



# Department for Transport

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27 October 2025

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. I am directed by the Secretary of State for Transport (“the Secretary of State”) to inform you that consideration has been given to the request made under article 7 of the Able Marine Energy Park (“AMEP”) Development Consent Order (“the 2014 Order”) to extend the time limit for the completion of the Development, submitted on 10 May 2024.
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 seven years from 29 October 2024 to 28 October 2032.
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. 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.

4. The Secretary of State published a letter on 28 October 2024 (“the 28 October letter”) indicating that the Applicant had provided insufficient environmental information to allow her to make a fully informed decision on the proposed time extension. The 28 October letter granted an extension to the completion period by one year to 28 October 2025 but set out that construction on the Development must be withheld until the Secretary of State had made a decision on the extension. The 28 October letter requested, at paragraph 12, for the Applicant to submit further information on:
  - Updated ecological survey work;
  - Updated Habitats Regulations Assessment (“HRA”) to include a detailed in combination assessment;
  - A timeline in relation to the delivery of the overcompensation site at Cherry Cobb Sands; and
  - A timeline in relation to the delivery of the benthic modelling for update of the Compensation Environmental Management and Monitoring Plan (“CEMMP”).
5. The Applicant initially submitted additional information on 16 May 2025, this was later revised and re-submitted on 11 June 2025. Views from all Interested Parties (“IPs”) on the Applicant’s additional information was sought by the deadline of 1 August 2025. All additional information and representations were published on the Planning Inspectorate website for the Application, publicly available at:  
<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR030001>
6. The Secretary of State’s consideration of the representations submitted by IPs is summarised below.  
Natural England
7. In their response, dated 22 July 2025, Natural England (“NE”) confirmed that sufficient information and evidence has been provided to address the points relevant to their remit and the information provided adequately addressed the concerns raised in the 28 October letter. NE outlined a few outstanding issues but clarified would not make a material difference to the outcome of the decision-making process for this application. This included that the Applicant should, for completeness, explain and justify the use of a +/- 10% change in population between the original baseline and the 2024 surveys as a threshold of significance, because the assessment of significance could vary at different timescales if these changes are not indicative of wider trends. NE appreciate that this definition would not ultimately change the conclusion of the HRA, however, the Secretary of State agrees that the Applicant should provide this reasoning within the HRA documents as well as the relevant Environmental Monitoring and Management Plan (“EMMP”), to better inform the targets and management of the compensation proposals.
8. NE also set out that the survey methodology for benthic pre commencement surveys that they set out under heading two of their response should be used to update the Marine Environment Monitoring and Management Plan (“MEMMP”). The Secretary of State agrees

and additionally requests that the MEMMP is updated to include the NE's survey methodology.

9. It is noted that NE expressed concern in their responses to the Secretary of State (including letters dated 01 October 2024 and 22 July 2025) regarding the slippage of the construction programme, and the subsequent impacts to the successful delivery of the compensatory measures, particularly the over compensation site of wet grassland at Cherry Cobb Sands, required to reduce the impact of the time lag experienced during the development of the intertidal compensation site. East Riding of Yorkshire Council granted a new planning permission for the overcompensation site at Cherry Cobb sands on 1 November 2024. Additionally, the Applicant and NE have agreed that the development of this site will commence at least seven months before Work No.1. In their response to the 28 October letter, NE recognise the progress made on the delivery of the overcompensation site, but their position remains that this site should be constructed as soon as possible, and before the quay is operational, to fully realise the benefits of reducing the time lag and to increase the functionality of the site. In line with what was set out by the Secretary of State within the 2013 decision letter for the Development, that *'further reduction of the risk would be possible by starting work on the Cherry Cobb Sands Wet Grassland Site earlier'* the Secretary of State requests that the Applicant provides NE with an updated timing schedule for when permissions and works (including surveys and monitoring reports) will commence and be completed, to ensure timely completion of these deliverables related to the over compensation and compensation sites.
10. NE also made clear that they were content to engage in further conversation on matters relating to updating the Legal Deed, and the Secretary of State encourages the Applicant to do so.
11. Finally, NE also included a query in relation to buffer zones around the compensation sites to ensure adjacent land use does not affect the integrity of the compensation site. The Secretary of State requests that the Applicant update the MEMMP to include that suitable buffer zones will be enforced around each ecological unit that is delivered where possible.

#### Environment Agency

12. The Environment Agency ("EA") confirmed in their 18 July 2025 letter that the comments in their previous consultation response (dated 1 September 2023) had been addressed. This includes; the incorporation of the resurvey of intertidal habitat into the monitoring strategy within the MEMMP; the inclusion of the extension into the Humber Estuary through aerial photography in the Environmental Review; and the inclusion of the Immingham Green Energy Terminal ("IGET") within the cumulative effects assessment and the in combination assessment of the HRA Report.
13. The Secretary of State notes that the EA is content with the application for a time extension on the basis of: there being no changes to the nature or duration of the proposed works; the DCO limits remaining the same as those outlined in the *'AHP-002-00000 A Development Consent Order Limits Site Location Plan.pdf'*; and that an updated Water Framework Directive assessment results are considered within any future material changes.

#### Associated British Ports

14. Associated British Ports (“ABP”) raised concerns on the impact of Material Change 3. ABP set out that it would be inappropriate to consider the proposed time extension at this stage, as Material Change 3, alongside the previous Material Changes, would result in a scheme that bears little resemblance to that originally consented in the 2014 Order.
15. The Secretary of State is also aware that, in their numerous representations on the Applicant’s request for a time extension of the Order, ABP while not objecting to the principle of the Development, expressed their concerns on the ‘need’ for the Development. ABP’s concerns specifically relate to:
  - sector expansion has not materialised;
  - revenues required to invest in the quay have not been realised;
  - potential operators and tenants for such a facility have chosen alternative sites;
  - the timescales for the construction of the quay remain unknown; and
  - full financial support has not been forthcoming.

The Secretary of States notes the concerns raised by ABP and has considered them below under the ‘Material Change 3’ section and ‘The Need Case’ section.

#### North Lincolnshire Council

16. North Lincolnshire Council responded on 23 July 2025, confirming that they had no objection to the seven year extension being granted, subject to the Secretary of State being satisfied that the derogation case within the HRA remains valid.

#### Habitats Regulations Assessment

##### *Updated Survey Data*

17. The Secretary of State notes the information submitted in relation to the updated HRA Report (Attachment 1 to the Applicant’s response to the Secretary of State’s 28 October letter). This includes updated survey information for the Wetland Bird Survey (WeBS) core counts. Further, the Applicant undertook wintering bird surveys between June 2023 and May 2024 at the Cherry Cobb Sands and North Killingholme Marshes foreshore to include within the updated HRA Report. In agreement with NE, updated surveys for other species relevant to the HRA were not undertaken, including for grey seal, sea and river lamprey and intertidal habitats. The Secretary of State is content that the pre-construction surveys secured in the DCO (Schedule 11) through the EMMPs will establish a contemporaneous baseline for these qualifying features, which will inform the ongoing development of the compensation and mitigation measures.

##### *In combination Assessment*

18. As requested by the Secretary of State, the Applicant has updated the in combination assessment in light of the proposed updated timeline. In their response, the Applicant has explained their approach, which addresses the interaction of residual impacts of the AMEP (impacts remaining after mitigation has been applied) with any residual impacts of any relevant plans or projects for which an application has been submitted. The Applicant also highlights that any projects that have come forward since the consented Development in

2014 would have had to take into account the impacts of AMEP within their own assessments.

19. The Secretary of State notes that the Applicant does not agree with NE's advice that any projects that have come forward since the original 2014 DCO would not have considered that the AMEP Development had not been constructed within their in combination assessments. NE made particular reference to the Immingham Eastern Ro-Ro Terminal ("IERRT") and the Immingham Green Energy Terminal ("IGET"), both located on the Humber Estuary. As set out in paragraphs 3.13 and 3.15 of the Applicant's response to the 28 October letter, the Applicant has provided their reasoning behind the disagreement with NE, including references to both project's HRAs where AMEP has been referenced. The Applicant highlighted that as the impacts of AMEP were considered and referenced in both IGET's and IERRT's HRAs and also the Secretary of State's HRAs on these projects, there is no evidence that the IERRT and IGET assessments were based on the AMEP consent expiring in October 2024 (paragraph 3.11 of the Applicant's response). Both assessments for the IGET and IERRT concluded no adverse impacts in combination on the Humber Estuary Special Area of Conservation ("SAC"), Special Protection Area ("SPA") and Ramsar site. The Secretary of State is inclined to agree with the Applicant in this instance, that the converse is true, the residual effects for AMEP are unchanged from the original assessment, and that AMEP has been considered in these assessments and that a conclusion of no adverse effects on integrity in combination with these projects can be drawn.
20. In any event, the Secretary of State notes the analysis on in combination effects that may have arisen since the original application. For example, no in combination effects due to habitat loss of SPA species at Killingholme Marshes is expected from either the IGET or IERRT due to distance from the site from both projects. This is further alleviated by the provision of compensatory habitat at Halton Marshes Wet Grassland, established in 2019 as a compensatory measure, and is functional and has proven to be effective (paragraph 3.23 of the Applicant's response to the 28 October letter).
21. Further, the Applicant supported their original assessment of in combination effects arising from the loss of intertidal and subtidal habitat. In their original in combination assessment, Adverse Effects on Integrity ("AEol") on the Humber Estuary SPA, SAC and Ramsar site due to AMEP alone from loss of habitat on the North Killingholme Marshes foreshore and the associated displacement was concluded and the Applicant explains in their response that there is therefore no requirement for an in combination assessment of these impacts as it is agreed that AEol arises from the Development alone, and will inevitably persist as it cannot be mitigated (paragraph 3.39 of the Applicant's response). The Secretary of State has had due consideration to the reasoning used within the in combination sections of both the IGET and IERRT HRAs, which discount in combination effects on the loss of intertidal and subtidal habitat due to de minimis impacts from IERRT, and the agreed conclusion with NE of no AEol in combination effects following the submission of further technical information to support the in combination assessment on the IGET project. As such, the Secretary of State considers that the compensatory measures provided for the loss of subtidal and intertidal habitat for the AMEP are sufficient in this instance to compensate for the adverse effects of the Development alone or in-combination.

22. In relation to in combination disturbance impacts at North Killingholme Haven Pits, the original 2014 assessment identified that with mitigation applied, AEol on SPA species using the site would be avoided. The Applicant has updated the in combination assessment to include the North Killingholme Power Project, which identified AMEP within its assessment and concluded that with mitigation applied for both projects, AEol due to disturbance impacts would be avoided (paragraph 3.28 of the Applicant's response). The Secretary of State is content with this conclusion for the time extension application.
23. In combination effects in relation to water quality changes from capital and maintenance dredging were ruled out due to the small-scale and localised nature of the plumes arising from this activity within the AMEP and of a magnitude that can occur naturally. Both the IGET and IERRT concluded the same within their assessments, and did not identify any in combination impacts with the AMEP (paragraphs 3.34 to 3.36 of the Applicant's response).

#### *Need Case and the Derogations*

24. The Secretary of State notes that the Applicant has resubmitted their case for a derogation within their response to the 28 October letter. In considering the ongoing need and the Imperative Reasons of Overriding Public Interest ("IROPI") required to grant a derogation for the Development to go ahead in light of the AEol identified, and also taking into account ABP's concerns on this matter, the Secretary of State has had regard to the relevant National Policy Statement, the National Policy Statement for Ports ("NPSfP"). The Secretary of State notes that the Development will play a part in ensuring the security of energy supplies by contributing to the development of renewable energy in the form of offshore wind and would help to meet the substantial demand for port capacity to support the offshore wind industry. She has therefore concluded that the Development continues to conform with the types of infrastructure contemplated in paragraph 3.5.1 of the NPSfP. The NPSfP expressly provides that infrastructure which meets that test is urgently needed (NPSfP 3.5.2). In addition, the Secretary of State is satisfied that the main objective of this Development, set out in the Application for the original consent, which is to create a new cluster of offshore energy businesses in and around the consented Development, remains. This extension request would not result in a change in those expected benefits.
25. The Secretary of State is also satisfied that the Development continues to conform with the policy objectives outlined in the Overarching National Policy Statement for Energy ("EN-1") and the National Policy Statement for Renewable Energy ("EN-3"), which sets out the urgent need for renewable energy infrastructure. The Secretary of State considers this conformity applies to both 2011 and 2024 iterations. The need for the Development remains as set out in the Secretary of State's letters of both 28 August 2013 and 13 May 2021.
26. In addition to the policy objectives set out in the NPSfP, EN-1 and EN-3, the Secretary of State notes that on 31 July 2024, the Department for Energy Security and Net Zero announced a budget of £1.5 billion to help deliver homegrown clean energy projects. She also notes that a partnership between Great British Energy and The Crown Estate was announced on 25 July 2024, providing billions of investments in clean power. The Secretary of State considers that these announcements and budgets provide further evidence of the need for this Development.

27. To conclude, the Secretary of State is confident that the IROPI case for the Development remains, and that the three tests to provide a derogation under article 6(4) of the Habitats Directive have been met for the Development to go ahead.

#### *Compensation*

28. In their letter dated 1 October 2024, NE confirmed that they believed the compensation measures are likely to remain appropriate within the context of the proposed time extension. The Secretary of State notes the updated timeline the Applicant has provided in relation to the over compensation site at Cherry Cobb Sands, but as outlined above, considers that the implementation of this should be undertaken as soon as possible to provide functioning compensatory habitat.
29. In response to the request to provide a timeline for the provision of benthic modelling, the Secretary of State is reassured with the information provided by the Applicant. The benthic surveys are to be undertaken in collaboration with Professor Richard Stillman of Bournemouth University and should incorporate the methodology as outlined by NE and referenced above. It is understood that the CEMMP will be updated with the results of the surveys in Q2, 2026.

#### *HRA conclusions*

30. The Secretary of State is content that the Applicant's updated HRA Report identifies the correct designated sites, qualifying features and impact pathways that may give rise to likely significant effects. She is also content that the updated survey information adequately informs the updated appropriate assessment, where the mitigation measures identified previously will reduce the impacts identified. Similarly, she is satisfied that the Applicant has adequately addressed concerns put forward by IPs surrounding the in combination assessment, and that all relevant projects have now been captured. She also agrees that AEoI cannot be ruled out for habitat loss and subsequent impacts on bird features of the Humber Estuary SPA and SAC.
31. The Applicant summarises that, within the application for a time extension, the nature of the Development remains the same, there have been no major changes to the ecological baseline, and the predicted impacts do not deviate from what has previously been assessed. Therefore, the mitigation and compensatory measures remain suitable in this context. The Secretary of State ultimately agrees with this conclusion, and as the competent authority for the purposes of the Habitats Regulations, is satisfied she is entitled under regulation 62(1) of the Habitats Regulations to give consent for the time extension for the AMEP Development.

#### Environmental Review

32. The Environmental Review ("ER") that was submitted to support the application for the time extension request (dated October 2023) reports the ongoing reliability of the technical assessments undertaken to inform the original Environmental Statement ("ES") and subsequent Material Change 2 Updated Environmental Statement ("UES"). The Secretary of State has considered the conclusions of Chapters 7 – 24 as well as Chapters 31 - 43 within the ER where each technical discipline has utilised the previous findings of the Material Change 2 UES in considering whether the proposed extension would alter the

findings contained therein. The Secretary of State notes that where new data have been collected, baseline terrestrial ecological conditions are not considered to have significantly changed from the original ES, and any alterations reflect only a slight change within a species/habitat assemblage. Changes to the original ES baseline identified during subsequent surveys were found for otter, badger, reptiles, and subsequent mitigation measures have been incorporated into the CEMMP in relation to these species.

33. The Secretary of State notes Chapter 2 of the draft CEMMP within the Applicant's response to the 28 October letter that references the pre-construction surveys necessary and secured within Schedule 11, requirement 31 of the DCO – and set out further within the relevant EMMP - to establish a contemporaneous baseline for monitoring of the compensation and mitigation measures. Given the dynamic nature of the Humber ecosystem, together with the obligations on the Applicant that are already embedded in the DCO and the EMMPs to carry out further baseline surveys at the material time, it has been agreed with NE (as confirmed in their 22 July 2025 letter) that no further surveys of any protected species or habitats are required for the purposes of this application. The Secretary of State is therefore content that any changes in the baseline and subsequent alterations to effects, mitigation and compensation measures, will be captured in advance of construction of the Development.

#### Material Change 3

34. The Secretary of State is aware that the Applicant submitted an Environmental Impact Assessment Scoping Report to the Planning Inspectorate on 16 January 2025. In response, the Planning Inspectorate (on behalf of the Secretary of State) issued its Scoping Opinion on 26 February 2025. The Secretary of State notes that, at the time of this decision, the proposed Material Change 3 includes the following elements:
- Relocation and redesign of the quay and berthing pocket;
  - Relaxation of cargo handling restrictions;
  - An amendment to the diversion of Footpath 50; and
  - An extension to the five-year time limit for compulsory acquisition.
35. While the Secretary of State notes the concerns raised by ABP on Material Change 3, as of 27 October 2025, Material Change 3 has not been formally submitted or decided upon and therefore does not form part of the assessment baseline for this decision. The Secretary of State has therefore considered the time extension application on the basis of the existing consent and the information provided in support of it.
36. Throughout this letter, the Secretary of State has requested that the Applicant update the Compensation Environmental Management and Monitoring Plan, the Marine Environmental Management and Monitoring Plan and the Terrestrial Environmental Management and Monitoring Plan. The Secretary of State expects that, should Material Change 3 be formally submitted, updated versions of these plans will be included in the application documents.

#### The Need Case

37. In considering the concerns raised by ABP on the financial viability and deliverability of the project, the Secretary of State has had regard to the relevant policy guidance set out in the



NPSfP, EN-1 and EN-3. As set out above and in paragraph 3.4.16 of the NPSfP, paragraph 3.2.6 of EN-1 and paragraph 1.1.1 of EN-3, the Secretary of State considers that there is a compelling need for substantial additional port capacity and new major energy infrastructure. She does not consider that these statements of strategic need depend on evidence of immediate sector expansion or market demand or the specific contribution of this project, as set out in paragraph 3.2.8 of EN-1.

38. While the Secretary of State acknowledges the concerns about the viability of the project, she notes that neither the Planning Act 2008 nor the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 impose a statutory requirement for an Applicant to demonstrate financial or commercial certainty to the granting or extension of a DCO. However, the Secretary of State also notes, paragraph 4.1.21 of EN-1, which provides that it is a matter of judgment for the Applicant regarding the financial viability of the development when submitting the application having considered the market framework and taken account of government interventions. The Secretary of State is therefore satisfied that the absence of confirmed revenues does not, in itself, justify refusal of the proposed extension.
39. As set out above, the Secretary of State considers the 2024 DESNZ budget announcement of £1.5 billion to deliver homegrown clean energy projects and the partnership between Great British Energy as further evidence of the need for this Development.
40. While the Secretary of State acknowledges the concerns raised by ABP on the current state of the Development and the delay in implementation, she does not consider that this outweighs the clear policy support and strategic need for port and energy infrastructure, which this Development will provide.
41. However, the Secretary of State expects the Applicant to make swift demonstrable progress on the construction of the Development and to resolve the outstanding matters regarding funding, operator agreements and construction scheduling as soon as possible.

#### The Secretary of State's Overall Conclusion and Decision

42. The Secretary of State has had due consideration to the material submitted to her from the Applicant in relation to the application for a seven year time extension of the AMEP DCO 2014 Order and the responses of all IPs. The Secretary of State is satisfied that an extension to the completion period does not alter the conclusions set out in the Secretary of State's HRA for the 2014 Order, and therefore a new HRA is not required. She is satisfied that the information provided in response to her request for further information is sufficient and that the ER, alongside the updates made to the CEMMP, is satisfactory in relation to requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
43. The Secretary of State concludes that, as Material Change 3 has not been formally submitted or determined, it does not form part of this decision. Any future application for Material Change 3 will be considered on its own merits.
44. In reaching her decision, the Secretary of State has also had regard to need for the Development and considers that there is still a clear need for the Development, evidenced by the strategic policy support set out in the relevant National Policy Statements.

45. For the reasons set out in this letter and noting that construction was withheld for one year while consideration was had on the Applicant's additional environmental information the Secretary of State has decided, under article 7 of the 2014 Order, to extend the completion period for seven years from 27 October 2025 to 27 October 2032.

Yours faithfully,

Marco Picardi