



# Department for Transport

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28<sup>th</sup> October 2024

Dear Sir/Madam,

## **THE ABLE MARINE ENERGY PARK DEVELOPMENT CONSENT ORDER 2014 (S.I. 2014/2935)**

**Re: Request made by Able Humber Ports Limited (“the Applicant”) for the Secretary of State’s approval to extend the completion period of the Able Marine Energy Park Development Consent Order 2014 (S.I. 2014/2935)**

1. Thank you for your email dated 11 October 2023 and attachments (‘Request Documents’) enclosing a request made under article 7 of the Able Marine Energy Park Development Consent Order (“the 2014 Order”) to extend the time limit for the completion of the Development.
2. The Secretary of State is aware that article 7 of the 2014 Order allows her to extend the time limit for completion if the Development is not completed within 10 years of the coming into force of the 2014 Order. The Secretary of State notes that the request seeks to extend the period for completion by 7 years from 29 October 2024 to 28 October 2031.

### The Secretary of State’s Consultation

3. The Applicant’s Request Documents were published on the Planning Inspectorate website for the Able Marine Energy Park project on 10 May 2024. The responses to the first round of consultation were published on 1 July 2024 and Interested Parties were invited to comment on those responses in a second round of consultation. Following the publication of the responses to the second round of the Secretary of State invited Interested Parties to provide any further comments on the representations received in response to the second round of consultation.

4. The Secretary of State also requested further information from the Applicant on the 5 and 8 August 2024 in relation to the Applicant's Habitats Regulations Assessment ("HRA"). The Department for Transport invited further comments on this information on 18 September 2024.

5. The Secretary of State's consultation letters and the responses to her consultation are publicly available at:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR030001>

### Habitats Regulations Assessment

6. In response to the Secretary of State's consultations, Natural England (in letters dated 6 June 2024, 13 August 2024 and 01 October 2024) expressed concern with the approach taken by the Applicant to the HRA and is of the view that additional information is required to demonstrate that the assessment has properly considered the impacts of the proposed extension. Natural England highlighted that they do not consider that the approach taken by the Applicant is detailed enough to be considered a full re-assessment of the HRA. In its current form the Applicant's HRA has focused on whether it is likely that the 7-year extension will result in changes to the impacts identified previously in relation to the application for the 2014 Order and the material change application granted on 16 July 2022 ("the 2022 material change application"). The Secretary of State requests that a full re-assessment of the HRA is undertaken in line with Natural England's comments, through the lens of impacts to an updated environmental baseline, to identify impacts to habitats and species within the new timescales. This will require updated environmental information in relation to the qualifying habitats and species of the designated sites within the Humber Estuary Special Area of Conservation, Special Protection Areas and Ramsar Site.

7. In addition, because Natural England do not consider there to be sufficient information to assess potential in combination effects for the extended 7-year period, the Secretary of State also requests that the updated environmental baseline information is used by the Applicant to undertake an in combination assessment. Natural England advise that it should be established whether there could be any interactive/synergistic effects with projects in combination, which were not taken into account in the original HRA.

8. The Secretary of State further advises the Applicant to address Natural England's comments in relation to the environmental risk regarding the time lag in the creation of overcompensation habitat and timescales for delivery and details within the Compensation Environmental Management and Monitoring Plan ("CEMMP") to monitor the success of the compensation. The updated baseline will enable the Applicant to demonstrate that the suggested provision of compensation remains adequate, taking into account consideration of the new timescales of the project. The CEMP should be updated to ensure that it remains fit for purpose in light of the new environmental data.

### Environmental Review

9. The provision of updated environmental data was also raised by Associated British Ports (“ABP”) in their consultation responses. Both ABP and Natural England raised the validity of the data used to inform the environmental review, including data used to assess impacts on terrestrial and aquatic ecology, sedimentary processes and impacts from noise. The Applicant should therefore consider whether further surveys are needed to provide up to date assessments taking into account the 7-year time extension on these receptors.

### Summary of the Secretary of State’s Decision

10. The Secretary of State has decided to extend the completion period by one year to 28 October 2025, with a provision to extend the time period further following the receipt of additional environmental information set out in the ‘Next Steps’ section below. Construction on the project must be withheld until 28 October 2025 or, without prejudice to the Secretary of State’s decision following receipt of the additional information, until the Secretary of State has granted a further extension.

11. In making her decision, the Secretary of State has carefully considered the request documents submitted by the Applicant and published on the Planning Inspectorate website on 10 May 2024 and the representations received in response to her consultations. In addition, the Secretary of State has also had regard to documents submitted during the Examination for the original 2014 Order, as well as the 2022 material change application. This includes the Updated Environmental Statement in respect to the 2022 material change application and the Environmental Statement submitted in support of the application for the 2014 Order.

### Next Steps

12. To address the concerns raised by Natural England set out above, the Secretary of State requests the following information:

- Updated ecological survey work
- Update HRA to include a detailed in combination assessment
- Provide a timeline in relation to the delivery of the overcompensation site at Cherry Cobb Sands
- Provide a timeline in relation to the delivery of the benthic modelling for update of the CEMMP.

13. Once the Secretary of State has received this additional information, she will consider whether or not to approve a further time extension for the completion of the Development following consultation with Interested Parties.

14. The Secretary of State also requests the Applicant to consider, if it is intending to apply for any further changes to the 2014 Order through the Infrastructure Planning (Changes to, and Revocation of Development Consent Orders) Regulations 2011 (“2011 Regulations”), whether it would be prudent to include as part of any such application a request to further extend the time period for completion of the Development. This is

because the 2011 process allows for applications for changes where there are new or different environmental effects. It would also allow the Secretary of State to amend article 7 in the 2014 Order to reflect any extension to the time period for completion of the Development.

Yours faithfully,

Gareth Leigh