

BDB Pitmans

(submitted via email to  
[info@ableuk.com](mailto:info@ableuk.com) only)

**Our ref:** AN/2023/134669/02-L01

**Your ref:** ADW/ABT/124645.0018

**Date:** 03 May 2024

Dear Sir/Madam

**Consultation on extending the period for implementation (Article 7) of the Able Marine Energy Park Development Consent Order (S.I. 2014 NO. 2935)**

Thank you for consulting us on your application to the Secretary of State in respect of extending the period for implementation of the Able Marine Energy Park Development Consent Order.

We understand, having recently spoken to Able UK's Engineering Director, Mr Richard Cram, that the consultation material is unchanged from that made available to us in August 2023. However, we note that the supporting Environmental Review document ref: 416.064729/00001 is dated October 2023. Therefore, if any changes have been made to the consultation material, over and above the date, it would be helpful if a track-changed version could be made available to us please.

If no changes have been made then we would refer you to our letter of 1 September 2023, appended below for ease of reference, for our comments on this matter.

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**  
**Principal Planning Adviser**

Direct dial [REDACTED]

Direct e-mail [REDACTED]@environment-agency.gov.uk

BDB Pitmans, on behalf of  
Able Humber Ports Limited

**Our ref:** AN/2023/134669/01-L01  
**Your ref:** TR030006

(submitted via email to  
[info@ableuk.com](mailto:info@ableuk.com) only)

**Date:** 1 September 2023

Dear Sir/Madam

**Consultation on extending the period for implementation (Article 7) of the Able Marine Energy Park Development Consent Order (S.I. 2014 NO. 2935)**

Thank you for your letter of 2 August 2023 inviting us to make comments on the Able Humber Ports Limited (AHPL) proposed application.

We have reviewed the information provided, for issues within the Environment Agency's remit, and have the following comments to make on it.

We have no objection to the proposed extension of time, having worked closely with AHPL over many years to ensure the project can proceed in a way that will protect the environmental issues under the Environment Agency's remit. We are generally content with the overall conclusions of the Environmental Review on the basis of:

1. there being no changes to either the nature or duration of the proposed works;
2. the Development Consent Order (DCO) extension being limited to the locations of the Able Marine Energy Park and Compensation sites outlined in document '*AHP-002-00000 A Development Consent Order Limits Site Location Plan.pdf*';
3. Updated Water Framework Directive assessment results (new data for existing elements and newly classified elements) are considered within any future material changes and associated monitoring as described within the Marine Environmental Management & Monitoring Plan.

In respect of Chapter 10 Aquatic Ecology, we agree with the recommendation (paragraph 10.1.7) to resurvey the intertidal benthic invertebrate communities to identify any changes in the baseline data as a result of a changing intertidal profile and would request that this is formally incorporated into the monitoring strategy.

Also, the aerial photograph of the application site within the Environmental Review only outlines the terrestrial portion of the development and does not include the extension of the site into the Humber estuary as outlined in the DCO limits site location plan. It would be useful if the Environmental Review clearly indicates this area.

A DCO application for the Port of Immingham (Immingham Green Energy Terminal - IGET) is pending but is not considered within the review for e.g. cumulative effects.

AHPL should consider if an updated cumulative assessment is required for this, due to the change in timings of the DCO extension. The IGET project is listed on the infrastructure planning portal website and would constitute a Tier 2 project when applying the guidance in the Planning Inspectorate's Advice Note Seventeen (Cumulative effects assessment relevant to nationally significant infrastructure projects). Paragraph 3.4.3 of this Advice Note states that "*An assessment should be provided for all Tier 1 and Tier 2 'other existing development and/or approved development', where possible.....The assessment should be carried out with reasonable effort and should be clearly documented in the ES*".

AHPL entered into two legal agreements with the Environment Agency that cover the future construction, improvement and management of the flood defences, at the development site and the habitat compensation site on the north bank of the Humber. We would like to take this opportunity to remind AHPL of clause 9.1 of the Able Marine Energy Park agreement, which prevents the commencement of development until:

- (i) All persons owning a legal estate in the Quay other than the Crown Estate Commissioners have entered into obligations in an agreement with the EA under s30 Anglian Water Authority Act 1977 in the same form as the obligations set out in this agreement*
- (ii) All persons owning a legal estate in Cherry Cobb Sands have entered into obligations in an agreement with the EA under s41 of the Yorkshire Water Authority Act 1986 in the same form as the obligations set out in an agreement of even date between ABLE and the EA.*

We are aware that the last time this issue was discussed was during 2021 and we would encourage AHPL to finalise these new agreements as a matter of urgency to ensure this does not remain an outstanding issue that would prevent the commencement of development at the required time. In connection with this point, we note paragraph 2.2 of the 'Explanatory Note on Prolongation of the Project' and highlight that construction of the compensation site could not commence unless and until AHPL enters into a new agreement with the Environment Agency relating to flood defences for this site.

We would also request that if AHPL can provide any clarification on timescales for the construction of the quay, this would be very much appreciated. The continued uncertainty and delay are making it difficult for the Environment Agency to plan what maintenance works are required on the sea defences for their continued operation. Until the quay is constructed the Environment Agency still needs to maintain the sea defences and needs to ensure that any works it undertakes represent an appropriate investment of public money.

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**  
**Principal Planning Adviser**

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