

Date: 07 February 2025
Our ref: 498582
Your ref: MLA/2015/00334/13



Marine Management Organisation
Lancaster House
Hampshire Court
Newcastle Upon Tyne
NE4 7YH

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VIA WEBSITE ONLY

Dear [REDACTED]

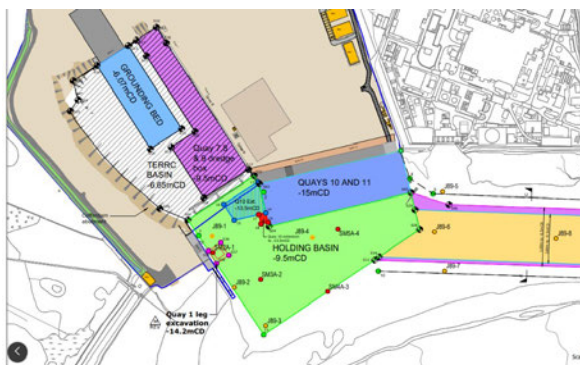
Application (Disposal of dredged material, Maintenance of existing works, Navigational dredging (capital), Navigational dredging (maintenance)) Able Seaton Port berths, Holding Basin and Channel

Thank you for your consultation dated 10 January 2025. The following constitutes Natural England's formal statutory response.

The following consultations have been considered in this response;

- ASP-063-00108 A Initial Design Checks (1)
- Marine Licence Schedule Document_dredge_locations (1)
- Planning Cover Letter (2)
- MLA201500334_Variation 13_HRA

Our understanding of this consultation is that the applicant wishes to extend the depth of the dredging at Able Seaton Port Quay 1. Although we have considered the other activities noted in the documents such as dredge disposal, concrete matting etc, we focus our advice on the specific deepening of the leg extension as shown in *Marine Licence Schedule Document_dredge_locations.pdf*



Summary

- Sediment samples should be collected and analysed from the full depth of the proposed dredging (-14.2mCD). MMO should be content with the results before the commencement of works. Further mitigation may be required
- Natural England encourages the MMO to take a cautious approach when considering activities within the Tees which may mobilise contaminated sediment
- Natural England encourages the applicant to submit all information associated with the dredge activity to PD Ports

The Conservation of Habitats and Species Regulations 2017 (as amended) and The Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended)

We can confirm that the proposed capital and maintenance dredge works are located within the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site.

Appropriate assessment

We note that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal in accordance with Regulation 63 of the Regulations.

Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

Table 5 of the HRA identifies four projects for the incombination assessment. It is unclear why these projects have been chosen for the assessment and others not. We note that "A pathway zone of influence of 1 km has been used. The MMO has also considered any known projects occurring within or around the boundaries of the NSN sites." We advise that all projects impacting the SPA should be assessed in the incombination assessment. For example, maintenance dredging or capital dredging elsewhere in the SPA will have similar impacts which must be taken into account in an incombination assessment. H2Teesside is in close proximity to the Able project, we advise this is considered. We advise the MMO satisfies itself that no additional mitigation will be required of this project if further projects were included in the incombination assessment.

Natural England notes that sample analysis for this project has not been submitted with the application. We advise that a condition is made such that samples should be taken from the full depth of the licensed dredging (-14.2mCD). Analysis of these sediments should be carried out and these results submitted to the MMO for their consideration with consultees before the commencement of works. It is essential that the lowest levels of proposed dredging are sampled to allow the MMO and consultees to consider all potential contaminants and pollutants within the licensed dredge area. Should the analysis identify contaminants or pollutants which are not suitable for disposal at sea, a closed dredge system must be used to prevent these substances from being mobilised into the water.

Marine and Coastal Access Act 2009

The works, as set out in the information supplied by the applicant, are not sited within or near to a Marine Conservation Zone. Natural England have not identified a pathway by which impacts from the development would affect the interest features of the site(s). We are therefore confident that the works will not hinder the conservation objectives of such a site.

Wildlife and Countryside Act 1981 (as amended)

We can confirm that the proposed works are located within Teesmouth and Cleveland Coast SSSI. Natural England advises that the proposal, if undertaken in strict accordance with the details submitted, is not likely to damage the interest features for which the site has been notified as long as the conditions within the HRA and which we note above are included in any licence granted. However we recommend that the following conditions are attached to the marine licence to ensure that the activity is undertaken as per the application and therefore compliant with the above legislation:

Condition:

Samples should be taken from the full depth of the licensed dredging (-14.2mCD). Analysis of these sediments should be carried out and these results submitted to the MMO for their consideration with consultees before the commencement of works. It is essential that the lowest levels of proposed dredging are sampled to allow the MMO and consultees to consider all potential contaminants and pollutants within the licensed dredge area. Should the analysis identify contaminants or pollutants which are not suitable for disposal at sea, a closed dredge system must be used.

Reason:

To prevent these substances from being mobilised into the water and impacting designated features.

Condition:

A restriction on dredging will be retained on the existing licence stating that no dredging in the period 2 hours either side of low tide between November and January inclusive is allowed.

Reason:

To avoid disturbing the protected feeding SPA/Ramsar birds. This restriction does not apply to dredging within the TERRC Basin.

If the MMO is minded to grant consent for this application contrary to the advice relating to Teesmouth and Cleveland Coast SSSI contained in this letter, we refer you to Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon the MMO, requiring that you:

- Provide notice to Natural England of the permission, and of its terms. This notice should include a statement of how (if at all) the MMO has taken account of Natural England's advice; and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice

Other relevant matters

Natural England is aware of concerns around potential links between dredging within the Tees estuary and faunal mortalities along the north-east coast. We acknowledge the results of the Defra investigation into the 2021 shellfish die-off event, and that there is no substantial published evidence linking dredging activity within the Tees to these die-off events. However, given the close proximity of protected sites along the north-east coastline and the ecological impact of contaminants we encourage the MMO to take a cautious approach when considering activities within the Tees which may mobilise contaminated sediment, and to consult with the relevant experts and authorities using the best available evidence on these matters.

Natural England defer to Cefas and the Environment Agency for further detailed advice on contaminated sediments. We acknowledge that Cefas will likely be consulted on any sediment sampling results, however we would like to take the opportunity to advise that you ensure that sufficient and adequate analysis and assessment of impacts of contaminants and pollutants within sediments is carried out down to the lowest levels of proposed dredging before commencement of works. If hazardous levels of contaminants are discovered then methods to limit their release and spread during the project to the wider area will need to be considered. If safer methods cannot be established then mitigation for any potential damages to the surrounding ecosystems must be considered. Natural England would like to be kept informed and have an opportunity to provide further advice, particularly should the project methodology be amended following sample analysis and assessment.

We draw the MMOs attention to the Supplementary Advice on Conservation Objectives for the Teesmouth and Cleveland Coast SPA which contains a target as follows "Reduce aqueous contaminants to levels equating to High Status according to Annex VIII and Good Status according to Annex X of the Water Framework Directive, avoiding deterioration from existing levels." We advise you seek further advice from the Environment Agency on impacts to water quality and on the Water Framework Directive assessment.

Maintenance Dredge Protocols

We encourage the applicant to submit all information associated with the dredge activity to PD Ports so that any relevant information can be included within any updated maintenance dredge protocol that may be available for the estuary. This will help to ensure a holistic consideration of all maintenance dredge activity within the estuary.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely,


Northumbria Area Team
@naturalengland.org.uk