



Planning Inspectorate  
Arolygiaeth Gynllunio

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## **SCOPING OPINION:**

# **Proposed Able Marine Energy Park Material Change 3**

**Case Reference: TR0310001**

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Adopted by the Planning Inspectorate (on behalf of the Secretary of State)  
pursuant to Regulation 10 of The Infrastructure Planning (Environmental  
Impact Assessment) Regulations 2017

**26 February 2025**

# TABLE OF CONTENTS

<b>1.</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>2.</b>	<b>OVERARCHING COMMENTS .....</b>	<b>3</b>
2.1	Description of the Proposed Development .....	3
2.2	EIA Methodology and Scope of Assessment .....	5
<b>3.</b>	<b>ENVIRONMENTAL ASPECT COMMENTS.....</b>	<b>7</b>
3.1	Geology, Hydrogeology and Ground Conditions .....	7
3.2	Hydrodynamic and Sedimentary Regime .....	9
3.3	Water and Sediment Quality .....	10
3.4	Aquatic Ecology .....	12
3.5	Terrestrial Ecology and Birds .....	17
3.6	Commercial and Recreational Fisheries .....	20
3.7	Drainage and Flood Risk .....	21
3.8	Navigation .....	22
3.9	Traffic and Transport.....	23
3.10	Noise and Vibration .....	25
3.11	Air Quality .....	26
3.12	Marine Archaeology .....	27
3.13	Light .....	28
3.14	Landscape and Visual .....	29
3.15	Socio-Economic .....	30
3.16	Aviation .....	31
3.17	Waste.....	32
3.18	Health .....	33
3.19	Climate Change .....	34
3.20	Major Accidents and/or Disasters .....	35
3.21	Cumulative and In-Combination Effects .....	36

## APPENDIX 1: CONSULTATION BODIES FORMALLY CONSULTED

## APPENDIX 2: RESPONDENTS TO CONSULTATION AND COPIES OF REPLIES

## 1. INTRODUCTION

- 1.0.1 On 17 January 2025, the Planning Inspectorate (the Inspectorate) received an application for a Scoping Opinion from Able Humber Ports Ltd (the applicant) under regulation 10 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (The EIA Regulations) for the proposed Able Marine Energy Park Material Change 3 (the proposed development). The applicant notified the Secretary of State (SoS) under regulation 8(1)(b) of those regulations that they propose to provide an Environmental Statement (ES) in respect of the proposed development and by virtue of regulation 6(2)(a), the proposed development is 'EIA development'.
- 1.0.2 The applicant provided the necessary information to inform a request under EIA regulation 10(3) in the form of a Scoping Report, available from:
- <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR0310001>
- [TR0310001-000003-AMEP Quay Material Change 3 EIA Scoping Report.pdf](#)
- 1.0.3 This document is the Scoping Opinion (the Opinion) adopted by the Inspectorate on behalf of the SoS. This Opinion is made on the basis of the information provided in the Scoping Report, reflecting the proposed development as currently described by the applicant. This Opinion should be read in conjunction with the applicant's Scoping Report.
- 1.0.4 The Inspectorate has set out in the following sections of this Opinion where it has / has not agreed to scope out certain aspects / matters on the basis of the information provided as part of the Scoping Report. The Inspectorate is content that the receipt of this Scoping Opinion should not prevent the applicant from subsequently agreeing with the relevant consultation bodies to scope such aspects / matters out of the ES, where further evidence has been provided to justify this approach. However, in order to demonstrate that the aspects / matters have been appropriately addressed, the ES should explain the reasoning for scoping them out and justify the approach taken.
- 1.0.5 Before adopting this Opinion, the Inspectorate has consulted the 'consultation bodies' listed in appendix 1 in accordance with EIA regulation 10(6). A list of those consultation bodies who replied within the statutory timeframe (along with copies of their comments) is provided in appendix 2. These comments have been taken into account in the preparation of this Opinion.
- 1.0.6 The Inspectorate has published a series of advice pages, including [Advice Note 7: Environmental Impact Assessment: Preliminary Environmental Information, Screening and Scoping \(AN7\)](#). AN7 and its annexes provide guidance on EIA processes during the pre-application stages and advice to support applicants in the preparation of their ES.
- 1.0.7 Applicants should have particular regard to the standing advice in AN7, alongside other advice notes on the Planning Act 2008 (PA2008) process, available from:

<https://www.gov.uk/government/collections/national-infrastructure-planning-advice-notes>

[Advice notes | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/advice-notes/)

- 1.0.8 This Opinion should not be construed as implying that the Inspectorate agrees with the information or comments provided by the applicant in their request for an opinion from the Inspectorate. In particular, comments from the Inspectorate in this Opinion are without prejudice to any later decisions taken (e.g. on formal submission of the application) that any development identified by the applicant is necessarily to be treated as part of a Nationally Significant Infrastructure Project (NSIP) or associated development or development that does not require development consent.



## 2. OVERARCHING COMMENTS

### 2.1 Description of the Proposed Development

(Scoping Report Section 2 and 3)

ID	Ref	Description	Inspectorate's comments
21.1	Paragraphs 2.2 and 2.9	Construction of the quay in stages 2 and 3	<p>Scoping Report paragraph 2.2 states that the construction of the quay will be completed in discreet stages. Whilst these are identified on Drawing AHP-030-00017, the stages of construction are not described. It also states that there would be no obligation to complete the whole of the quay within the specified timeframe.</p> <p>The Inspectorate considers that there is potential for the baseline to change over time and without estimated times for construction of the quay in stages 2 and 3, impacts may be unknown e.g. the intensity, timing and duration of dredging. It also brings into question the delivery of some of the mitigation measures, for example, those that are to be delivered following the completion of the quay including measures to protect sea defences as highlighted by the Environment Agency (EA).</p> <p>The ES should describe each phase of construction of the quay, explain what would initiate each phase to begin and over what timeframe it would be completed. Where there are multiple scenarios, the ES should describe the relevant worst-case scenario to the aspect being assessed and provide an assessment of likely significant effects in the relevant aspect chapters.</p>
212	Paragraphs 2.2 and 2.10 to 2.13	Operation of the quay	<p>The ES should include a description of the change in operation including the expected nature of the redundant marine infrastructure and the parameters around its handling across the lifetime of the proposed development. This should include a description of any changes to transport movements including the number, routing, access, cargo and capacity and type.</p>
213	Section 3	Alternatives	<p>The Scoping Report does not state that alternatives will be considered within the ES. The Inspectorate would expect to see a discrete section in the ES that provides details of the</p>

ID	Ref	Description	Inspectorate's comments
			reasonable alternatives studied in relation to the proposed development and the reasons for selecting the chosen option(s), including a comparison of the environmental effects.
214	n/a	Characterisation of the rock for the berthing pocket	The ES should characterise the rock which would be used in the berthing pocket, including determining its quality and suitability for use in the marine environment and whether 'fines' will be present. Where they are, this should inform the relevant ES aspect chapter assessments.

## 2.2 EIA Methodology and Scope of Assessment

(Scoping Report Section 2 and 3)

ID	Ref	Description	Inspectorate's comments
221	n/a	Structure of the further updated ES	<p>It is unclear what chapters will be included in the ES and what format it will take.</p> <p>The ES should explain the format by which it updates the original ES (OES) and updated ES for Able Material Change 2 (UES) so that the content is clearly understood. It is advised this is set out in one of the initial chapters such as the introduction.</p>
222	n/a	Methodology for determining significance	<p>The Scoping Report does not include any description or intention to provide an overarching methodology to determine significance on the basis that it will be an updated to the original ES.</p> <p>The ES should include a chapter setting out the overarching methodology for the assessment, which clearly distinguishes effects that are 'significant' from 'non-significant' effects. Any departure from that methodology should be described in individual aspect assessment chapters.</p>
223	n/a	Surveys underpinning technical assessments	<p>The ES should identify any surveys that underpin the ES chapter assessments and include the timing of the surveys. For clarity, this information should be provided either in the introductory chapters of the ES (with confirmation that these timescales apply to all chapters), or in each aspect chapter.</p>
224	n/a	Cross references and extracts of the OES and UES	<p>The Inspectorate notes that the assessment information in the Scoping Report cross refers to information in the OES and the UES for the proposed development. Several hyperlinks are presented which do not work.</p> <p>The applicant should ensure that the ES, as necessary, provides clear and consistent cross reference to the OES and UES. If information from the OES or UES is applicable to the material change application this should be clearly described and referenced. Where</p>

ID	Ref	Description	Inspectorate's comments
			specific information is drawn upon direct extracts or information should be included within the ES to avoid creating a 'paperchase'.
225	n/a	Baseline conditions	<p>The Inspectorate notes that the Scoping Report proposes to conduct work to update baseline information, where relevant, as it relates to assessments previously undertaken in relation to the OES. The Inspectorate welcomes this but also considers that the ES should assess whether changes in the baseline have consequences for other assessment outcomes. For example, if updated baseline assessments for ecology affect the environmental importance of the receiving environment for a given receptor this may result in necessary consequential changes to proposed mitigation or compensation even though overall significance may not change.</p> <p>Where the ES updates any relevant baseline information, the methodology for doing this should be clearly set out in the front end and relevant aspect chapters so it is clear what baselines have been updated and how this has been implemented. Consultation should be undertaken with relevant bodies to inform appropriate baseline update and characterisation.</p>
226	Tables 2 and 5	Supporting evidence	<p>A number of statements are made without evidence to support them, for example, that the additional material to be dredged will not be contaminated and approximately 450,000 m<sup>3</sup> of the total dredged material will be chalk.</p> <p>The ES should provide supporting evidence for baseline characterisation and any assumptions made. The applicant should seek agreement with relevant consultees where practicable.</p>
227	n/a	Legislation, policy and guidance	The Inspectorate notes that the OES was developed according to relevant legislation, policy and guidance applicable at that time. The matters addressed in the ES should be informed with reference to the most recent relevant legislation, policy and guidance.

### 3. ENVIRONMENTAL ASPECT COMMENTS

#### 3.1 Geology, Hydrogeology and Ground Conditions

(Scoping Report Table 5)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
3.1.1	Table 5	Impacts to Geology, Hydrogeology, Ground Conditions, Ground Gas from terrestrial works.	The Inspectorate agrees that the proposed material change is unlikely to alter the characteristics of the impacts associated with terrestrial works. On this basis the Inspectorate agrees that the assessment of effects for these matters presented in the OES is unlikely to change. Further assessment beyond that presented in the OES is not required.

ID	Ref	Description	Inspectorate's comments
3.1.2	Tables 2 and 5	Characterisation of dredged material	<p>The Scoping Report states that the remaining dredged material that is not chalk would be silts, sands and clays. The EA (see Appendix 2 of this report) identifies certain characteristics of the chalk that have not been defined that may influence potential impacts and subsequently the conclusions of an assessment of likely significant effects. For example, the structure of the chalk may have implications for the effectiveness of dredging and disposal plans.</p> <p>The ES should adequately characterise the material to be dredged and disposed of and identify its intended disposal location(s) in order to inform a detailed assessment of the likely significant effects. The applicant should make effort to agree the approach to the characterisation and assessment with relevant consultation bodies.</p>
3.1.3	Table 5	Impacts from water transfer	The proposed development is likely to result in chalk being dredged due to the increase in depth and area of dredging. The EA advises that chalk in the area of the proposed development is classified as a Principal Aquifer yielding groundwater supplies and

ID	Ref	Description	Inspectorate's comments
			provision of baseflow to watercourses (see Appendix 2 of this report). The ES should assess potential significant effects on groundwater and the chalk aquifer. This should include updated assessment of effects to chalk aquifer including potential saline intrusion and consideration of potential fracturing in the chalk.

### 3.2 Hydrodynamic and Sedimentary Regime

(Scoping Report Table 5)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
321	n/a	n/a	No matters have been proposed to be scoped out of the assessment.

ID	Ref	Description	Inspectorate's comments
322	n/a	Climate change projections	There is no discussion of climate change projections informing the assessment of hydrodynamic and sedimentary regimes. The ES should apply the latest climate change projections to the assessment and explain how this alters the baseline or any potential likely significant effects.

### 3.3 Water and Sediment Quality

(Scoping Report Table 5)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
331	Table 5	Changes in ambient water temperature – construction	The Scoping Report identifies that no significant effects have previously been reported for changes in ambient water temperature. The Inspectorate agrees to scope this matter out on the basis that the ES demonstrates that any temperature increases are negligible. If this cannot be demonstrated, the ES should include an assessment of any potential significant effects.
332	Table 5	Site run-off and storm drainage – construction	The Inspectorate agrees that on the basis no changes are proposed to the arrangements for site and storm drainage, no significant effects are likely to occur and this matter can be scoped out of further assessment.
333	Table 5	Indirect impacts to water quality at Cleethorpes Beach – construction	The Inspectorate agrees that as Cleethorpes Beach is located at some distance from the proposed development and is unlikely to experience significant effects from the proposed changes, this matter may be scoped out of further assessment.
334	Table 5	Indirect impacts to water quality at designated sites from changes in dissolved oxygen levels – construction	<p>This is scoped out on the basis that the effects would be no different than as assessed in the OES. However, considering the change in the volume of material to be dredged and the fact that maintenance dredging is scoped in, the Inspectorate does not agree to scope this matter out.</p> <p>Unless otherwise agreed with relevant statutory bodies, the ES should include detail on the proposed intervals, duration and volumes for dredging to inform an assessment of likely significant effects from changes in dissolved oxygen. The applicant should make efforts to agree the approach to this assessment with the relevant consultation bodies. If it</p>



ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
			is agreed with these bodies that an assessment is not required then the ES should provide evidence of this agreement.
335	Table 5	Impacts to water quality from drainage of foul water, sewage and trade effluent, accidental leaks, spills or litter – operation	<p>The Scoping Report identifies that there would be no operational changes that could affect drainage of foul water from sewage and trade effluent, accidental leaks and spills, or litter. The Inspectorate notes that the proposed development includes a change in existing cargo restrictions and allows for redundant marine structures to be handled which has potential to lead to water quality risks from materials, chemicals and oils etc.</p> <p>The ES should provide detail on the types of redundant marine structures that will be handled, how they will be handled and what vessels will be used to transport them. The ES should include an assessment of likely significant effects where they are likely to occur, based on a worst case scenario as advised in the Inspectorate's <a href="#">advice page on application of the Rochdale envelope</a>. The applicant should make efforts to agree the approach with the relevant consultation bodies.</p>

ID	Ref	Description	Inspectorate's comments
336	n/a	Impacts to abstractions and outfalls	The Inspectorate notes the advice from the EA in relation to potential impacts on the Killingholme Power Plant intake/outfall and the Uniper outfall. Unless otherwise agreed with relevant statutory bodies, the ES should include an assessment of potential impacts from the proposed development to existing abstractions, infalls and outfalls. If it is agreed with these bodies that an assessment is not required then the ES should provide evidence of this agreement.

### 3.4 Aquatic Ecology

(Scoping Report Table 5)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
34.1	Table 5	Disturbance to fish from construction activity noise and vibration due to dredging and vessel movement – during construction	<p>This matter is proposed to be scoped out on the basis that there are existing requirements in the Deemed Marine Licence that control piling times and that the same level of noise would be produced but over a longer period of time.</p> <p>The Inspectorate considers that there is no evidence to support the statement that the same noise level over a longer period of time would not increase potential impacts to disturbance to fish from construction activity. It is unclear whether there are changes in the methodology and frequency of construction activities. Additionally, the increase in vessel activity is not quantified. The Inspectorate considers that there is potential for significant effects on fish species during construction.</p> <p>In the absence of information such as evidence demonstrating clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope these matters from the assessment. Accordingly, the ES should include an assessment of these matters, taking into account any migratory or breeding seasons of the relevant fish species or the information referred to demonstrating agreement with the relevant consultation bodies and the absence of a LSE.</p>
34.2	Table 5	Disturbance to fish and fish larvae/eggs from habitat loss and disturbance – dredge disposal during construction And	<p>The Scoping Report states that the proposed change would increase vessel movements during construction however, the area would be small, the impacts short term and fish by nature are a mobile species and will avoid the area of disturbance, returning once construction has ceased. Additionally, it states that there would be no new sources of noise and vibration beyond what has already been assessed.</p> <p>However, the Inspectorate notes that in Scoping Report paragraph 2.9 it states that the construction of the quay would not be within any specified timeframe. In addition, the increase in vessel movements has not been quantified. The Scoping Report does not</p>

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
		<p>Disturbance to fish from habitat loss and construction activity noise and vibration – quay construction</p> <p>And</p> <p>Disturbance to marine mammals from construction activity noise and vibration – from quay construction</p>	<p>reference what fish or marine mammals are likely to be impacted in this area. The Inspectorate considers that the characterisation of the impact may be different from what was previously assessed, for example, in terms of extent, intensity and duration.</p> <p>The Inspectorate considers that insufficient evidence has been provided and in the absence of information such as evidence demonstrating clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope these matters from the assessment. The ES should provide an assessment of likely significant effects explaining what receptors are likely to be affected and over what time periods or else use this evidence to justify scoping this matter out. This should take into account any migratory and breeding seasons of species that use the Humber Estuary. The applicant should make efforts to agree the approach with relevant consultation bodies. If it is later agreed with these bodies that an assessment is not required, then the ES should provide evidence of this agreement.</p>
343	Table 5	Habitat disturbance from water quality changes in the vicinity of outfalls – quay construction	<p>Please see box 3.3.1 of this Scoping Opinion.</p> <p>The Scoping Report identifies that no significant effects have previously been reported for changes in ambient water temperature. The Inspectorate agrees to scope this matter out on the basis that the ES demonstrates that any temperature increases are negligible. If this cannot be demonstrated, the ES should include an assessment of any potential significant effects.</p>
344	Table 5	Disturbance to marine mammals from reduced prey availability – from quay construction	<p>The Scoping Report argues that there is no pathway for the proposed changes to quay design to impact fish different from that assessed in the OES.</p> <p>However, on the basis that the Inspectorate does not agree to scope out disturbance to fish and fish larvae in boxes 3.4.1 and 3.4.2 above, the Inspectorate does not agree to scope out this matter. In the absence of information such as evidence demonstrating clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope this matter out of further assessment. The ES should include an assessment of this</p>

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
			matter and any likely significant effects associated. The applicant should make efforts to agree the approach with relevant consultation bodies. If it is later agreed with these bodies that an assessment is not required, then the ES should provide evidence of this agreement.
34.5	Table 5	Impacts to all aquatic ecological receptors from construction run-off	The Inspectorate agrees that on the basis no changes are proposed to the site drainage arrangements, no significant effects are likely to occur and this matter can be scoped out of further assessment.
34.6	Table 5	Disturbance to fish due to the operational noise of an increased number of vessels – operation	<p>The Scoping Report states that the proposed development will not result in a significant change in the number of operational vessels, but the change in the number of vessels is not stated. It states that the noise impacts with the associated activities are within the envelope of what has already been assessed in the ES and no new impacts are identified.</p> <p>Considering the proposed change in restrictions on cargo handling, it is unclear what the changes in vessel movements and vessel type would be. The scoping report does not reference what fish are likely to be impacted in this area. The Inspectorate considers that the characterisation of the impact may be different from what was previously assessed, for example, in terms of extent, intensity and duration.</p> <p>The Inspectorate considers that insufficient evidence has been provided and in the absence of information such as evidence demonstrating clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope these matters from the assessment. The ES should provide an assessment of likely significant effects or else provide evidence to justify scoping this matter out. This should take into account any migratory and breeding seasons of species that use the Humber Estuary. The applicant should make efforts to agree the approach with relevant consultation bodies. If it is later agreed with these bodies that an assessment is not required, then the ES should provide evidence of this agreement.</p>

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
34.7	Tables 2 and 5	Impacts from habitat loss	<p>The Scoping Report does not state the updated amount of habitat to be lost as a result of the proposed changes other than it will be 'less' than the habitat loss reported in the UES. The Inspectorate notes the concerns expressed by Natural England that there is potential for additional loss from the proposed dolphins and changes in parameters of the quay.</p> <p>The ES should confirm the updated footprint of total habitat loss in the context of the updated dimensions of the quay berthing pocket, dolphins and the proposed amounts of dredged material. Where this has potential to lead to likely significant effects, this should be assessed in the ES.</p>

ID	Ref	Description	Inspectorate's comments
34.8	Table 5	Indirect changes to habitats from project-induced changes in hydrodynamic and morphodynamic regime – from quay construction	The Scoping Report states that the proposed design changes to the quay may affect the hydrodynamic regime from that previously assessed. It is proposed that if the ES concludes that the hydrodynamic and morphodynamic effects do result in a noticeable change then indirect changes to habitats will be scoped into the updated assessment, however if there is no noticeable change then indirect changes to habitats will be scoped out of the ES. The ES should include evidence to support any conclusions reached. Efforts should be made to seek agreement with the relevant consultation bodies on the approach and outcome to the updated assessment.
34.9	Table 5	Effects from dredge arisings on benthic communities and habitat loss	The Scoping Report states that disposal activities assessed in the UES at the disposal sites did not identify adverse effects on the benthic invertebrates and that the sites are subject to high quantities of material disposal each year. It therefore assumes that any effects will be temporary. Whilst loss of subtidal habitat and benthic communities from dredge spoil disposal is scoped in, the Inspectorate considers that the Scoping Report may underestimate the potential impacts that should be assessed in this regard. As the nature of the dredged material has changed to include chalk, this has a differing composition to

ID	Ref	Description	Inspectorate's comments
			<p>the material previously assessed and therefore has potential to increase risk to benthic communities.</p> <p>The ES should appropriately characterise the material to be dredged and take the composition of the material into account when assessing likely significant effects and this should be used to inform an appropriate means and location for disposal. Effort should be made to seek agreement with the relevant consultation bodies on the approach.</p>
34.10	n/a	Effects from Invasive Non-Native Species (INNS)	<p>The Scoping Report does not refer to INNS although the Inspectorate considers that the proposed development identifies impact pathways that may increase the risk of introducing INNS; via infilling, increase in vessel movements during construction and operation and through the handling of redundant marine structures.</p> <p>The ES should include an assessment of significant effects from transportation of INNS where they are likely to occur. The ES should describe any relevant mitigation measures and explain how they are secured.</p>

### 3.5 Terrestrial Ecology and Birds

(Scoping Report Table 5)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
3.5.1	Table 5	Indirect effects from hydrodynamic and morphodynamic regime changes to ornithology	<p>Where changes are identified in the hydrodynamic and morphodynamic regimes, direct effects to ornithology are proposed to be assessed. Where changes to these regimes are not identified, indirect effects are proposed to be scoped out.</p> <p>On the basis that no evidence is presented in the Scoping Report and that relevant matters are scoped in for the hydrodynamic and sedimentary regime and geology, hydrogeology and ground conditions chapters, the Inspectorate considers that this matter should be scoped in for further assessment. The ES should include clear cross reference to other relevant aspect chapter assessments, such as hydrodynamic and sedimentary regimes, where they inform the assessment of indirect effects to ornithology and make efforts to agree the approach with the relevant consultees.</p>
3.5.2	Tables 2 and 5	Effects on ornithology from habitat loss	<p>Please see box 3.4.7 of this Scoping Opinion.</p> <p>Where habitat loss has potential to lead to likely significant effects, this should be assessed in the ES, unless otherwise agreed with the relevant consultation bodies. If it is later agreed with these bodies that an assessment is not required, then the ES should provide evidence of this agreement.</p>
3.5.3	Table 5	Impacts to terrestrial habitats and species	<p>The Scoping Report explains that no changes are proposed to the terrestrial works which would have any direct impact on terrestrial habitats and species. However, the Inspectorate notes that the terrestrial works include the diversion of a footpath, the parameters of which are not discussed, operational activities include additional vehicle movements which may directly impact ecology, or indirectly eg through changes in air quality, and there is potential for the ecological baseline to have changed since the submission of the UES. In the absence of information such as evidence demonstrating</p>

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
			clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope this matter out of further assessment. The ES should provide an updated baseline and assess any significant effects from identified terrestrial works which are likely to occur during construction and operation. The applicant should make efforts to agree the approach with relevant consultation bodies. If it is later agreed with these bodies that an assessment is not required, then the ES should provide evidence of this agreement
3.54	Table 5	Noise impacts	This is scoped out on the basis that specific mitigation to limit noise levels at sensitive receptors is already provided for in the requirements of the Development Consent Order (DCO) and that noise impacts would predominantly occur from piling. There is no mention of noise impacts from the diversion of a footpath or from the change in activities at the quay either during construction or operation eg handling and dismantling of redundant marine infrastructure. There also may have been natural changes to the ecological baseline. On this basis the Inspectorate does not agree to scope this matter out. The ES should provide an updated baseline and assess any significant effects from identified terrestrial works which are likely to occur. The applicant should also make effort to agree the sufficiency of existing mitigation measures with relevant consultation bodies. If it is later agreed with these bodies that an assessment is not required, then the ES should provide evidence of this agreement

ID	Ref	Description	Inspectorate's comments
3.55	n/a	Confidential Annexes	Public bodies have a responsibility to avoid releasing environmental information that could bring about harm to sensitive or vulnerable ecological features. Specific survey and assessment data relating to the presence and locations of species such as badgers, rare birds and plants that could be subject to disturbance, damage, persecution, or commercial exploitation resulting from publication of the information, should be provided in the ES as a confidential annex. All other assessment information should be included in an ES chapter,



ID	Ref	Description	Inspectorate's comments
			as normal, with a placeholder explaining that a confidential annex has been submitted to the Inspectorate and may be made available subject to request.
3.56	n/a	Cherry Cobb Sands compensation site	<p>The Inspectorate considers that there is potential for the proposed development to impact habitats and bird distribution eg through alterations in dredging quantities, arisings and changes in vessel movements.</p> <p>The Inspectorate considers that the ES should assess whether the effects on designated site features are such that they would introduce new or different significant effects.</p> <p>The Inspectorate notes that there is no change proposed to the compensation provision being provided. The Cherry Cobb Sands compensation proposal was established on the basis of the anticipated harm to the Humber Estuary Special Protected Area. The updated assessment should therefore consider whether the original impacts of the proposed development to qualifying features are likely to change and confirm if the compensation proposed remains appropriate in these circumstances.</p>

### 3.6 Commercial and Recreational Fisheries

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
36.1	Table 5	Whole aspect	<p>The Scoping Report scopes this matter out on the basis that the UES compared the potential changes to the commercial and recreational fisheries of the area against conditions described in the OES baseline and no significant effects were identified. The Scoping Report considers that as the proposed development is similar to the project description in the UES, no significant effects are likely to occur. It also provides a brief description of the baseline environment in terms of commercial and recreational fishing.</p> <p>The Inspectorate agrees that this matter may be scoped out on the basis that the ES includes updated baseline information to demonstrate that there has been no material change in the importance of the location for commercial fisheries. Where there is a material changes in the baseline, the ES should assess any new of different significant effects.</p>

### 3.7 Drainage and Flood Risk

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.7.1	Table 5	Whole aspect	<p>The Scoping Report states that the quay level remains the same as that assessed in the UES. The Scoping Report confirms that no changes are proposed to the surface water and foul drainage arrangements and therefore there would be no potential for a change in the likely significant effects assessed.</p> <p>However, there is a change in the timeframe of construction of the quay with the possibility that construction does not need to be completed. As the OES identified required measures to mitigate adverse impacts from waves on sea defences as a result of the completion and presence of the quay infrastructure, this change in timeframe may now alter the conclusions of the assessment and effectiveness and timeliness of mitigation.</p> <p>In the absence of information such as evidence demonstrating clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope these matters from the assessment. The ES should provide an updated assessment of likely significant effects taking into account the changes in construction programme and timeframes and updated climate change projections. The ES should explain how this alters the requirements of mitigation, explain how it will be secured and demonstrate any relevant agreement with consultees.</p>

### 3.8 Navigation

(Scoping Report Table 5)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
381	n/a	n/a	No matters have been proposed to be scoped out of the assessment. The applicant should make efforts to agree the approach to the assessment in the ES with the relevant consultation bodies.

ID	Ref	Description	Inspectorate's comments
382	n/a	Update to Navigational Risk Assessment (NRA)	It is not clear from the wording in the Scoping Report if the NRA will be updated. On the basis that the type of vessels serving the proposed development will change, the amount of material to be dredged has altered and waste may be transported by sea, the Inspectorate considers that will be required to inform the ES assessment.

### 3.9 Traffic and Transport

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.9.1	Table 5	Whole aspect	<p>This is proposed to be scoped out on the basis that the predicted additional 1500 vehicle movements in and out of the site per year to remove additional waste would occur across the calendar year with a maximum increase of up to 10 vehicle movements per hour. It is further stated that if the traffic movements are spread over several periods, then this would not give rise to significant effects.</p> <p>However, the Scoping Report does not confirm whether this would remain below the threshold of significance in line with relevant guidance and it is unclear how much of the waste is to be transported via road. There are currently no suggested measures committed to, to ensure that movements would, and could be spread across the year.</p> <p>In the absence of information such as evidence demonstrating clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope these matters from the assessment.</p> <p>The ES should characterise the transport arrangements including the number of anticipated movements for vehicles, rail and vessels, carrying capacity, type of materials being transported, timing, duration and routing. It should include a description of mitigation measures to control/minimise impacts from transportation and explain where these are secured. Evidence of any agreements with relevant consultation bodies should be set out in the ES.</p>

ID	Ref	Description	Inspectorate's comments
392	Paragraph 2.2	Diversion to footpath	<p>Changes to the permanent works include an amendment to the diversion of Footpath 50 with a new section authorised from the junction of Station Road and Rosper Road up to the junction of Marsh Lane and Rosper Road. The footpath is identified by consultees as part of the England coast path.</p> <p>Impacts to the footpath as a result of the proposed change to the approved route should be assessed where there is potential for likely significant effects to occur.</p>

### 3.10 Noise and Vibration

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.10.1	Table 5	Whole aspect	<p>The Scoping Report proposes to scope out an assessment of noise and vibration on the basis that the proposed development will not result in any new or different noise impacts or vibration during construction. It also states that appropriate mitigation has been secured through the DCO and the amended quay will be constructed in accordance with this mitigation. Additionally, operational noise impacts associated with the handling of redundant marine structures across the quay would not be of a level to warrant an assessment of significant effects.</p> <p>The Inspectorate considers that insufficient information has been provided regarding changes to potential noise impacts from the proposed increase in size of the berthing pocket, depth of dredging, infilling, handling of marine structures and transport movements to support reasoning to scope this aspect out.</p> <p>The Inspectorate considers that the ES should include the identified information to support the assumptions made or should include an updated assessment of the likely significant effects for marine and terrestrial noise receptors associated with the proposed change. The applicant should make efforts to agree with relevant consultation bodies the sufficiency of existing mitigation measures in light of the proposed changes and more up to date understanding of the likely effects to marine ecology from underwater noise impacts.</p>

### 3.11 Air Quality

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.11.1	Table 5 and para 2.12	Whole aspect	<p>The Scoping Report proposes to scope out an assessment of air quality on the basis that air quality levels were assessed to be not significant in the UES and that the proposed development is not expected to give rise to materially different levels of emissions to air. The Inspectorate notes that redundant structures would be transported from the quay to an area designated for demolition with an anticipated maximum of 30,000 tonnes of scrap and other waste removed from the site annually, either by road, rail or sea.</p> <p>In the absence of information such as evidence demonstrating clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope this matter from the assessment. On that basis the Inspectorate does not agree that an updated air quality assessment can be scoped out from the ES. Any significant effects on air quality associated with increased transportation movements and demolition of redundant structures should be assessed. The Applicant's attention is also drawn to the Defra interim planning guidance on consideration of PM<sub>2.5</sub> in the planning process (see <a href="https://uk-air.defra.gov.uk/pm25targets/planning">https://uk-air.defra.gov.uk/pm25targets/planning</a>). The ES should explain how key sources of air pollution within the proposed development have been identified and how action has been taken to minimise emissions of PM<sub>2.5</sub> or its precursors.</p> <p>The applicant should make efforts to agree the scope of the updated assessment for air quality with relevant consultation bodies. If it is later agreed with these bodies that an assessment is not required then the ES should provide evidence of this agreement.</p>



### 3.12 Marine Archaeology

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.121	Table 5	Whole aspect	<p>The Scoping Report proposes to scope this aspect out on the basis that as the construction of the quay would take place under the existing Written Scheme of Investigation (WSI), it is considered that the proposed amendments would not give rise to any new or different effects on the historic environment.</p> <p>The Inspectorate notes the concerns expressed by Historic England on this approach (see Appendix 2 of this report). In the absence of information such as evidence demonstrating clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope this matter from the assessment. The ES should review the impacts of the deeper berthing pocket and increased dredge quantities and consider the implications of the updated hydrodynamic and sedimentary regime assessments, particularly where impacts from erosion or accretion of sediment may have changed from the original assessment. In the event that there is potential for new or different significant effects from those previously reported, the ES should either demonstrate that the existing WSI will provide sufficient mitigation for these effects or provide an updated assessment of effects on marine archaeology.</p>

### 3.13 Light

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.13.1	Table 5	Whole aspect	The Inspectorate agrees this aspect can be scoped out on the basis that the ES confirms there are no changes are proposed to the lighting levels or area of spill from that described in the OES and UES.

### 3.14 Landscape and Visual

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.14.1	Table 5	Whole aspect	<p>The Scoping Report concludes that amendments to the proposed design are not material in the context of landscape and visual impacts and will not result in any new or different effects. However, the Scoping Report does not discuss the potential changes related to the change in handling of cargo at the site eg dismantling of redundant marine infrastructure.</p> <p>In the absence of information such as evidence demonstrating clear agreement with relevant statutory bodies, the Inspectorate is not in a position to agree to scope these matters from the assessment. Accordingly the ES should include an assessment of these matters or the information referred to demonstrating agreement with the relevant consultation bodies and the absence of a LSE.</p>

### 3.15 Socio-Economic

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.15.1	Table 5	Whole aspect	The Scoping Report states that there would be no new or different socio-economic impacts to those previously reported in the OES or UES. Based on the description of the proposed development and likely impacts, the Inspectorate agrees that this aspect can be scoped out.

### 3.16 Aviation

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.16.1	Table 5	Whole aspect	The Inspectorate agrees that as the proposed development does not include construction of any tall structures beyond that assessed in the OES and UES, significant effects are not likely to occur and this matter may be scoped out.

**3.17 Waste**

(Scoping Report Table 5)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
3.17.1	n/a	n/a	No matters have been proposed to be scoped out of the assessment

### 3.18 Health

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.18.1	Table 5	Whole aspect	The Inspectorate agrees that the proposed development would not lead to any new or different health impacts and therefore this aspect can be scoped out as a separate topic.

### 3.19 Climate Change

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
3.19.1	Table 5	Whole aspect	<p>The Scoping Report identifies that the UES included consideration of carbon dioxide (CO<sub>2</sub>) emissions, flood risk and climate change, hydrodynamics and adaptation of the development design. This aspect is proposed to be scoped out on the grounds that differences in the assessment since the assessment undertaken for the UES would not give rise to any additional effects. However, this is not supported by any evidence of comparative changes such as increases in vessel movements and change in vessel type as a result of the proposed development.</p> <p>Additionally, the EA highlight that the change in construction timeframes may undermine the vulnerability of the proposed development to wave action that has potential to increase over time as a result of climate change.</p> <p>The Inspectorate does not agree to scope this aspect out of further assessment. The ES should include an assessment of impacts to and from climate change in terms of vulnerability and exacerbation of effects and effects from Greenhouse Gas (GHG) emissions.</p>



### 3.20 Major Accidents and/or Disasters

(Scoping Report Table 5)

ID	Ref	Applicant's proposed aspect to scope out	Inspectorate's comments
320.1	Table 5	Whole aspect	<p>The Scoping Report states that the differences in the assessment since the assessment undertaken for the UES would not give rise to any new or additional effects.</p> <p>The Inspectorate does not agree to scope this matter out. Please see boxes 3.8.2 and 3.7.1 in relation to this matter.</p>

### 3.21 Cumulative and In-Combination Effects

(Scoping Report Table 5)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
321.1	n/a	n/a	No matters have been proposed to be scoped out of the assessment

ID	Ref	Description	Inspectorate's comments
3212	n/a	Approach to assessment of cumulative effects	Little information has been provided on the approach to updating the cumulative and in-combination assessments. For clarity, the applicant should seek and provide evidence of agreement with the relevant consultation bodies regarding the extent of the study area and developments and matters to be included in the cumulative assessment.
3213	Paragraph 4.16	Implemented schemes	Scoping Report paragraph 4.16 identifies that there were a number of cumulative schemes which were assessed cumulatively within the UES. These schemes are not identified in the Scoping Report and it is not explained how they will be treated ie if they will inform an updated baseline. The ES should characterise an up to date baseline explaining how and which implemented schemes have informed this.

## APPENDIX 1: CONSULTATION BODIES FORMALLY CONSULTED

**TABLE A1: PRESCRIBED CONSULTATION BODIES**

Bodies prescribed in schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (the 'APFP Regulations (as amended)')

<b>SCHEDULE 1 DESCRIPTION</b>	<b>ORGANISATION</b>
The Secretary of State for Defence	Ministry of Defence
The relevant parish council or, where the application relates to land in Wales or Scotland, the relevant community council	Great Limber Parish Council
	Sunk Island Parish Council
	Paull Parish Council
	Thorngumbald Parish Council
	Preston Parish Council
	Keyingham Parish Council
	Ottringham Parish Council
	Hedon Parish Council
	Immingham Parish Council
	Habrough Parish Council
	South Killingholme Parish Council
	Thornton Curtis Parish Council
	Ulceby Parish Council
	North Killingholme Parish Council
	East Halton Parish Council
	Goxhill Parish Council
The Environment Agency	The Environment Agency

<b>SCHEDULE 1 DESCRIPTION</b>	<b>ORGANISATION</b>
Natural England	Natural England
The Forestry Commission	Yorkshire and North East Forestry Commission
The Historic Buildings and Monuments Commission for England (known as Historic England)	Historic England
The Joint Nature Conservation Committee	Joint Nature Conservation Committee
The Maritime and Coastguard Agency	Maritime & Coastguard Agency
The Maritime and Coastguard Agency - Regional Office	The Maritime and Coastguard Agency – North East England Marine Office
The relevant internal drainage board	South Holderness Internal Drainage Board
	North East Linsey Drainage Board
Trinity House	Trinity House
The relevant Highways Authority	East Riding of Yorkshire Council
	North Lincolnshire Council
	North East Lincolnshire Council
	National Highways
The Civil Aviation Authority	Civil Aviation Authority
The Health and Safety Executive	Health and Safety Executive
United Kingdom Health Security Agency, an executive agency of the Department of Health and Social Care	United Kingdom Health Security Agency
NHS England	NHS England
Mining Remediation Authority	The Coal Authority

<b>SCHEDULE 1 DESCRIPTION</b>	<b>ORGANISATION</b>
The Crown Estate Commissioners	The Crown Estate
The relevant police authority	Humberside Police and Crime Commissioner
The relevant ambulance service	Yorkshire Ambulance Service
The relevant fire and rescue authority	Humberside Fire and Rescue Service

**TABLE A2: RELEVANT STATUTORY UNDERTAKERS**

‘Statutory undertaker’ is defined in The APFP Regulations (as amended) as having the same meaning as in section 127 of the Planning Act 2008 (PA2008)

<b>STATUTORY UNDERTAKER</b>	<b>ORGANISATION</b>
The relevant Integrated Care Board	NHS Humber and North Yorkshire Integrate Care Board (ICB)
NHS England	NHS England
The relevant NHS Trust	Yorkshire Ambulance Service NHS Trust
Railways	Network Rail Infrastructure Ltd
Dock and Harbour authority	ABP Humber Estuary Services
	Associated British Ports (ABP)
Civil Aviation Authority	Civil Aviation Authority
Licence Holder (Chapter 1 Of Part 1 Of Transport Act 2000)	NATS En-Route Safeguarding
Universal Service Provider	Royal Mail Group
The relevant Environment Agency	The Environment Agency
	Anglian Water

STATUTORY UNDERTAKER	ORGANISATION
The relevant water and sewage undertaker	Yorkshire Water
The relevant public gas transporter	Cadent Gas Limited
	Northern Gas Networks Limited
	Scotland Gas Networks Plc
	Southern Gas Networks Plc
	CNG Services Ltd
	Energy Assets Pipelines Limited
	ESP Connections Ltd
	ESP Networks Ltd
	ES Pipelines Ltd
	ESP Pipelines Ltd
	Fulcrum Pipelines Limited
	GTC Pipelines Limited
	Independent Pipelines Limited
	Quadrant Pipelines Limited
	Harlaxton Gas Networks Limited
	Indigo Pipelines Limited
	Inovyn Enterprises Ltd
	Last Mile Gas Ltd
	Leep Gas Networks Limited
	Mua Gas Limited
	Stark Works
	National Gas

STATUTORY UNDERTAKER	ORGANISATION
The relevant electricity generator with CPO Powers	Heron Renewable Energy Plant
	Killingholme Power Station
	Saltend Power Station
	VPI Immingham OCGT
	Immingham CHP
	South Humber Bank Energy Centre
The relevant electricity distributor with CPO Powers	Northern Powergrid (Northeast) Limited
	Northern Powergrid (Yorkshire) plc
	Advanced Electricity Networks Ltd
	Aidien Ltd
	Aurora Utilities Ltd
	Eclipse Power Network Limited
	Energy Assets Networks Limited
	ESP Electricity Limited
	Fulcrum Electricity Assets Limited
	Green Generation Energy Networks Cymru Ltd
	Harlaxton Energy Networks Limited
	Independent Distribution Connection Specialists Ltd
	Independent Power Networks Limited
	The Electricity Network Company Limited
	Indigo Power Limited
	Last Mile Electricity Ltd
	Leep Electricity Networks Limited
	Mua Electricity Limited
	Optimal Power Networks Limited

STATUTORY UNDERTAKER	ORGANISATION
	Stark Infra-Electricity Ltd
	UK Power Distribution Limited
	Utility Assets Limited
	Vattenfall Networks Limited
	UK Power Networks Limited
The relevant electricity transmitter with CPO Powers	Diamond Transmission Partners Hornsea One Limited
	Diamond Transmission Partners Hornsea Two Limited
	Humber Gateway OFTO Limited
	National Grid Electricity Transmission Plc
	National Grid Electricity System Operation Limited
	TC Westernmost Rough OFTO Limited

**TABLE A3: LOCAL AUTHORITIES AS DEFINED IN SECTION 43(3) OF THE PA2008**

LOCAL AUTHORITY
West Lindsey District Council
Bassetlaw District Council
City of York Council
City of Doncaster Council
North Yorkshire Council
Hull City Council
North East Lincolnshire Council
Nottinghamshire County Council
Lincolnshire County Council
East Riding of Yorkshire Council
North Lincolnshire Council



**TABLE A4: THE MARINE MANAGEMENT ORGANISATION**

Section 42(1)(a) of the PA2008 requires consultation with the Marine Management Organisation in any case where the proposed development would affect, or would be likely to affect, any of the areas specified in subsection 42(2).

ORGANISATION
The Marine Management Organisation

**TABLE A5: NON-PRESCRIBED CONSULTATION BODIES**

ORGANISATION
York and North Yorkshire Combined Authority
Royal National Lifeboat Institution

## APPENDIX 2: RESPONDENTS TO CONSULTATION AND COPIES OF REPLIES

CONSULTATION BODIES WHO REPLIED BY THE STATUTORY DEADLINE:
Associated British Ports
Associated British Ports Harbour Master
Cadent Gas
Coal Authority
Environment Agency
Forestry Commission
Health and Safety Executive
Health Security Agency
Historic England
Joint Nature Conservation Committee
Marine Management Organisation
Maritime and Coastguard Agency
National Highways
NATS
Natural England
North Lincolnshire Council
North Yorkshire Council
West Lindsey District Council
Witham Internal Drainage Board
Yorkshire Water

**ASSOCIATED BRITISH PORTS**

**Planning Act 2008 and the Infrastructure Planning (Environmental Impact Assessment) regulations 2017 (The EIA Regulations) Regulations 10 and 11**

**Application by Able Humber Port Ltd (the applicant) for an Order granting Development Consent for Able Marine Energy Park Material Change 3**

**EIA Scoping Report – January 2025**

**1 Executive Summary**

- 1.1 This response regarding is submitted on behalf of Associated British Ports (“ABP”).
- 1.2 ABP has confining its response to the Scoping Report dated 16 January 2025 submitted by Able Humber Ports Ltd (“the Applicant”) in respect of its third proposed material change to the AMEP DCO, although that said, it has also taken into account the minutes of the PINS Inception Meeting that was held with the Applicant on 28 November 2024 and the questions raised by PINS during the course of that meeting.
- 1.3 ABP is the owner and operator of four ports on the Humber estuary, namely Immingham, Grimsby, Hull and Goole – and is the Statutory Harbour Authority (‘air traffic control’ and more) for the whole estuary.
- 1.4 ABP is also a central player in the region’s growing role as a green energy leader, already involved with offshore wind (both manufacturing and operations) and with a pipeline of major projects for green hydrogen and carbon capture and storage.

**2 Response to the Scoping Report**

**2.1 *Materiality of the Changes***

- 2.2 ABP notes that the Material Change Application seeks authorisation for what can be summarised as four distinct changes, namely:
  - (a) phasing the development of the quay in three distinct stages with no obligation to complete the whole of the quay within any specified timeframe;
  - (b) the widening and deepening of the berthing pocket by an additional 900,000m<sup>3</sup>;
  - (c) amendment of the permitted use and relaxation of the cargo restriction to permit the addition of operations to receive, dismantle and recycle redundant offshore structures; and
  - (d) extension of CPO powers to allow acquisition of various unregistered land parcels.
- 2.3 The Applicant acknowledges in the Scoping Report that the - “*the proposed changes are at this stage considered to represent a material change to the DCO due to the*

*potential for different environmental effects and the proposal to extend the time limits for compulsory acquisition.”*

- 2.4 The Applicant proceeds to argue, however, that - *“the changes are not considered so substantial that the project should be treated as a new project...The nature of the project is the same; it is to take place on the same land; and all the requirements in the DCO are to remain the same.”*
- 2.5 Before commenting generally on the Scoping Report in terms essentially of topics that the Applicant believes should be scoped out, ABP would ask that consideration be given as to whether the proposed changes are in fact so substantive as to constitute a new project within the context of the Act and relevant Guidance.
- 2.6 The Applicant is relying and justifying its position as to the nature of the project on paragraph 18 of the Department for Communities and Local Government’s advice note ‘*Guidance on Changes to Development Consent Orders*’. It is suggested, however, that note should also be taken, however, of the advice provided in paragraphs 17, 19 and 20 of the Guidance which assist in determining whether a material change application is in fact a material change within the meaning of the Planning Act 2008 or whether it is so substantive in nature as to constitute a new scheme. To assist, these are set out below -

*“17. Section 28 of the Infrastructure Act 2015 amended the 2008 Act to give the Secretary of State the power to refuse to determine an application for a change to a Development Consent Order. In particular, the Secretary of State may exercise this power if it is considered that the development that would be authorised as a result of the change should properly be the subject of a new application for a Development Consent Order under section 37 of the 2008 Act.*

18. ....

19. *It is expected that the power to decline to determine an application for a change will be used infrequently. It is more likely in cases where the proposed change would in itself constitute a nationally significant infrastructure project, or where the development as changed would constitute a different kind of infrastructure project from that which has already been given consent. The cumulative effect of previous changes made to the Development Consent Order may also be relevant when considering whether a further application for change should be treated as a new project.*

20. *Without prejudice to the need to consider applications in the light of individual circumstances, some theoretical examples of the situations where it might be used could include:*

- (i) *a road project from town A to town B was granted a Development Consent Order and the applicant subsequently submitted an application to change the consent by extending the road from town B to town C. In such a situation, the Secretary of State might use the power to refuse to determine the application if the building of the road from town B to town C on its own would require a Development Consent Order (because it met the thresholds in the 2008 Act to be a nationally significant infrastructure project).*
- (ii) *similarly, if development consent had been granted for a road and a change was proposed so that part of the route was amended such that*

the length of the new part of the route exceeded the length of what remained of the original route, the Secretary of State might consider that change should be treated as a completely new project rather than a material change to the original development consent.

(iii) if a gas fired power station was granted a Development Consent Order, but the applicant subsequently submitted an application for changes so the plant was fired by another fuel (eg biomass or coal), then the Secretary of State might consider that the changes to the project were so significant that the project should be subject to a new application for development consent.” [our emphasis].

- 2.7 The Proposed Changes include a significant widening and deepening of the size of the consented berth pocket from 840,000m<sup>3</sup> (as at material change 2) to 1,740,000m<sup>3</sup>. This is more than a doubling in size. On that basis alone, it is suggested that account should be taken of the requirements within paragraph 19 of the Guidance and the relevance of the example provided at paragraph 20(ii) (above).
- 2.8 Of even more significance, however, is the Applicant's proposed operational changes in terms of change of use as a result of the removal of the cargo restrictions. The Applicant states that as result of this change, it is expected that - “a maximum of 30,000 tonnes of scrap and other waste will be generated annually”. The fact that this change is now being proposed by the Applicant is somewhat surprising bearing in mind the Applicant's stated position over the last few years, most recently when seeking approval for the extension of the life of the project, that the AMEP consented use would not be changed. This is clearly no longer the case as the client is now attempting to change the permitted use. At the very least, ABP would expect the Applicant's eventual submission to state very clearly the full extent of the proposed changes with an equally clear statement as to any further aspirations for the site bearing in mind that the restrictions as to the use of the site incorporated within the AMEP DCO was imposed after considerable discussion and for very explicit and justifiable reasons – which the Applicant is now attempting to circumvent.
- 2.9 In the light of the above, ABP asks the Secretary of State/PINS to consider, whether the proposed change of use would lead to a such a substantial change in the nature and character of the Marine Energy Park as originally consented as to constitute a “new” project. This is bearing in mind that the effect of the change, if permitted, would be that the Marine Energy Park would be permitted to operate as a scrap metal, demolition and recycling facility – the actual permitted use being for offshore renewable energy manufacturing facility. It is suggested that this change will in turn create a wide range of potential new significant impacts that can only properly be assessed if the application is treated as an entirely new project.
- 2.10 In addition, as the Secretary of State is aware, the original DCO was granted on the basis that the proposed use (ie the construction of an offshore renewable energy manufacturing facility) was urgently needed. On the basis of that “urgent need”, the Secretary of State was satisfied that the original project satisfied the Habitats Regulations *Imperative Reasons of Overriding Public Interest* (“IROPI”) test despite the loss of a large area of designated SPA/SAC.
- 2.11 Some eleven years later, substantial development of the consented project has not commenced which of itself raises the question as to whether the IROPI test for the project could actually be met today. The Applicant is now proposing a significant



change of use and a major deepening and widening of the berth pocket to serve a significant change of use.

- 2.12 Further, if the scheme is to be - “built in up to three stages ..... with no obligation to complete the whole of the quay within any specified timeframe” (para, 2.2 of the Scoping Report), what is to stop the Applicant from simply developing a demolition and recycling facility and never building the originally consented renewable energy manufacturing facility. This alone points to the reality that the project should be viewed as a “new project”.
- 2.13 In the light of the above, ABP asks the Secretary of State/PINS to consider whether the development of a demolition and recycling facility in the context of the requirements of the Habitats Regulations, and in particular the IROPI test, can in law actually be comprehensively assessed and considered simply as a material change as opposed to an entirely new project as it is suggested is the case for this application?

## 2.14 ***The Scoping Report***

- 2.15 The Scoping Report outlines the scope of any additional environmental statement process that will be required as a result of the Material Change Application. ABP queries whether the Applicant is correct in proposing to “scope out” a number of topics for assessment. This part of its Response is without prejudice to ABP’s question as to whether it may be necessary for the Material Change Application to be taken forward as a full application for a new DCO.

### *Traffic and Transport*

- 2.16 It is suggested that there are not likely to be any new significant environmental effects as a result of the proposed changes. The reasoning provided by the Applicant is that “[t]ransport of the material off-site will be episodic and occur across the calendar year with a limited number of vehicles involved each time...the maximum additional traffic impact would be no more than 10 vehicle movements per hour.”
- 2.17 ABP questions this conclusion in light of the proposal to operate a scrap refuge facility as part of the Proposed Changes. It is not clear to ABP how the estimated generation of 30,000 tonnes of scrap and other waste on an annual basis aligns with the alleged ‘additional 1500 vehicle movements’ on a yearly basis. These figures would see an allocation of 20 tonnes of waste *per vehicle* (assuming maximum waste throughput is reached, and no other additional vehicles are required for anything other than waste removal).
- 2.18 The initial figure of 1,500 vehicles, therefore, would appear to be an under assessment in light of the extent and nature of the Proposed Changes and certainly is a topic that it is considered warrants careful assessment – particularly in light of other consented projects in the area which may themselves introduce additional traffic movements on the local highway network. As such, ABP considers that further information is required on this topic generally and that transport should, irrespective of this, plainly be scoped in to the assessment.

## *Air Quality*

- 2.19 The Applicant proposes that Air Quality should be scoped out of the environmental assessment on the basis that the Proposed Changes are not expected to give rise to materially different levels of emissions to air. ABP queries these conclusions in light of the additional waste recycling facilities, which it is suggested would certainly have the ability to worsen the air quality. As such, it would be reasonable to expect the Applicant to carry out a formal assessment in respect of this issue.

## *Noise and Vibration*

- 2.20 It is again suggested that this ought to be scoped out. ABP is particularly concerned with the Applicant's suggestion that the inevitably additional noise and vibration that would be created by the Proposed Change would not 'warrant' assessment. ABP is strongly of the view that this topic should be scoped in.

## *Archaeology*

- 2.21 The Applicant considers that the changes affecting the construction of the quay "*will not give rise to any new or different effects on the historic environment*". It is not entirely clear at this stage the extent of the Proposed Changes to the quay as well the berth pocket. In light of the uncertainty, it is asked that this topic should be scoped-in.

## *Habitats and Ecology*

- 2.22 There are a broad range of habitats and ecology matters which ABP notes with some concern are being scoped out of the environmental assessment.
- 2.23 The first matter relates to indirect impacts of water quality. In light of the substantial increase in dredging and the change in the nature/material of the dredged arising this topic should be scoped in.
- 2.24 Secondly, the impacts on fish and marine mammals from increased vessel movements and construction is scoped out on the basis that there is no material increase in magnitude or effect. Given the significant increase in dredging as a result of the Material Change Application this topic should be scoped in.
- 2.25 Finally, ABP would be extremely concerned if in light of the substantive nature of the change of use now proposed and the potential significance of their environmental effect, the Applicant failed to undertake a full and comprehensive re-assessment of the environmental impact of the Proposed Changes in the context of the Habitats Regulations and IROPI test.

## **Clyde & Co LLP**

on behalf of -

## **Associated British Ports**

13 February 2025



I refer to the Planning Inspectorate email and letter dated 16<sup>th</sup> January 2025 regarding the above proposed DCO and your current consultation.

In respect of existing Cadent infrastructure, Cadent will require appropriate protection, assurance or relocation of retained apparatus including compliance with relevant standards for works which may be proposed within close proximity of its apparatus.

To date from the details and plans provided by the project, Cadent can not confirm the full extent of interaction with the DCO.

Cadent has so far identified the following apparatus within the vicinity of the proposed works:

- High pressure (above 2 bar) gas pipelines and associated above ground and below ground equipment
- Above Ground Installations

*Note: No liability of any kind whatsoever is accepted by Cadent Gas Limited or their agents, servants or contractors for any error or omission.*

#### **Diversions and Protection of Apparatus:**

In order to assess the impact to Cadent's apparatus and network, as a minimum we need to conduct a high level impact assessment and feasibility study of our below 7 bar and above 7 bar network associated with the Scheme. This work can take upwards of 12 months to undertake depending on the complexity of the scheme and therefore a meeting with the Promoter to discuss the scope and requirements is recommended at the earliest opportunity.

#### **Land & Consents Requirements**


Where diversions of apparatus are required to facilitate the scheme, Cadent will require the Promoter to obtain all necessary land, planning permissions and other consents to enable the diversion works to be carried out. Details of these consents should be agreed in writing with Cadent before any applications are made to ensure that they are sufficient to deliver works within the proposed timescales. Cadent would ordinarily require a minimum of Conceptual Design study to have been carried out to establish appropriate diversion routes, land and consents requirements ahead of any application being made.

The Promoter will be responsible for obtaining at their cost and granting to Cadent the necessary land rights, on Cadent's standard terms, to allow the construction, maintenance, protection and access of the diverted apparatus. As such adequate land rights must be granted to Cadent (e.g. following the exercise of compulsory powers to acquire such rights included within the DCO) to enable works to proceed, to Cadent's satisfaction. Cadent's approval to the land rights powers included in the DCO prior to submission is strongly recommended to avoid later substantive objection to the DCO. Land rights will be required to be obtained prior to construction and commissioning of any diverted apparatus, to avoid any delays to the project's timescales. A diversion agreement may be required addressing responsibility for works, timescales, expenses and indemnity.

#### **Protection/Protective Provisions:**

Where the Promoter intends to acquire land, extinguish rights, or interfere with any of Cadent's apparatus, Cadent will require appropriate protection for retained apparatus and further discussion on the impact to its apparatus and rights including adequate Protective Provisions. Operations within Cadent's existing easement strips are not





permitted without approval and any proposals for work in the vicinity for Cadent's existing apparatus will require approval by Plant Protection under the Protective Provisions. Early discussions are advised.

Yours Faithfully



**Toby Feirn**  
**Planning and Consents Manager**



## PLANT PROTECTION – KEY CONSIDERATIONS

- Any works relating to the project that may have an impact on the Cadent Gas Network MUST be submitted to the Plant Protection team at Cadent ([plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com)). Details can be found here - [Digging Safely - Cadent Gas Ltd](#), offering an on-line request, or details to contact Cadent direct by email, post or telephone. This includes all prior Ground Investigation, pre-enabling works such as Archaeological excavations, and temporary and permanent crossings of buried pipelines. The Project should be aware that even though intrusive ground works may not impact on the Cadent Gas Network crossing of buried assets to these works may need to be assessed
- Written permission is required before any works commence within a Cadent easement strip and a Deed of Consent may be required if any apparatus needs to cross the Cadent easement strip
- The below guidance is not exhaustive and all works in the vicinity of Cadent's asset shall be subject to review and approval from Cadent's plant protection team in advance of commencement of works on site.

### General Notes on Pipeline Safety:

- You should be aware of the Health and Safety Executives guidance document HS(G) 47 "Avoiding Danger from Underground Services", and Cadent's specification for Safe Working in the Vicinity of Cadent High Pressure gas pipelines and associated installations - requirements for third parties CAD/SP/SSW/22. Digsafe leaflet Excavating Safely - Avoiding injury when working near gas pipes. There will be additional requirements dictated by Cadent's plant protection team.
- Cadent will also need to ensure that all pipelines remain accessible throughout and after completion of the works
- The actual depth and position must be confirmed on site by trial hole investigation under the supervision of a Cadent representative. Ground cover above our pipelines should not be reduced or increased.
- If any excavations are planned within 3 metres of Cadent High Pressure Pipeline or, within 10 metres of an AGI (Above Ground Installation), or if any embankment or dredging works are proposed then the actual position and depth of the pipeline must be established on site in the presence of a Cadent representative. A safe working method agreed prior to any work taking place in order to minimise the risk of damage and ensure the final depth of cover does not affect the integrity of the pipeline.
- Below are some examples of work types that have specific restrictions when being undertaken in the vicinity of gas assets therefore consultation with Cadent's Plant Protection team is essential:
  - Demolition
  - Blasting
  - Piling and boring
  - Deep mining

- Surface mineral extraction
- Landfilling
- Trenchless Techniques (e.g. HDD, pipe splitting, tunnelling etc.)
- Wind turbine installation
- Solar farm installation
- Tree planting schemes

#### Pipeline Crossings:

- Where existing roads cannot be used, construction traffic should ONLY cross the pipeline at agreed locations.
- The pipeline shall be protected, at the crossing points, by temporary rafts constructed at ground level. The third party shall review ground conditions, vehicle types and crossing frequencies to determine the type and construction of the raft required.
- The type of raft shall be agreed with Cadent prior to installation.
- No protective measures including the installation of concrete slab protection shall be installed over or near to the Cadent pipeline without the prior permission of Cadent.
- Cadent will need to agree the material, the dimensions and method of installation of the proposed protective measure.
- The method of installation shall be confirmed through the submission of a formal written method statement from the contractor to Cadent.
- A Cadent representative shall monitor any works within close proximity to the pipeline.

#### New Service Crossing:

- New services may cross the pipeline at perpendicular angle to the pipeline i.e. 90 degrees.
- Where a new service is to cross over the pipeline a clearance distance of 0.6 metres between the crown of the pipeline and underside of the service should be maintained. If this cannot be achieved the service shall cross below the pipeline with a clearance distance of 0.6 metres.
- A new service should not be laid parallel within an easement strip
- A Cadent representative shall approve and supervise any new service crossing of a pipeline.
- An exposed pipeline should be suitable supported and removed prior to backfilling
- An exposed pipeline should be protected by matting and suitable timber cladding
- For pipe construction involving deep excavation (<1.5m) in the vicinity of grey iron mains, the model consultative procedure will apply therefore an integrity assessment must be conducted to confirm if diversion is required



## **Guidance**

- To download a copy of the HSE Guidance HS(G)47, please use the following link:  
<http://www.hse.gov.uk/pubns/books/hsg47.htm>
- Essential Guidance document: [Digging Safely - Cadent Gas Ltd](#)
- SSW22 – Specification for Safe Working in the Vicinity of Cadent Assets:  
[SSW22\\_vMar23\\_Specification-for-Safe-Working-in-the-Vicinity-of-Cadent-Assets.pdf](#)
- Line Search Before You Dig (LSBUD) - [LSBUD - Home](#)



The Coal  
Authority

200 Lichfield Lane  
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T: 01623 637 119 (Planning Enquiries)

E: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

W: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**For the attention of: The Planning Inspectorate**

Nationally Significant Infrastructure Project

[By email: [AbleMarineEnergyPark@planninginspectorate.gov.uk](mailto:AbleMarineEnergyPark@planninginspectorate.gov.uk)]

20 January 2025

Dear The Planning Inspectorate

**Re: TR0310001 Able Marine Energy Park**

**Able Marine Energy Park Material Change 3 - Scoping Consultation and Regulation 11 Notification; KILLINGHOLME, NORTH LINCOLNSHIRE, ON THE SOUTH BANK OF THE HUMBER ESTUARY**

Thank you for your notification of 16 January 2025 seeking the views of the Coal Authority on the above.

The Coal Authority is a non-departmental public body sponsored by the Department for Energy Security and Net Zero. As a statutory consultee, the Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

We have reviewed the site location plan provided and can confirm that the site falls within the Coal Authority's defined Development Low Risk Area. On this basis we have no specific comments to make.

However, in the interest of public safety, it is requested that the Coal Authority's Standing Advice note is drawn to the applicant's attention, where relevant.

Yours

**The Coal Authority Planning Team**



Ms Emily Park  
Senior EIA Advisor (PIEMA)  
The Planning Inspectorate  
Environmental Services Operations  
Group 3  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

**Our ref:** AN/2025/136306/01-L01  
**Your ref:** TR0310001  
**Date:** 13 February 2025

(Submitted via email only to  
[AbleMarineEnergyPark@planninginspectorate.gov.uk](mailto:AbleMarineEnergyPark@planninginspectorate.gov.uk))

Dear Madam

### **Able Marine Energy Park - Material Change 3, Environmental Statement Scoping Opinion Consultation**

Thank you for consulting us on the Environmental Impact Assessment (EIA) Scoping Report for the above project, on 16 January 2025.

We have reviewed the Scoping Report, undertaken by Fairhurst (Document Number D/I/D/138434/406, dated January 2025), for issues within our remit and we have the following comments to make on it.

#### **1.0 General comments**

1.1 We have concerns in respect of the proposed 'Changes to the Permanent Works' described in paragraph 2.2, bullet point 7 "*A relaxation of the cargo restriction set out in Schedule 11, paragraph 4 of the DCO, so that redundant marine structures are allowed to be handled across the quay to enable their recycling. Products arising from recycling (such as steel) would also be permitted to be handled across the quay*". Operational activity associated with this is described in paragraphs 2.10 to 2.12. This development will require a permit to operate under the Environmental Permitting Regulations (England and Wales) 2016. We do not have enough information to know if the proposed development can meet our requirements to prevent, minimise and/or control pollution in order to issue a permit in this location.

1.2 Due to the proximity of the estuary, which has various designations for habitat protection, a significant level of additional information will be required in respect of the activities to be undertaken and the exact location of these activities. It is

therefore strongly recommended that the developer considers parallel tracking the planning and permit applications as this can help identify and resolve any issues at the earliest opportunity. Parallel tracking can also prevent the need for post-permission amendments to the planning application.

### **Comments on Scoping Report Table 5**

#### **2.0 Geology, Hydrogeology and Ground Conditions**

- 2.1 Given the tidal range of the Humber, the extensive industrial activity nearby and the time elapsed since the previous sediment sampling, it is certainly appropriate for the baseline to be updated with contemporary sampling and data. This will allow for assessment of potential mobilisation of contaminants and knock-on consequences for biota. Given recent heightened awareness about potential impacts of sediment contamination on marine fauna in northeast England, we would expect to see thorough sampling for contaminants, including spatially vertically and temporally (multiple times in > 1 year) replicated samples.
- 2.2 This Material Change 3 application proposes an increase in the extent of dredging that is required. This extra dredging is likely to result in chalk being dredged, in addition to silts, sands and clays.
- 2.3 Chalk in this area is classified as a Principal Aquifer and is a very important geological unit that yields sufficient groundwater to support many groundwater abstractions and provides baseflow to watercourses (chalk streams) in the form of blow wells and springs. At the time of the original Development Consent Order (DCO) application, detailed investigation and characterisation work was undertaken to assess the potential groundwater impacts posed by the development. Primarily, these concerns were:
- The prevention of saline intrusion to the chalk aquifer; and
  - The prevention of adverse impact to water features (including licenced and deregulated groundwater abstractions, groundwater dependent wetlands, chalk stream priority habitats etc).
- 2.4 The Hydrogeological, Piling and Dredging Risk Assessments submitted in support of the Development Consent Order (DCO) in 2011 indicated that the risk of saline intrusion or loss of freshwater resource resulting from the proposed development was not significant. However, given the proposed changes to the dredging, we consider that the applicant will need to reassess the conclusions of the previous assessments.
- 2.5 In addition to the increase in dredging depths and how these changes potentially affect the saline interface, a revised Hydrogeological, Piling and Dredging Risk Assessment should also consider any changes to the groundwater situation in the intervening years since the previous assessment was completed. For example, have there been any changes to the hydrostatic head as a result of a rise in sea level or changes to rainfall recharge?
- 2.6 Further exposure of chalk from the dredging could also increase the potential for intercepting or creating fractures in the chalk, which could have the potential to increase saline intrusion.
- 2.7 It is essential to ensure that the conclusions in the risk assessment are relevant to the proposed works and the potential for saline ingress or groundwater loss to the estuary have been fully considered for these new proposed dredging depths. Accordingly, we request that an assessment for groundwater is scoped in.

### **3.0 Hydrodynamic and Sedimentary Regime**

- 3.1 We agree with this topic being scoped in, on the basis that the additional volume of the estuary bed needing to be dredged and disposed, may, as stated in the Report, *“result in new or different effects on the hydrodynamics of the river and may also affect the sediment transport processes”*.
- 3.2 Table 2 in the Report sets out the overall amount of additional capital dredge quantity regarding the berthing pocket, which is the only one of four areas where an increase will be required. The approximate additional volume of 900,000m<sup>3</sup> of which approximately 50% will be chalk bedrock.
- 3.3 We would expect that the further updated Environmental Statement (ES) includes a comprehensive updating of the final version (June 2021) of the ES Chapter 8: Hydrodynamics and Sediment Regime submitted in respect of Material Change 2, incorporating the relevant paragraphs from the ‘Statement of Common Ground with Environment Agency’ final version (version 4 - 15/02/22: MC2 Planning Inspectorate document library reference [REP5-013](#)), as well as the matters raised in Appendix 1 of that document, and specifically incorporating the proposed monitoring schedule shown on Page 7 of Appendix 1.
- 3.4 The ES will need to define and address the following regarding dredging and disposal:
- 3.4.1 On what basis has the amount of expected chalk arisings been calculated? We would expect the source of the evidence to be referenced or even appended to the ES. This is to give sufficient confidence in the accuracy of the existing calculations as to the nature and scale of different materials. This is paramount for regulators to accurately assess the possible impacts during and after disposal.
- 3.4.2 It is suggested that a series of sedimentary cores be taken to prove the depth of the chalk. The results of this investigation could then be used to determine a dredging plan to minimise the dredging of bedrock chalk. Chalk is a rock and should be able to support the mass of berthed vessels, however the upper surface may be undulating and not the flat surface that is required for the berth pocket. The undulating bedrock surface could be covered with rock material to the required depth thus providing a level “hard-standing” surface for the berth pocket. The utilisation of existing bedrock, with rock infill could reduce the amount of rock needed and the amount of dredgings to be disposed of.
- 3.4.3 The internal structure of the chalk arisings could have implications for the effectiveness of dredging and disposal plans. Does ground investigation evidence indicate that strong structured intact chalk will be recovered in blocks, or structureless, fragmented and fissured chalk? These characteristics will have implications for how the chalk erodes and disperses, in the eventuality that it is intended to dispose within the estuary’s sub-tidal domain rather than terrestrially, which at present has not been confirmed. The assessment will need to provide sufficient evidence to demonstrate that the preferred/proposed method of disposal is appropriate.

- 3.4.4 Paragraph 2.5 of the Scoping Report refers to the remaining balance of the additional dredged material being “silts, sands and clays”. The ES will need to include further definition as the expected nature and relative proportions of this material, especially inerodible clay.

For Material Change 2, a document was produced by HR Wallingford, entitled “Erosion of placed clay at HU081 and HU082 disposal sites” dated May 2021, and was placed in Appendix UES8-2 under the title ‘Inerodible Clay’, which included a review of the hydrodynamic environment at the HU082 disposal site. We will require that report updating, as based on the information in the Scoping Report; our expectation would be that the proportion of ‘inerodible clay’, also defined as glacial till, needing to be dredged and disposed of, will increase.

In respect of capital dredging, there may be a need for a new sediment plume assessment, plus modelling to support analysis of hydrodynamic impacts of the change in bathymetry due to the increased and more landward aspects of the berth pocket.

- 3.4.5 Additionally, consistent with our response to Material Change 2, the issue of potential erosive or accretion impacts, including from increased wave action, resulting from the placing of additional material on the existing intertidal environment and associated flood embankments and managed realignment habitats will need to be addressed in the ES, including setting out how these impacts are dependent on where the additional material will be disposed. These locations have not been defined in the Scoping Report; we would expect that the ES does define which of the designated disposal sites within the Humber is proposed to be used.
- 3.4.6 This chapter of the ES should be used to define the expected origin and nature of the stone which is intended to be placed in the berthing pocket, and any possible environmental impacts on the Humber estuary.

- 3.5 Finally, the potential impact from the addition of a permanent dolphin at the north of the Quay (Quay 8) should be considered in relation to the existing abstraction and outfall points for both the Killingholme Power Station, and the Killingholme Power Plant.

#### **4.0 Water and Sediment Quality**

- 4.1 *During Construction:* We disagree that it is appropriate to scope out impacts to dissolved oxygen. More than double the amount of sediment will need to be disposed of over a longer period of time than previously planned. There is, as yet, no information on intervals, durations of volumes of disposal on which to base this decision. If indirect effects of maintenance dredging on water quality during the operation phase are scoped in (as they appear to be), then this should also be the case for dredging during construction.
- 4.2 *Operational Phase:* We disagree that water quality is scoped out of the assessment for the operational phase. The proposed relaxation of the cargo restriction will enable redundant marine structures to be handled at the quay, which could result in different (potentially significant) environmental effects. The ES needs to include sufficient detail on the types of redundant marine structures and the potential risks to the water environment associated with these such as: materials, chemical, oils, and the hazards associated with handling such cargo.



Accordingly, we request that water quality during the operational phase should be scoped in.

- 4.3 Additionally, the proposed changes to the quay should consider the Killingholme Power Plant intake/outfall as well as the Uniper (formerly E.ON) outfall. We also ask that the assessment consider whether or not there are any implications for the proposed relocation of the Anglian Water Services Elsham Water Treatment Works outfall during the phased scenarios – i.e. will the outfall still be relocated in the event that not all of the phases of the quay are built out?

## **5.0 Aquatic Ecology**

- 5.1 Dredging is now planned over a longer time-period. It is not clear if this is simply a function of the need to remove more than double the volume of material or whether the intensity of dredging will also be reduced. Having less intense dredging, potentially interspersed with breaks may bring benefits (less sediment per unit time entrained in the water column, reducing potential for smothering of species or habitats down-current) and drawbacks (an overall longer period of time where sediment is entrained in the water column, from where it may smother species or habitats down-current). If planned dredging will be more intense for a longer period of time, then knock-on consequences will be greater than in prior Environmental Statements. Each scenario should be considered. The estuary already has large sediment loads, but the additional dredging in combination with sediment suspended from multiple other activities may alter conclusions.
- 5.2 We consider that the statement “*Given that the noise levels will remain the same, the impacts can be expected to be the same*” is incorrect. Larger volumes of seabed will be removed over a longer period of time. This longer duration of activity may now overlap with periods critical for fish migration. The migratory species twaite shad (*Alosa fallax*), allis shad (*Alosa alosa*), Atlantic salmon (*Salmo salar*), sea trout (*Salmo trutta*), sea lamprey (*Petromyzon marinus*), river lamprey (*Lampetra fluviatilis*), European smelt (*Osmerus eperlanus*) and European eel (*Anguilla anguilla*) are present in the Humber Estuary and its catchments. Effects of noise and vibration should be scoped in to ensure that dredging activity does not overlap with migratory runs of juveniles or adults of the species listed above. Spatial and temporal extent of noise fields should be considered in relation to the sensitivity to noise of relevant species, along with their likely periods of migration.
- 5.3 We consider that it is premature to conclude that disturbance from dredging activity during construction will have no effect on fish. Vessel activity from dredging in the project will more than double and occur over a longer period of time. If this now overlaps with critical periods for fish migration, then barrier effects from noise or vibration may occur. This impact should be scoped in.
- 5.4 There is no explicit reference to the inclusion of an updated Water Framework Directive/Water Environment Regulations) assessment either as a dedicated chapter or within Chapter 5: Aquatic ecology, despite related features (e.g. benthic communities) ‘being scoped in’. The start of the Water and Sediment Quality section refers to WFD Chemical status, although WFD assessments are also not mentioned for the ‘scoped in’ features relating to Water and Sediment Quality (sediment plume and resuspension of contaminated sediments). Therefore, we request the WFD assessment be updated accordingly to reflect the changes proposed.

- 5.5 Additionally, the proposed changes include the handling of redundant marine structures. This activity may increase the risk of transmission of Invasive Non-Native Species (INNS). This should be considered for inclusion in the updated ES/WFD assessment.
- 6.0 Flood Risk**
- 6.1 We can advise that there have been no updates to baseline information, such as Humber water levels, or climate change allowances that would require further consideration in the ES. However, we do not agree that this topic can be scoped out as there is a significant change in developing the quay in 3 phases, with the possibility that there would be no obligation to complete the whole of the quay in any specified timeframe. This could have different effects in flood risk terms.
- 6.2 The original DCO application highlighted that there would be an impact on the sea defences from the presence of the completed quay. The assessment found that the quay would change the impacts of waves on the sea defence at the northern extent of the quay. The Applicant agreed to mitigate this impact with the introduction of rock armour to prevent increased erosion from changed wave patterns from impacting on the integrity of the defence. This was secured in a separate Legal Agreement with the Environment Agency, which referred to these as 'Improvement Works' and required their installation in combination with the development of the quay as soon as practicable and in any event not later than the quay completion. The proposal for phasing the quay construction now presents two main risks:
- 6.2.1 The original full extent of the quay now may never be completed as envisaged by the terms of the existing legal agreement. This means that Improvements Works required may never be installed resulting in an unacceptable risk to the integrity of the sea defences leading to an increased risk of flooding to the land currently protected.
- 6.2.2 If the quay is developed in 3 phases the location of the changed wave patterns will move with each phase of development, i.e. as the northern extent of the quay develops further northwards the waves will be reflected back onto the sea defences in different locations than previously planned and mitigated for.
- 6.3 Further work and assessment is therefore needed to understand the impact of reflected waves on the sea defences from the proposed phasing of quay construction. Appropriate mitigation will then have to be planned and approved.
- 6.4 As this mitigation for the impacts of the whole quay are currently covered by the Legal Agreement, this agreement will need to be updated in order to secure appropriate mitigation at the appropriate points in time, as well as covering the possibility that the quay may never be fully completed.
- 6.5 Accordingly, we request that the issue of flood risk is scoped into the assessment
- 7.0 Climate Change**
- 7.1 From a flood risk perspective, i.e. sea level rise, we agree that this topic can be scoped out.

## **8.0 Cumulative Effects**

- 8.1 It is difficult to gauge if the assessment of cumulative effects proposed is sufficient due to the dispersed nature of the information on previous assessments in the original DCO submission and subsequent material changes. There are several large DCOs active or soon to be active in the vicinity of this project. These include (but are not limited to) the Keadby next generation power station, the Humber carbon capture pipeline, and the Stallingborough power station. These (and any others) must be considered for any cumulative or in-combination effects.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me at the number below.

Yours faithfully

**Annette Hewitson, MSc, MRTPI**  
**Planning Liaison Officer**



**Yorkshire and North East Area**

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**Area Director**  
Crispin Thorn

**By email only**

**Date: 29<sup>th</sup> January 2025**

Dear Sir/Madam,

**Ref: TR0310001 – Able Marine Energy Park Material Change 3**

Thank you for seeking the Forestry Commission's advice about the impacts that this application may have on woodland. As a Non-Ministerial Government Department, we provide no opinion supporting or objecting to an application. Rather, we are providing information on the potential impact that the proposed development could have on woodland. A desk-based assessment of the available data indicates that the proposed development will not impact woodland. If this is known to not be the case, please highlight this to us. We also ask that if changes are proposed which mean woodlands may be impacted, that we are given the opportunity to comment on these changes.

The Forestry Commission is pleased to provide you with the following information that may be helpful when you consider the application:

- Details of Government policy relating to ancient woodland
- Information on the importance and designation of ancient woodland
- Details of Government policy relating to non-ancient woodland

Ancient woodlands are irreplaceable. They have great value because they have a long history of woodland cover, with many features remaining undisturbed, including immensely complex ecological processes and relationships, above and below the

ground. This applies equally to Ancient Semi Natural Woodland (ASNW) and Plantations on Ancient Woodland Sites (PAWS).

It is Government policy to refuse development that will result in the loss or deterioration of irreplaceable habitats including ancient woodland, unless “there are wholly exceptional reasons and a suitable compensation strategy exists” (National Planning Policy Framework paragraph 186c). It is not possible to fully compensate for the loss of an irreplaceable habitat.

For more information on the impacts of development on ancient woodland and how to assess these, please see the joint Forestry Commission /Natural England Standing Advice on Ancient Woodland – “Ancient woodland, ancient trees and veteran trees: advice for making planning decisions”, the supporting guidance included within it, and Keepers of Time – A Statement of Policy for England’s Ancient and Native Woodland (published June 2005).

The standing advice also provides information on mitigation, including the use of buffers. Proposals in proximity to ancient woodland should have a buffer zone of at least 15m from the boundary of the woodland to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distance, for example the effects of air pollution from increased traffic and/or industrial processes, the proposal is likely to require a larger buffer zone. We would be keen to engage further with the developer in relation to any mitigation and compensation strategies.

In relation to non-ancient woodland and trees, we would like to draw your attention to paragraph 131 of the NPPF which states that planning policies and decisions should ensure that existing trees are retained wherever possible.

What is most important to the Forestry Commission in this case is that there will be no loss or detrimental impact as a result of this proposed development on ancient woodland as mentioned above. We hope these comments are helpful to you. We look forward to hearing from you with regards to any future planning applications for this site. If you have any further queries or would like a follow up meeting to discuss this planning application, please do not hesitate to contact the Forestry Commission on the email address provided above.

Yours faithfully,



Dan Brown, Local Partnership Advisor  
Yorkshire and North East Team



13<sup>th</sup> February 2025

Dear Sir/Madam,

**Able Marine Energy Park Material Change 3 ("MC3")**

**Comments in response to the Scoping Report submitted on behalf of the  
Harbour Master for the River Humber**

**1 Executive Summary**

- 1.1 Set out below is my response as the Harbour Master Humber for the River Humber ("the HMH"), acting as the Statutory Conservancy and Navigation Authority (SCNA), to the Scoping Report dated 16 January 2025 submitted by Able Humber Ports Ltd ("the Applicant") in respect of its third proposed material change to the *Able Marine Energy Park Development Consent Order 2014* ("the DCO").

**2 Background**

***HMH for the River Humber - The Statutory Harbour Authority ('SHA'),  
Competent Harbour Authority ('CHA') and Humber Estuary Services ('HES')***

- 2.1 The Harbour Master Humber ("HMH") is appointed by Associated British Ports ("ABP") in its capacity as the Statutory Harbour Authority and Competent Harbour Authority for the River Humber. The body which the HMH heads and represents is charged with the provision of conservancy, safety of navigation and provision of pilotage for the estuary. It comprises a number of separate components as summarised briefly below -
- 2.2 ***The HMH*** - The HMH has responsibility, entirely separate from that of ABP which is the owner and operator of the Humber ports of Grimsby, Immingham, Goole and Hull, for the safe operation of navigation and other marine activities in the Humber harbours and their approaches, ensuring that the obligations and duties of the Statutory Harbour Authority and Competent Harbour Authority across the whole of the Humber are met in respect of conservancy and navigation.

- 2.3 **The SHA** - is the successor authority to the Humber Conservancy Commissioners, later the British Transport Docks Board which was reconstituted as a statutory body and renamed Associated British Ports by the Transport Act 1981.
- 2.4 **The CHA** - is a designation for the purposes of pilotage only.
- 2.5 **HES** - Humber Estuary Services is akin to a trading name and falls under the remit of the HMH and operates Vessel Traffic Services Humber ('**VTS HUMBER**') which is located in Grimsby and monitors and regulates navigation within the Humber Estuary.
- 2.6 **The SCNA** - Together the SHA, CHA, and Local Lighthouse Authority ('**LLA**') headed by the HMH comprise the Statutory Conservancy and Navigation Authority ('**SCNA**').
- 2.7 Whilst each port on the Humber has its specific owners and operators, all ports on the Humber and users of the river are monitored and controlled and regulated in terms of safety of navigation and conservancy by the HMH, through the SCNA.
- 2.8 In light of the above, this response to the Applicant's Scoping Report is confined solely to issues relating to navigation, conservancy and safety of navigation.

### 3 **Response to the Scoping Report**

- 3.1 Paragraph 2.2 of the Scoping Report outlines the changes proposed as part of MC3. It should be noted that all of the potential changes are of interest to myself as HMH.
- 3.2 It is noted that Table 5 of the Scoping Report provides details as to the chapters of the Environmental Statement that are suggested to be 'scoped in' for the purposes of the MC3 Application. The following section details how the Applicant proposes to deal with the issue of navigation:

*'The baseline and the impacts of the approved scheme on commercial and recreational navigation within the Humber estuary are presented in Chapter 14 of the UES for MC2  
(<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR030006/TR030006-000106-TR030006-APP-6-14.pdf>)*

*A Navigation Risk Assessment (NRA) was updated as part of the UES for MC2 (<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR030006/TR030006-000135-TR030006-APP-6A-14-1.pdf>).*

*The NRA noted that ABP Humber Estuary Services is experienced in the management of large and hazardous cargoes through its Marine*



*Safety Management System (MSMS) and has effectively implemented a suite of embedded mitigation measures ensuring that the risk profile remains at acceptable levels.*

*The NRA assessed the proposed activities associated with MC2 and it was concluded that the Project should have a minimal effect on the existing risk profile which should be managed and contained assuming compliance with embedded mitigation and regulations governing; movements, pilotage, towage, Vessel Traffic Services (VTS) and procedures.*

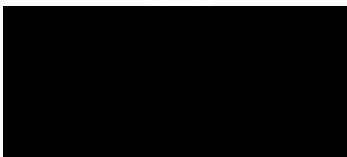
*Whilst the proposed amendments to the Quay design will not extend the footprint of the Quay any further into the navigation channel than the approved design, **the potential impacts associated with increased vessel movements, in particular dredging vessels , and the change in quay line, this topic is proposed to be scoped in.***  
[my emphasis]

- 3.3 I am pleased to see that navigation matters are scoped in, however, it is noted with concern that the wording of Table 5 suggests that what is proposed by the Applicant is merely a narrow update to the NRA which was submitted as part of the second material change application, which was itself an 'update'.
- 3.4 I consider that in light of the broad and significant range of the changes proposed as part of the MC3 Application in terms of navigation and safety of navigation – a newly reviewed and updated NRA will need to be prepared which comprehensively assesses all likely significant effects insofar as they relate to navigation matters. This will inform subsequent Marine Risk Assessments that will be carried out in the normal course of operations.
- 3.5 This concern is underlined by the fact that at this stage at least, many of the proposals outlined in the Scoping Report are unhelpfully nebulous in nature.
- 3.6 For example, dredging is referred to numerous times within the Scoping Report in respect to other environmental statement chapters (namely: Geology, Hydrology and Ground Conditions; Hydrodynamic and Sedimentary Regime; Aquatic Ecology; and Marine Archaeology) but is not referred to with respect to the navigation chapter. Given the scope of the proposed dredging – which is significantly increased, the deepened berthing pocket equating to additional dredging of 900,000m<sup>3</sup> - the consequence being that it will introduce not just additional dredger movements but also the dredging and disposal of a new material (450,000 m<sup>3</sup> chalk). There is a clear acknowledgement, however, that the MC3 Application has the potential to give rise to additional adverse environmental impacts of this nature (as noted in the extract copied above). In addition, it is noted that further dredging is proposed for 'a longer period of time, potentially also in discrete stages' (i.e. introducing the possibility of

a phased development) – consideration will also need to be given to whether this has any effects on navigation.

- 3.7 In addition to what is considered to be a significant change to the dredging and indeed consequent disposal regime, I will expect to be provided with comprehensive details of the vessel types that will be utilised on the berths.
- 3.8 Whilst the original scheme looked to the development of an offshore marine energy manufacturing facility components, MC3 contemplates a potentially three stage phased development with the introduction of a demolition and recycling facility. This will comprise redundant structures arriving “*on barges or on specialist heavy lift vessels (HLVs)*” Barges would then be unloaded onto the quay by shore-based cranes. (para. 2.11).
- 3.9 Clearly, through the SCNA, I will need to understand –
- i) the implications of the increased dredging proposed;
  - ii) the type and number of dredgers that will be utilised; and
  - iii) the frequency of movement of those vessels;
  - iv) the type/size of vessel that will bring into the Humber the redundant structures for demolition;
  - v) the numbers vessels; and
  - vi) the frequency of movements.
- 3.10 Whilst it is fully understood that such details can probably not be provided in a Scoping Report – the sum of the changes point very clearly in my view to the need for the Applicant to undertake a comprehensive review and refresh of the Navigational Risk Assessment which should be supported by navigational simulations.

Yours faithfully,



**Capt. A. Firman**  
**HARBOUR MASTER, HUMBER**

CEMHD Policy - Land Use Planning,  
NSIP Consultations,  
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HSE email: [NSIP.applications@hse.gov.uk](mailto:NSIP.applications@hse.gov.uk)

Email: [AbleMarineEnergyPark@planninginspectorate.gov.uk](mailto:AbleMarineEnergyPark@planninginspectorate.gov.uk)

Dear Project Team

Date: 23 January 2025

**PROPOSED ABLE MARINE ENERGY PARK MC3 (the project)  
PROPOSAL BY ABLE HUMBER PORTS LTD (the applicant)  
INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2017 (as  
amended) REGULATIONS 10 and 11**

Thank you for your letter of 16 January 2025 regarding the information to be provided in an environmental statement relating to the above project. HSE does not comment on EIA Scoping Reports but the following information is likely to be useful to the applicant.

**HSE's land use planning advice**

Will the proposed development fall within any of HSE's consultation distances?

The redline boundary of the development falls within the consultation zones of two major accident hazard sites. These are the Killingholme Pipeline Storage Depot and the Humber LPG Terminal.

We would not advise against the development of the quay. However, if any occupied buildings are to be built as part of the project, for example control buildings, visitor centres, retail parks, and facilities intended for outdoor use by the public (for example a footpath on the quay), then we would advise that further consultation be sought from the Health and Safety Executive as these might not be compatible with the major accident hazard sites depending on location.

There are currently no pipelines within the development, if in the intervening period we are notified of a change to this situation you would need to seek advice from us.

Hazardous Substance Consent

The information provided does not indicate that operations at the Applicant's site would be of a kind that would require Hazardous Substances Consent (HSC), however the Applicant should be advised to seek information from the relevant Hazardous Substances Authority should this not be the case.

**Explosives sites**

Explosives Inspectorate has no comment to make as there is a HSE licenced explosives site in the vicinity of the proposed development, but the development does not cross into any of the safeguarding zones of the explosive site.

## Electrical Safety

No comment from a planning perspective.

At this time, please send any further communication on this project directly to the HSE's designated e-mail account for NSIP applications at [nsip.applications@hse.gov.uk](mailto:nsip.applications@hse.gov.uk) . We are currently unable to accept hard copies, as our offices have limited access.

Yours sincerely

*Pp Shirley Rance*

Cathy Williams  
CEMHD4 NSIP Consultation Team



UK Health  
Security  
Agency

Environmental Hazards and Emergencies Department  
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London Road  
Nottingham, NG2 4LA

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Your Ref: TR0310001  
Our Ref: CIRIS 91815

Ms Emily Park,  
Senior EIA Advisor  
The Planning Inspectorate  
Environmental Services  
Operations Group 3  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

6<sup>th</sup> February 2025

Dear Ms Park,

**Nationally Significant Infrastructure Project  
Able Marine Energy Park Material Change 3 TR0310001  
Scoping Consultation Stage**

Thank you for including the UK Health Security Agency (UKHSA) in the scoping consultation phase of the above application. ***Please note that we request views from the Office for Health Improvement and Disparities (OHID) and the response provided below is sent on behalf of both UKHSA and OHID.*** The response is impartial and independent.

The health of an individual or a population is the result of a complex interaction of a wide range of different determinants of health, from an individual's genetic make-up to lifestyles and behaviours, and the communities, local economy, built and natural environments to global ecosystem trends. All developments will have some effect on the determinants of health, which in turn will influence the health and wellbeing of the general population, vulnerable groups and individual people. Although assessing impacts on health beyond direct effects from for example emissions to air or road traffic incidents is complex, there is a need to ensure a proportionate assessment focused on an application's significant effects.

Having considered the submitted scoping report we wish to make the following comments:



## Environmental Public Health

We believe the summation of relevant issues into a specific section of the report provides a focus which ensures that public health is given adequate consideration. The section should summarise key information, risk assessments, proposed mitigation measures, conclusions and residual impacts relating to human health. Compliance with the requirements of National Policy Statements and relevant guidance and standards should also be highlighted.

In terms of the level of detail to be included in an Environmental Statement (ES), we recognise that the differing nature of projects is such that their impacts will vary. UKHSA and OHID's predecessor organisation Public Health England produced an advice document *Advice on the content of Environmental Statements accompanying an application under the NSIP Regime*<sup>1</sup>, setting out aspects to be addressed within the Environmental Statement<sup>1</sup>. This advice document and its recommendations are still valid and should be considered when preparing an ES. Please note that where impacts relating to health and/or further assessments are scoped out, promoters should fully explain and justify this within the submitted documentation.

With reference to the Promoter's Scoping Report, a proposal to scope out air quality is stated on the proviso that there will be no materially different emissions arising from MC3 as compared to emissions already assessed for MC2, however navigation is scoped in on the basis that increased vessel movements may take place as a result of changes in dredging volumes (required for enlargement of the berthing pockets).

Our position is that pollutants associated with road traffic or combustion, particularly particulate matter and oxides of nitrogen are non-threshold; Reducing public exposure to non-threshold pollutants (such as particulate matter and nitrogen dioxide) below air quality standards will have potential public health benefits. We support approaches which minimise or mitigate public exposure to non-threshold air pollutants, address inequalities (in exposure) and maximise co-benefits (such as physical exercise). We encourage their consideration during development design, environmental and health impact assessment, and development consent.

In consideration of the potential for increased vessel movements, including dredging vessels, the Promoter should ensure that the conclusions of earlier air quality impact assessments remain valid (i.e., that there will be no significant increase in emissions or potential impacts on local air quality) for the changes applied for currently.

The Scoping Report outlines several developments are committed and potentially in the process of being built. We recommend that the Promoter considers whether new installations

---

<sup>1</sup>  
<https://khub.net/documents/135939561/390856715/Advice+on+the+content+of+environmental+statements+accompanying+an+application+under+the+Nationally+Significant+Infrastructure+Planning+Regime.pdf/a86b5521-46cc-98e4-4cad-f81a6c58f2e2?t=1615998516658>

or activities in the surrounding area that are recently or imminently operational, could cause a material change or effects with regards to the topic of Major Accidents and/or Disasters.

Yours sincerely,

On behalf of UK Health Security Agency

*Please mark any correspondence for the attention of National Infrastructure Planning Administration.*

Dear PINS

**Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (The EIA Regulations) – Regulations 10 and 11**

**Application by Able Humber Ports Ltd (the applicant) for an Order granting Development Consent for the Able Marine Energy Park Material Change 3 (the proposed development)**

Thank you for consulting Historic England as a statutory consultee on this NSIP.

We note at the applicant proposes to scope our Marine Archaeological matters from the Environmental Statement for Material Change 3. The applicant justifies this on the basis that an approved Written Scheme of Archaeological Investigation is in place and that this was address any impacts such that they were not in EIA terms 'significant'.

This assessment appears reasonable, but safeguards are necessary in relation to the applicability of the existing approved Written Scheme of Investigation (WSI).

If the SoS is minded that Marine Archaeological matters can be scoped out from the MC3 EIA we request that any consent for MC3 secures review and re-submission of the Written Scheme of Investigation previously approved by the Local Authority under requirement 17 (Archaeology) of the original DCO.

The WSI should be reviewed and submitted for (re)approval by the local authority to address any relevant changes to the scheme since it was approved and any relevant advancements in knowledge, techniques, or practice.

Yours

Tim Allen

Tim Allen MA FSA

Team Leader (Development Advice)

Midlands Region

Historic England

The Foundry, 82 Granville Street, Birmingham B1 2LH

<http://www.historicengland.org.uk/> | [@HistoricEngland](#)



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Good Afternoon Emily,

Thank you for consulting JNCC on the Able Marine Energy Park Material Change 3 – EIA Scoping and Consultation and Regulation 11 Notification, which we received on 16/01/2025.

Natural England is now authorised to exercise the JNCC's functions as a statutory consultee in respect of certain applications for offshore and offshore waters (0-200nm) adjacent to England.

As all current operations are inshore/onshore Natural England should provide a full response.

As such JNCC have not reviewed this application and will not be providing further comment.

Please contact me with any questions regarding the above comments

Kind regards,

**Jon Connon**

*Offshore Industries Advice Officer*

*Marine Management Team*

JNCC, Inverdee House, Baxter Street, Aberdeen, AB11 9QA

Tel:

Working pattern: Monday to Friday

[Website](#) [Twitter](#) [Facebook](#) [LinkedIn](#)



Marine  
Management  
Organisation

## Scoping Opinion

**Marine Works (Environmental Impact Assessment) Regulations  
2007 (“the Regulations”)**

**Title: The Able Marine Energy Park Development Consent Order –  
Material Change 3.**

**Applicant: Able Humber Ports Ltd**

**MMO Reference: DCO/2013/00020**

### Contents

Contents.....	1
1 Proposal.....	2
1.1 Project Background.....	2
2 Location .....	3
3 Environmental Impact Assessment (EIA).....	3
4 Scoping Opinion.....	4
4.1 Benthic Ecology .....	4
4.2 Dredge and Disposal .....	5
4.3 Fish Ecology and Fisheries .....	6
4.4 Shellfish .....	6
5 Conclusion .....	7



# 1 Proposal

This is a scoping opinion to inform an updated Environmental Statement for proposed changes to the scheme consented under the Able Marine Energy Park Development Consent Order 2014 (Statutory Instrument 2014 No. 2935), ("the DCO")

## 1.1 Project Background

The DCO permits the development of a new quay and associated development at Killingholme in North Lincolnshire, on the south bank of the Humber Estuary. The development on the south bank comprises a quay, reclaimed estuarine habitat and the provision of onshore facilities for the manufacture, assembly and storage of components relating to the offshore renewable energy sector. The DCO further permits other associated development comprising environmental habitat on the north bank of the Humber, in the East Riding of Yorkshire. The Applicant (Able Humber Ports Limited or AHPL) is now seeking to amend the authorised development. The proposed changes in the marine environment are:

- The quay face to be partially set back
- The berthing pocket to be widened from 61 metres (m) to 80m to accommodate vessels used and anticipated to be used by the offshore energy sector
- The berthing pocket to be dredged below its consented depth of -14.5 CD to -17.5m CD
- Berthing pocket to be infilled with a uniform depth of 2m of stone material in order to provide a suitable and uniform bed for jack up vessels
- The quay to be built in up to 3 stages. Once the first stage is commenced, there would be no obligation to complete the whole of the quay within any specified timeframe
- Dolphins are to be added to the ends of the quay to provide additional mooring points and temporary dolphins incorporated at the end of construction Stages 1 and 2, refer to drawing AHP-030-00017E.
- A relaxation of the cargo restriction set out in Schedule 11, paragraph 4 of the DCO, so that redundant marine structures are allowed to be handled across the quay to enable their recycling. Products arising from recycling (such as steel) would also be permitted to be handled across the quay.
- An amendment to the diversion of Footpath 50, so that instead of the diversion running along Station Road, a new section is authorised from the junction of Station Road and Rasper Road up to the junction of Marsh Lane and Rasper Road. At Marsh Lane the diverted footpath will connect with existing public footpath 100. The new route is illustrated on accompanying drawing AME-002-00136 (Revision B), included in this EIA Scoping Report.
- Since the lapse of AHPL's power to compulsorily acquire land, conferred by Article 30 of the DCO, it has identified a number of unregistered land parcels. The undertaker proposes to extend the 5 year time limit in Article 30, to allow acquisition of these parcels if required.

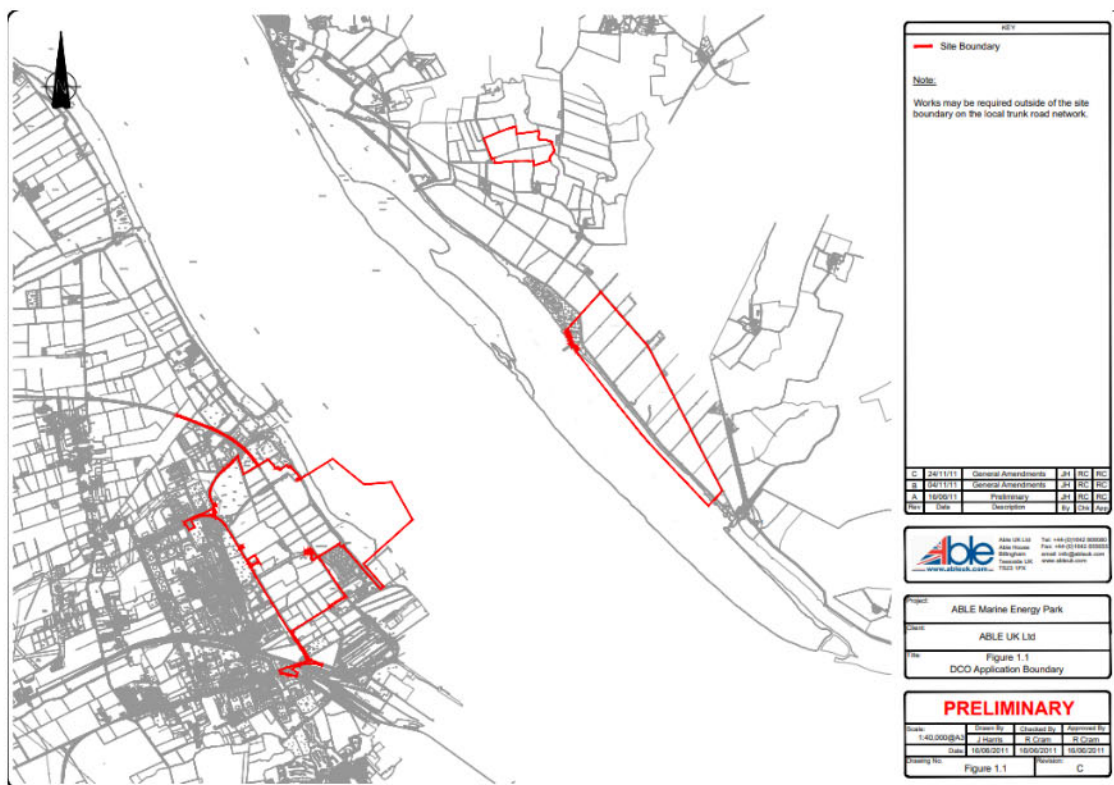
- Clarification that subsequent 'drop-in permissions' granted under the Town and Country Planning Act 1990 (TCPA) can be implemented without preventing further development under the DCO (in the light of the Hillside Supreme Court decision).

An application for a material change to the DCO is to be submitted under Schedule 6 of the Planning Act 2008 and Part 2 of the Infrastructure Planning (Changes to, Revocation of, Development Consent Orders) Regulations 2011.

## 2 Location

The Able Marine Energy Park is located east of North Killingholme, within North Lincolnshire, on the south bank of the River Humber, which is displayed in Figure 1 below.

**Figure 1:** ABLE Marine Energy Park boundary





An updated ES will therefore be submitted with the application for a material change, to report the significance of any new or materially different impacts. The request for a Scoping Opinion was submitted under regulations 10(2) and (4) of the EIA Regulations.

## **4 Scoping Opinion**

The MMO has provided a response below, however did not have enough time to review the following sections: Underwater Noise and Coastal Processes. The MMO has provided brief advice on Fisheries, but have yet to provide a scientific review. The MMO are willing to work with the applicant outside of the Planning Inspectorate (PINS) process to send over any additional comments to inform the ES. The MMO agrees with the topics outlined in the Scoping Report and in addition, we outline that the following aspects be considered further during the EIA and must be included in any resulting Environmental Statement.

### **4.1 Benthic Ecology**

- 4.1.1 The MMO can conclude that the proposed changes are clearly presented within the scoping report. The MMO can also conclude that all relevant impacts from dredging, and dredge disposal, during construction activities (such as substrate removal, loss of habitat, sediment plumes, and indirect changes to habitats from altered hydrodynamic regimes) have been scoped in. Similarly, relevant impacts to benthic ecology receptors from the quay construction will be scoped in (e.g., creation of new hard substrata, loss of habitat, impact to adjacent waterbodies).
- 4.1.2 The MMO can conclude that there is sufficient justification for scoping out impacts from indirect changes to benthic habitats from project-induced changes in hydro- and morpho-dynamic regime. In summary, the impact to benthic habitats from changes in regime will be scoped out should the further updated Environmental Statement conclude no impact. Otherwise, the assessment will be scoped in.
- 4.1.3 The Applicant is committed to seeking a new or amended Marine Licence for the change in type (increased chalk component) and volume (increase in total) of dredged material for disposal and these details will be considered accordingly in the further update to the Environmental Statement. The MMO welcome this.
- 4.1.4 Can the Applicant confirm if the infilling of the berth pocket with a uniform depth of stone material (to 2 m) is being considered a temporary or permanent change?

## 4.2 Dredge and Disposal

- 4.2.1 The Applicant will need to provide evidence that the rock that is being placed within the berthing pocket is free from fines and of suitable quality for use within the marine environment, and this should be taken into consideration in the further update ES.
- 4.2.2 The revised volumes to be dredged have been estimated using bathymetry data from June 2021 and are detailed in Table 1 below. This ultimately leads to a total proposed increase of 900,000 m<sup>3</sup> of material for disposal of which 450,000 m<sup>3</sup> of this will be chalk with the remaining listed as silts, sands and clays. The chalk will be disposed of either in the estuary or to land. Consideration of the impacts of disposing of chalk within an estuary should be in the ES.

Table 1: Approximate capital dredge quantities (taken from document cited in paragraph five; Table 2)

Area	Consented Tonnes (Approx. m <sup>3</sup> ) Material Change 2	Proposed (m <sup>3</sup> only) Material Change 3
Reclamation Area	605,000 (345,000)	345,000
Berthing Pocket	1,835,000 (840,000)	1,740,000*
Approach Channel	1,650,000 (840,000)	840,000
Turning Area	250,000 (125,000)	125,000
<b>Total</b>	4,340,000 (2,150,000)	3,050,000

\* Approximately 450,000 m<sup>3</sup> of this total will be chalk.

- 4.2.3 The Applicant has stated that an application will be made to seek a new or amended Marine Licence and the amended volumes and new material types will be considered in the further updated ES submitted with the material change application. The MMO welcome this.
- 4.2.4 The Applicant states that there will be no change to the dredge methodologies in respect to type of dredger and work will be carried out via backhoe dredging.
- 4.2.5 The Applicant has described how the AMEP site was detailed in the original ES and then subsequently described how the site has changed / updated since then. This includes ecological mitigation, planning permissions granted on site since Material Change 2 including a proposed a compensation site on the north bank of the Humber estuary and a list of committed and reasonably foreseeable projects in the surrounding area accompanied by an ES since Material Change 2. These updates should be taken into account within the further updated ES.
- 4.2.6 The Applicant lists that additional sediment sampling was undertaken for the

updated ES which identified elevated trace metal and hydrocarbon concentrations, however, due to the age of the testing, further samples will be taken to inform the further updated ES. The MMO are in agreement with this as this follows guidelines set by OSPAR.

- 4.2.7 The Applicant also states that an application will be made to seek an amended Marine Licence, and the amended volumes and new material types will be considered in the further updated ES.
- 4.2.8 The Applicant states that “*additional material lies at significant depth and will not be contaminated for former industrial and anthropogenic activity*”. Whilst the risk from contaminants reduces with depth, it is not suitable to state that material ‘*will not be contaminated*’ considering that there is no current evidence (sediment analysis) to back up this strong statement. Alongside this, historical contaminants such as organotins (dibutyltin and tributyltin) and organochlorine pesticides (e.g. dichlorodiphenyltrichloroethane) are more likely to occur at depth as opposed to surface sediment. Considering this and that the proposed dredge can be classed as ‘Capital’ the MMO would encourage the Applicant to seek a sample-plan to ensure that all necessary contaminants have been tested for and that the Applicant should clarify the depth and nature of the material that does not qualify for sampling i.e. fits with the geological definition of an ‘inert material of natural origin’ within OSPAR guidelines.
- 4.2.9 The Applicant has provided an EIA scoping report for review for the Material Change 3 ES as part of the Able Humber Ports AMEP DCO licence. The proposed changes relevant to the MMO’s remit include the widening of the berth pocket, an increase in consented dredge depth of the berth pocket and the berthing pocket to be infilled to a uniform depth of 2m with stone material. The resulting widening and deepening of the berth pocket will lead to an increase of 900,000m<sup>3</sup> of material destined for disposal.
- 4.2.10 The MMO notes that all relevant impacts relating to dredge and disposal have been scoped in.

### 4.3 Fish Ecology and Fisheries

- 4.3.1 The MMO notes that the proposal involves changing the location of the quay but does not extend further into the Humber Estuary, however there would be an increase in the length and depth of the berthing pocket resulting in the need for increased capital dredging. Although these are not likely to directly to affect the local commercial fishing industry, potential impacts to fish and fish larvae through loss of habitat and disturbance during construction, could have the potential to impact the stocks in the area which could possibly impact fishing indirectly. Factors which may affect fish species in the area have been scoped in for the requested changes.

### 4.4 Shellfish

- 4.4.1 The Applicant has provided the reference for the baseline environment for the original application which is referenced in paragraph 6 of this report, this includes data from 2017, and surveys conducted in 2013 and 2014. The applicant has not provided an updated baseline in this report, however due to the scale of the changes, the MMO consider this baseline to be adequate for the changes to this application.
- 4.4.2 Within the “Aquatic Ecology” section of Table 5 (document cited in paragraph 5) the applicant has scoped in impacts which are relevant to shellfish, however, while the scoping opinion addresses potential impacts on fish and benthic communities directly, for best practice the applicant should consider shellfish specifically within the forthcoming EIA and independently from benthic communities. However, due to the small scale of the works and the changes being minor, this is unlikely to affect the MMO’s overall conclusions for the application.
- 4.4.3 The applicant has included several impacts which have been scoped into the assessment which are relevant to shellfish. These include the habitat change from substrate removal, habitat and benthic communities’ disturbance from the sediment plume because of the total volume of capital dredging increasing. The applicant has scoped in any indirect changes to habitats from project induced changes in hydrodynamic and morphodynamical regimes, including the dispersal of sediment during dredging and any associated impacts from capital dredging. Impacts of the disposal of dredged material has been scoped in. The impacts to benthic communities from the sediment plume have been scoped in. The creation of new substrata habitat has been scoped in. Changes in hydrodynamics of adjacent water bodies has been scoped in.
- 4.4.4 The MMO conclude that impacts which have been scoped out of the assessment have sufficient justification. Scoped out impacts include effects on fisheries which was scoped out due to the fishery being minimal within the estuary, and vessels predominantly working offshore.
- 4.4.5 The MMO note there is no mitigation mentioned in reference to shellfish, this is considered sufficient as shellfish have not been assessed as negatively impacted. Impacts are not expected to have been assessed at the scoping stage of an application.

## 5 Conclusion

The topics highlighted in this scoping opinion must be assessed during the EIA process and the outcome of these assessments **must** be documented in the ES in support of the marine licence application and any associated planning application(s). This statement, however, should not necessarily be seen as a definitive list of all EIA requirements. Given the scale and programme of these



planned works other work may prove necessary.

Yours Sincerely,

[Redacted Signature]

Leah Cameron  
Marine Licencing Case Officer

D  
E

[Redacted Content]



Maritime &  
Coastguard  
Agency

Helen Duncan  
**Maritime and Coastguard Agency**  
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SO15 1EG

[www.gov.uk/mca](http://www.gov.uk/mca)

Your Ref: TR0310001

13 February 2025

Dear Planning Inspectorate

**Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (The EIA Regulations) – Regulations 10 and 11**

**Able Marine Energy Park – MCA response to the Scoping Request for Material Change 3**

Thank you for your letter dated 16 January 2025 requesting a scoping opinion on the Environmental Statement covering Material Change 3 for Able Marine Energy Park. The MCA has an interest in the works associated with the marine environment, and the potential impact on shipping, safe navigation, access to ports, harbours and marinas and any impact on our search and rescue obligations.

We note that the key marine components of Material Change 3 include (but are not limited to):

- The quay to be partially set back
- The berthing pocket to be widened from 61m to 80m
- The berthing pocket to be dredged below its consented depth of -14.5m to -17.5m CD
- The berthing pocket to be infilled with a uniform depth of 2m of stone material
- The quay to be built in up to 3 stages, once the first stage is commenced, there would be no obligation to complete the whole quay within any specified timeframe
- Dolphins are to be added to the ends of the quay
- A relaxation of the cargo restriction (Schedule 11, paragraph 4 of DCO) so that redundant marine structures can be handled across the quay to enable their recycling

The MCA notes that an application will be made to seek a new or amended Marine Licence as a result of the deeper dredging of the berthing pocket. We further note that the deemed marine license

will be amended to include the additional dredging and disposal activities and that overall, the dredging will be undertaken over a longer period of time.

The MCA notes that the location of the works fall within the jurisdiction of a Statutory Harbour Authority (SHA) - ABP Humber and they are therefore responsible for maintaining the safety of navigation within their waters. We would expect the developer to liaise and consult with the SHA in order to develop and update a robust Safety Management System (SMS) for the project in accordance with the Port Marine Safety Code (PMSC), and its Guide to Good Practice.

We note on page 31 of the Scoping Report that the topic of Navigation is scoped in for Environmental Effects for Material Change 3 due to the *“potential impacts associated with increased vessel movements, in particular dredging vessels”*, which we welcome. We also note that *“redundant structures may arrive on barges or on specialist heavy lift vessels”* and that the resultant scrap metal will be removed by road, rail or sea, The MCA would therefore recommend the inclusion of this recycling vessel traffic within the topic.

It is noted that the Navigation Risk Assessment (NRA) for the project was last updated for Material Change 2 in 2021, however, as stated in this scoping report on page 6, *“the proposed changes have the potential to give rise to some significant effects of a new or different nature to those assessed in .....the updated ES (June 2021)”*, it is therefore recommended that the applicant consider updating the NRA to ensure all risks created by Material Change 3 are assessed and managed to As Low As Reasonably Practicable (ALARP). The update of the NRA could also include the update of the Major Accidents and/or Disasters topic in relation to commercial and recreational navigation which we note has been scoped out of this Scoping report for Material Change 3.

I hope this is useful at this scoping stage.

Yours faithfully,

*Helen R Duncan*

Helen Duncan  
Marine Licensing Project Lead  
UK Technical Services Navigation

Dear Inspector

**Change request for Able Marine Energy Park Material Change 3:**

**Changes to the layout and construction of the quay that was authorised by the Able Marine Energy Park Development Consent Order 2014 and an amendment to allow certain incoming cargo.**

Following the review of the EIA Scoping Report January 2025, and the Potential Environmental Effects as a result of the change to the development focusing on the traffic and transport element.

Traffic and Transport Assessment	Based on the quantum of steel waste likely to be recycled as a result of MC3 there would be a predicted additional 1500 vehicle movements in and out of the site per year if all the additional waste was removed from site by road transport. Transport of the material off-site will be episodic and occur across the calendar year with a limited number of vehicles involved each time. It is considered that these additional traffic movements, spread over several periods, each period being several days, then this would not give rise to significant adverse effects so as to warrant this topic being considered as part of the EIA process. The maximum additional traffic impact would be no more than 10 vehicle movements per hour  This chapter is therefore <b>scoped out</b> .
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As the traffic and transport Assessment has been scoped out, given that the nature of the project is the same as 2014, and the requirements of the DCO remain the same, National Highways confirms that we have no comment.

Please do not hesitate to contact me if you have any queries.

Many thanks

Becky

Becky Garrett, Planning & Development  
National Highways | 2 City Walk | Leeds | LS11 9AR

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Web: [www.nationalhighways.co.uk](http://www.nationalhighways.co.uk)

Our Ref: SG03467

Dear Sir/Madam

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

Yours faithfully

The logo for NATS, consisting of the letters "NATS" in a bold, blue, sans-serif font.

**NATS Safeguarding**

E: [natssafeguarding@nats.co.uk](mailto:natssafeguarding@nats.co.uk)

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Date: 13 February 2025  
Our ref: 497664  
Your ref: TR0310001



Emily Park  
Senior EIA Adviser (PIEMA)  
The Planning Inspectorate

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**BY EMAIL ONLY**

Dear Emily Park,

**Environmental Impact Assessment Scoping Consultation under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) – Regulation 11**

**Proposal:** Able Marine Energy Park Material Change 3 (referred to as “MC3” from hereon in).

Thank you for seeking our advice on the scope of the Environmental Statement (ES) in the consultation dated 16 January 2025.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

A robust assessment of environmental impacts and opportunities, based on relevant and up to date environmental information, should be undertaken prior to an application for a Material Change to the Development Consent Order (DCO). Annex A to this letter provides Natural England’s advice on the scope of the Environmental Impact Assessment (EIA) for the proposed development.

Please note that our standing advice in Annex A is primarily issued as advice on a new permission, however, we have included this annex for completeness. We have also provided detailed comments in relation to impacts of this proposal on designated sites to be scoped in/out of the Environmental Statement (ES) in the following tables of Annex A:

- Section 5, Table 1, page 7
- Section 6, Table 2, page 18

Please note that detailed advice around impact pathways is not provided at this stage and will be provided after the production of the ES. Our advice within this letter is based on the information available within the EIA scoping report. As there is limited detail regarding the proposed change of use at this time, we reserve the right to provide additional comments on impacts associated with the change of use at a time when further detail is available.

## Summary of Main Points

### 1) Updated Environmental Statement (ES) and Habitats Regulations Assessment (HRA)

It is stated in 1.12 of the EIA Scoping report that *"A further updated Environmental Statement (fUES) will therefore be submitted with the application for MC3 to report the significance of any different impacts."* We agree that an updated ES should be submitted to assess additional impacts of MC3. It is also summarised in 3.2 that an updated HRA would be required for MC3. We agree that the HRA should be updated, and this should consider how proposed changes in MC3 could further impact designated sites over and above the impacts outlined in Material Change 2 (MC2) and the original 2014 DCO.

### 2) Proposed change of use / additional use for MC3

We note that a key aspect of MC3 relates to a potential change of use / additional use of the development above and beyond the scope of both the original 2014 DCO and changes outlined in MC2. This appears to be the *"...addition of operations to receive, dismantle and recycle redundant offshore structures."* (2.10). There is further summary provided in 2.11 to 2.13.

We also note 3.5, which states that *"For the avoidance of doubt, the changes are not considered so substantial that the project should be treated as a new project (see paragraph 18 of the Guidance). The nature of the project is the same; it is to take place on the same land; and all the requirements in the DCO are to remain the same."*

The changes of use outlined in the EIA scoping report for MC3 suggest there will be significant differences in use of the development site above and beyond both the 2014 DCO and MC2 consents. Based on this information, we encourage you to consider whether the changes of use would result in the requirement for a review of the existing derogations case (i.e. Review of Stage 3: Alternative Solutions to the Project and Stage 4: Imperative Reasons for Overriding Public Interest (IROPI)). However, notably we respect your role as decision maker in considering these matters. It is not a requirement of [The Conservation of Habitats and Species Regulations 2017 \(as amended\)](#) that a competent authority must seek the advice of the statutory nature conservation body when it is considering the case for IROPI for a potentially damaging plan or project. Should you wish us to provide specific comments then we would be happy to do so, but note our advice will be limited to advising on the acceptability of any alternative solutions in terms of comparing the potential impacts on/ damage to site integrity of the European Sites in question at alternative sites and describing the wider national conservation importance of the affected feature(s) to set the potential adverse impacts (whether alone or in-combination) of the plan or project under assessment in a wider conservation context.

### 3) Quay construction stages

It is stated in 2.2 of the EIA Scoping Report that the quay is to be built in up to 3 stages, and *"Once the first stage is commenced, there would be no obligation to complete the whole of the quay within any specified timeframe."* In 2.9 it is also proposed that *"...construction of the quay can proceed in discrete stages subject to the development of need over an indefinite period"*

Natural England are concerned by the Applicant's proposal to carry out construction activities in this manner, due to the implications this could have on assessing impacts on designated sites for the project. If the time period for full construction is not known, it is unclear how the Applicant is planning to assess impacts of the project, with additional



concerns over when delivery of mitigation, compensation and over-compensation measures (that are identified within the existing DCO) will occur. We further question how the implications of this approach would be considered through assessment of in-combination impacts over an indefinite time period.

*4) Assessment in the context of a proposed time extension*

On 01 October 2024, Natural England provided advice on our overarching position on the proposed extension of time for completion of the original DCO (TR030001). This letter is available on the Planning Inspectorate website [here](#). In this letter we outlined our key concerns and overarching position in relation to the proposed extension of time. We would welcome further clarity around how you as competent authority will consider the MC3 application alongside the ongoing time extension for the DCO.

We also refer you to the in-combination assessment section of our 01 October 24 response to the time extension consultation. We advise that assessment of in-combination effects of MC3 should determine changes over and above the original DCO, and how these will act in combination with other relevant plans and/or projects.

For any new consultations, or to provide further information on this consultation please send your correspondence to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely,

Laura Tyndall

**Terrestrial Sustainable Development**  
Yorkshire and Northern Lincolnshire Area Team



## **Annex A – Natural England's Advice on EIA Scoping**

### **1. General principles**

Regulation 11 of the Infrastructure Planning Regulations 2017 - (The EIA Regulations) sets out the information that should be included in an ES to assess impacts on the natural environment. This includes:

- A description of the development – including physical characteristics and the full land use requirements of the site during construction and operational phases
- Appropriately scaled and referenced plans which clearly show the information and features associated with the development
- An assessment of alternatives and clear reasoning as to why the preferred option has been chosen
- A description of the aspects and matters requested to be scoped out of further assessment with adequate justification provided<sup>1</sup>.
- Expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation etc.) resulting from the operation of the proposed development
- A description of the aspects of the environment likely to be significantly affected by the development including biodiversity (for example fauna and flora), land, including land take, soil, water, air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), cultural heritage and landscape and the interrelationship between the above factors
- A description of the likely significant effects of the development on the environment – this should cover direct effects but also any indirect, secondary, cumulative, short, medium, and long term, permanent and temporary, positive, and negative effects. Effects should relate to the existence of the development, the use of natural resources (in particular land, soil, water and biodiversity) and the emissions from pollutants. This should also include a description of the forecasting methods to predict the likely effects on the environment
- A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment
- An outline of the structure of the proposed ES

### **2. Cumulative and in-combination effects**

The ES should fully consider the implications of the whole development proposal. This should include an assessment of all supporting infrastructure.

Please consider the following and whether we are aware of other projects we think do need to be considered.

An impact assessment should identify, describe, and evaluate the effects that are likely to result from the project in combination with other projects and activities that are being, have been or will be carried out. The following types of projects should be included in such an assessment (subject to available information):

- a. existing completed projects
- b. approved but uncompleted projects
- c. ongoing activities

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<sup>1</sup> National Infrastructure Planning [Advice Note Seven, Environmental Impact Assessment, Process, Preliminary Environmental Information and Environmental Statements](#) (see Insert 2 – information to be provided with a scoping request)

- d. plans or projects for which an application has been made and which are under consideration by the consenting authorities; and
- e. plans and projects which are reasonably foreseeable, i.e. projects for which an application has not yet been submitted, but which are likely to progress before completion of the development and for which sufficient information is available to assess the likelihood of cumulative and in-combination effects.

The Planning Inspectorate uses a four staged approach to Cumulative Effects Assessment (CEA) with the applicant required to fill in templates [4 Stage CEA Process](#).

### 3. Environmental data

Natural England is required to make available information it holds where requested to do so. National datasets held by Natural England are available at <http://www.naturalengland.org.uk/publications/data/default.aspx>.

Detailed information on the natural environment is available at [www.magic.gov.uk](http://www.magic.gov.uk). This includes Marine Conservation Zone GIS shapefiles.

Natural England's SSSI Impact Risk Zones are a GIS dataset which can be used to help identify the potential for the development to impact on a SSSI. The dataset and user guidance can be accessed from the [Natural England Open Data Geoportal](#).

Natural England does not hold local information on local sites, local landscape character, priority habitats and species or protected species. Local environmental data should be obtained from the appropriate local bodies. This may include the local environmental records centre, the local Wildlife Trust, local geo-conservation group or other recording society.

### 4. Biodiversity and geodiversity

The assessment will need to include potential impacts of the proposal upon sites and features of nature conservation interest as well as opportunities for nature recovery through biodiversity net gain (BNG). There might also be strategic approaches to take into account.

Ecological Impact Assessment (EclA) is the process of identifying, quantifying, and evaluating the potential impacts of defined actions on ecosystems or their components. EclA may be carried out as part of the EIA process or to support other forms of environmental assessment or appraisal. [Guidelines](#) and an [EclA checklist](#) have been developed by the Chartered Institute of Ecology and Environmental Management (CIEEM).

#### Designated nature conservation sites

### 5. International and European sites

The development site is within or may impact on the following **European/internationally designated nature conservation site(s)**:

- Humber Estuary Special Protection Area (SPA)
- Humber Estuary Special Area of Conservation (SAC)
- Humber Estuary Ramsar

The ES should thoroughly assess the potential for the proposal to affect internationally designated sites of nature conservation importance / European sites, including marine sites

where relevant. This includes Special Protection Areas (SPA), Special Areas of Conservation (SAC), listed Ramsar sites, candidate SAC and proposed SPA. Information on the designated sites is available on [NE's designated sites system](#). This further includes our conservation advice with further advice on operations that will help to identify pathways of impacts that may be relevant to consider.

Article 6 (3) of the Habitats Directive requires an appropriate assessment where a plan or project is likely to have a significant effect upon a European Site, either individually or in combination with other plans or projects.

Natural England's Impact Risk Zones incorporate internationally designated sites and features and can be used to help identify the potential for the development to impact on a European Site. The dataset and user guidance can be accessed from the [Natural England Open Data Geoportal](#).

You can access this information through [NE Maps](#).

Please refer to '**Table 1: Potential risk to International designated sites**' below for our comments on relevant key impact pathways scoped in or out of the EIA scoping report (dated January 2025).

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
<b>Table row ref</b>	<b>Site name with link to conservation objective</b>	<b>Environment Statement Chapter</b>	<b>Potential impact pathway(s) where further information / assessment is required</b>	<b>Natural England comment / advice</b>
1	<a href="#">Humber Estuary Special Area of Conservation (SAC)</a>  <a href="#">Humber Estuary Special Protection Area (SPA)</a>  <a href="#">Humber Estuary Ramsar</a>	Geology, Hydrogeology, Ground Conditions, Ground Gas	Contaminated sediments	We welcome that impacts from contaminated sediments will be scoped in and re-assessed in fUES.
2	Humber Estuary SAC/SPA/Ramsar	Geology, Hydrogeology, Ground Conditions, Ground Gas	Water transfer between Humber Estuary and chalk aquifer	Given the volume of chalk proposed to be removed, we advise that impacts to water transfer between the Humber Estuary and the chalk aquifer are assessed and scoped in.
3	Humber Estuary SAC/SPA/Ramsar	Hydrodynamic and Sedimentary Regime	Realigned quay and increased dredging depths	We welcome that the potential impact of quay realignment and increased dredging depths on hydro and sedimentary dynamics will be scoped in and that updated modelling will be presented in the ES. Note that modelling should present the worst-case scenario, and also consider the impact of

7

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
<b>Table row ref</b>	<b>Site name with link to conservation objective</b>	<b>Environment Statement Chapter</b>	<b>Potential impact pathway(s) where further information / assessment is required</b>	<b>Natural England comment / advice</b>
				infilling the berth pocket with hard substrate as well as the placement of dolphins and any scour protection. Details should be provided about the type of model used, data used, validation and calibration.
4	Humber Estuary SAC/SPA/Ramsar	Hydrodynamic and Sedimentary Regime	Maintenance dredging	We welcome that the potential impact of maintenance dredging on sedimentary processes is scoped in.  Additional advice on maintenance dredging: We advise that all information associated with maintenance dredging should be provided to the statutory harbour authority and that information is used to support an updated maintenance dredge protocol. This will allow holistic consideration of maintenance dredging on designated sites in the Humber and provide an opportunity to periodically review best practice with regards to maintenance dredge techniques and placement.
5	Humber Estuary SAC/SPA/Ramsar	Hydrodynamic and Sedimentary Regime	Vessel traffic	We advise that the potential impact of additional vessel traffic, from both construction and during operation, on the hydrodynamic regime of the estuary should be scoped in.
6	Humber Estuary SAC/SPA/Ramsar	Water Quality and Sediment	Impacts to dissolved oxygen during construction	We disagree with the decision to scope out impacts to dissolved oxygen at this stage, given the increase in the volume of sediment proposed to be dredged. Until further details of disposal are available, we advise that the Applicant scope in impacts to dissolved oxygen.

8

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
Table row ref	Site name with link to conservation objective	Environment Statement Chapter	Potential impact pathway(s) where further information / assessment is required	Natural England comment / advice
7	Humber Estuary SAC/SPA/Ramsar	Water Quality and Sediment	Impacts to water quality during operation	We disagree with the decision to scope out impacts to water quality during the operational phase, given that the proposed change of use / additional use of the development to handle and recycle redundant marine structures may pose a risk of contamination. We advise this impact pathway is scoped in until further details on the recycling process and materials involved are available.
8	Humber Estuary SAC/SPA/Ramsar	Aquatic Ecology	Total direct habitat loss from quay, berthing pocket and permanent dolphins	<p>We welcome that impacts from the loss of intertidal and subtidal habitat are scoped in for quay construction and dredging of the berthing pocket, but suggest the Applicant clearly state the updated footprint of total habitat loss and clarify changes to dimensions for the quay, berthing pocket and dolphin components, compared to MC2.</p> <p>It is not clear from the MC3 scoping report how much habitat will be directly lost as a result of the proposed quay realignment, compared to MC2. Section 1.5 states that the quay changes will result in "<i>less land being reclaimed from the estuary</i>". This is supported by the Indicative Quay Construction Drawing Plan which suggest that Quays 4, 5 and 6 will be smaller than consented (i.e. closer to shore). Table 2, however, shows no change in material dredged from the reclamation area between MC2 and MC3 (350,000m<sup>3</sup>). We request clarity over this matter in why there is no reduction in the quantity of dredge material.</p>

9

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
Table row ref	Site name with link to conservation objective	Environment Statement Chapter	Potential impact pathway(s) where further information / assessment is required	Natural England comment / advice
				It is also unclear whether the reduced reclamation area is referring solely to the quay being partially set back or has also considered the widening of the berthing pocket and the permanent habitat loss associated with the proposed stone infilling. Similarly, we request clarity on the dimensions / footprint of the permanent dolphins and advise that these impacts on habitat loss are considered.
9	Humber Estuary SAC	Aquatic Ecology	Disturbance to migratory fish from construction activity, dredging vibration and vessel activity.	<p>Natural England advises that the River Humber is a migration route for river and sea lamprey, and both species are qualifying species of the Humber Estuary SAC/Ramsar. We note that disturbance impacts to fish from construction activity and dredging vibration is scoped out on the basis that "<i>noise levels will remain the same [as MC2]</i>". The new MC3 proposals plan to dredge significant quantities of chalk bedrock which is a different nature to that of the silt and sand sediments consented originally. We request further detail on whether there is any change in the methodology, frequency and overall timing of dredge activity that will pose disturbance impacts to migratory fish. Therefore, we advise that these impacts are scoped into the ES (and HRA).</p> <p>Additionally, until we have further information on the expected increase in vessel activity, (during both construction and operation), we recommend that disturbance to migratory fish is scoped in for this potential impact pathway.</p>

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
<b>Table row ref</b>	<b>Site name with link to conservation objective</b>	<b>Environment Statement Chapter</b>	<b>Potential impact pathway(s) where further information / assessment is required</b>	<b>Natural England comment / advice</b>
10	Humber Estuary SAC	Aquatic Ecology	Disturbance / injury to marine mammals from construction activity and vessel activity.	We advise that potential disturbance impacts to grey seals, a qualifying feature of the Humber Estuary SAC/Ramsar, from construction activity and dredging vibration are scoped in until we have further information on the methodology, frequency and overall timing of the dredging and disposal activities.  Additionally, we note that there will be an increase in vessel activity (during both construction and operation), therefore we advise that disturbance and injury to grey seals are scoped in for this potential impact pathway.
11	Humber Estuary SAC/SPA/Ramsar	Aquatic Ecology	Disturbance to benthic communities and potential habitat loss from chalk disposal	With the additional dredge depths being proposed there is a change in the nature of the material of dredge arisings. We note that the Applicant has not yet determined whether the dredged chalk will be disposed of in the estuary or on land. Given that chalk composition differs significantly from the surface sediments of the estuary, the release of 450,000m <sup>3</sup> of chalk arisings into the estuary has the potential to significantly disturb benthic communities, change local biotopes and compromise the extent and distribution of the qualifying habitat features. We advise that full assessment of the change of dredged material is scoped into the ES (and HRA) and consideration made to the most appropriate measures for disposal.
12	Humber Estuary SAC/SPA/Ramsar	Aquatic Ecology	Habitat disturbance from water quality	We disagree with the decision to scope out this impact pathway. We advise that any potential habitat disturbance arising from water quality changes (temperature increase) in the vicinity of the outfalls are considered and assessed in the ES (and HRA).

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
<b>Table row ref</b>	<b>Site name with link to conservation objective</b>	<b>Environment Statement Chapter</b>	<b>Potential impact pathway(s) where further information / assessment is required</b>	<b>Natural England comment / advice</b>
			changes in vicinity of outfalls	
13	Humber Estuary SAC/SPA/Ramsar	Aquatic Ecology	Introduction of Invasive Non-Native Species (INNS)	We advise that the risk of introducing invasive non-native species (INNS) should be scoped in through the following pathways: <ul style="list-style-type: none"> <li>• Via potential ballast water of construction vessels</li> <li>• Via the infilling of the berthing pocket with stone material. Information regarding the source of the stone material should be provided.</li> <li>• Via potential ballast water of vessels during the operation phase</li> <li>• Via the handling of redundant marine structures</li> </ul>
14	Humber Estuary SAC/SPA/Ramsar	Aquatic Ecology	Indirect habitat change due to changes in hydrodynamics	We welcome that indirect changes to habitats from project-induced changes in hydrodynamic and morphodynamic regimes due to quay construction and operational activity will be re-assessed and advise that this impact pathway is scoped in.
15	Humber Estuary SAC/SPA/Ramsar	Traffic and Transport Assessment	Air quality impacts arising from additional vehicle movements	The following is stated in the Traffic and Transport Assessment section of Table 5 (page 31):  <i>"Based on the quantum of steel waste likely to be recycled as a result of MC3 there would be a predicted additional 1500 vehicle movements in and out of the site per year if all the additional waste was removed from site by road transport. Transport of the material off-site will be episodic and occur across the calendar year with a limited number of vehicles involved each</i>

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
Table row ref	Site name with link to conservation objective	Environment Statement Chapter	Potential impact pathway(s) where further information / assessment is required	Natural England comment / advice
				<p><i>time. It is considered that these additional traffic movements, spread over several periods, each period being several days, then this would not give rise to significant adverse effects so as to warrant this topic being considered as part of the EIA process. The maximum additional traffic impact would be no more than 10 vehicle movements per hour This chapter is therefore scoped out."</i></p> <p>Based on this information, there could be impacts relating to air quality from increased traffic and we disagree that this subject is scoped out. We advise that Section 10 below is referenced for further information on air quality impacts to designated sites within 200m of the proposed development site.</p>
16	Humber Estuary SPA/Ramsar	Terrestrial Ecology and Birds	Impacts to SPA/Ramsar birds utilising habitat within the designated site	<p>We note that at present, ornithological impacts are only planned to be scoped in for indirect impacts to SPA supporting habitat from hydrodynamic and morphodynamic changes. However, as stated in row 8 above (<i>'Total direct habitat loss from quay, berthing pocket and permanent dolphins'</i>) there may be potential additional habitat loss / changes to habitat loss associated with the new quay plan. We advise that potential impacts of any additional habitat loss (direct or indirect) to SPA/Ramsar birds is scoped into the assessment.</p> <p><i>Additional bird surveys</i></p> <p>It is also noted in the Terrestrial Ecology and Birds section that <i>"...additional wintering bird surveys have been undertaken during 2023-24 to update the baseline, these updated surveys covered the Cherry Cobb Sands site,</i></p>

13

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
Table row ref	Site name with link to conservation objective	Environment Statement Chapter	Potential impact pathway(s) where further information / assessment is required	Natural England comment / advice
				<p><i>upstream of Stone Creek on the north bank of the Humber Estuary and the AMEP frontage" and that these surveys revealed "...that the wider AMEP frontage and the North Killingholme Pits (NKP) site continue to be regionally important for a number of species, as well as supporting some species in nationally important numbers."</i> We welcome the recognition of the importance of the site for SPA/Ramsar birds and advise that the ES is supported by the full bird data that is referenced here. The inclusion of this data is essential to determine the effectiveness of any additional proposed mitigation and/or compensation measures associated with MC3.</p>
17	Humber Estuary SPA/Ramsar	Terrestrial Ecology and Birds	Impacts of noise and visual disturbance on SPA/Ramsar birds	<p>It is noted in the Noise section that <i>"Although the proposed changes will allow for redundant marine structures to be handled across the quay to enable their recycling, it is considered that the noise impacts with the associated activities would not warrant this to be assessed through the EIA process. Construction noise from piling is the critical activity. In any event, specific mitigation to limit noise levels at sensitive receptors is already provided for in the Requirements of the DCO."</i> It is then noted that <i>"Effects from noise are therefore scoped out"</i>.</p> <p>We advise that due to the change in activities from a proposed change of use and changed configuration of the quay, that potential impacts from noise and visual disturbance during construction and operation on SPA/Ramsar birds are scoped in to the ES (and HRA).</p>

14

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
<b>Table row ref</b>	<b>Site name with link to conservation objective</b>	<b>Environment Statement Chapter</b>	<b>Potential impact pathway(s) where further information / assessment is required</b>	<b>Natural England comment / advice</b>
18	Humber Estuary SPA/Ramsar	Terrestrial Ecology and Birds	Impacts to functionally linked land from changes to footpath configurations	It is stated in the Terrestrial Habitats and Species section that <i>"No changes are proposed to the terrestrial works which would have any direct impact on terrestrial habitats and species as previously assessed. These receptors are scoped out."</i> However, we note that significant changes to the configuration of footpaths in the area are part of the proposals. It is unclear from the information provided whether changes to the footpaths are likely to either result in temporary/permanent loss to any functionally linked land and/or result in noise/visual disturbance impacts to species utilising functionally linked land. We advise that the ES (and HRA) should scope in impacts resulting from changes of the footpaths on SPA species utilising areas outside of the site boundary which are functionally linked to the SPA.
19	Humber Estuary SAC/SPA/Ramsar	Light	Impacts of lighting on SPA/Ramsar birds	We note the Applicant states that <i>"The amendments to the proposed design as part of MC3 will not therefore give rise to any new or different impacts relating to light."</i> However, without full details of the proposed changes of use, we advise that this topic should be scoped in.
20	Humber Estuary SAC/SPA/Ramsar	Noise and Vibration	Impacts of noise and vibration to features of the Humber	It is summarised here that <i>"Whilst the proposed amendments in MC3 will result in different alignment of the quay wall, it is considered that its installation will not result in any new or different noise impacts or</i>

15

<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
<b>Table row ref</b>	<b>Site name with link to conservation objective</b>	<b>Environment Statement Chapter</b>	<b>Potential impact pathway(s) where further information / assessment is required</b>	<b>Natural England comment / advice</b>
			Estuary designated sites	<i>vibration during construction"</i> , and states that impacts of noise and vibration are to be scoped out. However, we advise there is uncertainty around noise and vibration impacts due to the changes proposed, and we advise that this is scoped into the ES. Please see further detail above.
21	All relevant designated sites	Air Quality	Air quality impacts	It is stated in this section of the table that <i>"The baseline and the impacts of the approved scheme on air quality are presented in Chapter 17 of the UES for MC2"</i> and <i>"Air quality levels were assessed to be not significant in the UES. MC3 is not expected to give rise to materially different levels of emissions to air."</i> It is then concluded that impacts of air quality are scoped out. However, based on the information in the Traffic and Transport section above, we advise this should be scoped in.
22	All relevant designated sites	Cumulative Effects	Cumulative impacts on designated sites	We agree that cumulative impacts on designated sites should be scoped in. This should also form part of any updated HRA in-combination assessment.
23	All relevant designated sites	In-Combination Effects	In-combination impacts on designated sites	We agree that in-combination impacts on designated sites should be scoped in. This should also form part of any updated HRA in-combination assessment.

16



<b>Table 1: Potential risk to International designated sites:</b> the development is within or may impact on the following European/Internationally designated site(s)				
<b>Table row ref</b>	<b>Site name with link to conservation objective</b>	<b>Environment Statement Chapter</b>	<b>Potential impact pathway(s) where further information / assessment is required</b>	<b>Natural England comment / advice</b>
24	N/a – Not currently considered in EIA scoping report	N/a – Not currently considered in EIA scoping report	Impacts on the England Coast Path from footpath reconfiguration	We note that potential impacts on the nearby proposed section of the England Coast Path are not currently considered. Due to the amendments proposed to the footpaths, we advise that potential impacts on the England Coast Path are scoped in. See comments on coastal path in section 9.

## 6. Nationally designated sites

### Sites of Special Scientific Interest

Sites of Special Scientific Interest are protected under the Wildlife and Countryside Act 1981 (as amended). Further information on the SSSI and its special interest features can be found at [www.magic.gov.uk](http://www.magic.gov.uk).

Natural England's SSSI Impact Risk Zones can be used to help identify the potential for the development to impact on a SSSI. The dataset and user guidance can be accessed from the [Natural England Open Data Geoportal](#).

The development site is within or may impact on the following Site of Special Scientific Interest:

- North Killingholme Haven Pits SSSI
- Humber Estuary SSSI.

The ES should include a full assessment of the direct and indirect effects of the development on the features of special interest within the listed SSSIs and identify appropriate mitigation measures to avoid, minimise or reduce any adverse significant effects.

Table 2: Potential risks to nationally designated sites: the development is within or may impact on the following sites	
Site name with link to citation	Potential impact pathways where further information/assessment is required
<a href="#">North Killingholme Haven Pits SSSI</a>	It is noted in the Terrestrial Ecology and Birds section of Table 5 that <i>"The surveys revealed that the wider AMEP frontage and the North Killingholme Pits (NKP) site continue to be regionally important for a number of species, as well as supporting some species in nationally important numbers."</i> We welcome that it is recognised that this area supports high numbers of birds, but it is currently unclear as to whether impacts on the features of NKHP SSSI are scoped in for assessment. Our advice within Table 1 above should be referred to for considering impact pathways to the SSSI.
<a href="#">Humber Estuary SSSI</a>	Our advice around impacts to be scoped in broadly coincides with that set out in section 5, Table 1 for the corresponding European sites, Humber Estuary SPA/SAC/Ramsar.  Potential for impacts to features which are not part of a European designation should also be assessed separately within the ES.
Any SSSI within 200m of the affected road network (ARN)	The following is stated in the Traffic and Transport Assessment section of Table 5 of the EIA scoping report:  <i>"Based on the quantum of steel waste likely to be recycled as a result of MC3 there would be a predicted additional 1500 vehicle movements in and out of the site per year if all the additional waste was removed from site by road transport. Transport of the material off-site will be episodic and occur across the calendar year with a limited number of</i>

Table 2: Potential risks to nationally designated sites: the development is within or may impact on the following sites	
Site name with link to citation	Potential impact pathways where further information/assessment is required
	<p><i>vehicles involved each time. It is considered that these additional traffic movements, spread over several periods, each period being several days, then this would not give rise to significant adverse effects so as to warrant this topic being considered as part of the EIA process. The maximum additional traffic impact would be no more than 10 vehicle movements per hour This chapter is therefore scoped out."</i></p> <p>Based on this information, there could be impacts relating to air quality from increased traffic and we disagree that this subject is scoped out. We advise section 10 below is referenced for further information on air quality impacts to designated sites within 200m of the proposed development site.</p>

## 7. Protected species

The conservation of species protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017 is explained in Part IV and Annex A of Government Circular 06/2005 [Biodiversity and Geological Conservation: Statutory Obligations and their Impact within the Planning System](#).

Applicants should check to see if a mitigation licence is required using Natural England guidance on licensing [Natural England wildlife licences](#). Applicants can also make use of Natural England's charged service [Pre Submission Screening Service](#) for a review of a draft wildlife licence application. Natural England then reviews a full draft licence application to issue a Letter of No Impediment (LONI) which explains that based on the information reviewed to date, that it sees no impediment to a licence being granted in the future should the DCO be issued. This is done to give the Planning Inspectorate confidence to make a recommendation to the relevant Secretary of State in granting a DCO. See [Advice Note Eleven, Annex C – Natural England and the Planning Inspectorate | National Infrastructure Planning](#) for details of the LONI process.

The ES should assess the impact of all phases of the proposal on protected species (including, for example, great crested newts, reptiles, birds, water voles, badgers and bats). Natural England does not hold comprehensive information regarding the locations of species protected by law. Records of protected species should be obtained from appropriate local biological record centres, nature conservation organisations and local groups. Consideration should be given to the wider context of the site, for example in terms of habitat linkages and protected species populations in the wider area.

The area likely to be affected by the development should be thoroughly surveyed by competent ecologists at appropriate times of year for relevant species and the survey results, impact assessments and appropriate accompanying mitigation strategies included as part of the ES. Surveys should always be carried out in optimal survey time periods and to current guidance by suitably qualified and, where necessary, licensed, consultants.

Natural England has adopted [standing advice](#) for protected species, which includes guidance on survey and mitigation measures. A separate protected species licence from Natural England or Defra may also be required.

## 8. Priority Habitats and Species

Priority Habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. Lists of priority habitats and species can be found [here](#). Natural England does not routinely hold species data. Such data should be collected when impacts on priority habitats or species are considered likely.

Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land. Sites can be checked against the (draft) national Open Mosaic Habitat (OMH) inventory published by Natural England and freely available to [download](#). Further information is also available [here](#).

An appropriate level habitat survey should be carried out on the site, to identify any important habitats present. In addition, ornithological, botanical, and invertebrate surveys should be carried out at appropriate times in the year, to establish whether any scarce or priority species are present.

The ES should include details of:

- Any historical data for the site affected by the proposal (e.g. from previous surveys)
- Additional surveys carried out as part of this proposal
- The habitats and species present
- The status of these habitats and species (e.g. whether priority species or habitat)
- The direct and indirect effects of the development upon those habitats and species
- Full details of any mitigation or compensation measures
- Opportunities for biodiversity net gain or other environmental enhancement

## 9. Connecting people with nature

The ES should consider potential impacts on access land, common land, public rights of way and, where appropriate, the England Coast Path and coastal access routes and coastal margin in the vicinity of the development, in line with NPPF paragraph 100 and there will be reference in the relevant National Policy Statement. It should assess the scope to mitigate for any adverse impacts. Rights of Way Improvement Plans (ROWIP) can be used to identify public rights of way within or adjacent to the proposed site that should be maintained or enhanced.

Measures to help people to better access the countryside for quiet enjoyment and opportunities to connect with nature should be considered. Such measures could include reinstating existing footpaths or the creation of new footpaths, cycleways, and bridleways. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Access to nature within the development site should also be considered, including the role that natural links have in connecting habitats and providing potential pathways for movements of species.

## 10. Air quality

Air quality in the UK has improved over recent decades but air pollution remains a significant issue. For example, approximately 85% of protected nature conservation sites are currently in exceedance of nitrogen levels where harm is expected (critical load) and approximately 87% of sites exceed the level of ammonia where harm is expected for lower plants (critical

level of 1µg)<sup>[1]</sup>. A priority action in the England Biodiversity Strategy is to reduce air pollution impacts on biodiversity. The Government's Clean Air Strategy also has a number of targets to reduce emissions including to reduce damaging deposition of reactive forms of nitrogen by 17% over England's protected priority sensitive habitats by 2030, to reduce emissions of ammonia against the 2005 baseline by 16% by 2030 and to reduce emissions of NO<sub>x</sub> and SO<sub>2</sub> against a 2005 baseline of 73% and 88% respectively by 2030. Shared Nitrogen Action Plans (SNAPs) have also been identified as a tool to reduce environmental damage from air pollution.

The planning system plays a key role in determining the location of developments which may give rise to pollution, either directly, or from traffic generation, and hence planning decisions can have a significant impact on the quality of air, water and land. The ES should take account of the risks of air pollution and how these can be managed or reduced. This should include taking account of any strategic solutions or SNAPs, which may be being developed or implemented to mitigate the impacts of air quality. Further information on air pollution impacts and the sensitivity of different habitats/designated sites can be found on the Air Pollution Information System ([www.apis.ac.uk](http://www.apis.ac.uk)).

Natural England has produced guidance for public bodies to help assess the impacts of road traffic emissions to air quality capable of affecting European Sites. [Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations - NEA001](#)

Information on air pollution modelling, screening and assessment can be found on the following websites:

- SCAIL Combustion and SCAIL Agriculture - <http://www.scail.ceh.ac.uk/>
- Ammonia assessment for agricultural development <https://www.gov.uk/guidance/intensive-farming-risk-assessment-for-your-environmental-permit>
- Environment Agency Screening Tool for industrial emissions <https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit>
- Defra Local Air Quality Management Area Tool (Industrial Emission Screening Tool) – England <http://www.airqualityengland.co.uk/laqm>

Designated sites within 200m of a road which will experience a significant increase in traffic movements should be assessed for impacts due to air pollution from traffic. When undertaking an assessment of the potential impacts during the construction phase of the development there will need to be clarification provided on which roads will be used to access the development site, and the number of predicted vehicle movements. Natural England has produced [guidance](#) for assessing the impacts of air pollution due to traffic.

Ammonia emissions from road traffic could make a significant difference to nitrogen deposition close to roads. As traffic composition transitions toward more petrol and electric cars (i.e., fewer diesel cars on the road) – catalytic converters may aid in reducing NO<sub>x</sub> emissions but result in increased ammonia emissions – therefore consideration of the potential for impacts is needed (see [https://www.aqconsultants.co.uk/news/february-2020-\(1\)/ammonia-emissions-from-roads-for-assessing-impacts](https://www.aqconsultants.co.uk/news/february-2020-(1)/ammonia-emissions-from-roads-for-assessing-impacts)).

There are currently two models which can be used to calculate the ammonia concentration and contribution to total N deposition from road sources. One of these models is publicly available and called CREAM ([Air Quality Consultants - News - Ammonia Emissions from](#)

<sup>[1]</sup> [Report: Trends Report 2020: Trends in critical load and critical level exceedances in the UK - Defra, UK](#)

[Roads for Assessing Impacts on Nitrogen-Sensitive Habitats \(aqconsultants.co.uk\)](https://aqconsultants.co.uk), and there is another produced by National Highways.

## **11. Water quality**

NSIPs can occur in areas where strategic solutions are being determined for water pollution issues and they may not have been factored into the local planning system as they are delivered through National Policy Statements.

The planning system plays a key role in determining the location of developments which may give rise to water pollution, and hence planning decisions can have a significant impact on water quality, and land. The assessment should take account of the risks of water pollution and how these can be managed or reduced. A number of water dependent protected nature conservation sites have been identified as failing condition due to elevated nutrient levels and nutrient neutrality is consequently required to enable development to proceed without causing further damage to these sites. The ES needs to take account of any strategic solutions for nutrient neutrality or Diffuse Water Pollution Plans, which may be being developed or implemented to mitigate and address the impacts of elevated nutrient levels.

## **12. Climate change**

The ES should identify how the development affects the ability of the natural environment (including habitats, species, and natural processes) to adapt to climate change, including its ability to provide adaptation for people. This should include impacts on the vulnerability or resilience of a natural feature (i.e. what's already there and affected) as well as impacts on how the environment can accommodate change for both nature and people, for example whether the development affects species ability to move and adapt. Nature-based solutions, such as providing green infrastructure on-site and in the surrounding area (e.g. to adapt to flooding, drought and heatwave events), habitat creation and peatland restoration, should be considered. The ES should set out the measures that will be adopted to address impacts.

Further information is available from the [Committee on Climate Change's](#) (CCC) [Independent Assessment of UK Climate Risk](#), the [National Adaptation Programme](#) (NAP), the [Climate Change Impacts Report Cards](#) (biodiversity, infrastructure, water etc.) and the [UKCP18 climate projections](#).

The Natural England and RSPB [Climate Change Adaptation Manual](#) (2020) provides extensive information on climate change impacts and adaptation for the natural environment and adaptation focussed nature-based solutions for people. It includes the Landscape Scale Climate Change Assessment Method that can help assess impacts and vulnerabilities on natural environment features and identify adaptation actions. Natural England's [Nature Networks Evidence Handbook](#) (2020) also provides extensive information on planning and delivering nature networks for people and biodiversity.

The ES should also identify how the development impacts the natural environment's ability to store and sequester greenhouse gases, in relation to climate change mitigation and the natural environment's contribution to achieving net zero by 2050. Natural England's [Carbon Storage and Sequestration by Habitat report](#) (2021) and the British Ecological Society's [nature-based solutions report](#) (2021) provide further information.



Officer: Matthew Gillyon

Tel:

Em

13/02/2025

Able Humber Ports Ltd

# North Lincolnshire Council

[www.northlincs.gov.uk](http://www.northlincs.gov.uk)

Church Square House  
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Scunthorpe  
North Lincolnshire  
DN15 6NL

**Planning Inspectorate Reference Number: TR0310001**

**Planning Application Reference: PA/SCO/2025/3**

**Application by Able Humber Ports Ltd (the applicant) for an Order granting Development Consent for the Able Marine Energy Park Material Change 3 (the proposed development)**

**Scoping consultation and notification of the applicant's contact details and duty to make available information to the applicant if requested**

**Location: east of North Killingholme, within North Lincolnshire, on the south bank of the River Humber**

**Officer: Matthew Gillyon**

Thank you for your email dated 16<sup>th</sup> January 2025 giving North Lincolnshire Council (NLC) the opportunity to comment on the Scoping Report submitted by Able Humber Ports Ltd (the applicant) in respect of a proposed application for an Order granting Development Consent for the Able Marine Energy Park Material Change 3 (the proposed development) Scoping Consultation.

I can confirm that after consultation with our internal technical consultees that North Lincolnshire Council has the following comments to make:

## **Conservation**

The proposed changes noted within the Scoping Report have the potential to impact the setting of 3 identified listed buildings:

1. Killingholme North Low Lighthouse, grade II listed building – NHLE Ref: 1103707
2. Killingholme High Lighthouse, grade II listed building – NHLE Ref: 1103706
3. Killingholme South Low Lighthouse, grade II listed building – NHLE Ref: 1215093

The change includes the receiving, dismantling and recycling of offshore marine structures additional to the manufacture of, erection and transportation of renewable structures. These have potential to result in visual changes to the setting of heritage assets, potentially affecting their significance.

Impacts of the proposed changes to built heritage assets should be scoped in, requiring a re-assessment within an updated Environmental Statement. The assessment should follow suitable guidelines to include:

- Historic England GPA2 – Managing Significance in Decision-Taking in the Historic Environment
- Historic England GPA3 – Setting and Views
- Historic England Advice Note 12 – Statements of Heritage Significance

### **Archaeology**

The proposed material change has the potential for different affects to heritage assets and their settings including Schedule Monuments, Listed Buildings and non-designated heritage assets.

The proposed material changes to receive, dismantle and recycle offshore marine structures additional to manufacture, erection and transportation of renewable structures will result in visual changes within the setting of heritage assets potentially affecting their significance.

The proposed material changes include phasing the construction of the quay in discrete stages with no obligation to complete the whole of the quay within any specified time frame.

Such material changes will affect the implementation and timescale for the delivery and completion of the Marine Archaeology Written Scheme of Investigation (WSI, Sept 2021) agreed for MC2 and the delivery and final reporting of the Terrestrial Archaeology Framework WSI (2012) and archaeological project design within an appropriate timescale.

The updated Environmental Statement therefore requires reassessment of the Cultural Heritage and Archaeology impacts of the proposed material change and of the WSIs/project design secured by Schedule 11, Requirement 17 of the DCO.

Impacts of the proposed changes on the Marine Archaeology and Terrestrial Archaeology should be **SCOPED IN**.

### **Landscape and Visual Impact**



The original scheme had significant landscape impacts requiring an EIA, with significant on-site and off-site landscaping. Since this material change consists of amendments to the cargo and recycling facilities, and with consideration of the equipment and structures required to manipulate “redundant marine structures” and the component parts, it is the view of the local planning authority that, a new Landscape and Visual Impact Assessment needs to be provided. Therefore, potential landscape and visual impacts of the proposed changes should be scoped in.

## **Highways**

From the information provided the only change which is likely to lead to an increase in vehicle numbers, the proposal to receive, dismantle and recycle offshore structures. The scoping report states that ‘redundant structures may arrive on barges or on specialist heavy lift vessels’ (para 2.11). It isn’t clear whether any would arrive by road. The report predicts there will be an additional 1500 vehicle movements in/out of the site per year, if all additional waste is removed from the site by road. It is anticipated that these movements will be spread over several periods, each lasting several days, during the year. The applicant predicts that the maximum traffic impact would be no more than 10 vehicle movements per hour and therefore the traffic and transport chapter can be scoped out of the EIA. The report later suggests that a maximum of 30,000 tonnes of scrap and other waste will be generated annually.

Whilst the vehicle movements quoted are low, limited information has been provided to justify these numbers or identify measures that will be implemented to restrict tonnage / vehicle movements. The local planning authority suggest that a Transport Statement is submitted alongside the EIA which provides more information on this.

## **Public Right of Way**

The local planning authority would like to highlight the need to include consideration of Public Footpath 50, which lies within the site, in respect of the proposed material change application. As well as a material consideration for planning purposes, this is also part of the England Coast Path, a national trail.

On a practical level, Able UK’s plan AME-002-00136 Rev shows by way of a red short-dashed line a “proposed new section of diversion (consented under PA/2023/502)”. Whilst the councils Highways Asset Team would not necessarily object to this proposal, the local planning authority do not agree that this diversion is consented under PA/2023/502, which makes no reference within the approved plans or documents to the diversion of Public Footpath 50. The only references to a Public Footpath within PA/2023/502 being to the existing Public Footpath 100 along Marsh Lane.

If, as the LPA understand to be the case, Able UK wish ultimately to divert Public Footpath 50 from Station Road to land alongside the northeastern edge of Rosper

Road between Station Road and Marsh Lane as indicated, this would require a legal order made under appropriate legislation.

**Ecology (Full response in appendix)**

The applicant should provide the information reasonably required for an updated Habitats Regulations Assessment.

Any impacts on The South Humber Gateway Mitigation Strategy should be assessed and avoided, minimised or compensated for -in that order of priority.

Due to the change in subtidal habitat near the site, and the time between the previous surveys, additional species surveys should be conducted.

The LPA agree with the items scoped in for the EIA.

If mitigation measures are required, supporting the on-going delivery of East Halton Wet Grassland may be an appropriate route.

**Environmental Protection (Full response in Appendix)**

The proposed material changes include receiving, dismantling and recycling offshore marine structures which has the potential to cause environmental impact. In terms of noise, the councils Environmental Protection department do not agree with the report that noise should be scoped out of any further EIA, as no quantification of potential noise impacts has been presented.

In relation to air quality, the councils Environmental Protection department do not agree with the report and the recommendation to scope out air quality. Further justification and mitigation measures for the control of emissions to air during any dismantling process will be required and should be appropriately assessed.

In relation to land contamination, Environmental Protection agree with the approach set out in the scoping report

I trust that this response has provided the necessary clarification. Do not hesitate to contact me should you wish to discuss this matter further.

Kind Regards



Matthew Gillyon  
Senior Planning Officer  
North Lincolnshire Council

## **Appendix**

### **Ecology/Landscape Full Response**

Thank you for consulting Place Planning & Housing on the above Environmental Impact Assessment (EIA) scoping request for a material change.

#### **EIA Screening**

The applicant has identified that the proposed project is Schedule 2 Development under The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. It comprises amendments to a Schedule 1 development and is acknowledged as having potential significant environmental effects in the submitted Scoping Report.

#### **Landscape**

Landscape and visual impacts need to be considered in terms of the adopted Landscape Assessment and Guidelines and the Countryside Design Summary. I also recommend the use of the Guidelines for Landscape and Visual Impact Assessment 3rd Edition (GLVIA3, 2013), produced by the Landscape Institute and the Institute of Environmental Management & Assessment.

Core Strategy Spatial Objective 10, policies CS5 and CS16 and Saved Local Plan Policies LC7, LC20 and RD2 should also be considered.

The Adopted Landscape Assessment and Guidelines document (SPG5) gives the following guidance for this area (relevant excerpts only):

#### **“Industrial Landscape – South Humber Bank**

##### **Landscape Strategy:**

Many grants are now available to industries with the aim of bringing about significant environmental improvements. The South Bank Humber Project also aims to encourage corporations to improve their setting and local landowners to enhance the rural setting. These incentives can be harnessed to implement a landscape strategy of restoration of landscape structure and softening the impact of industrial development.

##### **Landscape Guidelines:**

Mitigation planting should principally be mixed broadleaf in composition, in irregular large-scale blocks and linked to existing blocks and hedgerows. Where year round screening is required, conifers should be included in mixes.

[...]

Protect existing hedgerow trees and encourage re-instatement. Seek to maintain the remnants of former field boundaries.

Seek to soften security fences of industrial complexes by planting trees and shrubs.

Larger tree species that are in scale with the industrial mass should be selected for ornamental planting. Shrub planting should appear robust and substantial.

Use of a signature tree throughout the area, particularly along transport corridors may help to unify the industrial area and strengthen identity.

Where necessary, augment gapped or discontinuous hedge lines within remnant farmland. Link to screen planting and thicken to increase their presence in the landscape.

Seek to increase the recreational use of the area. Access to footpaths links along the North Sea coast in particular should be encouraged for walking etc.



Seek to conserve and manage existing wetlands in the form of lakes, ponds and marshes and identify opportunities for habitat creation.”

The whole of the South Humber Bank allocated land forms part of the South Humber Bank Landscape Initiative, covered by saved policy LC20:

“It is proposed that the following measures will be undertaken throughout the South Humber Bank Landscape Initiative area:

- i) softening - provision of stepped-back security fences, fringed with shrubs and trees;
- ii) screening - establishment of mixed broad-leaf and conifer belts;
- iii) habitat conservation - maintenance of wet areas and other existing features, such as woods and hedges, to provide a good framework for future improvements;
- iv) habitat creation - introduction of lakes, ponds and marshes;
- v) field boundary management – careful management of existing hedges to increase height;
- vi) tree and hedge planting - new planting, carefully positioned for maximum effect, with minimum impact on farm management industry’s operational needs and sites of archaeological importance.”

The original scheme had significant landscape impacts requiring an EIA, with significant on-site and off-site landscaping. Since this material change consists of amendments to the cargo and recycling facilities, and with consideration of the equipment and structures required to manipulate “redundant marine structures” and the component parts, in my view, a new Landscape and Visual Impact Assessment needs to be provided.

### **Habitats Regulations**

The proposals would have a likely significant effect on the Humber Estuary Special Area of Conservation (SAC), Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar site. Potential hazards include (but are not limited to):

- Direct physical disturbance of subtidal habitats.
- Habitat and benthic communities’ disturbance from the sediment plume.
- Changes in hydrodynamic and morphodynamic regimes in the estuary due to amended dredging proposals, rock placement and quay arrangement.
- Associated indirect impacts on estuarine birds due to physical changes in the estuary.
- Water pollution impacts on SAC, SPA, SSSI and Ramsar habitats.
- Construction and operational noise and visual disturbance of SPA/SSSI/Ramsar waterbirds from the designated sites.
- Construction and operational noise and visual disturbance of SPA/Ramsar waterbirds from “functionally linked land” (land outside the designated sites, used by birds for feeding, roosting and loafing).
- Displacement of SPA/Ramsar waterbirds from “functionally linked land.”
- Permanent loss of “functionally linked land.”
- Bird collision associated with construction of any above ground installations (pylons) for the grid connection.
- Impacts of new external lighting on bird behaviour.

Regulation 63(2) of The Conservation of Habitats and Species Regulations 2017 states that, “A person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required.” In this case, the Secretary of State will require various information from the applicant including, but not limited to the following:

- A plan showing the location of the proposals in relation to the boundaries of the Humber Estuary SAC, SPA and Ramsar site.

- A habitat survey of the application site and surrounding areas, with particular reference to habitat features that may support breeding, wintering or passage birds associated with the Humber Estuary SPA and Ramsar Site.
- Details of water quality, hydrodynamic and sedimentary changes as set out in Table 5 of the Scoping Report.
- Recent breeding, wintering and passage survey information sufficient to assess the usage of the application site, surrounding area and adjacent SSSI units by birds associated with the Humber Estuary SPA and Ramsar Site.
- Details of any aerial or waterborne emissions and any impact pathways in relation to the Humber Estuary SAC, SPA and Ramsar site.
- Baseline levels of noise, lighting, and visual disturbance at Rosper Road Pools and other adjacent functionally linked land.
- Predicted levels of construction and ongoing noise, lighting, and visual disturbance at Rosper Road Pools and other adjacent functionally linked land.
- Any proposed buffers or mitigation measures to minimise disturbance of SPA/Ramsar waterbirds.
- Details of strategic mitigation for displacement of passage and wintering waterbirds.
- Details of plans and projects to be considered in combination with the current project.

The submitted EIA Scoping Report notes a HRA was submitted for the original scheme and, as with the previous material change (MC2), this will be reviewed and updated for the DCO application.

The applicant has created waterbird mitigation habitat at Halton Marshes in North Lincolnshire, in part to mitigate and compensate for impacts attributable to the Able Marine Energy Park. Section 2.6 of the submitted Scoping Report notes that, “No changes are being sought as part of this application to any of the ecological mitigation works in North Lincolnshire or to the ecological compensation works in the East Riding of Yorkshire.” Should this change for any reason, then those changes should be addressed in the Environmental Statement.

### **Proposed Changes to the Permanent Works**

The proposed material change (MC3) covers multiple aspects of the original DCO, and consists of:

- The quay face is to be partially set back.
- The berthing pocket to be widened from 61m to 80m – to accommodate vessels used and anticipated to be used, by the offshore energy sector.
- The berthing pocket to be dredged below its consented depth of -14.5cm CD to -17.5cm CD.
- The berthing pocket to be infilled with a uniform bed for jack up vessels.
- The quay to be built in up to 3 stages. Once the first stage is commenced, there would be no obligation to complete the whole of the quay within any specified timeframe.
- Dolphins are to be added to the ends of the quay – to provide additional mooring points and temporary dolphins incorporated at the end of constriction Stages 1 and 2.
- A relaxation of the cargo restriction set out in Schedule 11, paragraph 4 of the DCO, so that redundant marine structures are allowed to be handled across the quay to enable their recycling. Products arising from recycling (such as steel) would also be permitted to be handled across the quay.
- An amendment to the diversion of Footpath 50, so that instead of the diversion running along Station Road, a new section is authorised from the junction of Station Road and Rosper Road up to the junction of Marsh Lane and Rosper Road. At Marsh Lane the diverted footpath will connect with existing public footpath 100.
- Since the lapse of AHPL’s power to compulsorily acquire land, conferred by Article 30 of the DCO, it has identified a number of unregistered land parcels. The undertaker proposes to extend the 5-year time limit in Article 30, to allow acquisition of these parcels if required.

- Clarification that subsequent 'drop-in permissions' granted under the Town and Country Planning Act 1990 can be implemented without preventing further development under the DCO (in light of the Hillside Supreme Court decision).

A further updated Environmental Statement (fUES) will be submitted with the MC3 application. Additionally, due to the increase of approximately 900,00 m<sup>3</sup> in proposed dredging (consented for 840,000 m<sup>3</sup>), a new or amended Marine Licence will be required. The amended volumes and new material types will be considered in the fUES. Approximately 450,000 m<sup>3</sup> of the dredged material will be chalk, alongside the previously consented silts, sands and clays.

Since the proposed material change site for MC3 encompasses primarily marine habitats, however these may have indirect effects on habitats in the intertidal zone, the scoped in impacts are as follows:

- Construction impacts – dredging
- Habitat and benthic communities' disturbance from the sediment plume
- Dispersal of sediment during dredging operations and dredge disposal
- Associate indirect impacts on habitats from capital dredging
- Potential changes to fish and fish eggs/larvae from habitat loss and disturbance
- Loss of subtidal habitat and benthic communities from dredge spoil disposal
- Indirect changes to habitats from project-induced changes in hydrodynamic and morphodynamic regimes for dredge disposal and potentially for quay construction
- Loss of habitat (intertidal and subtidal) and benthic communities from the additional land required for the quay
- Creation of new hard substrata habitat for the quay construction
- Changes to aquatic environment in adjacent water bodies
- Ornithological impacts on SPA qualifying bird species (hence HRA) scoped in depending on conclusion of indirect changes to habitats from project-induced hydrodynamic and morphodynamic changes.

I agree with the proposed items scoped in for the EIA.

### **Protected and Priority Species**

I have considered this application in accordance with Natural England's standing advice for protected species- <http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx>.

Appropriate protected and priority species surveys for aquatic species were carried out for the original scheme in 2012 as part of the ES. The assessment and examination documents included:

- Benthic and Fish Surveys Report
- Impact Assessment of AMEP on Humber Lamprey
- MEP Impact of Underwater Piling Noise on Migratory Fish
- Saltmarsh Survey Cherry Cobb Sands (north bank of the Humber)
- Impact of Dredging and Dredged Material Disposal on 1) Subtidal and Intertidal Features and 2) Aquatic Ecology
- Supporting Information on Harbour Porpoises in the Humber Estuary
- Impact of Berthing Pocket Construction
- Soft Start and Seals
- An Assessment of Temporal Variation of Benthic Invertebrate Communities in the Humber Estuary

Previous surveys for aquatic fauna and flora were conducted for the original scheme in 2012 and the MC2 UES indicates additional intertidal and subtidal invertebrate and NVC



communities' surveys (around the AEMP site) were conducted up to 2021. Benthic invertebrate communities were surveyed in 2016, and additional fish surveys were conducted from 2013 to 2017.

Marine mammals such as common seal and common porpoise are occasional visitors to the Estuary, and grey seals are a SAC interest feature with significant presence in the Outer Estuary near Donna Nook. The applicant stated due to the high mobility of marine mammal species, and occasional sightings, dedicated surveys have not been conducted. Cetacean beachings have occurred on the Estuary mudflats, with deceased individuals reported to North Lincolnshire Council within the past decade, as well as reports of cetacean species at least as far up the Estuary as Redcliff Middle Sand, to the west of the Humber Bridge. Recent studies have indicated that marine noise and vibration can significantly impact cetacean navigational ability and foraging capabilities, therefore, with consideration of recent records, I would expect a marine mammal survey to be conducted.

The subtidal and intertidal habitat has altered over the last decade. Humber Estuary SSSI unit 94 "Jetty to North Killingholme Haven" was largely mudflat at the time of the original DCO application, but recent assessments indicate that the habitat has largely succeeded to saltmarsh. Updated habitat and species surveys will therefore be required to allow consultees to better understand impacts on these features.

Surveys should consist of inter alia:

- Intertidal and subtidal invertebrate surveys
- NVC communities survey
- Benthic invertebrate communities survey
- Fish surveys
- Marine mammals survey

### **Biodiversity Enhancement**

The National Planning Policy Framework states that:

"180. Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils [...]

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; [...]

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

[...]  
and

"186 d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate..."

Mitigation measures were applied for the original scheme, with the delivery and continuing monitoring and maintenance of the Halton Marshes Wet Grassland.

## Environmental Protection Full Response

Thank you for your memo requesting this departments comments on the above Scoping Request. This department has reviewed the following report submitted in support of the application:

- AMEP DCO Material Change 3, Project Reference 138434, Dated 16.01.25

The proposed material changes includes receiving, dismantling and recycling offshore marine structures which has the potential to cause environmental impact. Further comments are provided below.

### Noise

The process of unloading redundant structures from the quay to an area designated for demolition and size reduction of the structure has the potential to cause adverse noise impact.

The report concludes the following in relation to noise:

Noise and Vibration	<p>The baseline and the impacts of the approved scheme on the local noise environment are presented in Chapter 16 of the UES for MC2 (<a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR030006/TR030006-000108-TR030006-APP-6-16.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR030006/TR030006-000108-TR030006-APP-6-16.pdf</a> )</p> <p>The existing acoustic environment surrounding the proposed development is dominated by industrial noise, particularly flaring from the adjacent refinery and traffic from surrounding roads. It is also considered that, albeit to a lesser extent, marine sources from the east and noise from rail movements to the south influence the current acoustic environment.</p>
	<p>The UES for MC2 reviewed the original ES for AMEP , to determine whether the proposals, and subsequent changes in policy, guidance and baseline conditions had the potential to lead to changes in the findings as described within the original ES. Following this review within the UES, no changes were identified that would alter the assessment of effects as described within the original ES.</p> <p>Whilst the proposed amendments in MC3 will result in different alignment of the quay wall, it is considered that its installation will not result in any new or different noise impacts or vibration during construction. Construction noise impacts were assessed on a worst-case scenario of all marine and terrestrial works being undertaken simultaneously; vibration impacts were assessed on a worst-case scenario. Appropriate mitigation has been secured through the DCO and the amended quay for MC3 will be constructed in accordance with this mitigation.</p> <p>Once operational, although the proposed changes will allow for redundant marine structures to be handled across the quay to enable their recycling, it is considered that the noise impacts with the associated activities would not warrant this to be assessed through the EIA process.</p> <p>This topic is therefore <b>scoped out</b>.</p>

**The above statement is not supported with any quantification of noise impacts and this department do not agree that noise should be scoped out of any further EIA.**

### Air Quality

The report concludes the following in relation to air quality:



Air Quality	<p>The baseline and the impacts of the approved scheme on air quality are presented in Chapter 17 of the UES for MC2 (</p> <p>Air quality levels were assessed to be not significant in the UES. MC3 is not expected to give rise to materially different levels of emissions to air.</p> <p>An assessment of impacts on air quality for MC3 is therefore <b>scoped out</b>.</p>
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Whilst this department do not disagree with the above statement, further justification and mitigation measures for the control of emissions to air during any dismantling process will be required.

### **Contaminated Land**

The report concludes the following in relation to contaminated land:

ES Chapter Title	Environmental Effects
Geology, Hydrogeology and Ground Conditions	<p><b>Geology, Hydrogeology, Ground Conditions, Ground Gas</b></p> <p>MC3 does not propose any changes to the approved terrestrial works which would affect the geology, hydrogeology (groundwater), ground conditions or gas assessments presented within Chapter 7 of the UES for MC2 (<a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR030006/TR030006-000129-TR030006-APP-6-7.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR030006/TR030006-000129-TR030006-APP-6-7.pdf</a> )</p> <p>As recorded in the UES, additional sediment sampling and testing was undertaken which continues to identify elevated trace metal and hydrocarbon concentrations in estuarine silts. Notwithstanding this, these levels remain within the acceptable limits to allow the disposal of dredging material at identified locations within the Humber. Due to the age of the testing, further samples will be taken to inform the fUES.</p> <p>As noted earlier in this Scoping Report, the deeper berthing pocket will result in chalk being dredged in addition to the silts, sands and clays that have already been considered. An application will be made to seek an amended Marine Licence and the amended volumes and new material types will be considered in the fUES. The additional material lies at significant depth and will not be contaminated for former industrial and anthropogenic activity.</p> <p>The effects of additional dredge arisings being deposited in the Humber and any potential significant change in the levels of contaminants will also be assessed in fUES.</p> <p>An update to the Contaminated Sediments section of the chapter is therefore <b>scoped in</b>.</p>

This department agree with the above approach.



FAO. Emily Park  
Environmental Services  
Operations Group 3  
Temple Quay House  
2 The Square  
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Our Ref        ZG2025/0060/CPO  
Your Ref      TR0310001  
Date          27 January 2025

Dear Ms Park

**Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) – Regulations 10 and 11**

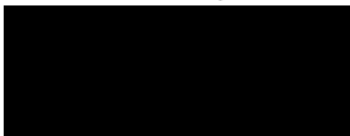
**Application by Able Humber Ports Ltd (the applicant) for an Order granting Development Consent for the Able Marine Energy Park Material Change 3 (the proposed development) - Scoping Consultation**

Thank you for consulting North Yorkshire Council on the above.

I can confirm we have no comments to make.

If you require any further information, please do not hesitate to make contact.

Yours sincerely,



Trevor Watson  
Assistant Director - Planning



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Date: 22<sup>nd</sup> January 2025

The Planning Inspectorate  
Environmental Services  
Central Operations  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Dear Sir/Madam

**Application Number:** WL/2025/00050

**Proposal:** PINS consultation for proposed Able Marine Energy Park Material Change 3

**Location:** Able Marine Energy Park, South Killingholme

Thank you for identifying West Lindsey District Council as a consultation body and advising that an application for a material change (3) to the Development Consent Order for Able Marine Energy Park has been submitted to the Secretary of State. The submitted material changes are as set out in paragraph 2.2 of the EIA Scoping Report by Fairhurst dated January 2025.

#### Planning Policy Context

The site is a good distance outside the West Lindsey District boundary, the statutory development plan for the purposes of S38(6) of the Planning and Compulsory Purchase Act 2004 comprises the adopted plan within the The North East Lincolnshire Local Plan 2021-2032 (adopted 2018). The development plan for West Lindsey is the Central Lincolnshire Local Plan 2023-2043.

The Environmental Statement should consider National Planning Policy and Guidance as follows:

- National Planning Policy Framework (NPPF);
- National Planning Practice Guidance (to include):

- Climate Change
  - Historic Environment
  - Environmental Impact Assessment
  - Air Quality
  - Light Pollution
  - Healthy and Safe Communities
  - Natural Environment
  - Noise
  - Renewable and Low Carbon Energy
  - Travel Plans, Transport Assessments and Statements in Decision-taking
  - Water Supply, Wastewater and Water Quality
- 
- National Design Guide 2019
  - UK Marine Policy Statement 2011
  - Guidance to the Marine UK Policy Guidance

**Landscape and Visual Impact:**

The Landscape and Visual Impact Assessment (LVIA) should follow the guidance of the Landscape Institute "Guidelines for Landscape and Visual Impact Assessment 3rd Edition (2013), as proposed. An iterative approach, which guides the layout and scheme design should be followed.

The location of the proposed Energy Park would be approximately 3 miles (4.9 kilometres) from the shared North East Lincolnshire and West Lindsey district boundary. The scale of the development would only be modestly altered by the proposed material changes and the development would be in context with the surrounding port and oil refinery structures. The large settlement of Immingham and oil refinery sit between the site and parts of West Lindsey. It would therefore be highly unlikely to be in view from any parts of the West Lindsey District. Therefore, it is not considered that any viewpoints from West Lindsey are necessary and no residential properties in West Lindsey would be affected.

Yours faithfully

Ian Elliott  
Development Management Team Leader

On behalf of West Lindsey District Council

If you require this letter in another format e.g. large print, please contact Customer Services on 01427 676676, by email [customer.services@west-lindsey.gov.uk](mailto:customer.services@west-lindsey.gov.uk) or by asking any of the Customer Services staff.

If you want to know more about how we use your data, what your rights are and how to contact us if you have any concerns, please read our privacy notice:  
[www.west-lindsey.gov.uk/planning-privacy](http://www.west-lindsey.gov.uk/planning-privacy)

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Dear Sir/Madam

**TR0310001 – Able Marine Energy Park Material Change 3 – EIA Scoping and Consultation and Regulation 11 Notification**

Thank you for the opportunity to comment on the above consultation. The site is within the North East Lindsey Drainage Board area.

On this aspect of the scheme the Board has no comments, it does not affect the interests of the Board.

Regarding the scheme in general the Board is in contact with the applicant and is working with them.

Please continue to consult the Board on other (non environmental) aspects using the email address below.

Regards

Guy Hird

Planning and Consents Officer

Normal working days are Tuesday, Wednesday and alternate Thursdays.

Hello,

Thank you for the copy of Planning Inspectorate's covering letter for the above. However, the site is not within Yorkshire Water's operational and should be referred instead to Anglian Water for consultation.

Kind regards

Jim McGlade

Town Planning Co-ordinator