



ABLE MARINE ENERGY PARK
Article 7 Extension of Time Limits
Explanatory Note on Prolongation of
the Project

Date:
August-2023

1. BACKGROUND

- 1.1 In December 2011 Able Humber Ports Limited (AHPL or 'the Applicant') applied for development consent for the Able Marine Energy Park ('AMEP'), ('the 2011 application'). On 18 December 2013, the Secretary of State for Transport determined to grant development consent by way of a Development Consent Order ('DCO') (SI 2014/2935)¹. However the DCO only came into force on 29 October 2014 following a long delay to allow for the completion of Special Parliamentary Procedure (SPP) relating to the compulsory acquisition of land owned by Associated British Ports, a statutory undertaker (SPP no longer applies to this situation). Very briefly, under the DCO, the Applicant is authorised to construct a quay and associated industrial development at North Lincolnshire as well as ecological habitat at Cherry Cobb Sands in the East Riding of Yorkshire.
- 1.2 The need for the AMEP development and the unique choice of site were set out in Chapters 5² and 6³ of the Environmental Statement submitted with the 2011 application ('the ES').
- 1.3 In short, AMEP was specifically aimed at serving the renewable offshore energy industry, in relation to both manufacturing and installation. Relevantly, the DCO included a restriction on the cargo to be handled over the quay, to only those components associated with and incidental to, the offshore energy sector (AMEP DCO Schedule 11, paragraph 4). At the time of the application, rapid expansion of the sector was anticipated including significant investment in new manufacturing facilities in the United Kingdom, and as such this restriction was not expected to stymie AMEP's development.
- 1.4 However, the cargo restriction in the AMEP DCO does mean that development of the quay cannot progress in isolation - guaranteed revenues from the associated industrial development are required to justify the investment in construction of the quay. Accordingly, the development of the quay is fundamentally linked to attracting new offshore marine energy manufacturing facilities to AMEP.

¹ [The Able Marine Energy Park Development Consent Order 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

² [Microsoft Word - Ch_05 - Need 110907 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk)

³ [Microsoft Word - 06 - Choice \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk)

2. DEVELOPMENT PROGRESS

- 2.1 Due to the delays caused by the SPP process, the Applicant separately obtained planning permissions to commence enabling works in relation to the terrestrial areas of the site in order to ready the landside for investment (North Lincolnshire Council planning references PA/2013/0519⁴ and PA/2014/0512⁵). The subsequent importation of fill to the site to raise levels over an area of 55ha in accordance with the AMEP scheme, commenced in July 2014 and is now complete.
- 2.2 After the DCO came into force the Applicant commissioned the detailed design of the principal works. In May 2015, Black and Veatch was appointed to undertake the design of the ecological compensation site at Cherry Cobb Sands on the north Bank of the Humber Estuary. The compensation site forms part of the associated development consented under the DCO. Included in the Consultant's commission was an obligation on them to obtain the discharge of all construction precedent conditions set out in the DCO that would otherwise prevent the start of construction of the habitat works. All relevant construction precedent conditions are now discharged and the development of the compensation site can progress at short notice. In accordance with AMEP DCO Schedule 11 paragraph 21, the construction of the compensatory habitat must commence at least 7 months before construction of the quay.
- 2.3 In 2015 AHPL entered into a Memorandum of Understanding with DONG Energy (now known as Ørsted) to develop and operate the AMEP site, however this was subsequently rescinded with DONG citing a shortage of future projects.
- 2.4 In December 2015, AHPL appointed engineering consultancy NIRAS to undertake the design of the quay and the surface water pumping station that is required to drain the terrestrial areas of the development.
- 2.5 In 2017 and again in 2020 the Marine Management Organisation approved amendments to the Deemed Marine Licence at Schedule 8 of the AMEP DCO. These amendments, *inter alia*, extended the time limits for dredging works.
- 2.6 In July 2020, as more than five years had passed since the coming into force of the DCO, the Secretary of State, on the application of AHPL granted approval under Article 23 of the DCO for marine works to commence in accordance with the original plans.
- 2.7 In May 2021, the Secretary of State granted a Non-Material Change to the DCO (after a two-year application process) and made the Able Marine Energy Park DCO (Amendment) Order 2021, which came into force on 14 May 2021⁶. This changed the location of the terrestrial mitigation from Killingholme Marshes to Halton Marshes. The ecological mitigation site has been constructed and is delivering on its design intent to attract significant bird numbers.

⁴ [PA/2013/0519 | North Lincolnshire Planning Portal \(northlincs.gov.uk\)](https://www.northlincs.gov.uk/planning/PA/2013/0519)

⁵ [PA/2014/0512 | North Lincolnshire Planning Portal \(northlincs.gov.uk\)](https://www.northlincs.gov.uk/planning/PA/2014/0512)

⁶ [SI/SR Template \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/SI/SR-Template)

- 2.8 In June 2021 AHPL implemented the DCO before the expiry of the time for doing so set out in the DCO, by starting construction of the surface water pumping station on the south bank of the Humber. The pumping station is designed for the predicted effects of climate change and will be capable of pumping up to 10.5m³ of water each second when fully commissioned. This element of the works is now substantially complete.
- 2.9 In 2021 the Department of Business, Energy and Industrial Strategy (BEIS), aware of the lack of investment in new manufacturing facilities for offshore wind components in the UK, launched the Offshore Wind Manufacturing Investment Scheme (OWMIS, 'the Scheme') to support investment in the offshore wind supply chain. The Scheme also aimed to support new port facilities purpose built for the offshore energy sector. AHPL was successful in its application for grant funding from the Scheme and secured an in-principle grant of £75m towards the development of the AMEP Quay. Such a grant was however insufficient to enable AMEP to proceed and the simple fact is that the Quay cannot proceed as an isolated development because its cost cannot be recouped from its limited use as an installation port for offshore energy projects. The development requires a number of manufacturers to locate to AMEP in order to generate guaranteed revenues and to drive installation activities from the quay.
- 2.10 In 2021 SeAH, the Korean monopile manufacturer, had reached the late stages of agreeing to locate a c£400m monopile plant on AMEP. AHPL submitted a planning application to construct the factory and subsequently received planning permission (North Lincolnshire planning reference PA/2021/1525⁷). However, in isolation this facility was unable to generate sufficient activity or income to justify construction of the main quay works, and in the absence of a final investment decision to proceed with the quay works the monopile project was re-located to Teesside.
- 2.11 In the Chancellor's Budget Speech of March 2021, it was confirmed that AMEP, as part of the Humber Freeport bid, would host a Freeport Tax site⁸. In November 2021, the statutory instrument to provide the AHP Freeport Tax Site came into force⁹.
- 2.12 In June 2021 AHPL applied for a Material change to the AMEP DCO ('the Material Change application') in order to incorporate the following:
- Changes to the proposed quay layout to create a new 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, 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

⁷ [PA/2021/1525 | North Lincolnshire Planning Portal \(northlincs.gov.uk\)](https://www.northlincs.gov.uk/planning-and-building-control/planning-applications/PA/2021/1525)

⁸ [Budget Speech 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/speeches/budget-speech-2021)

⁹ [The Designation of Freeport Tax Sites \(Humber Freeport\) Regulations 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2021/1251/contents/matter)

avoid it crossing over an existing rail track;

- Provision of a third cross dam 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 to enable works to commence at the southern end of the quay and progress northwards.

These changes are explained in greater detail in the original application documents¹⁰.

2.13 The application was approved by the Secretary of State for Transport in July 2022 and the AMEP DCO Amendment Order 2022 came into force on 6 August 2022, the first material change to any DCO.

2.14 From the foregoing it is evident that despite the underlying economic conditions AHPL has made significant and long-term efforts to progress the development of AMEP and it continues to do so. However, the development of AMEP is now potentially at risk from the particular restrictions of Article 7 of the DCO which limit the time period during which development works can be carried out. Specifically, Article 7 states the following:

'Period for completion of work

7. If the authorised development is not completed within 10 years from the coming into force of this Order or such extended time as the Secretary of State may on the application of the undertaker allow, then on the expiration of that period or such extended time (as the case may be) the rights granted by this Order to the undertaker for making and maintaining the works cease except as to so much of them as is then substantially commenced', (underline added).

2.15 At this time, as further explained below, it is not possible to put a precise timescale on when the construction of the AMEP quay will commence and so it is necessary to seek a significant extension of the time limits from the Secretary of State in order to ensure the benefit of the DCO is not lost. Relevantly this application does not require any change to the DCO given that the mechanism for obtaining the time extension is set out in Article 7.

¹⁰[Able Marine Energy Park Material Change 2 | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk)

3. UK OFFSHORE WIND SUPPLY CHAIN DEVELOPMENT –THE OUTLOOK FOR MANUFACTURING INVESTMENT

3.1 It remains the clear ambition of HM Government to support the development of offshore energy infrastructure as clearly evidenced within the OWMIS Scheme Objectives published in February 2021¹¹, extract below:

"This Investment Programme supports the BEIS objective to deliver an economy that works for everyone – with great places in every part of the UK for people to work and for businesses to invest, innovate and grow, through levelling up economic opportunities in regionally deprived areas by investing in infrastructure, innovation and people. This will be done by accommodating the next generation of offshore wind manufacturing, construction and installation capacity, which will help in strengthening the UK's economic recovery from COVID19, building back better and greener by prioritising jobs and skills (by providing construction jobs & long-term manufacturing and supply chain jobs).

It is currently estimated that there are 7,200 direct offshore wind jobs in the UK. The offshore wind sector could deliver 60,000 direct and indirect jobs by 2030. This scheme will be integral to delivery of this employment, which will be essential to building back better through a green revolution in post-Covid recovery, particularly in regionally deprived areas', (page 4).

3.2 Furthermore, government policy has over the years increased the ambition for offshore wind, which now stands at 50GW by 2030, according to the British Energy Security Strategy document published in April 2022, and it is described as a 'critical national priority' in the revised draft Overarching National Policy Statement for Energy issued on 30 March 2023.

3.3 The Government's main mechanism for supporting low carbon energy generation is the Contracts for Difference (CfD) scheme. Put simply, developers bid to sell their energy at a rate that is guaranteed for 15 years, with the lowest rates being successful. Thus the CfD scheme provides developers with a guaranteed price for the electricity that they produce, giving them the requisite certainty of return to enable them to invest in new technology.

3.4 CfD auctions are held periodically in what are known as Allocation Rounds (ARs); four ARs have been held to date. The successful developers subsequently enter into contracts with manufacturers to supply and install the offshore wind turbines. Most recently, Siemens captured the vast majority of Contract for Difference (CfD) AR 4 business, and they will deliver these contracts from their existing sites. This has effectively negated the prospect of investment in new manufacturing plant in the short term and this in turn has, for the time being, stymied the delivery of AMEP.

3.5 CfD AR5 is set to conclude in August 2023 but is unlikely to offer any immediate contract(s) large enough to support new manufacturing investment. However,

¹¹ [Offshore wind manufacturing investment scheme: investment programme -guidance \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/101444/offshore-wind-manufacturing-investment-scheme-investment-programme-guidance.pdf)



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AR6 (due to open in 2024) and beyond – (especially if projects are able to enter the competition at an earlier stage, enhancing the scale and quality of the development pipeline.) – should change the landscape markedly.

- 3.6 Relevantly also, through the Offshore Wind Acceleration Taskforce (OWAT) the CfD mechanism is under active review. The role of OWAT is intended to expedite the development of the UK supply chain to ensure that with the world’s largest pipeline of offshore wind projects, the UK should be better placed, than anywhere else, to secure and maximise benefits.

4. THE NEED FOR PORTS TO SUPPORT MANUFACTURING

4.1 Chapter 5 of the ES explained the need for new manufacturing facilities for offshore wind components to be located at port sites. This is simply down to either the weight of these components or their physical scale which make them impossible to transport over the road network.

4.2 The scale and design of AMEP addressed the demands of the offshore energy sector and remains as a singular large-scale solution to meet the particular needs of both manufacturers and developers requiring installation yards. There is no doubt that a UK super-port remains essential if the UK is to realise its aspirations for 60% UK content and to deliver wider benefits of jobs and growth to a relatively deprived area of the UK. This ambition is explicit in HM Government's Policy Paper '*Offshore Wind Sector Deal*¹², extract below:

"This Sector Deal builds on the UK's global leadership position in offshore wind and seeks to maximise the advantages for UK industry from the global shift to clean growth, consistent with the Clean Growth Grand Challenge.

It will do this by:

1. Providing forward visibility of future Contracts for Difference rounds with support of up to £557 million, with the next allocation round planned to open by May 2019, with subsequent auctions around two years thereafter.

2. The sector committing to increase UK content to 60% by 2030, including increases in the capital expenditure phase.

3. Increasing the representation of women in the offshore wind workforce to at least a third by 2030.

4. Setting an ambition of increasing exports fivefold to £2.6 billion by 2030.

5. The sector will invest up to £250 million in building a stronger UK supply chain, establishing the Offshore Wind Growth Partnership (OWGP) to support productivity and increase competitiveness. With the largest installed offshore wind capacity in the world and the prices consumers pay for the energy the sector generates falling significantly (between the 2015 and 2017 Contracts for Difference auctions, support costs fell 50%), a trend that is expected to continue", (Executive Summary, underline added).

4.3 AMEP has the singular capacity to have a transformational impact on the UK economy and the fortunes of the Yorkshire and Humber region. It could deliver high quality direct job opportunities and indirect jobs in the associated supply chain.

4.4 Under the Freeport Tax Site regime this would see the retention of business rates generated within the site within the local area. This could amount to c. £430m (plus inflation) over the 25-year qualifying period.

¹² [Offshore wind Sector Deal - GOV.UK \(www.gov.uk\)](http://www.gov.uk)



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- 4.5 Furthermore, it would provide a genuine large-scale state-of-the-art industrial cluster that would put the Humber at the very heart of the burgeoning sector. Most relevantly of all the Secretary of State's decision letter¹³ for the Material Change application in 2021 recorded that:

'The Secretary of State is of the view that the need for this Development as set out in his letter of 18 August 2014 has further increased as a result of Government's target of for 50GW of offshore wind capacity by 2030, which this project will assist in achieving, noting that the proposed changes will also allow for the processing of larger turbines than allowed under the 2014 Order', (paragraph 96, underline added).

¹³ [190819 draft consultation letter 0.2 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/draft-consultation-letters/190819-draft-consultation-letter-0.2/)



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5. MARKET PROSPECTS

5.1 In the short term, from and including AR6, larger projects – specifically Hornsea 4 (2,600MW) and Berwick Bank (4,100MW) – will provide substantial opportunities for prospective manufacturers. Such manufacturers are seeking a c. 3-4,000MW level of confirmed orders prior to committing to a new UK plant.

5.2 The following table represents AHPL’s own forecast of the existing UK pipeline of UK capacity over the next decade noting, of course, that it is highly likely that the Crown Estate will provide new potential locations during this period as well. The assessment also excludes the nascent floating wind opportunities and can therefore be considered a conservative estimate.

TCE	Allocation Round 4 - 2022	MW	Developer	CFD	DCO	TBMW	No
3	East Anglia 3*)	1,372	ScotPower	2022	✓	14	98
3	Inch Cape	1,100	Red Rock Power (IOCL)	2022	✓	15	73
3	Hornsea 3	2,852	Orsted	2022	✓	15	190
3	Norfolk Boreas	1,400	Vattenfall	2022	✓	15	93
3	Moray West	882	Ocean Winds (EDPR/Engie)	2022	✓	14	63
	Total	7,606					518
TCE	FORECAST Allocation Round 5 - 2023	MW	Developer	CFD	DCO	TBMW	No
3	Seagreen 1A	500	SSE	2023	✓	14	36
3	East Anglia 1 North*)	602	ScotPower	2023	✓	14	43
3	East Anglia 2*)	867	ScotPower	2023	✓	14	62
3	Norfolk Vanguard	1,800	Vattenfall	2023	✓	15	120
	Total	3,769					261
TCE	FORECAST Allocation Round 6 - 2024	MW	Developer	CFD	DCO	TBMW	No
3	Hornsea 4	2,600	Orsted	2024	2023	16	163
3	Berwick Bank (SG1, 2 and 3)	4,100	SSE	2024	2023	16	256
2ext	Dudgeon 2/Sheringham Shoal 2 (merged in to a single)	719	Equinor	2024	2023	16	45
2ext	Awel y Mor [Gwyn y Mor 2]	1,100	RWE	2024	2023	16	69
	Total	8,519					532
TCE	FORECAST Allocation Round 7 - 2025	MW	Developer	CFD	DCO	TBMW	No
3	Rampion 2	1,200	RWE	2025	2024	17	71
4	Mona (south)	1,500	BP/EnBW	2025	2025	17	107
4	Morgan (north)	1,500	BP/EnBW	2025	2025	17	107
2ext	Five Estuaries [formerly Galloper 2]	1,080	RWE	2025	2025	17	64
2ext	North Falls [formerly Greater Gabbard 2]	1,000	RWE/SSE	2025	2024	17	59
	Total	6,280					407
TCE	FORECAST Allocation Round 8 - 2026	MW	Developer	CFD	DCO	TBMW	No
4	Dogger Bank South (East)	1,500	RWE	2026	2025	19	79
4	Dogger Bank 2 South (West)	1,500	RWE	2026	2025	19	79
	Total	3,000					158
TCE	FORECAST Allocation Round 9 - 2027	MW	Developer	CFD	DCO	TBMW	No
Not leased	Dogger Bank D	1,320	SSE/Equinor	2027	2026	19	69
	Morecambe	480	Cobra/Flotation Enegy	2027	2026	19	25
	Outer Dowsing (Eastern Region)	1,500	Total/GIG	2027	2026	20	75
	Total	3,300					170
Scot Wind	FORECAST Allocation Round 10 2028 and beyond	MW	Developer	CFD	DCO	TBMW	No
SW	Morven	2,907	BP/ENBW	2028	2027	20	145
SW	Cluaren Deas Ear	1,008	Thistle Wind Partners	2028	2027	20	50
SW	Caledonia	1,000	Ocean Winds/EDPR/Engie	tbc	tbc	20	50
SW	West of Orkney	2,000	Total/Macquarie/HMC/Siemens	tbc	tbc	20	100
SW	TBC	840	Northland Power (Arcus/Worley)	tbc	tbc	20	42
SW	Machair	2,000	Scottish Power	tbc	tbc	20	100
	Total	9,755					488
	OFFSHORE WIND FROM 2022	MW	Turbines				
	TOTAL - Fixed Bottom	42,229		2,691			

6. SUMMARY

- 6.1 The aspirations of the project promoter (AHPL) and Government are aligned in seeking to provide a bespoke facility to meet the demanding requirements of the offshore wind sector.
- 6.2 The apparent (or at least current) failure of OWMIS to act as a catalyst for new manufacturing investment in the UK arose because of the circumstances that resulted in Siemens capturing the vast majority of CfD AR 4 business.
- 6.3 Without new orders the much-needed new entrants to the supply chain cannot justify a UK investment and equally without their commitments, AHPL cannot speculate any further on the c.£500m development of the quay.
- 6.4 Government and the sector recognise this logjam and are seeking to address the challenges involved with growing the UK supply chain.
- 6.5 The extensive current pipeline of UK projects (for both fixed bottom and floating offshore wind farms) provides significant opportunities over the next decade. Furthermore it is inevitable that the Crown Estate will continue to offer new potential offshore locations for development.
- 6.6 AHPL require an extension of a minimum of 7 years to ensure that the appropriate conditions can be met to enable the sanctioning of the proposed c. £500m development and to deliver the transformational impacts of increased UK content, new investment and new jobs.