
APP-059	<a href="#">Able Humber Ports Ltd</a> Draft Amendment Order
APP-060	<a href="#">Able Humber Ports Ltd</a> Explanatory Memorandum
APP-061	<a href="#">Able Humber Ports Ltd</a> Consultation Report
APP-062	<b>Removed following procedural decision by the ExB</b> Preliminary Environmental Information Report - Volume 1: Main Report
APP-063	<b>Removed following procedural decision by the ExB</b> Preliminary Environmental Information Report - Volume 2: Technical Appendices
APP-064	<b>Removed following procedural decision by the ExB</b> Preliminary Environmental Information Report - Volume 3: Non-Technical Summary
APP-065	<b>Removed following procedural decision by the ExB</b> Preliminary Environmental Information - Habitats Regulations Assessment Report - Part 1: Likely Significant Effect (LSE) Test
APP-066	<b>Removed following procedural decision by the ExB</b> Preliminary Environmental Information - Habitats Regulations Assessment Report - Part 2: Information to Inform an Appropriate Assessment
APP-067	<a href="#">Able Humber Ports Ltd</a> Habitats Regulations Assessment (Part 1)
APP-068	<a href="#">Able Humber Ports Ltd</a> Habitats Regulations Assessment (Part 2)
APP-069	<a href="#">Able Humber Ports Ltd</a> Habitats Regulations Assessment (Part 3 & 4)
APP-070	<a href="#">Able Humber Ports Ltd</a> Water Framework Directive Assessment
APP-071	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Volume 1: Main Report
APP-072	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 1: Introduction
APP-073	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 2: Environmental Assessment Process
APP-074	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 3: Changes to Planning Policy and Legislation

APP-075	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 4: Descriptions of Changes to Development & Alternatives
APP-076	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 5: Scoping and Consultation
APP-077	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 6: Description of Committed Developments
APP-078	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 7: Geology, Hydrogeology and Ground Conditions
APP-079	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 8: Hydrodynamics and Sediment Regime
APP-080	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 9: Water and Sediment Quality
APP-081	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 10: Aquatic Ecology
APP-082	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 11: Terrestrial Ecology and Nature Conservation
APP-083	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 12: Commercial and Recreational Fisheries
APP-084	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 13: Flood Risk and Drainage
APP-085	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 14: Commercial and Recreational Navigation
APP-086	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 15: Traffic & Transport
APP-087	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 16: Noise and Vibration
APP-088	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 17: Air Quality
APP-089	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - : Marine Archaeology
APP-090	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 19: Light
APP-091	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 20: Landscape and Visual
APP-092	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 21: Socio-Economic
APP-093	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 22: Aviation

APP-094	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 23: Waste (Terrestrial)
APP-095	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 24: Health
APP-096	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 25: Other Environmental Issues
APP-097	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 26: Assessment of Cumulative and In-Combination Effects
APP-098	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 27: Summary of Mitigation and Monitoring
APP-099	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 28: Conclusion
APP-100	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Chapter 29: Acronyms and Abbreviations
APP-101	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES1-1: DCO with Drawings
APP-102	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES1-2: Marine License Variation 2
APP-103	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES1-3: DCO Amendment Order 2021
APP-104	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES1-4: AMEP Planning Consents 2012 Onwards - Drawing
APP-105	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES3-1: East Onshore and East Offshore Marine Plan Compliance Table
APP-106	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES4-1: Scheme Change Drawings
APP-107	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES4-2: Dredging Strategy
APP-108	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES4-3: Works Plan No. 7
APP-109	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES4-4: Quay Alternatives
APP-110	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES5-1: Scoping Request



APP-111	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES5-2: Scoping Opinion
APP-112	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES5-3: Newspaper Advert
APP-113	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES5-4: Correspondence on Consultee List
APP-114	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES6-1: In-Combination Projects
APP-115	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES8-1: Sediment Plume Dispersion from Dredging
APP-116	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES8-2: Inerodible Clay
APP-117	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES9-1: EA Correspondence on Centrica
APP-118	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES9-2: Active Monitoring Scheme
APP-119	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES9-3: AMEP Limits of Acceptable Change
APP-120	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES9-4: Estuary Sediment Quality Data
APP-121	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES9-5: Thermal Plume Modelling
APP-122	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-1 - North Killingholme Marshes Saltmarsh Survey 2020
APP-123	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-1B - North Killingholme Marshes Saltmarsh Survey 2020
APP-124	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-1C - North Killingholme Marshes Saltmarsh Survey 2020
APP-125	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-2 - AMEP Disposal Sites - Subtidal Benthic Survey 2015
APP-126	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-3 - Marine Surveys at North Killingholme and Cherry Cobb Sands (Autumn 2015)

APP-127	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-4 - Marine Surveys at North Killingholme and Cherry Cobb Sands (Spring 2016)
APP-128	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-5A - Marine Surveys at North Killingholme and Cherry Cobb Sands (Spring 2013)
APP-129	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-5B - Marine Surveys at North Killingholme and Cherry Cobb Sands (Spring 2013)
APP-130	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-6A - Marine Surveys at North Killingholme and Cherry Cobb Sands (Autumn 2013)
APP-131	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-6B - Marine Surveys at North Killingholme and Cherry Cobb Sands (Autumn 2013)
APP-132	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-7 - European EEL Status Assessment at Killingholme Marshes and Halton Marshes
APP-133	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-8 - Marine Management Organisation Letter to David Sargent dated 18-05-2018 RE Changes to Pile Diameter and Existing Mitigation Suitability
APP-134	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-9 - Action Levels Result Analysis
APP-135	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES10-10 - Sediment Contaminant Context Information
APP-136	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES11-1: Preliminary Ecological Appraisal 2021
APP-137	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES11-2: Change in Habitat Losses within the Designated Site
APP-138	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES11-3: Analysis of ABP Ornithological Monitoring Data for the Killingholme Marshes Foreshore, 2018-19 and 2019-20
APP-139	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES11-4: Responses to NE Comments on PEIR and Draft HRA
APP-140	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES13-1: Updated Humber Extreme Water Levels

APP-141	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES13-2: 2013 EA/Able Legal Agreement
APP-142	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES13-3: Discharge Notices for Schedule 11 Requirement 13
APP-143	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES13-4: Overtopping Calculations
APP-144	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES14-1: Navigation Risk Assessment
APP-145	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES16-1: Plan on Proximity of Piling to North Killingholme Pits SSSI (Drawing No. AME-0102-00123)
APP-146	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES18-1: Written Scheme of Investigation
APP-147	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES18-2: Site Location and Marine Heritage Receptors
APP-148	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES18-3: AMEP Geoarchaeology Report (76490)
APP-149	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES18-4: AMEP Geoarchaeology Report (7491.01)
APP-150	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES21-1: Consultation Correspondence
APP-151	<a href="#">Able Humber Ports Ltd</a> Updated Environmental Statement - Appendix UES22-1: Humberside Airport EGNJ AD 2.10 Aerodrome Obstacles
APP-152	<a href="#">Able Humber Ports Ltd</a> Environmental Statement Non-Technical Summary
APP-153	<a href="#">Able Humber Ports Ltd</a> Environmental Statement Appendices
APP-154	<a href="#">Able Humber Ports Ltd</a> Statement of Compliance with Regulations 10-15
APP-155	<a href="#">Able Humber Ports Ltd</a> Statement under Regulation 16(2)(i)
APP-156	<a href="#">Able Humber Ports Ltd</a> Updated Regulation 6 Statement

<b>Relevant Representations</b>	
RR-001	<a href="#">North Lincolnshire Council</a>
RR-002	<a href="#">South Killingholme Parish Council on behalf of South Killingholme Parish Council</a>
RR-003	<a href="#">The Coal Authority</a>
RR-004	<a href="#">Environment Agency</a>
RR-005	<a href="#">Marine Management Organisation (MMO) (Marine Management Organisation (MMO))</a>
RR-006	<a href="#">Maritime and Coastguard Agency</a>
RR-007	<a href="#">Natural England</a>
RR-008	<a href="#">Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited</a>
RR-009	<a href="#">North East Lindsey Drainage Board</a>
RR-010	<a href="#">Northern Gas Networks</a>
RR-011	<a href="#">Public Health England</a>
RR-012	<a href="#">Corporation of Trinity House of Deptford Strond</a>
RR-013	<a href="#">C.GEN Killingholme Limited</a>
RR-014	<a href="#">C.RO Ports Killingholme Limited</a>
<b>Procedural Decisions and Notifications from the Examining Authority</b>	
PD-001	<a href="#">Appointment of the Examining Body</a> Notice of appointment of the Examining Body
PD-002	<a href="#">Regulation 27 and 28 Letter - Notification of the Preliminary Meeting and matters to be discussed</a>
PD-003	<a href="#">Examining Body's Written Questions (ExQ1)</a>
PD-004	<a href="#">Notification of Procedural Decisions, Examination Timetable and procedure</a>
PD-005	<a href="#">Notification of Procedural Decision, and amendment to Examination Timetable</a>
PD-006	<a href="#">Notification of Procedural Decisions, Examination Timetable and Procedure</a>
PD-007	<a href="#">Examining Body's Further Written Questions (ExQ2)</a>
PD-008	<a href="#">Notification of Procedural Decisions, Examination Timetable and procedure</a>
PD-009	<a href="#">Report on the Implications for European Sites (RIES)</a> Issued by the Examining Body - 15 February 2022
PD-010	<a href="#">Examining Body's Further Written Questions (ExQ3)</a>
PD-011	<a href="#">Request for Further Information</a>
PD-012	<a href="#">Notification of completion of the Examining Body's Examination</a>
<b>Additional Submissions</b>	
AS-001	<a href="#">Able Humber Ports Ltd</a> Additional Submission – Regulation 19 notice issued 15 July 2021
AS-002	<a href="#">Able Humber Ports Ltd</a> Additional Submission - Cover Letter with Preliminary Meeting actions - Accepted at the discretion of the Examining Body
AS-003	<a href="#">Able Humber Ports Ltd</a> Additional Submission - Construction Change DCO Amendments - Accepted at the discretion of the Examining Body

AS-004	<a href="#">Able Humber Ports Ltd</a> Additional Submission - Report on the Implications for European Sites (RIES) Screening Matrices - Accepted at the discretion of the Examining Body
AS-005	<a href="#">Able Humber Ports Ltd</a> Additional Submission - Modelling of sediment plume dispersion from AMEP Construction activities - Accepted at the discretion of the Examining Body
AS-006	<a href="#">Associated British Ports</a> Additional Submission - Accepted at the discretion of the Examining Body
AS-007	<a href="#">Able Humber Ports Ltd</a> Additional Submission - Alternative Construction Plans - Accepted at the discretion of the Examining Body
AS-008	<a href="#">Marine Management Organisation</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-009	<a href="#">Marine Management Organisation</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-010	<a href="#">Marine Management Organisation</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-011	<a href="#">Marine Management Organisation</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-012	<a href="#">Marine Management Organisation</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-013	<a href="#">Marine Management Organisation</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-014	<a href="#">Marine Management Organisation</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-015	<a href="#">Able Humber Ports Ltd</a> Additional Submission - Applicant's Proposed Accompanied Site Inspection (ASI) Route - Accepted at the discretion of the Examining Body
AS-016	<a href="#">Able Humber Ports Ltd</a> Additional Submission - Figure 20.3a Zone of Theoretical Visibility and Viewpoint Locations (Responses to ExQ1: 9.0.7 - 9.0.9) - Accepted at the discretion of the Examining Body
AS-017	<a href="#">Able Humber Ports Ltd</a> Additional Submission - Applicant's Response to request for further information of 14 March 2022 - Accepted at the discretion of the Examining Body

**Events and Hearings****Preliminary Meeting – 16 November 2021**

EV1-001	<a href="#">Recording of Preliminary Meeting - 16 November 2021</a>
EV1-002	<a href="#">Preliminary Meeting Note</a>
EV1-003	<a href="#">Preliminary Meeting - Transcript - 16 November 2021</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

**Unaccompanied Site Inspection**

EV2-001	<a href="#">Note of Unaccompanied Site Inspection</a>
---------	---

## Representations

### Deadline 1 – 14 December 2021

Deadline for receipt by the ExB of:

- Responses to ExQ1
- Comments on any updates to Application documents submitted by the Applicant before the PM
- Comments on Relevant Representations (RR)
- Written Representations (WRs)
- Summaries of any WRs and RR exceeding 1500 words
- Applicant's revised draft Amendment Order (DAO) to be submitted in an editable format with any revisions made to the preceding version shown using track changes (if required)
- Revised Protective Provisions
- Draft SoCGs
- Notification by Statutory Parties of wish to be considered as Interested Parties (IP) by the ExB
- Submission by IPs of suggested locations and justifications for an Accompanied Site Inspection (ASI)
- Notification of requests to be present at the ASI
- Notification of wish to speak at any future Issue Specific Hearings (ISH)
- Notification of wish to speak at an Open Floor Hearing (OFH)
- Responses to any further information requested by the ExB
- Any requests from the ExB for further written information (if required)

REP1-001	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Cover Letter
REP1-002	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Statement of Common Ground with Natural England
REP1-003	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Statement of Common Ground with Associated British Ports
REP1-004	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Updated Water Framework Directive Assessment
REP1-005	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Additional Technical Note - Planning Policy
REP1-006	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Responses to Questions 9.0.1 - 9.0.6
REP1-007	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Statement of Common Ground with C.RO Ports Killingholme Limited
REP1-008	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Statement of Common Ground with Marine Management Organisation

REP1-009	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Plan AME-008-00088A - Showing Current Land Use
REP1-010	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Updated Marine Written Scheme of Investigation
REP1-011	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Deemed Marine Licence Variation 4 Application
REP1-012	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - DCO Marked with the changes Arising form the DAO
REP1-013	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Statement of Common Ground with C.GEN Killingholme Limited
REP1-014	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Updated Draft Amendment Order (Tracked)
REP1-015	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Responses to Questions 9.0.7 - 9.0.9
REP1-016	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Monitoring Plan Approved by Marine Management Organisation
REP1-017	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Updated Draft Amendment Order (Clean)
REP1-018	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Statement of Common Ground with North East Lindsey Drainage Board
REP1-019	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Responses to the Examining Body's First Written Question (ExQ1)
REP1-020	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Plan AME-036-30006 - Showing Location of Habitat Types
REP1-021	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - SediChem Assessment
REP1-022	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Statement of Common Ground with North Lincolnshire Council
REP1-023	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Revised Habitats Regulations Assessment Report
REP1-024	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Statement of Common Ground with Environment Agency
REP1-025	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Dredge Disposal Benthic Invertebrate Scheme
REP1-026	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Comments on Relevant Representations



REP1-027	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Updated Version of Updated Environmental Statement - Appendix 11-2
REP1-028	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of C.GEN Killingholme Limited</a> Deadline 1 Submission - Responses to the Examining Body's First Written Question (ExQ1)
REP1-029	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of C.GEN Killingholme Limited</a> Deadline 1 Submission - Written Representations (WRs)
REP1-030	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of C.RO Ports Killingholme Limited</a> Deadline 1 Submission - Written Representations (WRs)
REP1-031	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of C.RO Ports Killingholme Limited</a> Deadline 1 Submission - Responses to the Examining Body's First Written Question (ExQ1)
REP1-032	<a href="#">Environment Agency</a> Deadline 1 Submission - Written Representations (WRs)
REP1-033	<a href="#">Environment Agency</a> Deadline 1 Submission - Responses to the Examining Body's First Written Question (ExQ1)
REP1-034	<a href="#">Health and Safety Executive</a> Deadline 1 Submission - Comments on the Proposed Development
REP1-035	<a href="#">Marine Management Organisation</a> Deadline 1 Submission - Comments on Relevant Representations, Written Representation, responses to the Examining Body's First Written Questions (ExQ1), notification of wish to make oral representations at the Issue Specific Hearings and notification of wish to be considered as an Interested Party
REP1-036	<a href="#">Natural England</a> Deadline 1 Submission - Responses to the Examining Body's First Written Questions (ExQ1)
REP1-037	<a href="#">North Lincolnshire Council</a> Deadline 1 Submission - Responses to the Examining Body's First Written Question (ExQ1)
REP1-038	<a href="#">North Lincolnshire Council</a> Deadline 1 Submission - Draft Statement of Common Ground
REP1-039	<a href="#">Historic England</a> Deadline 1 Submission - Late submission accepted at the discretion of the Examining Authority
REP1-040	<a href="#">Ministry of Defence</a> Deadline 1 Submission - Late submission accepted at the discretion of the Examining Authority
REP1-041	<a href="#">Able Humber Ports Ltd</a> Deadline 1 Submission - Updated Water Framework Directive Assessment (Tracked changes) - Late submission accepted at the discretion of the Examining Body

**Deadline 2 – 06 January 2022**

Deadline for receipt by the ExB of:

- Applicant’s draft ASI itinerary
- Comments on the documents removed from the website (see Procedural Decision of 2 December 2021 for further details)

REP2-001	<a href="#">Able Humber Ports Ltd</a> Deadline Submission - Draft Itinerary for the Accompanied Site Inspection
----------	--

REP2-002	<a href="#">Clyde &amp; Co LLP on behalf of Associated British Ports (ABP)</a> Deadline 2 Submission
----------	---

REP2-003	<a href="#">Environment Agency</a> Deadline 2 Submission - Comments regarding proposed construction sequence change
----------	--

REP2-004	<a href="#">Marine Management Organisation</a> Deadline 2 Submission
----------	---

**Deadline 3 – 18 January 2022**

Deadline for receipt by the ExB of:

- Comments on WRs and responses to comments on RRs
- Post Hearing submissions, including written submissions of oral cases
- Comments on any amendments made to the DAO by the Applicant at Deadline 1 (if required)
- Updated SoCGs
- Responses to any further information requested by the ExB
- Any requests from the ExB for further information (if required)

REP3-001	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Cover Letter
----------	---

REP3-002	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Applicant’s responses to Written Representations
----------	---

REP3-003	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Updated East Marine Plan Compliance Table
----------	--

REP3-004	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Report of Navigation Simulations Exercises Undertaken at South Tyneside Marine College on 6 January 2022
----------	---

REP3-005	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Water Framework Directive report comparison document
----------	---

REP3-006	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Habitats Regulations Assessment report comparison document
----------	---

REP3-007	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Updated Planning Policy Technical Note
----------	---

REP3-008	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Updated Habitats Regulations Assessment Report (January 2022)
REP3-009	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Updated Habitats Regulations Assessment Report (January 2022) (Tracked)
REP3-010	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Statement of Common Ground with Associated British Ports Humber Estuary Services
REP3-011	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Statement of Common Ground with C.Gen Killingholme Limited
REP3-012	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Statement of Common Ground with C.Ro Ports Killingholme Limited
REP3-013	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Statement of Common Ground with Marine Management Organisation
REP3-014	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Statement of Common Ground with Natural England
REP3-015	<a href="#">Able Humber Ports Ltd</a> Deadline 3 Submission - Statement of Common Ground with North Lincolnshire Council
REP3-016	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of C.GEN Killingholme Limited</a> Deadline 3 Submission - Comments on Deadline 1 Submissions
REP3-017	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of C.RO Ports Killingholme Limited</a> Deadline 3 Submission - Comments on Deadline 1 Submissions
REP3-018	<a href="#">Environment Agency</a> Deadline 3 Submission - Comments on the Proposed Change
REP3-019	<a href="#">Marine Management Organisation</a> Deadline 3 Submission - Comments on Relevant Representations, comments on amendments made to the DAO by the Applicant at Deadline 1 and comments on the proposed change to the construction sequence
<b>Late Submission</b>	
REP3-020	<a href="#">Humberside Fire &amp; Rescue Service</a> Deadline 3 Submission - Late Submission - Comments on the Proposed Change - Accepted at the discretion of the Examining Body

## Deadline 4 – 01 February 2022

Deadline for receipt by the ExB of:

- Responses to ExQ2
- Applicant's revised DAO to be submitted in an editable format with any revisions to the preceding version shown using tracked changes (if required)
- Updated SoCGs
- Comments on any additional information/submissions received
- Any further written information requested by the ExB

REP4-001	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Cover Letter
REP4-002	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Applicant's Responses to ExB's Second Round of Written Questions
REP4-003	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Applicant's Responses to Questions 9.0.1 and 9.0.5
REP4-004	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Examples of Aviation Warning Lights (Referenced in response to Question 9.0.2)
REP4-005	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Figure 7 Rev A and Figure 8b Rev A (Referenced in response to Question 9.0.8)
REP4-006	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Written Scheme of Investigation with Figures (Referenced in response to Question 11.0.2)
REP4-007	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Supporting Documents Relating to Cumulative Assessment (Referenced in response to Question 13.0.1)
REP4-008	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Updated DCO Validation Report
REP4-009	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Applicant's Response to the Marine Management Organisation's Deadline 3 Submission (REP3-019)
REP4-010	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - A3 Drawing of AME-036-10009 Rev C (Referenced in response to Question 1.0.1)
REP4-011	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - A3 Drawing of AME-036-11010 Rev C (Referenced in response to Question 1.0.1)
REP4-012	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Updated Draft Amendment Order (Clean)
REP4-013	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Updated Draft Amendment Order (Tracked)
REP4-014	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Updated Explanatory Memorandum

REP4-015	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Drawing AME-03942B (Referenced in response to Question 5.0.5)
REP4-016	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Original Environmental Statement Appendix 19.1 (Referenced in response to Question 5.0.5)
REP4-017	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Original Habitats Regulations Assessment (Referenced in response to Question 5.0.8)
REP4-018	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Revised Screening Matrix (Clean) (Referenced in response to Questions 5.0.13 and 5.0.15)
REP4-019	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Revised Screening Matrix (Tracked) (Referenced in response to Questions 5.0.13 and 5.0.15)
REP4-020	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Updated Framework Directive Assessment (Referenced in response to Question 6.0.3)
REP4-021	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Statement of Common Ground with Environment Agency
REP4-022	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Statement of Common Ground with Marine Management Organisation
REP4-023	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Statement of Common Ground with Natural England
REP4-024	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Statement of Common Ground with North Lincolnshire Council
REP4-025	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Amendment Order (Clean)
REP4-026	<a href="#">Able Humber Ports Ltd</a> Deadline 4 Submission - Amendment Order (Tracked)
REP4-027	<a href="#">North Lincolnshire Council</a> Deadline 4 Submission - Responses to the Examining Body's Second Written Questions
REP4-028	<a href="#">Environment Agency</a> Deadline 4 Submission - Responses to the Examining Body's Second Written Questions
REP4-029	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of C.GEN Killingholme Limited</a> Deadline 4 Submission - Responses to the Examining Body's Second Written Questions
REP4-030	<a href="#">Bryan Cave Leighton Paisner LLP on behalf of C.RO Ports Killingholme Limited</a> Deadline 4 Submission - Responses to the Examining Body's Second Written Questions
REP4-031	<a href="#">Marine Management Organisation</a> Deadline 4 Submission - Responses to the Examining Body's Second Written Questions

REP4-032	<a href="#">Natural England</a> Deadline 4 Submission - Responses to the Examining Body's Second Written Questions
<b>Deadline 5 – 01 March 2022</b>	
Deadline for receipt by the ExB of:	
<ul style="list-style-type: none"> <li>• Post-Hearing submissions, including written submissions of oral cases (if required)</li> <li>• Final DAO to be submitted by the Applicant in the SI template with the SI validation report</li> <li>• Final Explanatory Memorandum</li> <li>• Final SocGs</li> <li>• Any further written information requested by the ExB</li> </ul>	
REP5-001	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Cover Letter
REP5-002	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Applicant's Responses to ExB's Third Round of Written Questions
REP5-003	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Applicant's Response to EQ3 Q1.0.2
REP5-004	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Applicant's Response to Ex. Q1.0.3 - Drawing illustrating Existing Light Column Heights (Qu.1.0.3)
REP5-005	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Details of the Discharged Requirements of the Existing DCO (Referenced in response to question 1.0.5)
REP5-006	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Updated East Marine Plan Compliance Table (Qu.1.0.9)
REP5-007	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Updated Habitat Regulations Assessment (Clean)
REP5-008	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Updated Habitat Regulations Assessment (Tracked)
REP5-009	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with C.GEN Killingholme Limited (Clean)
REP5-010	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with C.GEN Killingholme Limited (Tracked)
REP5-011	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with C.RO Ports Killingholme Limited (Clean)
REP5-012	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with C.RO Ports Killingholme Limited (Tracked)

REP5-013	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with Environment Agency (Clean)
REP5-014	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with Environment Agency (Tracked)
REP5-015	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with Marine Management Organisation (Clean)
REP5-016	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with Marine Management Organisation (Tracked)
REP5-017	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with Natural England (Clean)
REP5-018	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with Natural England (Tracked)
REP5-019	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with North Lincolnshire Council (Clean)
REP5-020	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Statement of Common Ground with North Lincolnshire Council (Tracked)
REP5-021	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Drone footage
REP5-022	<a href="#">Able Humber Ports Ltd</a> Deadline 5 Submission - Drone Photos
REP5-023	<a href="#">North Lincolnshire Council</a> Deadline 5 Submission - Response to Examining Body's Third Round of Written Questions
REP5-024	<a href="#">Clyde &amp; Co LLP on behalf of Associated British Ports</a> Deadline 5 Submission - Response to Examining Body's Third Round of Written Questions and Any further written information requested by the ExB
REP5-025	<a href="#">Environment Agency</a> Deadline 5 Submission - Response to Examining Body's Third Round of Written Questions and Any further written information requested by the ExB
REP5-026	<a href="#">Marine Management Organisation</a> Deadline 5 Submission
REP5-027	<a href="#">Ministry of Defence</a> Deadline 5 Submission

**Deadline 6 – 08 March 2022**

Deadline for the receipt by the ExB of:

- Comments on any additional information/submissions received at Deadline 4
- Comments on the RIES

REP6-001	<a href="#">Able Humber Ports Ltd</a> Deadline 6 Submission - Cover Letter
REP6-002	<a href="#">Able Humber Ports Ltd</a> Deadline 6 Submission - Applicant's Overall Summary of Case
REP6-003	<a href="#">Able Humber Ports Ltd</a> Deadline 6 Submission - Applicant's Comments on the RIES
REP6-004	<a href="#">Able Humber Ports Ltd</a> Deadline 6 Submission - Statement of Common Ground with Natural England (Clean)
REP6-005	<a href="#">Able Humber Ports Ltd</a> Deadline 6 Submission - Statement of Common Ground with Natural England (Tracked)
REP6-006	<a href="#">Able Humber Ports Ltd</a> Deadline 6 Submission - Statement of Common Ground with Marine Management Organisation (Clean - all tracking removed)
REP6-007	<a href="#">Natural England</a> Deadline 6 Submission - Response to questions raised in AMEP MC2 Report on Implications for European Sites
<b>Other Documents</b>	
OD-001	<a href="#">Appointment of Examining Authority</a> Confirmation of the Secretary of State's decision for an examination of the application and appointment of the Examining Body



## **APPENDIX C: LIST OF ABBREVIATIONS**

## APPENDIX C: LIST OF ABBREVIATIONS

Abbreviation or usage	Reference
agl	above ground level
ASI	Accompanied Site Inspection
AEol	Adverse Effects on Integrity
AQD	Air Quality Directive
AO	Amendment Order
AMEP	Able Marine Energy Park
AA	Appropriate Assessment
ALARP	As Low as Reasonably Practical
ABP	Associated British Ports
ABP-HES	Associated British Ports-Humber Estuary Services
BESS	British Energy Security Strategy
cSAC	Candidate SAC
CAA	Civil Aviation Authority
CAP	Civil Aviation Publication
DML	Deemed Marine License
DCO	Development Consent Order
DAO	Draft Amendment Order
EA	Environmental Agency
EIA	European Economic Area
EQS	Environmental Quality Standard
ES	Environmental Statement
EEA	European Economic Area
ExB	Examining Body
ExQ	Examining Question
HRA	Habitats Regulations Assessment
HST	Humber Sea Terminal
IROPI	Imperative Reasons of Overriding Public Interest
IAPI	Initial Assessment of the Principal Issues
IPs	Interested Parties
LV	Limit Values
LWS	Local Wildlife Sites
MEMMP	Marine Environmental Management and Monitoring Plan
MMO	Marine Management Organisation

MPS	Marine Policy Statement
MC2	Material Change 2
NOx	Mono-Nitrogen Oxides
NRA	Navigational Risk Assessment
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPSP	National Policy Statement for Ports
NSIPs	Nationally Significant Infrastructure Projects
NE	Natural England
NKHP	North Killingholme Haven Pits
NLC	North Lincolnshire Council
OHS	Outer Horizontal Surface
PA2008	Planning Act 2008
PPG	Planning Practice Guidance
pSAC	Possible SACs
pSPA	Potential SPAs
PM	Preliminary Meeting
PSED	Public Sector Equality Duty
RR	Relevant Representation
RIES	Report on Implications for European Sites
SSSI	Site of Special Scientific Interest
SCI	Sites of Community Importance
SoSDfT	Secretary of State for the Department of Transport
SKPC	South Killingholme Parish Council
SAC	Special Area of Conservation
SPA	Special Protection Area
SoCG	Statement of Common Ground
SO2	Sulphur Dioxide
USIs	Unaccompanied Site Inspections
UES	Updated Environmental Statement
VTS	Vessel Traffic Services
VPs	Viewpoints
WFD	Water Framework Directive
WFSa	WFD assessment
WR	Written Representation
WSI	Written Scheme of Investigation
ZTV	Zone of Theoretical Visibility

## **APPENDIX D: THE RECOMMENDED AO**

202[ ] No. 0000

INFRASTRUCTURE PLANNING

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

Made - - - - 202[ ]

Coming into force - - 202[ ]

An application has been made to the Secretary of State under paragraph 3 of Schedule 6 to the Planning Act 2008(a) in accordance with the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011(b) for a material change to The Able Marine Energy Park Development Consent Order 2014(c).

The Secretary of State, having considered the application and the responses to the publicity and consultation carried out in accordance with regulations 10 and 14 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011, has decided to make this Order amending The Able Marine Energy Park Development Consent Order 2014.

The Secretary of State, in exercise of the powers conferred by paragraph 3 of Schedule 6 to the Planning Act 2008, makes the following Order—

**Citation and commencement**

1. This Order made by cited as The Able Marine Energy Park (Amendment) Order 202[ ] and comes into force on [ ] 202[ ].

**Amendment of The Able Marine Energy Park Development Consent Order 2014**

2.—(1) The Able Marine Energy Park Development Consent Order 2014 (“the 2014 Order”) is amended as follows.

(2) In article 2 (Interpretation)—

(a) in the definition of “the berthing pocket” substitute the following co-ordinates—

“(53°39.492’N, 00°13.466’W), (53°39.476’N, 00°13.511’W), (53°39.488’N, 00°13.546’W), (53°39.528’N, 00°13.421’W) (53°39.397’N, 00°13.249’W), (53°39.415’N, 00°13.211’W), (53°38.974’N, 00°12.631’W), (53°38.947’N,

- 
- (a) 2008 c. 29. Paragraph 3 of Schedule 6 was amended by paragraph 72 of Schedule 13 and paragraph 1 of Schedule 25 to the Localism Act 2011 (c. 20), section 28 of the Infrastructure Act 2015 (c. 7) (there are other amendments to the Act that are not relevant to this Order), and by Regulation 4 of the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232).
- (b) S.I. 2011/2055. Regulations 10 and 14 were both amended by S.I. 2012/635 and S.I. 2015/760. Regulations 6, 14, 19, 20, 55 and 56 were amended by S.I. 2020/1534.
- (c) S.I. 2014/2935. The 2014 Order was amended by The Able Marine Energy Park Development Consent Order 2021 (S.I. 2021/606). Schedule 8 (Deemed Marine Licence) has been varied twice by the Marine Management Organisation. Variation No. 1 was issued on 23 June 2017 (<https://www.gov.uk/government/publications/able-marine-energy-park-variation>) and Variation 2 was issued on 16 September 2020 (<https://www.gov.uk/government/publications/amep-marine-energy-park-variation-2>).

00°12.676'W), (53°38.928'N, 00°12.724'W), (53°38.945'N, 00°12.746'W), (53°38.965'N, 00°12.702'W), (53°39.389'N, 00°13.260'W) and (53°39.369'N, 00°13.304'W)";

(b) the following definition is added—

“the inset berth” means the area bounded by co-ordinates (53°39.492'N, 00°13.466'W), (53°39.511'N, 00°13.409'W), (53°39.392'N, 00°13.253'W) and (53°39.369'N, 00°13.304'W) and shown on sheets 8 and 9 of the works plans;”.

(3) In Schedule 1 (Authorised Development), in sub-paragraph 3(a), after “berthing pockets” insert “and inset berth”.

(4) In Schedule 10 (Limits of Harbour)—

(a) for the table in paragraph 1 substitute the following table—

<b>Table</b>		
<i>Latitude</i>	<i>Longitude</i>	<i>Label</i>
53°38.965'N	00°12.701'W	H1
53°38.985'N	00°12.657'W	H2
53°39.525'N	00°13.367'W	H3
53°39.492'N	00°13.465'W	H4
53°39.370'N	00°13.304'W	H5
53°39.390'N	00°13.260'W	H6

(b) after the table, for the plan showing the harbour limits substitute the plan in Schedule 1 of this Order.

(5) In paragraph 6 of Schedule 11 (requirements)(a)—

- (a) in sub-paragraph (a), after “TR030001/APP/23a” insert “and TR030006/APP/16”;
- (b) in sub-paragraph (a)(i), for “AME-02006 (Rev E)” substitute “AME-036-20001 (Rev B)”;
- (c) in sub-paragraph (a)(ii), for “AME-02007 (Rev C)” substitute “AME-036-20002 (Rev B)”;
- (d) in sub-paragraph (a)(iii), for “AME-02008 (Rev B)” substitute “AME-036-20003 (Rev A)”;
- (e) in sub-paragraph (a)(v), for “AME-02010 (Rev B)” substitute “AME-036-20004 (Rev B)”;
- (f) in sub-paragraph (a)(vi), for “AME-02011” substitute “AME-02011 (Rev C)”;
- (g) delete sub-paragraph (a)(xii);
- (h) in sub-paragraph (b), for “TR030001/APP/23b” substitute “TR030006/APP/17”;
- (i) in sub-paragraph (b)(i), for “AMEP\_PID\_D\_001” substitute “AME-036-10001 (Rev C)”;
- (j) in sub-paragraph (b)(ii), for “AMEP\_PID\_D\_002” substitute “AME-036-10002 (Rev B)”;
- (k) in sub-paragraph (b)(iii), for “AMEP\_PID\_D\_005” substitute “AME-036-10005 (Rev B)”;
- (l) in sub-paragraph (b)(iv), for “AMEP\_PID\_D\_006” substitute “AME-036-10006 (Rev B)”;
- (m) in sub-paragraph (b)(v), for “AMEP\_PID\_D\_007” substitute “AME-036-10007 (Rev B)”;

---

(a) As amended by The Able Marine Energy Park Development Consent (Amendment) Order 2021 (S.I. 2021.606).

- (n) in sub-paragraph (b)(vi), for “AMEP\_PID\_D\_009” substitute “AME-036-010008 (Rev C)”;
  - (o) in sub-paragraph (b)(vii), for “AMEP\_PID\_D\_101” substitute “AME-036-10009 (Rev C) or AME-036-10009 (Rev D)”;
  - (p) in sub-paragraph (b)(viii), for “AMEP\_PID\_D\_102” substitute “AME-036-10010 (Rev C) or AME-036-10010 (Rev D)”;
  - (q) in sub-paragraph (b)(ix), for “AMEP\_PID\_D\_103” substitute “AME-036-10011 (Rev C)”;
  - (r) in sub-paragraph (b)(x), for “AMEP\_PID\_D\_104” substitute “AME-036-10012 (Rev C)” and at end insert “and”;
  - (s) in sub-paragraph (b)(xi), for “AMEP\_PID\_D\_105” substitute “AME-036-01013 (Rev C)”;
  - (t) delete sub-paragraphs (b)(xii) and (b)(xiii);
  - (u) in sub-paragraph (c), for “TR030001/APP/23b” substitute “TR030006/APP/17”;
  - (v) in sub-paragraph (c)(i), for “AMEP\_PID\_D\_003” substitute “AME-036-10003 (Rev B)”;
  - and
  - (w) in sub-paragraph (c)(ii), for “AMEP\_PID\_D\_004” substitute “AME-036-10004 (Rev C)”.
- (6) After article 55A (certification of further environmental documents)(a), insert—

**“Certification of additional plans etc.**

**55B.**—(1) The undertaker must, as soon as practicable after the making of the Able Marine Energy Park Development Consent (Amendment) Order 202[ ], submit for certification copies of—

- (a) the substitute design drawings, being those drawings with reference TR030006/APP/17;
- (b) the updated ecology plans, being those plans with reference TR030006/APP/14;
- (c) the updated rights of way plans, being those plans with reference TR030006/APP/15;
- (d) the updated environmental statement, being those documents with reference TR030006/APP/6 and TR030006/APP/6A;
- (e) the updated habitats regulations assessment, being those documents with reference TR030006/APP/7A, TR030006/APP/7B and TR030006/APP/7C; and
- (f) the updated work plans, being those plans with reference TR030006/APP/13.

(2) A document so certified by the Secretary of State is admissible in any proceedings as evidence of the contents of the document of which it is a copy.”.

Signed on behalf of the Secretary of State for Transport

Date

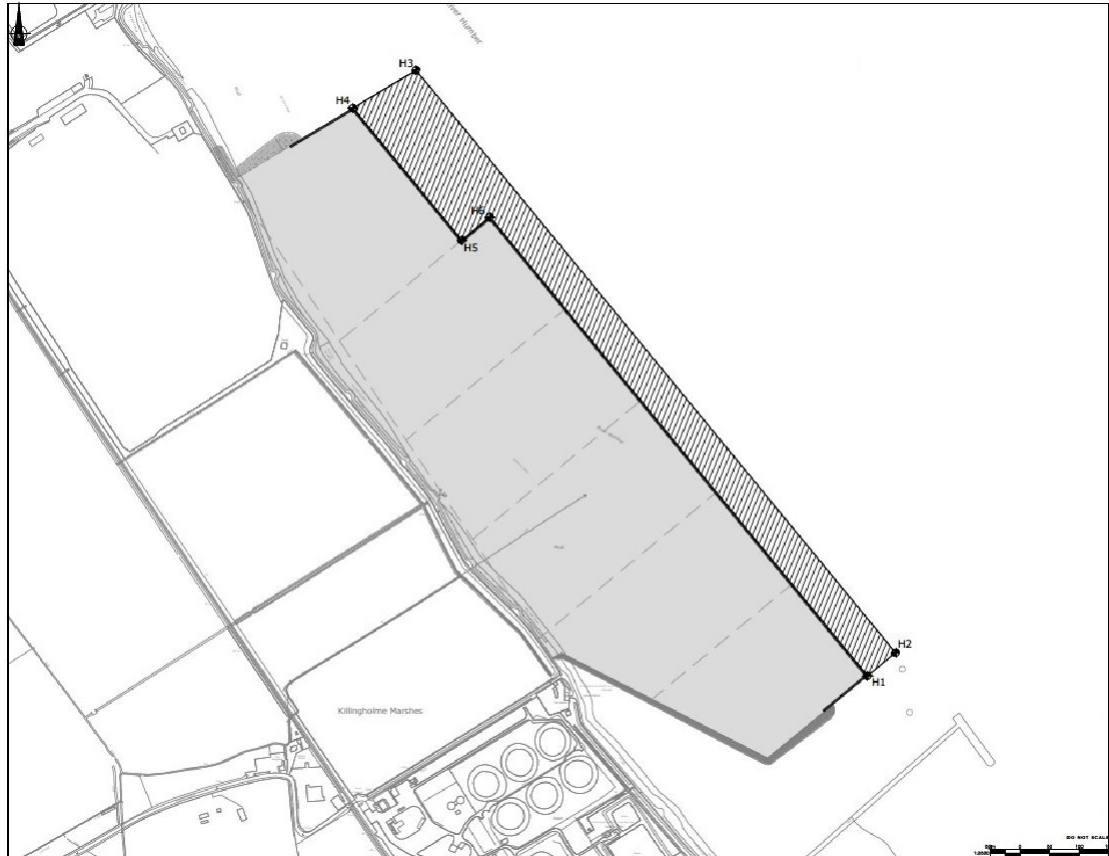
*Name*  
Designation  
Department for Transport

---

(a) Article 55A was inserted by The Able Marine Energy Park Development Consent (Amendment) Order 2021 (S.I. 2021/606).

SCHEDULE 1  
HARBOUR LIMITS

Article 2(4)





## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends The Able Marine Energy Park Development Consent Order 2014 (“the 2014 Order”), a development consent order under the Planning Act 2008 (“the Act”).

This Order follows an application under paragraph 3 of Schedule 6 to the Act for a material change to the 2014 Order to allow—

- (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 piled at the surface or to be omitted, and the use of anchor piles instead of 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.

This Order, through the insertion of Article 55B (certification of additional plans etc.) in the 2014 Order, provides for the certification of revised or substituted plans for use as evidence in any proceedings.

The changes to the 2014 Order take effect from the date specified in this Order.

**202[ ] No. 0000**

**INFRASTRUCTURE PLANNING**

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

**BDB Pitmans LLP**

One Bartholomew Close, London EC1A 7BL

Solicitors and Parliamentary Agents

[Master Copy: 23079202.05 — 14.12.21]

**APPENDIX E: TABLES SETTING OUT THE EXB'S HRA  
CONCLUSIONS FOR THE HUMBER ESTUARY SAC,  
SPA AND RAMSAR SITE**

**TABLES SETTING OUT THE EXB'S HRA CONCLUSIONS FOR THE HUMBER ESTUARY  
SAC, SPA AND RAMSAR SITE**

**Table 6: The ExB's conclusions regarding LSEs and AEoI for Humber Estuary SAC**

<b>TABLE 6: HUMBER ESTUARY SAC</b>			
<b>Feature</b>	<b>Potential impact (construction and operational phases)</b>	<b>LSE alone or in combination</b>	<b>AEoI alone or in combination</b>
Sandbanks which are slightly covered by sea water all the time (H1110)	Water quality changes	X	X
	Direct habitat loss	X	X
	Indirect habitat loss (habitat change)	X	X
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
Estuaries (H1130)	Water quality changes	X	X
	Permanent habitat loss	✓	✓
	Indirect habitat loss (habitat change)	X	X
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
Mudflats and sandflats not covered by seawater at low tide (H1140)	Water quality changes	X	X
	Permanent habitat loss	✓	✓
	Indirect habitat loss (habitat change)	✓	✓
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X

**TABLE 6: HUMBER ESTUARY SAC**

<b>Feature</b>	<b>Potential impact (construction and operational phases)</b>	<b>LSE alone or in combination</b>	<b>AEoI alone or in combination</b>
Coastal lagoons (priority habitat) (H1150)	Water quality changes	X	X
	Permanent habitat loss	X	X
	Indirect habitat loss (habitat change)	X	X
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
Salicornia and other annuals colonising mud and sand (H1310)	Water quality changes	X	X
	Permanent habitat loss	✓	✓
	Indirect habitat loss (habitat change)	✓	✓
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) (H1330)	Water quality changes	X	X
	Permanent habitat loss	✓	✓
	Indirect habitat loss (habitat change)	✓	✓
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
	Water quality changes	X	X

**TABLE 6: HUMBER ESTUARY SAC**

<b>Feature</b>	<b>Potential impact (construction and operational phases)</b>	<b>LSE alone or in combination</b>	<b>AEoI alone or in combination</b>
Embryonic shifting dunes (H2110)	Direct habitat loss	X	X
	Indirect habitat loss (habitat change)	X	X
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (‘white dunes’) (H2120)	Water quality changes	X	X
	Direct habitat loss	X	X
	Indirect habitat loss (habitat change)	X	X
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
Fixed dunes with herbaceous vegetation (‘grey dunes’) (priority habitat) (H2130)	Water quality changes	X	X
	Direct habitat loss	X	X
	Indirect habitat loss (habitat change)	X	X
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
Dunes with <i>Hippophae rhamnoides</i> (H2160)	Water quality changes	X	X
	Direct habitat loss	X	X

**TABLE 6: HUMBER ESTUARY SAC**

<b>Feature</b>	<b>Potential impact (construction and operational phases)</b>	<b>LSE alone or in combination</b>	<b>AEoI alone or in combination</b>
	Indirect habitat loss (habitat change)	X	X
	Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
Sea lamprey	Disturbance/ displacement (underwater noise)	✓	X
	Water quality changes	X	X
	Habitat loss	X	X
River lamprey	Disturbance/ displacement (underwater noise)	✓	X
	Water quality changes	X	X
	Habitat loss	X	X
Grey seal	Disturbance/ displacement (underwater noise)	✓	X
	Water quality changes	X	X
	Habitat loss	X	X



**Table 7: The ExB’s conclusions regarding LSEs and AEoI for Humber Estuary SPA**

<b>Feature</b>	<b>Potential impact (construction and operational phases)</b>	<b>LSE alone or in combination</b>	<b>AEoI alone or in combination</b>
Great bittern <i>Botaurus stellaris</i> (non-breeding)	Permanent loss of supporting habitat	X	X
	Noise disturbance	X	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	X	X
	Displacement from high tide NKHP roost site	X	X
Great bittern <i>Botaurus stellaris</i> (breeding)	Permanent loss of supporting habitat	X	X
	Noise disturbance	X	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	X	X
	Displacement from high tide NKHP roost site	X	X
Common shelduck <i>Tadorna tadorna</i> (non-breeding)	Permanent loss of supporting habitat	✓	✓ <b>(estuarine habitat)</b>

<b>Feature</b>	<b>Potential impact (construction and operational phases)</b>	<b>LSE alone or in combination</b>	<b>AEoI alone or in combination</b>
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	X
	Displacement from high tide NKHP roost site	X	X
Eurasian marsh harrier <i>Circus aeruginosus</i> (breeding)	Permanent loss of supporting habitat	✓	✓ ( <b>terrestrial habitat</b> )
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	X
	Displacement from high tide NKHP roost site	X	X
Hen harrier <i>Circus cyaneus</i> (non-breeding)	Permanent loss of supporting habitat	X	X
	Noise disturbance	X	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	X	X

Feature	Potential impact (construction and operational phases)	LSE alone or in combination	AEoI alone or in combination
	Displacement from high tide NKHP roost site	X	X
Pied avocet <i>Recurvirostra avosetta</i> (non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
	Displacement from high tide NKHP roost site	✓	✓
Pied avocet <i>Recurvirostra avosetta</i> (breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
	Displacement from high tide NKHP roost site	✓	X
	Permanent loss of supporting habitat	X	X

<b>Feature</b>	<b>Potential impact (construction and operational phases)</b>	<b>LSE alone or in combination</b>	<b>AEoI alone or in combination</b>
European golden plover <i>Pluvialis apricaria</i> (non-breeding)	Noise disturbance	X	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	X	X
	Displacement from high tide NKHP roost site	X	X
Red knot <i>Calidris canutus</i> (non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
	Displacement from high tide NKHP roost site	X	X
Dunlin <i>Calidris alpina</i> (non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓

Feature	Potential impact (construction and operational phases)	LSE alone or in combination	AEoI alone or in combination
	Displacement from high tide NKHP roost site	✓	✓
Ruff <i>Philomachus pugnax</i> (non-breeding)	Permanent loss of supporting habitat	X	X
	Noise disturbance	X	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	X	X
	Displacement from high tide NKHP roost site	X	X
Black-tailed godwit <i>Limosa limosa</i> (non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
	Displacement from high tide NKHP roost site	✓	✓
Bar-tailed godwit <i>Limosa lapponica</i> (non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)

Feature	Potential impact (construction and operational phases)	LSE alone or in combination	AEoI alone or in combination
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
	Displacement from high tide NKHP roost site	✓	✓
Redshank <i>Tringa totanus</i> (non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
	Displacement from high tide NKHP roost site	✓	✓
Little tern <i>Sterna albifrons</i> (breeding)	Permanent loss of supporting habitat	X	X
	Noise disturbance	X	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	X	X

Feature	Potential impact (construction and operational phases)	LSE alone or in combination	AEoI alone or in combination
	Displacement from high tide NKHP roost site	X	X
Assemblage qualification – the site qualifies under article 4.2 of the Birds Directive because it regularly supports 153,394 individual waterbirds in the non- breeding season	Permanent loss of supporting habitat	✓	✓ (estuarine and terrestrial habitat)
	Noise disturbance	✓	X
	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
	Displacement from high tide NKHP roost site	✓	✓

**Table 8: The ExB’s conclusions regarding LSEs and AEoI for Humber Estuary Ramsar**

Feature		Potential impact (construction and operational phases)	LSE alone or in combination	AEoI alone or in combination
Ramsar criterion 1	Representative example of near- natural estuary	Water quality changes	X	X
		Changes to intertidal habitat	✓	✓
		Habitat loss	✓	✓
		Changes to estuary morphology, hydrodynamics & sedimentary regime	X	X
Ramsar criterion 3	Breeding colony of grey seals <i>Halichoerus grypus</i>	Permanent loss of supporting habitat	✓	X
		Noise disturbance	✓	X
	Natterjack toad <i>Bufo calamita</i>	Permanent loss of supporting habitat	X	X
		Noise disturbance	X	X
Ramsar criterion 5	Assemblages of non- breeding waterfowl	Permanent loss of supporting habitat	✓	✓ (estuarine and terrestrial habitat)
		Noise disturbance	✓	X



Feature		Potential impact (construction and operational phases)	LSE alone or in combination	AEoI alone or in combination
		Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
		Displacement from high tide NKHP roost site	✓	✓
Ramsar criterion 6: species/ populations occurring at levels of international importance	European golden plover <i>Pluvialis apricaria</i> (non- breeding)	Permanent loss of supporting habitat	X	X
		Noise disturbance	X	X
		Indirect functional habitat loss (noise, lighting and visual disturbance)	X	X
		Displacement from high tide NKHP roost site	X	X
	Red knot <i>Calidris canutus</i> (breeding and non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
		Noise disturbance	✓	X

Feature		Potential impact (construction and operational phases)	LSE alone or in combination	AEOI alone or in combination
		Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
		Displacement from high tide NKHP roost site	X	X
	Dunlin <i>Calidris alpina</i> (breeding and non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
		Noise disturbance	✓	X
		Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
		Displacement from high tide NKHP roost site	✓	✓
	Black-tailed godwit <i>Limosa limosa</i>	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
		Noise disturbance	✓	X

Feature		Potential impact (construction and operational phases)	LSE alone or in combination	AEOI alone or in combination
	(breeding and non-breeding)	Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
		Displacement from high tide NKHP roost site	✓	✓
	Redshank <i>Tringa totanus</i> (non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
		Noise disturbance	✓	X
		Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
		Displacement from high tide NKHP roost site	✓	✓
	Common shelduck <i>Tadorna tadorna</i> (non-breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
		Noise disturbance	✓	X

Feature		Potential impact (construction and operational phases)	LSE alone or in combination	AEOI alone or in combination
		Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	X
		Displacement from high tide NKHP roost site	X	X
	Bar-tailed godwit <i>Limosa lapponica</i> (breeding)	Permanent loss of supporting habitat	✓	✓ (estuarine habitat)
		Noise disturbance	✓	X
		Indirect functional habitat loss (noise, lighting and visual disturbance)	✓	✓
		Displacement from high tide NKHP roost site	✓	✓
	Eurasian golden plover (wintering) <i>Pluvialis apricaria</i>	Permanent loss of supporting habitat	X	X
		Noise disturbance	X	X

Feature		Potential impact (construction and operational phases)	LSE alone or in combination	AEoI alone or in combination
		Indirect functional habitat loss (noise, lighting and visual disturbance)	X	X
		Displacement from high tide NKHP roost site	X	X
Ramsar criterion 8	River lamprey <i>Lampetra fluviatilis</i>	Permanent loss of supporting habitat	X	X
		Noise disturbance	✓	X
		Water quality changes	X	X
	Sea lamprey <i>Petromyzon marinus</i>	Permanent loss of supporting habitat	X	X
		Noise disturbance	✓	X
		Water quality changes	X	X