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4 April 2017

Application for a variation to the Able Marine Energy Park Development Consent Order 2014 (No. 2935) deemed Marine Licence under Section 72(3)(d) of the Marine and Coastal Access Act

Dear Sir / Madam

ABLE UK Limited (Able) was granted a Development Consent Order (DCO) and Deemed Marine Licence (DML), that came into force on 29 October 2014, to progress with the construction and operation of the Able Marine Energy Park (AMEP), located on the South bank of the Humber Estuary, East Coast of the UK.

NIRAS Consulting Limited, on behalf of Able, is seeking from the MMO a variation to the DML.

Funding requirements means that the project is to be commenced imminently, with construction and capital dredge activities now programmed to commence during Q3 / Q4 2017 in relation to the first stage of development (the Killingholme Marshes Drainage Scheme).

In the Able Marine Energy Park Development Consent Order, Schedule 8, Condition 14 (3) reads:

- (3) This licence is for 6 years from the date of coming into force of this Order whereby—
(a) the construction and capital dredge activities are carried out within the first 3 years; and
(b) maintenance dredging is permitted within the second 3 years.

In order for Able to proceed with the construction of AMEP development (beyond 29 October 2017), it is necessary to extend the duration of the DML for at least an additional 3 years, whereby construction and capital dredge activities can be carried out within the first 6 years from the date of coming into force of the order; and maintenance dredging to be permitted within 3 years after completion of construction and capital dredging.

In addition, it is considered that there is a need to remove ambiguity in relation to piling activities referred to in Schedule 8, Conditions 37 and 38, which, as discussed and agreed with the MMO, should only be relevant to percussive piling activities. A change in wording for these two provisions is therefore proposed in Annex 1, considered as a purely administrative change to clarify the intent of the original text.



Annex 1 provides detail on the proposed changes to Schedule 8 Conditions 14, 37 and 38, and supporting statements regarding their implications, demonstrating that the proposed changes do not have an effect on the environmental and Habitats Regulations assessment upon which the DCO and Deemed Marine Licence consent application was considered and granted.

Application Fee

It is understood that a fee will be payable to the MMO that will either be £200 upfront or, should MMO consider it appropriate to consult with its advisors, on an hourly cost incurred basis. Able accepts the obligation to pay the charges and undertakes to do so for this application as advised by the MMO.

We would be grateful for confirmation that these amendments can be accommodated by 12 May 2017.

Yours faithfully

A handwritten signature in black ink, appearing to read "Tim Norman".

Tim Norman

Managing Director

NIRAS Consulting Ltd

Annex 1 - Proposed changes to Able Marine Energy Park Development Consent Order 2014 (No. 2935) deemed Marine Licence (Schedule 8)

ABLE UK wishes to request a variation to the deemed Marine Licence ("DML") within Schedule 8 of the Able Marine Energy Park Development Consent Order 2014 (No. 2935) in relation to the following provisions:

PROVISION	ORIGINAL TEXT	PROPOSED TEXT
14 (3)	<p><i>General conditions</i></p> <p>This licence is for 6 years from the date of coming into force of this Order whereby—</p> <p>(a) the construction and capital dredge activities are carried out within the first 3 years; and</p> <p>(b) maintenance dredging is permitted within the second 3 years.</p>	<p><i>General conditions</i></p> <p>This licence is for 9 years from the date of coming into force of this Order whereby—</p> <p>(a) the construction and capital dredge activities are carried out within the first 6 years; and</p> <p>(b) maintenance dredging is permitted within the 3 years after construction and capital dredge activities have been completed for each stage of development.</p>
<p>Supporting Statement</p> <p>Due to the imminent works now programmed to commence during Q3/Q4 2017, and that will continue beyond 29 October 2017, Able wish to extend the duration of the DML by an additional three years, whereby construction and capital dredge activities can be carried out within the first 6 years from the date of coming into force of the order; and maintenance dredging to be permitted within 3 years after completion of construction and capital dredging.</p> <p>The DML makes no reference to the sequence of works or programme, with the exception of Condition 25 (Project wide conditions) which refers to the dependencies that are applicable to the licensed activities in relation to the construction of the quay. The activity licenced under paragraph 7 (pumping station), i.e. part of the Killingholme Marshes Drainage Scheme, does not depend on any other activities.</p> <p>It is therefore considered that the extension of the DML by 3 years will have no implications on the environmental and Habitats Regulations assessment upon which the DCO and Deemed Marine Licence consent application was considered and granted, and no further assessments (and accordingly supporting information) are deemed necessary to grant such extension. It should be noted that Able have committed to prepare a shadow HRA in relation to Stage 1 of development in support to the environmental bespoke permit application to the Environment Agency.</p>		
37 (1)	<p><i>Piling conditions</i></p> <p>No operations consisting of piling are to commence until a piling method statement has been submitted to and agreed in writing by the MMO, following consultation with the Environment Agency and Natural England, such statement to include the following—</p> <p>(a) the use of pile pads and pile shrouds at all times;</p> <p>(b) the maximum pile diameter to be 2.1 metres unless otherwise agreed in writing by the MMO, following consultation with Natural England and the Environment Agency;</p> <p>(c) soft start procedures to be followed to include a requirement for a soft start of at least 180 seconds for percussive piling of</p>	<p>Percussive Piling conditions</p> <p>No operations consisting of percussive piling are to commence until a piling method statement has been submitted to and agreed in writing by the MMO, following consultation with the Environment Agency and Natural England, such statement to include the following—</p> <p>(a) the use of pile pads and pile shrouds at all times;</p> <p>(b) the maximum pile diameter to be 2.1 metres unless otherwise agreed in writing by the MMO, following consultation with Natural England and the Environment Agency;</p> <p>(c) soft start procedures to be followed to include a requirement for a soft start of at least 180 seconds for percussive piling of</p>

PROVISION	ORIGINAL TEXT	PROPOSED TEXT
	<p>marine piles; (d) marine mammal observation (within 100 metres of the pile being driven) and the cessation of piling while any marine mammals are within this zone; (e) implementation of an active monitoring scheme under paragraph 39; and (f) details of the anticipated spread of piling activity throughout a working day.</p>	<p>marine piles; (d) marine mammal observation (within 100 metres of the pile being driven) and the cessation of piling while any marine mammals are within this zone; (e) implementation of an active monitoring scheme under paragraph 39; and (f) details of the anticipated spread of piling activity throughout a working day.</p>
38 (1)	<p>No operations consisting of piling are to commence until a cold weather piling restriction strategy is submitted and agreed with the MMO, following consultation with Natural England, such strategy to include— (a) a requirement for temporary cessation of percussive piling (other than to finish driving any pile that is in the process of being driven at the point of imposition of the temporary cessation) following 7 consecutive days of zero or sub-zero temperatures (such “freezing days” to be fully defined in the strategy); (b) the establishment of 3 temperature monitoring points within the Humber Estuary; (c) provision for the restriction on piling to be lifted on a probationary basis after 24 hours of above freezing temperatures if Meteorological Office forecasts indicate that freezing conditions will not return for the next 5 days (“the probationary period”) on the proviso that if any day within the probationary period is a freezing day the restriction on piling will be imposed at the end of that day; and (d) provision for the restriction on piling to be lifted entirely on expiry of the probationary period if none of the days in that period are freezing days (until such a time as the conditions in paragraph (a) are met).</p>	<p>No operations consisting of percussive piling are to commence until a cold weather piling restriction strategy is submitted and agreed with the MMO, following consultation with Natural England, such strategy to include— (a) a requirement for temporary cessation of percussive piling (other than to finish driving any pile that is in the process of being driven at the point of imposition of the temporary cessation) following 7 consecutive days of zero or sub-zero temperatures (such “freezing days” to be fully defined in the strategy); (b) the establishment of 3 temperature monitoring points within the Humber Estuary; (c) provision for the restriction on percussive piling to be lifted on a probationary basis after 24 hours of above freezing temperatures if Meteorological Office forecasts indicate that freezing conditions will not return for the next 5 days (“the probationary period”) on the proviso that if any day within the probationary period is a freezing day the restriction on percussive piling will be imposed at the end of that day; and (d) provision for the restriction on percussive piling to be lifted entirely on expiry of the probationary period if none of the days in that period are freezing days (until such a time as the conditions in paragraph (a) are met).</p>
<p>Supporting Statement</p> <p>It is considered, and has been agreed with the MMO, that Piling conditions contained within Schedule 8 (37(1) and 38(2)) were originally intended to apply to percussive piling activities only, and there is a need to remove ambiguity in Conditions 37 and 38 above, so they refer to percussive piling activities only.</p> <p>The proposed changes are considered as purely administrative to clarify the intend of the original text, therefore, such changes will have no implications on the environmental and Habitats Regulations</p>		



PROVISION	ORIGINAL TEXT	PROPOSED TEXT
	assessment upon which the DCO and Deemed Marine Licence consent application was considered and granted, and no further assessments (and accordingly supporting information) are deemed necessary to grant such changes.	