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Your Ref  
TR030001  
Our Ref  
ADW/Y059258  
Date  
28 September 2012

Dear Mike

**Able Marine Energy Park  
First response to examining Authority's 24 September Rule 17 request**

This is a response to the Rule 17 letter issued by the examining Authority on 24 September, for the items where a response was requested by 28 September.

***a) confirm the date on which the further Report by Black & Veatch on the proposed compensation site at Cherry Cobb Sands is to be produced;***

12 October.

***(b) state what if any consultation arrangements are proposed either during or after the production of this Report***

The report is being prepared in consultation with Natural England, the Marine Management Organisation and the Environment Agency. A draft is being finalised for sending to these organisations and will be presented at a meeting on 2 October. In addition the applicant has liaised with the Secretary of the three Internal Drainage Boards in the area and the local planning authority, and is seeking a meeting with Mr Simon Taylor, a neighbouring property owner. The final version will then be prepared and issued to the examining authority and made publicly available by 12 October.

The applicant is publishing newspaper notices on 4, 5 and 11 October to announce the publication of the supplementary material on 12 October. This mirrors the requirements of Regulation 17 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, although the information is being provided voluntarily and is not 'further information' under that regulation. Parties will be invited to submit comments to the applicant by 9 November. The applicant would expect to pass these on to the examining Authority.

The wet grassland site would also be subject to consultation in accordance with the requirements for planning applications as its use as wet grassland is the subject of a planning application to East Riding of Yorkshire Council. The application was submitted today.

***(c) clarify the nature and extent of any legal agreements you consider necessary to deliver the proposed compensation, the parties that would be involved and the means of enforcement.***

The Development Consent Order already requires the production of an environmental monitoring and management plan (EMMP) for, amongst other things, the compensation site as a whole, that must be approved by Natural England in consultation with the local planning authority, at paragraph 2 of Schedule 9, and the development must be carried out in accordance with the plan.

While the wording of the protective provision is such that completion of the EMMP is not necessary before the determination of the development consent application, Natural England would like it completed as soon as possible. The applicant will therefore provide as final a draft as it can of this EMMP by 12 October in collaboration with Natural England, the MMO and the Environment Agency.

Although the DCO will contain sufficient safeguards to ensure that the compensation package will be delivered, the applicant is also desirous of entering into a legal agreement with Natural England, the MMO, the Environment Agency and the RSPB to put the matter beyond doubt. While it cannot guarantee that those parties will sign up to the agreement, the draft will be made available to the panel and publicly available by 12 October.

The means of enforcement would therefore be via the DCO, which via the Planning Act section 161 creates an offence of breach of the terms of a DCO, and, if possible, by the legal agreement, which would give contractual remedies to the parties involved.

Yours sincerely

**Angus Walker**  
**Partner**  
**Government and Infrastructure**  
**For and on behalf of Bircham Dyson Bell LLP**

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