

# TRANSCRIPT\_SizewellC\_ISH14\_Session4\_17092021

Fri, 9/17 6:14PM • 1:49:29

00:06

Welcome back, everybody. Thank you very much for being prompt.

00:11

We could be on the last lap up to the

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the next agenda item in five years, the concerns flagged by East Suffolk council at higher level in relation to the code of construction practice. Mr. Tate, I'm going to come to you please. I regret I did not catch what it was that concerned you.

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And my colleagues flagged it to me in these terms. So

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tell us what is the issue, please? Thank you. So if I can just deal with some

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broad issues rather than necessarily dealing with every point of detail. So the first point

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is the point you raised at the outset of this

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agenda item five, relating to compliance with the cscp.

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And it relates to compliance with the plans that sit beneath it. And so we do think that it is sensible that it is made explicit either in the requirement or within the body of the cscp, that compliance with the sub plans

01:28

is, is required in order to discharge requirements to how that's done, is another matter. Secondly, there are some, there are two documents that are referred to in the cscp. They are the conventional waste management strategy, app 194. And the materials management strategy as 202

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when they're referred to, and then there is reference to plans being produced pursuant to those strategies. But there is no mechanism for the approval of those plans. And those plans are the waste management plan and materials management plan. And we'll give you the references in the oral summary.

02:18

Thirdly, as you mentioned, the dust management and mitigation plan.

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The requirement for that to be approved and for commencement to await approval needs to be made explicit at 413 of parts B and C.

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You did mention dust management. I have a free plan earlier on and as as an exemplar of something that should be

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done, which I did, wasn't it? Yes, it was.

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And I think it and it may be has suffered because of the fact that deadlines come not necessarily at the most convenient point. But there they are, they come and there was certainly an intention expressed prior to the deadline for that to be amended. And these things happen. But we expect that to be changed by the applicant. There's no dispute on that, as I understand it. In the excitement of realising that you'd picked up a point which I had made, I didn't what was the problem in the dust natural language you found it

03:27

required to be prepared and submitted for approval, but it it doesn't have a timing trigger. So that so commencement has got to be dependent on approval. so short, it's a short point, and it would then reflect the noise monitoring, management and monitoring plan.

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So that would be

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appropriate.

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But within the terms of the some of the documents, within the substance, some of the documents that are required to be approved, there are still ongoing discussions in particular, as to the dust management plan, the noise management plan.

04:11

I went set out those detail points. They're all in discussion, but relating to this matter.

04:17

On the dust on the noise management mitigation plan, that's rep 748. That doesn't at the moment have a provision which precludes commencement until there's been approval, or there's been

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dispute resolution process which has concluded. So that's a comparable point.

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And

04:41

so so those are our points on the on the CO CP and the plans that sit beneath him that principally relates to being sure that there are appropriate approval provisions and an overall enforcement effective in force.

05:00

provision of that other type you mentioned. So you've run you've done the same sort of exercise that I've done in table two of PDA. 42. Except that you that was directed to a reasonable endeavours obligation, you've done it much, much wider. Yes, sir.

05:19

Thank you. I'm grateful to you. Anything else on that? Not on that matter. So we've got one or two points on some requirements, which we can take. Briefly, but I don't think this is the right time.

05:32

Do you want to take those off sometimes afternoon? Yes. So we're happy to do that under one of your later items. Very good. Okay. Stop me when we get there. Thank you very much.

05:43

Any other interested parties who wish to

05:47

comment on okay to construction practice? On the concerns that Mr. taters flout?

05:55

Looks like a no seems to fill pot. So Mr. Bedford first.

06:04

Apologies, sir. I'm always a little bit slow moving my mouth to get to my raised hand and then

06:12

to concrete. Thanks.

06:16

Absolutely. So it was a, it was a point that it's not on the cicp. But it's in a sense, precisely the same point as has been outlined by Mr. Tate, which is why I've therefore raised it in relation to another of the level one control documents, which is the drainage strategy without rehearsing the point, because obviously, we dealt with it in part, which is h 11. In the beginning of the week, we do have concerns about the current content of the drainage strategy. And the as it were subordinate documents that are referred to in it the technical notes, and needing to know that that's all effective.

06:55

At the moment, there is still active dialogue with the applicant on that we're expecting a new drainage strategy to come forward. And we simply hope that the next version will have addressed those matters. So that as a control document, it works, which at the moment, we don't think it does. Strange strategy is a level one document. Yes. And it's got level two documents growing out from it. Well, it's got documents that referred referred to these are the technical notes. They're not at the moment expressed as level two documents, but there is a need to ensure that in so far as the information in those documents is relied on that that's adequately secured. Okay.

07:38

Well, you better spot what they do at d phi d eight and let me know at D nine. Yep. Thank you for Thank you very much. Thank you.

07:48

They will any other fingers on buzzers.

07:52

Okay, in that case, Mr. Philpott, do you want to reply to Mr. Teton? Mr. Bedford? Yes, I'm going to pass Mr. Tate points about the code of construction practice onto Mr. Sharp, who you heard from a moment ago, because that the code of construction practices, one of the things that he is closely involved in to be able to respond to those so far as the drainage strategy is concerned, clearly, we have the substantive issues and not to comment on them. And I understand the point that is raised that in so far as reliance is placed on supplementary notes, then the final form needs to ensure that they are called as well. And I don't think that is controversial. It's simply a matter of ensuring the drafting is addressed. So don't need to spend time on that. But I'm going to ask Mr. Sharp just to deal briefly in with Mr. Tate's points in the way that he helpfully kept them brief and as a high level.

08:55

Okay.

08:59

match up on behalf of the applicant. And I think in response to a suffix comments, we can be sort of quite brief. So as part of the DA submission, we're including a revised version of the code of construction practice, and we've been undertaking a review to try and address some of these points.

And so certainly in response to the subsequent approvals, noted, and we'll ensure that that's corrected as part of the DA version, so hopefully the next version will be in a better state.

09:33

If he Suffolk have any more detailed comments, please feed them through and we'll make sure that they're included in the DA version.

09:41

Thank you. Thank you.

09:49

Right that then takes us to item C. Certain delivery questions including barriers or non railway land.

10:00

I

10:01

think this came up with ice h 11. On Tuesday, Mr. philipa, your clients said they can deliver these barriers as they will be on the land of the people affected.

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I think that's what they said put

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obvious question, what happens if these people are actually lessees?

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And so I think that the the point we were making was not that we could deliver them. I think part of the reason why the mechanism was proposed in the way that it was and the rather than being an obligation to deliver them, it's concerned with the mechanism, a process by which one would go through and identify where it might be judged, appropriate and proportionate, and acceptable in planning terms, to seek to deliver them and then to consider that the practicalities of it. Now, this, I think, was a matter that Mr. Rhodes was addressing. But I don't believe that we simply assumed that we could implement it on third party land without controlling it. And that is that which feeds into the fact that it's a process

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to which we're committing rather than committing to the delivery of barriers on third party land, leaving aside any planning matters is precisely the cause. That that

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factor is one of the the reasons why it has to be a process

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rather than an absolute commitment to deliver. So I hope that I'm just looking to my left to check that that is correct. Mr. Rhodes is nodding, that was a great understanding of what he said in that context. And so whether there are a lessee or a Freeholder, the same point arises, we, we can't guarantee that someone will want us to come in and deliver a barrier on their land, they may well not like it for some reason. The point I'm making is that the lessee of the house may be desperate to have the barrier. And the landlord may say I couldn't care. I don't want them. Don't have the land interfered with. But yeah, indeed, whether

12:23

in a sense, the issue to which I've alluded arises, whether that's a situation or indeed, whether it's a free hold with no lessee, they may simply say, well, we don't want it even if it might benefit their neighbours, they may take a different view and that the balance that has to be struck between, for example, visual amenity and the noise benefits that might be delivered an individual case would require individual consideration and those whose land is affected may take a different view to the council. For example, that was part of the reason why it's yours watches you it's a it's a process. Okay.

13:10

Thank you.

13:16

Who's who's the noise control authority he suffered? He suffered counsellor.

13:21

Do you want to say anything about this? Yes. So thank you know, we heard what Mr. Rhodes was saying at I sh 12, about the amendments that are proposed to the draft RM ns to include the process of further expert exploration of mitigation options, which include fencing and relaying track, and we think that is the right way forward. subject to the wording being right. We

13:47

have been in discussion also with the applicant about the amount some some other detailed amendment to the wording of requirement 25, which is the the governing requirement. And I think my understanding is there is likely to be agreement in relation to that, but we'll set that out if there isn't agreement on how quickly the 25 where you go.

14:21

So the key point is that 25 two,

14:26

yeah, it has to be in general accordance with the draft RMS and it's that document with to which the commitment has been made, as to expanding it to encompass the process of considering all options, which we don't think have been considered yet. But we think that is a vehicle that is capable of securing that process. So far as any detail wording, it's the limitation in 25, one between the hours of 11 and six

14:58

and we think that

15:00

One doesn't need that limitation. It's non operational freight trains long work for until the RMS has been submitted to an approved. And I know it's one of your questions as well, whilst we're on it work number, whether it should be limited to work number four, we don't have a problem with it being limited to the operation of freight trains along workforce, the trigger, because that that is the operative stretch.

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And everything turns on that.

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Thank you very much.

15:40

Okay.

15:45

Mr. Rogers, said he was that not controversial? Really? sound a bit.

15:51

Sir, in terms of what mistakes is that I don't think I need to make any response. I don't have instructions on the 11 till six. But I just been told that's all fine. So I don't think there is anything controversial that. Okay.

16:05

On the next item, which is other issues arising out of ISO 12, and 13. None of us want to raise any points on that. Which takes us in that case to item six,

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which was other issues arising from our commentary on the DC

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and

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this is the point

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our suffering Constabulary still with us.

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Yes.

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Very good. I'm sorry. You've been very quiet and patient talk all day long.

16:43

But you wants to raise some issues with us about the governance shedule?

16:51

Yes, if I could briefly do that Ben's dansville from gambling on behalf of Constabulary. I can't I can't see you at the moment.

17:02

My camera icon says it's working. Yeah, that's a bad sign on my on my end.

17:10

Right. Well, let's just let's go ahead and forgive me that I can't see you. Okay.

17:18

Thank you, sir. So you'll you'll be aware so that the Constabulary is a member of two groups, the transport review group TRG, and the community safety working group. And we've raised this point before, I think it is h1. And I think we're still somewhat dissatisfied that both those groups

17:38

lack a quorum if sizewell c doesn't turn up to those meetings, and we think that there is an opportunity for business to be frustrated, the deed of obligation requires the applicant to nominate a person to attend. But the there is no sort of obligation to attend albeit that, you know, the applicant might say that was implied, like you're just hanging out this time. I want to get the two schedules up, it's which which are the schedules that you sort of which are the groups that I mentioned. The the TRG the transport review group is paragraph 3.1. of schedule 16.

18:17

Yeah, and the CS wt is Paris. 6.256 point 2.5 sheduled. For

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what CSW g again, community safety and working, working group. Thank you

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TRG isn't shaken 16

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it's just worth me actually reading. Having the words up.

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shedule 16 must be the longest of the schedules.



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Easy to get.

19:01

Which is ironic on something about transportation.

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3.1 transport regroup, review group membership.

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One representative V's Suffolk Council, one from the county council, one from national highways and one from Suffolk Constabulary and four reps from s said see one of whom is the transport coordinator. So your concerns you've got deadlock. Yeah, well, if you scroll down a little further, you'll see 3.2 point four, capital D that the TRG is courted at least three members being one semester councils and one from sizewell.

19:51

Go on, so why not wait. So we'll continue it is technically possible that the business of the TRG can be frustrated

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case size. Well, we're not to attend the meeting. But the You're right, the bigger more realistic,

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more likely concerns various deadlock.

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And before before we can before we come to that, so one members transport review group one is from the Suffolk, one from Suffolk County Council, and one person from s said See, although not provisions somewhere in all this stuff, which compels people to play their part, including SSC, playing their part. If there are we will be delighted to be pointed to them. We've seen parrot 2.1 of sheduled 17, which requires sizewell to nominate a person to attend and participate. But I think the the active element there is the nomination.

20:53

Okay.

20:55

You may you may consider it a clever lawyers point and possibly they're not not a clever lawyers point. But the I welcome welcome lawyers, but particularly the clever ones. That's fine.

21:08

Okay, I've got that point. Mr. Philpott can respond on it. I saw I interrupted, you know, the

21:16

there is a an issue of deadlock in that there are four members are from sizewell and four others. And I have noticed the you've asked a question exactly. Authorities asked a question on this matter in relation to what happens if national highways were to abstain.

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And that upsets the balance of the groups. And and I think so the real issue we have with the TRG is in relation to one of the functions of the group is to approve the construction management plan. And the ctmp contains what we call the AIA matrix. So the abnormal individual loads matrix, which as I understand it is a table, which has been agreed between the Constabulary and the applicant, which broadly sets out when a

22:08

load would require escorting from the place. And so the issue here is that the the applicant by sitting on the TRG is effectively marking its own homework.

22:20

And so any changes made to the veils matrix has a very significant impact on resourcing for the Constabulary. So I think what we need here is either the sizewell c does not vote on matters which it brings to a working group or else there is a look on the TRG approving amendments to the ctmp ai ELLs matrix, and its mitigation has previously been agreed by the conservatory.

22:53

Okay.

22:55

And then a final point on the TRG is where we're not clear why it's a established from commencement. We think that there could be utility in it being established from the commencement of the preparatory works.

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And a similar point in relation to CS wg.

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To Community Safety working group, we acknowledges is that there isn't an

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there is obviously an imbalance, it's not 50% size, we'll see which we welcome and we note the urgency provisions, which has been included in the draft. And that enables matters to be pushed to the social review group, the F RG and again, there's a two plus two there. So

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that's a modest concern. The bigger issue, I think, on the CSW G Series the the terms of reference, which have been deleted from the deed of obligation.

23:56

On the CSW g

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Yes, and again,

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we'd be delighted to have that explained to us, but

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certainly reference appear to have been deleted in the definitions.

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I do have a couple of points on

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liaison matters if if now is an appropriate time to raise money. Yes, that's fine. So the deed of obligation I think it's shared your foreign relation to emergency services requires the appointment of an emergency coordinator.

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By size well, simply a transport coordinator. And there is there is a string reference to a community liaison service, yet no obligation to appoint a community liaison coordinator. We assume that's either an oversight or perhaps it could be explained to us but the

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I think our view here is that these are critical posts. They act as the conduit between the developer councils and consumers

25:01

And our understanding is that these roles were not filled in relation to NP point C, and from our colleagues at Edmund Somerset Constabulary, we understand that has been a

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difficulty in sort of making that day to day contact with the applicant. So we we note the obligation in the deed of obligation to have these roles filled.

25:26

We are concerned they may not be. And we wonder, again, this may be a point the council's wish to come in on but we wonder whether restrictions on commencement may be appropriate to support the positive obligation within the deed of obligation. And this is this is liaison you're talking about exactly. So, if these people don't get appointed, you don't have any liaising.

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I mean, that's right. So yeah, right.

25:56

Can I might have told you to make a couple of additional points, just Well, I would have

26:02

no trouble. Go ahead. Thank you very much. Okay, so we know the Community Safety Management Plan, which we think is key mitigation, but we were struggling to understand how that's been sewn into the deed or the deed obligation, it may be that it has been sort of split up. So the community safety management plan in so far as relevant to the Constabulary requires a vetting on site security and a worker code of conduct. And we we can see that but deed of obligation will have a pendant to it to work at code of conduct. We're struggling to see how the vetting is

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report sewn into the mitigation. And once the deed of obligation requires the provision of on site security, we know that the community safety management plan requires that to be 24. Seven in relation to also all sites including associated development sites. And there is a reference to operations spire within the community safety management planning. We have googled like crazy, we have gone throughout pins website, and we have struggled to find any reference to operation spire.

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colleagues in Somerset think it may be something to do with on site protests and so forth, in which case that is not sewn into the deed of obligation. So perhaps someone could explain to us what the

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operation spire is all about.

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Very, very briefly. So we do have a few comments on the deed of covenant and so forth, which we have raised in

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email correspondence with

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sighs Well, we've had some positive responses in relation to auditing and publicity, clearly it is not appropriate that the applicants logos are put on officers uniforms. And I'm not suggesting for a minute, the deed of obligation says that, but there is a point here about how we can give the applicant appropriate credit for its funding.

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And then finally, I do have a very small point or one of the requirements in the DCA, but you may not wish to hear that now or you may get wish to get me done and move on. No, I

28:18

tell you it's it's easier to deal with it now. Go ahead. Okay, very, very briefly. So requirement five a requires the applicant to develop and provide emergency plans to fire and rescue authority.

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We think we could usefully receive a copy of that emergency plan. In fact, we think we could very usefully be consulted, rather than simply be developed absent our involvement. So we would push for a copy and to be consulted on it prior to it being finalised. This is the five a emergency planning. Yeah.

28:59

So you're asking for a copy of it. And then but also, so you might have something to contribute in the making? Exactly. I think I think the wording is that it must be developed. So there's no there's no consultation. It's simply do it and send a copy, which we think is a thing.

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This is during construction.

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All right. Thank you.

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If I could ask you a Stansfield to make sure that you explain all that in your written submission.

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Paragraph numbers and document numbers and page numbers are really, really helpful to us.

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But also, I know time is short between now and getting to next Friday.

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If any of those things are capable of resolution between now and deadline eight

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as a result of

30:00

Work phone call or other discussions with the applicant? That would be, I think helpful.

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Certainly, willy nilly. Thanks. Thank you.

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Are there any other

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interested parties? Mr. Bedford, do you have your hand up?

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Thank you, sir. Michael Bedford for Suffolk County Council. So I was going to raise these matters under item seven, but because Stansfield has raised both of the points. Now, it's probably helpful to you and clearly to the applicant, if I deal with our issues on two of the matters that he covered. Because I think that'd be I'm sorry, if I've lost control of my own agenda, haven't I'm sorry. But no, that'd be a good idea. So the first is on the governance issue in relation to the TRG.

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And

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there,

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first of all, clearly, we welcome the change to add the police as a in principle member of the

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TRG. But we are still concerned with the fact that that change, which is in paragraph 3.14, of Rep. Seven Oh 41 is also accompanied by another change, which is in paragraph 3.1, point five,

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which then increases the number of SSC representatives. So one doesn't remove the logjam or the deadlock. Problem. One simply maintains that we have

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read what the applicant has said in their response to your x q2 is tt 2.0. In there rep seven Oh, 56.

32:12

Getting a nice job faster.

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In your new tos tt 2.0. The applicant provided their response to that in their rep 7056.

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We was to deal with this issue about the governance of the TRG. In particular. Yeah. And amongst other things, they explained that their objection to effectively allowing the TRG to be able to resolve its own disputes by majority voting. In essence, they say, Well, the problem they see with that is that could lead to potentially uncapped liability is being imposed on the applicant by decisions made by the TRG, through requiring further mitigation measures. And so they oppose that. And they say that no matter should be dealt with consensually. And if they can't be dealt with consensually, they should go upwards

to the delivery Steering Group, which itself doesn't have a mechanism for a clear majority decision to be made. It's also evenly balanced. And they say, Well, the answer to that is it then gets cascaded up to an expert if there is a dispute, which clearly we see as a laborious and not a effective decision making process. But so the I say that the heart of their problem is this fear about an uncapped liability in terms of additional unspecified mitigation, but the TRG has much broader functions. And the TRG ease has clearly wider roles as set out in Section 3.4 of shedule 16

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responsibilities in relation to regular monitoring of the transport management plans potentially calling for review of those plans, resolving matters referred to it by the transport working group, and then taking action in relation to the expenditure of the contingency fund, which is a capped fund.

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And also one of course, notes that taking further mitigation measure measures only arises if something's gone wrong with the mitigation which is currently proposed. So there is a problem that needs to be addressed. So

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our preference remains that the TRG needs to be an effective decision making body in its own right with powers therefore, to decide on matters, that to our view is probably best achieved by

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By having an uneven number of members, so it can readily make majority votes, or by giving the county council a casting vote if it remains evenly balanced, which is obviously what we have previously suggested. And if there is an uneven number, then the only even number needs to reflect the public interest and therefore the public sector bodies that say the police, the District Council, the County Council, and I was gonna say highways England, I think it's now national highways.

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But

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the highways agency? Well, indeed.

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So, sir, what we would

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continue to press is that the TRG is able to make decisions.

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I say either by having an uneven number of members, or by giving the county council a casting vote, but to deal with the concern about the uncapped liability, arising from decisions made by the TRG, that

really only arises in relation to matters that could come forward under paragraph 3.5. Point three of shedule 16.

36:22

Hang on.

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Always. So that's the obligation on the applicant to implement mitigation measures approved pursuant to 351 or 352. Yeah, those are I say, the remedial actions because something's gone wrong.

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And

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if that particular provision

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was subject to the position, that unless there was a majority decision

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to mandate that action, then it would need to be subject to endorsement by the delivery steering group, or an expert if the delivery steering group couldn't reach agreement that, in our view, ought to give the applicant the reassurance that in relation to that particular element of the TRG use functions. That's to say, where it might be imposing additional financial obligations beyond what is already set out in the deed of obligation, then they have that safeguard. But we don't see why the work of the TRG dealing with all the ordinary matters, which are set out in schedule 16 should be simply subject to that handicap of impasse and inability to make effective and prompt decisions to deal with issues that are arising. Okay, just having a look at see 5353 quietly

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three parts we just got to implement or

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if there's a dispute that gets escalated by whatever the steering group or the expert says,

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and you're 10 that's the only circumstance I see in which they could have uncapped expenditure.

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Yeah, yeah. So I say so. So that that is our concern. But I say we want for the the basic functions of the TRG, we want a more effective decision making arrangement so that all of its other decisions can be made by the TRG. itself. I say either by having a simple

38:46



uneven number of members where there is a public sector majority, or by giving the county council a casting vote so that it can, it can carry the others with it, it can then make decisions and we're not subject to as a perpetual impasse on a series of more routine matters.

39:09

Okay.

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So they

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say thank you, you're if you divide these decisions between those which

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get to 353, which is only mitigation matters under 351352.

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That every other decision they have to make. So non 3519352 decision, you say majority will do. Yeah, I see. Because they're not because they wouldn't

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involve uncapped expenditure. Yeah, I think would be the ordinary work of the TRG dealing with the other matters set out in schedule 16, including the distribution of the contingency fund, which is a capped liability, including the question of calling for reviews of the monitoring plans and soul

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Okay, make sure you set that out in your, in your summary. Indeed.

40:07

The second point, which is on a different subject matter, this was requirement five a that

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Mr. Santo referred to. And here, I'm afraid we have a disagreement with the applicant in relation to emergency planning.

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And what the

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council is wishing to see

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is there is a literally, as it were, applicants proposed emergency planning needs to be seen sitting in the context of there are wider obligations

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on the council

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to provide what is already in place, which is the Suffolk resilience forum radiation emergency plan, that's a current plan.

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And that includes

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matters which are not merely relative to the effects of this site, but also this site in conjunction with its interaction with the wider

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areas of measurement and planning. And what we are seeking to achieve is that the Suffolk resilience forum radiation emergency plan will itself need to be reviewed if this application is proposed, and the arrangement in that emergency plan will need to be coordinated with whatever comes forward in relation to site specific matters. And so what we have wanted to see is that the the works are not commenced until that wider Suffolk resilience forum radiation emergency plan has been reviewed in order to take account of the project. And then it is reviewed. All of that sits under a particular form of regulations. That's the radiation emergency preparedness and public information regulations 2019. And we wish to see clearly better coordination. In relation to that. It was a matter we similarly raised in relation to the East Anglia in one North and East Anglia to DC. And then, as we understood it, suggestions that there should be that wider review was certainly recognised by the Office of nuclear regulations as an appropriate way forward. And we would hope that that is something that we can move forward with with the applicant to ensure that emergency planning isn't considered simply in the vacuum of this site, but in a wider county wide context. Okay, so you want to Grampian on commencement? Until the radiation plan has been revised? Essentially, yes. Okay.

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Which is something which involves a number of bodies,

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it does involve a number of bodies, and clearly there would need to be some consideration given to a timescale for achieving that review, bearing in mind as as you save, if it is to be a constraint on the activities of the development.

43:48

Okay.

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I think I need some sort of

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guide as to who the bodies are and how long it normally takes to do it. And

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what elements of of

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compulsion to move on with it there can be or without they aren't? Yeah, well, we will make sure that we set out in the date submission, rather more detail about those regulations and how that regime works. Yep. Okay. Thank you. Thank you very much. Thank you.

44:33

Rosie Sutherland.

44:36

Next on the list. Thank you. So.

44:39

So again, I'll try and keep this very, very short. Don't if you've got a point which is which needs to be given fully, then don't feel constrained.

44:51

Thank you, um,

44:53

it's, it's quite similar to the previous point. I'm

44:58

just just very conscious of

45:00

The Africans position as set out in Appendix B to their response to your first commentary on the DCI, which i think i think was

45:09

publicised in August. Yeah. So you you had asked, as I'm sure you remember, but just to just repeat you you had asked about made a comment about ensuring that the council's have confidence that the project's delivery must stay within the limits that the environmental statement has assessed and mitigated.

45:28

What the applicant goes on to state so it's there paragraph 2.2 is there is no requirement in law or policy for a project to be constructed or to operate so as to ensure that the effects identified in the EIA are not exceeded. And they do go on and helpfully talk about the Rochdale envelope.

45:49

It may not surprise you to know that we slightly disagree with this position. I'm not suggesting a legal debate this afternoon. I just wanted to raise a couple of points, which is our reading of the Rochdale envelope case law is exactly that, that there needs to be an environmental statement as far as reasonably possible that does make a robust assessment. And I'm afraid I'm going to talk again about the feedback loop mechanism and adaptive management because that is a width and a helpful way for an applicant to provide more reassurance where either there's been a challenge, gathering data or a challenge carrying out an assessment. But there is some certainty that further effects may occur. And the applicant does helpfully go on to discuss this.

46:41

So it's paragraphs 210 talks about insurance just lawyers knocking out

47:08

okay, paragraph two times loss. Thank you, sir. So still in Appendix B of the applicants response to the examining authorities currently on the decio. Yeah, and and just paraphrasing from that paragraph, and the paragraphs that follow

47:24

helpfully sets out that additional impacts are mitigated. also talks about the judgement will be made on controls and mitigation necessary in order to be able to conclude that the development is acceptable. And then specifically talks in paragraph 212. It may be appropriate to secure monitoring arrangements,

47:49

when necessary defined triggers

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that identify appropriate steps to be taken. If to paraphrase if impacts are more than predicted. And the temp is specifically he specifically mentioned. So by the time I get to the end of that section, I think I think the applicant and I are in roughly the same place. I'm just concerned with

48:15

the statement in 2.2, which is there's no requirement in normal policy

48:21

for it to be constructed or operate,

48:26

to be constructed or to operate so as to ensure that defects identified. Again, just it just to be really, really clear. I'm repeat a course appreciate the need flexibility. We are not for one moment seeking to constrain nor a blanket imposition.

48:45

I think my main concern is is ensuring that there is confidence both by yourselves and also the Secretary of State, that there is sufficient in place that should impacts exceed expectations, matters will be dealt with. So again, it's coming back to this question of ecological and legal certainty. I probably should stop there because I think hopefully you've got the point. But part of the reason why we're raising this is because of course the environmental statement includes considerations of the triple si.

49:15

And the points I made earlier this afternoon. We're more focused on on the SBA and very helpfully the applicant has already sent through a suggested time for us to talk early next week. So we're grateful for that. But But this slightly different point is because the environmental statement uncovers the triple si. Okay, thank you.

49:37

So you are apart from the applicants on the law on

49:42

complete avoidance of significant effects, which have been assessed and identified.

49:51

You'll need to set out your law very

49:56

carefully. I was gonna say fully that's the wrong thing.

50:00

have set it set it out for business owners.

50:04

So we can get and form a view. Thank you. And of course, the main concern is is making sure that that adaptive management or adaptive mitigation is is part of the legal requirements. Thank you, sir.

50:19

Thank you very much. Thank you.

50:21

Mr. Take, your hand is up.

50:27

Thank you. So

50:29

the responses to the commentary, pd 38.

50:34

Deal with a number of requirements. And they're also one or two matters under item seven. And I wonder if Now is the time for me, very briefly, just to

50:45

deal with the issues arising from responses together with anything else arising from

50:53

your questions 67 together, because I wasn't sure quite otherwise, it might be.

51:01

So first of all, in the decio,

51:04

we have been in discussion on a number of detail points, particularly the Mr. Sharp on behalf of the applicant. And I can just raise sort of six category points,

51:17

which I can very briefly touch upon the first of the general nature

51:22

requirement one fall in shedule. Two

51:27

has amended the definition of general accordance to remove the word substantively and to remove the tailpiece at the end.

51:35

And we are content with that. We welcome the removal of substantively. And the second part because it's consistent, nice, consistent, or you mean paragraph one full on?

51:49

it? It's sheduled. Two, paragraph one, four. Yes, of course, it's Well, yes, it's under the heading requirements, but I appreciate it isn't.

51:59

One requirement yet? Yes. Yeah.

52:02

Sorry. So it's one, it's one,

52:05

one, sub 114 or one, four. So

52:11

that's the first general point. The second general point is that one, five, the words at the end. And these requirements are not triggered by commencement, are potentially confusing. What they're intended to say is that they are not limited to commencement, but cover pre commencement. So we've been in discussion with the applicant, and think there are words that are appropriate that could address that, such as these requirements apply to all material operations, including those excluded from the definition of commence or something of that nature. So those are the two general points. The second point is that

52:53

there are two

52:56

requirements, which should encompass the pre commencement

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phase. And those are first of all, 14 c, which was touched upon this morning, sorry, this afternoon.

53:12

Our Marsh Harriers that the moment says maybe commenced, but we should have words such as

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may be carried out so that it then isn't limited to the trigger of commencement as defined in the DCM itself. So then it would follow the wording that we find in some of those conditions that are referred requirements referred to in one five in particular,

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requirement to must be carried out. So some of them have must be carried out, some of them have must not commence, and they must be carried out cover the pre must not be pre commencement activities. That's the distinction. So

53:56

we think that 14 c should be in the carried out category.

54:01

And we think also that that should be the case with 12 C, which is dealing with the triple si crossing.

54:11

That's the second generic point, how is carried out covering, it avoids what it avoids. You avoiding the word commence narrow definition of well, the precise definition of commence, which has an

exclusionary aspect. Yeah, I understand. I understand. Okay, that's true. So you want to change that 14, B and which else? It's 14, c, 12, c, 14, C and 12. c, change, please.

54:44

Okay, third point, I don't need to add, but it's the point Mr. Moon raised.

54:50

About requirement 24, which doesn't have a timing trigger to it. So that's the removal and reinstatement.

54:59

We're checking

55:00

To see if there's anything else that falls into that category at the moment, we haven't identified that, but we're bringing that to your attention.

55:08

Mr. Mourn for that. The fourth point, there are two additional requirements that we have identified. The first is 12 see at the moment is under the heading triple si crossing.

55:24

And the first three lines deal with construction works within the triple si generally, and working methods. And then below that is dealing with how the temporary triple si crossing and any permanent element of it are to be,

55:46

is to be constructed. And so in dialogue with the applicant, we think that should be broken up into a separate requirement dealing with method statements within the triple Si, and I don't think there's any dispute about that. And then the heading, triple si crossing will then remain with the triple si crossing parts. And then the first three lines, we'll deal with triple OSI method statements. Okay, that will be clear. And the second requirement we've mentioned. I shouldn't have said okay, should I?

56:25

I regarded that as a trigger. I'm sorry. Yes. You're perfectly right to do. So. Next point. Next points under this fourth heading, additional requirements, operational noise. You'll recall with that has been the subject of discussion that earlier is H is and in principle, following the precedent of Hinkley Point we think that there should be an operational noise otherwise limit otherwise, there's no control, we are in discussion about what that should be. The applicant may or may not have agreed to the to the principle, but we think there should be that. And we will,

57:05

by d h have considered their responses to what the appropriate limit should be if there is to be a limit. So and that's a completely new requirement. That would be a new requirement Unless Unless the



applicant can suggest it goes somewhere else. But if they don't wish to have it within some of the documents, then that's the only place we can suggest it should go. I'm just looking to see if it'll be something about being your D eight and also being a statement of common ground, wouldn't it? Yes, super. Thank you The fifth point, the statewide management plan has come in at D seven as D seven 776 and is the subject of requirement five C we had some reservations about the content of that in particular bat mitigation, but we either have or communicated or will be communicating those to seek improvement to that document which came in at deadline seven and then sixthly. Finally, the final category is that in relation to the

58:13

coastal processes monitoring and mitigation plan,

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that requirement

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we think should include details relating to propose review of the CP MMP on a regular basis and an approval mechanism for that. That arises from Tuesday's discussion about about the CP M. MP. So those are the six categories. discussion.

58:45

Yes.

58:48

Well, I'm glad to see you've recovered where you haven't. I never know I have anything I have. I have two I have two negative tests.

58:56

Anyway, well, what what so those of us that so that is requirement number seven a thanks. And then turning to the deed, we've sent a number of detailed drafting comments, you know already about some of the points, the placeholders to be filled the Suffolk Design Review Panel, the noise mitigation scheme, there's discussion about that plan. funding of air quality monitoring, you've heard about that. There's one additional point for me, just to mention that the moment the

59:31

M empty F, which is the marine technical forum

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is empowered under the DEA to make recommendations only in respect of smelt mitigation, that section nine four, and that's important but a rather narrow remit than I think is intended. So we'll be looking for some words to enhance their involvement in particular in the review process in

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requirement seven A, which I've just mentioned, the review of the coastal processes met monitoring plan. So

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that in summary

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is the collection of points we have on the

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decio. And the deed. As I mentioned, there are some more specific points on some of the plans that we are in dialogue with the applicant about that, and seeking to resolve those as far as practicable. Thank you very much. Thank you.

1:00:35

Right, I see no more hands up. I'm gonna come back to you now, Mr. Phillpotts? Quite a lot.

1:00:44

Yes, sir.

1:00:46

That this is how I like to spend my time, Friday afternoon, and I'm going to be able to deal with these, I hope reasonably succinctly.

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I'm going to take matters in reverse order, if I can, because I think that he suffered counsels, points we can deal with.

1:01:06

Quickly. My understanding in relation to the DCA points, which have been helpfully summarised is that these have been discussed and I think, agreed

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with Mr. Sharp on behalf of the applicant with Mr. Tate's clients. But what I'm going to do is I'm just to make sure that that is right, I'm just going to ask Mr. Sharp to explain whether they have been discussed and agreed or whether they've just been discussed, and some of them agreed, but I think the position is quite positive there.

1:01:46

And yeah, match up on behalf of the applicant.

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So we're in agreement on most elements of the list that Mr. T raised. We're still discussing the operational noise requirement. And hopefully we'll conclude that next week. But on the other points, we're in agreement with the Suffolk suggestions.

1:02:11

Thank you.

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Yeah. So I think that was that that discussion is going on. And sort of in real time, as it were, alongside the examination is all pretty frankly very cooperative and will rise to the shortest, the shortest contribution. And and most helpful, I suspect.

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That's I can't say.

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I don't think there's anything to say in relation to the deed of obligation. It's a helpful update on where we are. I don't believe the marine technical forum is intended to be confined to smelt, but that's the sort of point we can pick up outside the examination. So far as the RSPB is concerned, I'm going to try and deal with this in a

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reasonably

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proportionate way.

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First of all, in terms of adaptive mitigation, we think the answer to that lies in the tamp and the fact that that is secured but as I indicated, we're going to have a discussion outside just to hopefully provide reassurance.

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So far as the point of law is concerned.

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I'm conscious that if the RSPB does set about trying to make detailed submissions on the law that might take them some time. So I just want to be absolutely clear in explaining what the appendix says and does so that if there is a dispute, and then fine, the RSPB can address it. But if actually, on reflection, having heard what I said, they don't think there is a dispute, then they will save in the work. So I'll just briefly explain what 2.2 is saying. And what 2.2 is addressing is this specific point of whether there is a requirement in law or policy for the project to be constructed or to operate so as to ensure that the effects identified in the EIA are not exceeded. That, as the note explains, is a different point from securing the parameters on which the EIA is based. That is the Rochdale envelope approach and

that's what we've sought to explain by reference to the authority in the paragraphs that follow. So that it clearly distinguishes between ensuring that the assessment and the development that it is assessing

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and the development that is ultimately authorised are not different, so as to ensure that there is a match between what you've assessed and what you've consented. That's different from guaranteeing the effect because, of course the effect

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are a projection of what you anticipate will happen with the development in place in the future.

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And there's no requirement and this is the point that 2.2 is making to guarantee those effects.

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We then have sought through the main body of this, and I won't read it out is it is there so that people can read and they can respond if they wish, we then sought to expand on that to explain how it deals with mitigation that is relied upon. And also those circumstances where an effect is identified, which, if it occurs, would be unacceptable. And in those circumstances, controls mitigation are put in place, so as to govern the effects so that they don't become unacceptable. But that's not to say that any and every effect has to be guaranteed because there are some effects where it may simply not matter.

1:06:01

If you go over the predicted level, to take a just a neutral example, if he predicted five cars will go through around about and that's all fine.

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But what happens if 10 go through main cause no problem whatsoever. And there may be therefore absolutely no need to guarantee the numbers to put controls on the traffic. If, however,

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you've identified something which if it goes above a particular level, whether it's noise or traffic, then you have a control. I don't want to repeat all the content of it. But before the RSPB goes away and does a lot of work on the law, I just want them to understand the concept that 2.2 is directed to, so that they don't if they take issue with that, well, that's fine, and they can make submissions about it. But I hope that that should be uncontroversial when one works through the rest of the note. So that that's intended to be a comment and a half question about what you're what you're saying. Seems to me that

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the first part all that parameters as easy, they certainly have to be have to be guaranteed. The second point is in the context of we're looking at likely significant events.

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And if a significant effect is predicted, and suddenly

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it's so significant that close to a threshold, that it must not get any worse in any circumstances, you will put the controls on which said mustn't get any worse than the circumstances. If, however, what you wanted to say was

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shouldn't exceed this observe, we

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go to the following controls are right. But it turns out those controls are not quite right.

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Then, then that is

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just law is concerned, an acceptable outcome? What the Yes, what the law doesn't require you to do is to effectively revoke the permission or Cause everything to come to a halt. If in due course, it turns out the judgement you made was wrong. And if it turns out, for example, that you've approved a retail path thinking that the traffic would all be fine. And actually it all gets gummed up. But where it's anticipated at the time of development, that there might be such an effect, and it needs to be monitored. And then you identify things that can be done well, that's a standard way of dealing with that sort of situation. But what you don't have is something which retrospectively voids a grant or panic mission or granted development consent, because the world hasn't turned out the way you expected it at the time is that's not how it operates. You make your best assessment at the time you seem to put in place the appropriate mitigation and controls to reflect your assessment. And then if you consider a successful with that in place, you allow it to happen that that that's the way it works. It wouldn't void your permission but it would stop the development. Yeah, so effectively you don't say right to the reader, but right actually, you now got to stop and because we got it wrong, we thought you'll be okay. There's no good. Yeah. So that's that that's I I intend that genuinely to be helpful. I don't want the RSPB to to commission work if it if on reflection they feel it's not necessary.

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Then I can move on to the points made

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in relation to

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the governance groups

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faced by the Constabulary and also some related points by Suffolk County Council. And there was also a point raised by Suffolk County Council

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About

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requirement five, a, and this those, that those are, those are matters that I'm going to ask Mr. Rose to respond to in the first instance. And I think Mr. Humphrey is going to come in our after him to deal with just some matters that are supplementary. And I think one of the reasons why it's important to hear from Mr. Rhodes is that actually quite a lot of the points that are raised, go to the thinking behind the groups, what they're intended to achieve, how they're meant to work. And so it's important to understand that and Mr. raceland settings in that context. Okay, thank you.

1:10:48

Thank you, John Rose for the applicant. I think points were raised about governments, both on behalf of the police and the county council.

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I think I can start with something helpful to say in which is

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on the question of corporate groups and the concern that perhaps, Sizemore wouldn't turn up, and therefore the groups couldn't operate.

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I think we thought we'd address that in the existing draft of the date. If we haven't, we're certainly very happy to make sure that we do. We've also got no intention of not turning up at our own groups. And if we don't turn up at our own routes, we accept that they should be able to operate. So we will make that absolutely clear in the drafting. There's no intention to thwart, of course, the operation of the group's

1:11:38

say we were aware, there's pointed been raised before and we had thought we'd addressed it in the entity. If we haven't, we will, we will check again.

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The other point that was raised where I hope I can be helpful was in relation to the TRG. Well, what if perhaps the police or highways England abstained say there's an issue on which they don't feel qualified, or they don't attend one of the meetings? And is the meeting loaded by four sides? Well see representatives.

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In those circumstances, we'd be very happy to write into the arrangements that we wouldn't exercise our votes, and there would be a balance

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in that case. So if one of the other parties didn't turn up, we wouldn't seek to vote them just because we were there. And they and they weren't we. And that really goes to the point about

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the philosophy behind the group and the

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our purpose with these groups. Our purpose with these groups is that they work as a partnership,

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the joint interest of delivering the project efficiently in accordance with the decio consent.

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We don't see them as adversarial if they're adversarial, something's gone wrong.

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And I know we refer back regularly to to Hinkley. But if it has worked in Somerset, why should it not work in software? And why is it that the county council in Suffolk insists on having a casting vote, whereas we put forward the evidence of the TRG works effectively in Somerset and there is no evidence to the contrary. And we've specifically asserted on more than one occasion, and there's no evidence of adverse effects arising as a result, either delivery, or the operation of the TRG at Hinkley. And you've not seen or heard any evidence to the contrary. And we do believe that it's important to foster that attitude of joint working.

1:13:43

And it's not unusual in large projects. And we can for deadline eight cite other DC O's, for instance, where a very similar governance structure is produced. So in response to comments, we heard from the examining authority about deadlock, we have as you identified put in specific procedures to allow acceleration by any member of the group. And that exists in shedule 17, as well in relation to the delivery steering group. And we've looked again at the dispute resolution process to make sure it's as slick and quick as it can be.

1:14:20

But it's not a principle that we're keen to give up on at all, we really do think that the appropriate approach is that the TRG is a body of people working together bringing their different skills, it's our job to deliver the project is the public sector, his job to bring their services

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to that and ensure that we stay within the boundaries of the of the

1:14:44

of the consent, but it's not their job to run the project and deliberated. And so

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we feel strongly about that principle as you've heard us saying, and part of the reason for that is if you drill down into the detail of

1:15:00

The construction workforce travel plan or the construction traffic management plan, and see the powers that are given to the TRG. So the powers that are deliberately given to the TRG, because we want it to be a strong and effective body with the right people in the room and our that it can, for instance, it can change the construction, transport management plan or the workforce transport plan.

1:15:26

So, you know, we've gone through the process of this examination to try and forge the right answer in relation to those plans, what's the right balance between all of the interests, we are not likely to want to give up a situation in which suddenly the public sector can just decide to change those plans. You know, they're forged in that balance for a reason. They reflect all of the relevant interests. And if they are to be changed, it should be through consensus, and, if necessary, but unfortunately, through a dispute resolution, but we haven't thought that there's any reason for dispute resolution, but it's built into the process if necessary.

1:16:04

Similarly,

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as Mr Belford identified, the group has the ability to require any action uncapped in terms of cost of remedial measures that could be imposed upon signs well see, and there needs to be the proper opportunity to do that. And that's provided within the documents that we drafted. And a governance process which involves dispute resolution, if necessary. And but those are very substantial powers available to that group, and they need to be balanced. And similarly, even if and it's provided in both of the plans, even if we are observing the plans, even if both of the plans are being completely observed. The TRG has the power to call on expenditure from the contingent fund.

1:16:53

And again, we say that should be by agreement with the members of the TRG. Not by the public sector deciding that it wants to draw on the contingent funds are those protections are necessary, and they're in place? And if

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so, for instance, the TRG has the power, if it wants to, if it considers it necessary, if it meets the specification set out in the plans to change the HTV caps, you know, those are contained with the ctmp. It's not a power that we want to give away. It's a balance has been carefully struck through this examination. Okay.

1:17:29

I see. I got the drift. Yeah, thank you. I'll kind of stop there.



1:17:37

One question I just asked one question was to raise the prospect of a non sizewell see member not turning up, you said you would offer that there will be a sort of loss of one size, we'll see vote in in that in that circumstance.

1:18:02

slightly, slightly concerned, you don't want to sort of give people an idea. They don't have to turn up because the number of votes will be, you know, there'll be a pair of all all the time. But don't you already have something in the document which compels people to participate? And to turn up?

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We do yes. And this sort of

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have a look at that. And think whether or not that we ran with that and just see it's just rather than than the pairing system, but that's my very quick reaction to it. It's Thank you.

1:18:35

It's not something that we imagined is a real concern in practice once the groups get going. But if people are concerned about this, then it's a concern we can address by making clear that it's it's never our intention to outvote, it's never our intention to vote within these groups are not meant to operate in that way.

1:18:57

Just to say there are a number of points raised by the police and maybe the Mr. Humphrey can deal with some of them. I think we had thought when we had addressed and agreed substantive issues with the Constabulary. We've not as far as I know, had noticed that these points, we will try to address them. But it would be very helpful if they could be written down, as you say made available to us as soon as possible. And so far as the county Council's point is about the review of the emergency plan. Again, if that's written down, we will look at that, but our view is likely to be that the county council has plenty of time to review its plan and also significant resources which we've agreed to provide. When not keen to accept any kind of Grampian on the project for the county to review its plan when it has that opportunity. And can I just say one last thing about

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Rosie sutherlands point not to touch on the law at all. It's not my place to do that. But just in relation to the temp and

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This point has arisen twice from Sutherland. And it may be that we've simply failed to explain ourselves properly on the term, because whatever the discussion about the law,

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and I think the 10, properly understood, should be welcomed by all parties. Because what the temp does is doing exactly what Rosie Sutherland has asked for it to do. And definition of, if you like a good environmental assessment or a good outcome. So the temp seeks to do exactly

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what it says, which is to guarantee the outcomes of the environmental assessment in relation to terrestrial ecology. So it sets out the whilst we haven't identified significant adverse effects, we will monitor to make sure they don't arise, we'll report their monitoring to the environmental review group. And if and this is what we call adaptive management, it's meant to be a good thing.

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If significant effects are identified that hadn't been anticipated, we will agree mitigation measures with the environment regroup, review group to address them. That obligation is unlimited in time and money. It's an exceptional commitment to make, and we're not aware that it's been made elsewhere. And it should be of significant comfort to those probably interested in the protection of environmental issues. To know that that commitment is being made is being consciously made by us. We're aware of the scale of it and the consequence of it. But it's quite clear a paragraph 1.6 point two of the temp that were the monitoring identifies the need for mitigation measures, those would be agreed by the environment review group and implemented in an uncapped way by the applicant.

1:21:54

And that's why I said it would be almost a full pot. So it would be helpful to have a conversation perhaps with the Sutherland to make sure that we've properly explained ourselves. Our intentions, I think are very similar to her aspirations for what good mitigation and good governance looks like.

1:22:12

Thank you.

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So I then think we're going to hear briefly from Mr. Humphrey, just to complete the response

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on the police. As Mr. Rhodes as indicated, this is an interim brief response, we'll see what they say in writing and we'll deal with it accordingly.

1:22:37

Thanks to Mike Humphrey, for the applicant three very brief points of clarification based on the representation made by or on behalf of Suffolk Constabulary. Firstly, in terms of roles to be filled, we have a commitment in the date of obligation to appoint a community safety officer one or more emergency coordinators and provide on site security and where those commitments are made, we intend and are obligated to fill those. Secondly,

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the community safety management plan isn't mitigation in and of itself, and that's why it doesn't appear in deed of obligation. It's a signpost in document to mitigation elsewhere in the application, the deed and the DCA sowing includes signposting towards and

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coordinates, which was not the commit the community community safety management plan.

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Yep. Okay. And just lastly, related to the point raised on the community liaison

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role in previous iterations of the date of obligation, the community liaison service has been referred to the definition for that is out by the code of construction practice, and it's very much a liaison role. Since then, we have worked with the Constabulary, as well as our own security leads and based on information that we've got from Hinkley Point C, to set out a new role that will be secured in the date of obligation and will be set out at deadline eight and that's the Community Safety Officer, which is predominantly to deal with those those points that the Constabulary had raised so that that will be a new addition to the deed on deadline eight.

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Okay, thank you. Thank you very much was done free.

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So that that completes the response on this matter.

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Thank you very much. I fully move on to the next one.

1:24:44

The issues about

1:24:47

governance and abstentions and non attendance.

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zionstar issue was that if national highways as they're now called

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thought that a particular item for them

1:25:05

that they honestly like that they might abstain, and thus everyone would be there, but there will be an imbalanced vote.

1:25:16

Could I ask that I go to ask the Constabulary if they would submit any evidence they have from Somerset, about problems with the review groups in their data submission?

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At the moment, Mr. Road tells us all is hunky dory in in.

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in Somerset. If you think it's not, then we need to know.

1:25:46

Right.

1:25:49

That is items six and seven, dealt with, we have already dealt with item eight.

1:26:00

I will deal the remaining items in the order in which they come on the agenda.

1:26:07

So practical arrangements for submission

1:26:10

of documentation, particularly your your executed deed of obligation and the Allied documentation. But obviously, your preferred draft decio as well. Can you tell me summarise for us to fill apart what your clients proposals are for those to come forward?

1:26:36

So Yes, I can. Can you just bear with me one moment? I just want to check. Yes, I've got

1:26:43

got the notes on that. So starting with the decio if I may. Yeah, the final draft of the DCA will be submitted at deadline 10. And we're spent the final draft will be revision 11. On the basis that revision 10 is being submitted at deadline eight, and we're not submitting a further revision at deadline. Nine.

1:27:10

We're currently undertaking a thorough proofreading exercise of both the technical and legal detail within the draft decio. That exercise won't be complete by deadline eight. Although obviously the deadline a version will reflect some of it. And therefore, some corrections will be made in revision

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10 at deadline eight and others will be made in revision 11 at deadline 10. But as ever, we will make clear in the decio sheduled changes why each amendment has been made. So you can understand where a change has been made. And we anticipate that those will be matters of detail safer the matters

that we we've been discussing, which are more where they're more substantive. So far as the statutory instrument validation process is concerned. At the start of the examination process, we submitted with each new revision of the decio a statutory instrument Validation Report.

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However, when we started introducing unconventional numbering styles, nine a nine B that sort of thing, the draft statutory instrument would not validate. And as such, we it was agreed with the case team that a validation report would only be required and resubmit the final version. But as such we'll be submitting such a report was revision 11 at deadline 10.

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But of course, in order to validate the draft is to a deadline 10 we'll have to replace all of the unconventional numbering with conventional numbering so for example, nine a will become 10 and so on and so forth. But as a consequence, the numbering of many articles and requirements within the DCA will change. Yeah, and but between deadline aids and deadline 10 will be undertaking an exercise of ensuring that all certified documents and other control documents reference the correct articles and requirements as they will appear in that final version. We will of course also be ensuring that all cross references within the decio are updated accordingly. So that's that's the decio.

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So far as the

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deed of obligation is concerned. The completed deed of obligation will be submitted to the examinee authority at deadline 10. That's 12 October, the final issued compliance document in respect of the deed of obligation will also be submitted at the same date.

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So far as completion is concerned, it has been agreed

1:30:00

between ourselves and a Suffolk Council and the county council, that hardcopy and Grossman's of the deeds will be executed during the week commencing fourth of October 2021. With completion to take place, on the eighth of October,

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a director of the applicant with the appropriate authority will execute on our behalf. And each party will sign all plans as well as the deeds and the applicants, lawyers, Herbert Smith freehills, will be responsible for arranging the engrossment sign execution. And so far as the deeds of Covenant are concerned, draft deeds of Covenant have been prepared by the applicant. And I understand they've been provided to relevant third parties to review in the event that any deeds of Covenant have been completed prior to deadline 10. Those will be submitted to the examining authority at that deadline for my covenant doing the deeds of Covenant design understanding are where, for example, money is to be passed over to a third party, third party ever identified that that's the mechanism that binds them,

binds them in. But I my recollection is that questions have been asked about that. And we've adapted that so that if someone is unable to, to do that, there is a mechanism within the dam that covers the point.

1:31:30

Stop on that, indeed. So that is

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that that is the the chronology. And so far as the then you've got your item 10 matter, but I assume you want to come to that in due course. Yeah.

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The

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following?

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Yes, so the one is the we have the DCA, we have the deed of of obligation, you'll deal with si validation,

1:32:04

and the compliance document all coming in at

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the

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low end of

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plans and statements and protocols.

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They're all coming in as well at eight and

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I'll just check that. So if that can be

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confirmed, I'm getting nods that that is also correct. Okay.

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Thank you. Yes, as you say, you've got quite a cross referencing task.

1:32:43

Hope you've got him. It's not just you. I promise. It's not just that it's not just me, it's not me at all, you wouldn't be charged with that there are better qualified lawyers than I want to take those tasks, as Mr. Scott has appeared on my screen.

1:32:59

Thank you. So is the appropriate point to ask. In the Reese summary, which I've just started reading, there's an invitation to the developer to consider further mitigations, you know, enhancements or the mitigation package? And I wonder when that you know, how that might be processed?

1:33:24

Well, by my reckoning, Mr. Scott, we've got three deadlines to go. Da da on 24 September denial, third September in detail and 12th of October. So

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we might see any of those or they may just say we're not playing.

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Does that answer your question?

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Yes, I listen very carefully to that. Thank you.

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Good. Mr. Phillpotts, I want to ask you as well.

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We raised the question of some appropriate guide for certification fully environmental statement.

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It goes in as a certified document, but just under sort of one, one line title.

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And I've seen that this has been a suggestion as to what it should be and I think some modifications to some of the documents which we already have word discussed. I've also seen a contrast sink. This is from the RSPB

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asking, in fact was not those were themselves the right approach. But could you just,

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I guess, remind me what what you are proposing as a guide for this thing now and whether it should be certified or not, as can be certified? Somebody's got to be an existing document, isn't it?

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So my understanding we responded to a question about this and second round questions. I think it was DC

1:35:00

Two point 15. And that there was a question while there were three questions raised under that the second question was about concerns regarding the EAS has been one certified document because of its size and sizes, it's got a lot of bits. Well, it does. And the question is, should it be broken down in the certification provisions. And what we said in response to that is, while it is, of course, a lengthy document, it needs to be read and understood. As a whole, it is a single environmental statement. And therefore we didn't think it was appropriate to split it into individual certified documents, because it is effectively a composite

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document. In that sense, that was a response, we provided a deadline. Seven that that remains our view that obviously one can do it. And it didn't say the word the word documents which you didn't want certified, but which provided the necessary.

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signposting breaking down and navigation. So that that's right, that was sub question three, within question 215. So sub question three was, well, given its complexity, you would welcome views on the inclusion and certification of a guide.

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And what we said in response to that, that the certifying documents will all be listed in sheduled 22 of the final decio. And we thought that, because of that, it wouldn't be necessary to include an additional guide as a certification certified document. And the certified documents are limited to those documents and plans that are referred to within the DCA, for example, as control documents. So you need to know what is the final version, the certified version of that particular document, and final versions of all of those will be submitted so that there is clarity on exactly which version of each document is to be certified. Now, we have submitted signposting documents to assist in understanding the structure of the submission. But for the reasons that I've identified in terms of the role that certified documents are meant to play, we don't believe it will be appropriate for those to be certified documents themselves. So that that's the position as we've expressed it, in response to that question that remains our position. We are, of course,

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in a census is a technical matter, that's our position in relation to it. But it's it's an approach based on what we regard to be right in terms of decio drafting and structure, rather than anything which really relates to the airport disputes over the merits or anything of that sort. Just remind me which the decio questions it was an X q2. This was decio. Two point 15.

1:38:18

Yeah.



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Okay, thank you,

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Mr. King. I've understood and I'm thinking about it.

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That is helpful. Was it the RSPB, whose new compensation is so Miss Southern Do you want to say anything?

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Thank you, sir.

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We did indeed having found the signposting documents incredibly helpful, if memory serves at my point was thinking about 10 years down the line when it was a different set of offices, etc.

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Please, could I consider what the applicant has just said? And if I want to say more than No, make sure I do so by deadline eight? Yeah, I mean, if there is if you think it does need more or a change, then tweaking

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his Say, say tweaking on such a large document as the year but the tweaking of the guidance documents of all the signposted documents will be an easier way than generating something brand new. Absolutely. And again, it would just we may, we may suggest that this is helpful purely as I say just to to guide others and make sure that that is the dude that that is our concern, as well as this 10 years down the line when we've moved on to the next nuclear power station if that's what's happening, but you know, it's a new bunch of people that are looking at it. Okay, thank you very much. Thank you. So

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I'm gonna move on in that case to item 10.

1:40:00

on the agenda that just raised to draw the attention of the council's and of the applicant, that we are waiting for this confirmation and compliance document. Mr. Philpott your clients know what should be in fact, you've seen one in practice.

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I got my references to the precedence to take. So that's all I need to raise with you. I'd like to know that yes, you've got that. So not only have we got that, but we will be submitting a deadline ate a draft legal

opinion, which provides confirmation of the matters that need to be covered by it. So we're alive to that. We are on the case if I can put it in that way. Thank you very much.

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In relation to item 11. I put this in originally as a bit of a catch all any other matters relevant to the subject matter of the is h

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MMO. dropped us a line to say that we hadn't specifically referred to the

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appeals mechanism dispute which they have got running with the applicant before it turned to that. Can I ask if anybody else wishes to raise any other matters? Mr. Bedford

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microbead for Suffolk County Council purely for completeness, I should say that there are a number of detail points on the draft decio that were in dialogue with the applicant about we supplied them I think with a schedule of our position. As of earlier in this week, there is to be a meeting next week. 1751 I'm certainly not going to rehearse those areas this afternoon. But just to note that hopefully, the meeting next week will mean the very narrow list of points, if any, that will then be picked up in the deadline at submission. Yeah, thank you very much. That's, that's really, really helpful.

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So

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you will observe the marine management organisation having asked us to put this on the Mr. Mole.

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Note, Mr. Collins, counsellor Collins.

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Thank you, Mr. Brock. Sorry, my colleague, Mr. Becker's at a previous session did bring up the whole issue of the property price support scheme. I'm not going to go through it all again here. But we will be putting in some further details about our concern that this isn't properly addressed anywhere within any DCR or the deed of obligation. And whilst we understand that, there may not be any legal precedent as to why it should be there, it is sort of strange that a scheme was executed in hankley, which is considerably different to the one that is being proposed here. And it's not really appeared in any of these discussions whatsoever. So we will continue to do that. But I'm quite happy to do it through a written submission that the next level,

1:43:23

you say the property price team, we have had discussions about it earlier this week, we will continue to do that. Just remind me this is not a document, which is in the examination tool is it now I believe that

the applicant did say that they would provide a copy of the property price support scheme that's been proposed so far, and circulated to some property owners here. And they have indicated that they have executed it for a number of properties, but they are all within pretty much the red boundary of the site. Whereas when you look at the same scheme in Hinkley, it does go out some walk from the outside of all of those lines of the site, which is not the case here. So we still have an issue with this. Okay, thank you.

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So, so the Mo, the Andre are not here,

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which I just observe is rather odd, given they asked us to put it on the agenda.

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They've made a written submission.

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It is six minutes to six. And I was gonna suggest this anyway.

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Just fill up all of your clients if you want and your clients like to respond to that in writing and deadline eight, that will be fine. I would just like to add one further question to it though.

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In earlier submissions, the MMO pointed out

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That

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similar statutory provisions in relation to appeals apply, or the non existence of appeals, apply, in the case of the Environment Agency administered licences.

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And

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I wondered if you would cover in that data submission you make on this matter why there is a difference, because I don't think you are

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seeking to impose an appeal mechanism in relation to anything on the Environment Agency administered licences. If you want to clarify something for me now, then that would be helpful. If not, take it away and deal with it next Friday, please.

1:45:57

Um, so I'm not going to make myself unpopular. By coming up with an answer on the hoof. I'm very happy to respond to the MMS points in writing. And we'll pick up that point you've raised at the same time. Thank you. Well, it seems to be some confusion as to whether it's scheduled 23, or scheduled, 28, which is the appeal process, which I was a bit surprised about. But anyway, so on that surprise, was not with you. It Yes, we say it is the MMO is right. Article 83 does not apply to discharge of de marine licence conditions, their right to point to the definition of discharging authority, which is specific to requirements. And so it is a difference, as they point out about scheduled 20. A, and what that provides. So we think that is clear already in the decio. I know the MMO says, Well, perhaps i'd ought to be made clear, but actually, it is clear, and they've understood it and say,

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with no need for any change there. So that's just a point of clarification. But the points of substance we will deal with in writing. Okay, thank you very much. This confusion between scheduled 23. And schedule 28, I think actually arises from one of the MMOs documents. That's what there seems to be commenting all the time.

1:47:22

Very good. In that case, we are now at the last item on the agenda. So let me just find LCS is that anything else which anybody wishes to raise?

1:47:39

For chaos, you know, flags, no hands up. Let me thank everybody who has participated today, including those from whom we haven't heard, but who have been there in case there was something on which they wish to contribute. All of the contributions today have been very, very helpful. I found it

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a great clarification. And I see that we've moved a number of things on

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as a result of things we've raised in the past and also today. So thank you also for the spirit in which everybody has contributed.

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I mentioned in passing earlier on that this hearing today clashed with the Oxford joint planning law conference. Now let me say to those of you who would rather have been there, can I say this? I always came away from the Oxford conference knowing that I had heard leading edge thinking on planning and the same is true of this hearing today. So thank you all. Some of us will meet again on October the fifth in is h 15. In relation to change request 90 and the desalination plant, and I look forward to seeing you then. But now at 1759. This issue specific hearing is closed. Thank you. Have a nice weekend and good evening.