

TEXT_EA_ISH7_Session3_17022021

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00:05

Good afternoon, everybody. And welcome back to these issues Pacific hearing seventh East Anglia, one North and East Anglia to offshore wind farm applications. Can I check with the case team that you can hear me and let the recording live stream and live captions? Have we started?

00:22

Off dangerous, I can confirm that I can see you in the live streams have started. Thank you very much, Mr. Williams. Okay, so then we're moving on to item three C of our agenda, which is the draft marine mammal mitigation protocols.

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Last updated that deadline three. And in that updated version, we have in Section 5.1, and in new appendix one, information about the effectiveness of possible mitigation measures for UFO clearance. And

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that includes a variety of different potential techniques.

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Now, we have had some reps at det deadline, five from the marine marriage management organisation about delegation, I just wanted to come to that quickly. And I'll come to the MMO. first before we then come to the applicant on this. So and to the MMO, then it added like five, you've expressed a view that low water deprivation technology is likely to be standard in the near future. I just wondered if you could elaborate on that point, please.

01:28

Read the MMO. And yeah, so at the moment, there's ongoing discussions with the industry and on low order techniques, including Deaf immigration. And we would highlight that there's currently data being gathered in relation to the outstanding concerns from the industry on the commercial availability of the technologies and the success rate on the use of the loader techniques.

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So this data is being gathered currently, and will be provided to the relevant stakeholders. And then once that's received, we believe this will become standard primary technique for for all uso detonations across the different industries, not just for offshore wind farms.

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So yeah, so we're currently waiting for that. So

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I'll wait for your next question. Carry on. So who's gathering that data that you've just provided that yourselves and the industry on the company is providing those low order techniques are providing that data to satisfy industry and ourselves

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and natural England and other stakeholders that the technology will be available? And to sort of alleviate all the concerns that have been raised previously? Okay. And so would you say at the moment that the situation is that it's not considered to be a commercially viable option by most of the industry?

02:59

Rebecca read MMO? Yes, I think that that is the current position of most of the applicant and most of the industry. Yes, I will come to the applicant. And I'll ask them themselves and moment, but so you've talked about that data being gathered by the companies themselves? Who are bringing forward that that technology? What's the forum for then that being presented to industry stakeholders in your sales and natural England?

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Rebecca, read the memo. I think there's there's multiple strategic groups and meetings and industry meetings. I think renewables UK are a part of some of those discussions.

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I can discuss it with internally and see if we can provide those those ones with deadlines, sex as well. Okay, thank you. And so timing wise that that's some ongoing data collection work that's happening at the moment. And in terms of our examinations, is it likely that anything will conclude your reported in before we close our examinations?

04:00

Rebecca, read the memo, we've had further discussions with the applicant and internally and it's not likely that that will come before the end of the examination. Therefore, we have agreed that the commitment from the applicant can't can't stand up this time. We've withdrawn that request and agree that what they've provided currently is enough. Okay. So in your submissions, I'd like you've said that it would be that you'd be looking for a commitment on that you You're now saying that you accept that that's not something that's perhaps a realistic commitment that can be made for these applications. Rebecca, read a memo. Yeah, that's correct. Okay. But presumably, you'd still like to like it to be included in the mix of available and different techniques that could be drawn upon in the final Green Man, manned mammal mitigation protocols. Rebecca read a memo. Yes, that's correct. Okay. Thank you very much for that. And just as a final question on that before it before

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let you go. You've gone and just whether you're seeing any applications yet and your role is marine licencing authority for this technology being used or is it still too soon? Or of course any of your industries?

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Rebecca read the MMO not yet is being proposed as as mitigation,

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but not standard. Okay. And are you saying that in in the future if and when this when this has become more proven in the commercial sense that you can see it completely replacing the need for detonation of unexploded or unexploded ordnance. Rebecca read MMO air completely replacing However, there is always the worst case scenario that the low order won't work. And it will be a high order detonation. So that worst case will still have to be assessed. But the actual technique is should become standard.

06:00

Okay, lovely. Thank you very much for clarifying those points. So we'll come to the applicants and we are clear that the submitted draft, triple MP is a draft and Matt, it doesn't rule out technical techniques like low water delegation and things like bubble curtains.

06:17

So I think really, the MMO have given us an answer in terms of that they're slightly coming back on on that request for it to be a firm commitment. Do you have anything else you want to add at this stage? No. I mean, we assessed the worst case on the assumption that it couldn't be used, but then followed up with we would like to, you know, if it's possible, we will keep that in place. So yeah, it's about these documents being inclusive rather than exclusive. So, yeah, we're content that with the position the MMOs outlined. Okay. Thank you.

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And

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I'll come on, then to a quick again, I think this will be a quick point, which was about assumptions in the triple MP, and the question of marine mammals swimming speeds, and I noticed was raised by the MMO. But so so we had originally some assumptions about mitigation being based on a swing speed of 1.5 metres per second. And that was then changed to 1.8 metres per second and the deadline three version of the document, which was a concern to the MMO, and natural England, I can see from deadline five now that the applicant has decided to revert back to 1.5 metres per second, I just wanted to check with the MMO. While we have you, if that addresses your concerns, and and kind of draw the line under that particular outside?

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Perfect, read the MMO. Yes, then the the reverted back does. Thank you.

07:41

Does the applicant have anything else to add on that?

07:45

Nothing to add? Nope. Thank you. Okay.

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Mr. pinzolo? Are you able to tell me when the updated draft of the triple MP will be submitted into the examinations?

08:00

benefits of the applicant? As as with the CIP, it would be preferable to put them in once we've got all the updates? Yes, would include the condition wording and the around the commitment, etc. So that would be deadline seven, deadline seven. Okay. All right. Yeah. Thank you.

08:18

And, and the MMO. Before we move off this distant point, are you content with the wording of the DML? conditions that secure the triple MP?

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Rebecca read the MMO? Yes, currently, we are content with those antastic. Okay. And does the applicant have anything final to say about the way the triple and Peter secured parapets? Well, if there's nothing further, thank you very much for that. Okay, I'll move on to Part D, I'm consciously not opening this up to other parties because I know we don't have the normal people who may also want to come in at this point, such as the wildlife trusts or natural England, if there is anybody in the virtual room who does wish to come in on any of these points, then please do raise your hand or put a camera on and I will happily call you in. But just it's quite a different sort of way of doing things from this morning because we have a couple of main interested parties on these topics. So moving on to item 3d. And that's about the timescales for discharge of the plans and documents relating to UX Oh, clearance activities. And we think there's been a debate about whether we're six months or three months is allowed for various discharge timescales for various documents relating to piling and UX o clearance.

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The latest situation is that we now have a commitment deadline five to provide the triple MP and the sips at least six months prior to the start of UX Oh clearance activities.

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There's reference also to the method statement for UFO clearance, but with the exception of the plan showing the area of clearance activities and any Exclusion Zones on microcytic

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requirements, both of which are still a three month prior to activity condition. So I'm just checked with the MMO. Are you now content with this drafting? Taking into account the fact that we've obviously got some change coming on the CIP for the on the condition that secures the sips? Rebecca read MMO.

And yes, I think this alleviates our concerns. I do believe natural England are still reviewing it. In relation to that.

10:27

Yeah. This, this does alleviate our concerns. Okay. Thank you for that. I will then in that case, make sure we include an action list and an action for natural England to confirm where they sit in terms of those those timescales for discharge of the plans.

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To the applicants, then I'm presuming the first we'll see if this will again, be deadline seven, when you put in your final development consent order? Is that correct?

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puppets of the African? Yes, that's correct. Okay. Thank you. Do you have anything else to add to that before we move on?

11:07

I don't think so. I mean, other than it's welcome that the, that this has been agreed, because what we tried to do is get the difficult stuff of the methodologies across, and then the the finite detail of where events will actually be occurring. It comes in later. So it's a pragmatic decision. So it's very well, it's welcome from everybody gives everyone the right amount of time to provide the right amount of information. Thank you. And I can see the sort of logic in the way that you've done things there. And we'll wait to see what natural England have to say as well.

11:39

In that case, then we'll move on to Part II of the agenda, which is again, I think, will be relatively quick on the construction monitoring, and this cessation of piling condition.

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Which we

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we had one outstanding, cuz I know we've put this into we've put this into the decio commentaries that we issued last Friday. So we put this as a question already, but since we have the MMO here, or Buddhist ask, Are you are you now content with the wording around cessation of policies? That's condition 21, three of the generation assets and 17, three of the transmission assets do emails?

12:17

Are you content with that wording on the basis that you mentioned previously, this significantly was an area that you were still a little unsure, but that perhaps that would be now dealt with through changes or amendments to the offshore in principle monitoring plan as opposed to the DML condition itself? So just the MMO, do you have still have any outstanding concerns with that? That wording? Rebecca worried MMO?

12:42

I think we that is the way we would like to go however, it is currently with the scientific advisors and natural England who are discussing how to define significantly currently.

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We should get that back tomorrow, and we're going to discuss it with the applicant on Monday and provide an update it a deadline six, and hopefully we'll be able to, to put a final position in that stage. Okay. Okay. Thank you.

13:11

And

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we will also extend that question to natural England. Does the applicant have anything else they wish to say on that? nothing further, we'll look forward to getting the the decision. Okay. Thank you. While we're talking about the offshore in principle monitoring plan,

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natural England, did raise a few queries at deadline five and says they're not here. I think in that absence, I'd probably like to put some of them to you if that's okay to the applicants.

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So there's some points in there about

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referencing the triple m p, because that's meant to be a mitigation protocol, rather than a monitoring protocol and a request, therefore, that a separate marine mammal monitoring plan is submitted to demonstrate how the applicant address, you know, identified project specific concerns. How do you respond to that suggestion

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for the applicant, generally, to reduce the number of plans and protocols that are flying around would be the preference of the applicant? I think that the key thing with this is obviously that again, it comes back to the point of what in principle, an outline plans are supposed to be, and they are supposed to be in principle and outline, obviously, naturally was provided a commentary on that and around the the level of detail that they wish to see. And this is their points are obviously industry wide. They're not just focused on this particular project on this particular document that is before you. I mean, we obviously in the IPM p, we make reference to the CIP and the triple MP, to acknowledge that as part of those mitigations that we'll be monitoring that goes along with them, not monitoring programmes per se, effectively compliance

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monitoring that would go hand in hand with whatever

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mitigation is required in those situations either for the for the injury or other disturbance effects. So that's the point they are not, it's not a reference to monitoring that will be undertaken for in terms of research purposes, it is a term of monitoring in terms of compliance monitoring, so really wouldn't want to start creating another document at this time. It's rather late in the day to start doing that kind of thing. And so we're signposting monitoring that may take place through the application of those other monitoring management mechanisms. Should it be needed when those documents are signed off? Post consent?

15:47

Okay. We don't have with this with these applications. such a thing as a shedule of monitoring, do we, as is sometimes seen on case mitigation, but not I think when I last checked yesterday, I couldn't I didn't see what I'm just thinking as a place. I'm guessing that it really is why the offshore idmp is the plan, the place that's meant to,

16:08

you know, bring together all of the monitoring commitments that are secured and in terms of you talking about the natural endpoints being industry right wide rather than specific to this project. But there is a specific point there about

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in terms of verifying some of the assessment work. And the fact you know, the first four piles during construction versus the predicted for Worst case piles, that that seemed to me to be more of a specific question about whether something like that could be incorporated solidly up. And so with the changes to the IPM p that we're putting in at deadline six, we've added in a table for the marine mammals, which covers that piling, we are considering the feasibility of Natural English requests to look at not only the first four, but more difficult piles, if you like the point being so that you capture the worst case, it is a feasibility and practicality issue, because obviously, you need to understand the ground conditions in which that might take place. And that is getting into programming of all those surveys and events. So we are looking at it but it isn't as simple as being able to look at a map today and go that's going to be the most difficult pile because we don't even know where the piles are going to go. Yeah. You know, because that's detailed design. Yeah, understand. We are looking at it. Thank you. I can see your colleague, Mr. Vela has a hand up. So could I bring you in Mr. Vela? Please?

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Jerry Vela for the applicant, thank you very much. I was just going to say that we do have a work stream to look at a number of these specific points relating to marine mammal, wider marine mammal monitoring, and

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front loading and noisy location into the monitoring of the first four piles. And we're hoping that we'll be able to provide an update on those deadlines. Six, six. Okay. Thank you. Thanks very much for that. Is there any intention to commit to participating in any strategic marine mammal monitoring? Or is this

going to all be more in the camp of what you've already described as the as monitoring to verify and confirm the assessment?

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For the applicant, I was gonna say that there are two very, very different things on the one is activities that are licensable conditions. The other one is the is us as developers, looking forward to address issues that are affecting projects currently, and in the future.

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SPR has always been very welcoming of involvement in Strategic Studies. I would say right now, I'm not aware of any specific Strategic Studies that we could feed into that we will be able to feed back on within the timescales of the examination. And there's certainly lots of talk about different initiatives within the industry. And I guess, you know, at this stage, I think we have to be open to that, but the specific issues that we need to deal with relates specifically to the project. Okay, thank you.

19:23

And would the MMO like to make any submissions on the AI for AI PMP.

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Rebecca, read the MMO. At this moment, we're still reviewing natural England's response in detail. However, we do defer to to natural England or tend to defer to natural England in relation to the details of monitoring. We would support

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as part of, as with discussions assigned to our scientific advisors at sea fast, have at least one pile in a worst case scenario position being monitored and other

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Otherwise, we don't we don't see the effect of, of what that the worst case scenario being covered against the environmental statement in the noise monitoring reports. And so that is part of our discussions. And we would push for that we would like all four to be worst case, however, we are willing to open those discussions at the time. Okay. All right. Thank you very much.

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And so

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do we have a? Like, do we have a like a timing for the likely

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revision to the IPM? P, I think somewhere, there's been method, I think getting one of the D five reps said that maybe a D six, we should be seeing an update

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palpi some of the upcoming Yes.

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It will be d six. And we've taken into account where we can natural England's comments, I think a lot of them or we already have captured. And some of them. We've we've amended the text. And we've obviously included some of the things that they've asked for. But there are, again, there are limits to the amount of detail that it is actually appropriate to put in at this time. In terms of detailed monitoring proposals, that would just provide another area for discussion examination, where traditionally that has been a post concern activity when you actually understand more the the pain of what the project you're actually trying to build is. So that's, that's our preference. Okay. Thank you, Mr. Bhalla, you still have a hand if you want to speak or just to legacy can't

21:44

play, I'll take care of legacy hand. Okay.

21:49

I think then, I'm going to move on to Part F of this item three, which is about other marine mammal matters. And one thing I wanted to pick up with the MMO. Again, once we have you was, in your deadline, five submissions, you've noted some ongoing disagreement about the underwater noise assessment, and specifically the cumulative sound exposure level assessment and the number of piles installed in a 24 hour period. I just wondered if you would be able to elaborate on this point and just confirm whether that is still an outstanding concern case. We're talking here more intensive EIA level effects now. Rebecca reads MMO I'll have to take that away and double check. I'm up to the scientific advisors advice. So I will double check and provide an updated deadline. Thank you, for references section 7.5 of your rep. 5075. And it's talking back it's referring back to

22:52

the applicants Rep. 4016. It's just it didn't seem quite right, because your statement of Common Ground isn't recording a disagreement. But that seems to be raising

23:04

a concern with the assessment. So I mean, if you wouldn't mind going back to that and responding it deadline six, that would be much appreciated. Rebecca read Mmm. Yeah, we will. Thank you. Thank you.

23:16

And a final point under this other capsule topic, which was about the maximum hammer energy and again, the MMO have raised a deadline five, the practice on other cases, offshore wind farm cases now, with people requesting a variation to their decio or their dmls to increase the maximum hammer and achieve from 4000 kilojoule to 5000. Due to the turbine size that's being deployed. I just wondered, the MMO able to give some examples of the basis for this comment, please.

23:54

Rebecca, read the memo. And this was just to highlight that there has been a number of DML variations in relation to this, where new projects are taking this into account. So I think we just wanted to highlight it to the applicant to sort of acknowledge that this is unlikely, but it could be a possibility depending on what turbines they use. Okay, so can I come to the applicants and ask then is this increased to 5000 kilojoules something that you consider you need to consider? Perfect, solidly African? No, we've considered the range that we feel is appropriate for the projects and the size of piles that we're doing. We recognise that the number of marine life variations that have come through but they've usually been to recognise the fact that projects have been moving, changing their envelopes considerably and and certainly I think some of the projects that we're talking about here are further offshore and cut anticipating larger up to 20 megawatt machines, etc. So, no, we've we've assessed them and we've included a hammer energy that we think is appropriate for us.

25:00

Project. Thank you. Okay, so we're talking about things in other round three zones such as Dogger bank and Hornsey or something. Okay. All right. Thank you very much for that with that of interest. would it mean that? Would it be within your Rochdale envelope? Or would it require some further assessment? Sorry, could you? Would that be within your Rochdale envelope? If it were if you were to have an increase? Or would it be has that been assessed? Or if we've assessed the maximum 4000 for the monopile and 240? To 4400? For the the pin pile? So no, it would require another assessment, I think it's worth making the point. Also, that from monitoring of a lot of actual piling that's gone on, for instance, East only one, the maximum hammer energy was never reached. And the I think we I think it's in the chapter, we actually have the stats of how much you know of what the reality of is it. So we already believe that it's the maximum amount is highly unlikely to be reached. So we're comfortable with what we've assessed. Okay, thank you very much for that.

26:01

And that concludes everything that we wanted to cover under marine mammals today. But I will just give a final opportunity to anybody in the room, including the MMO. But anybody who wanted to raise any final points and part F, item G, item three.

26:18

Okay, I'm not seeing any hands coming up. So I'm going to then

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conclude item three and hand over to Mr. Smith, who's going to cover fish and shellfish ecology under item four. Thank you.

26:32

Thank you very much Mrs. Powers. And just as Mrs. Paris did, I'm very conscious that this item again, is an item that

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essentially only engages the MMO natural England, the natural England art here, I do have some questions in relation to natural England alone proposing to work through those with the applicant. When

I've gone through the agenda items with the MMO, which I'm proposing to do first, I'll then return to the applicant for responses. And in relation to point C on the agenda any other fish and shellfish matters. And I will look for yellow hands at that point. So if there's anybody else who wishes to speak, then I will bring you in at the end.

27:17

Okay, so if we can first move to MMO matters, and I gather that Jack Cole will be the speaker on this item. Is that correct?

27:30

Hello, sir. Let's check off the main module opposition? Yes, that's correct. Excellent. Thank you very much, Mr. Koh. Okay, and just so that you're aware and have available to you the documents that I'm going to principally be looking at, obviously the fish and shellfish colouring chapters of the

27:49

of the EA, so that's ap 058 and fish and shellfish ecology consultation responses, as well, AP and

28:00

dash 462. And the deadline five states for common ground between the applicants and the MMO, which was rep 5033.

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Okie dokie. And just a preliminary question, then, Mr. Koh, and that is to just touch base on one final documents that the applicants submitted a fish and shellfish ecology clarification note, which is a S dash 040 on the 11th of June 2020. And I just want to check, I don't think there are any significant outstanding matters between yourselves and the applicants arising from that note, but can I can I just check where we are in relation to that?

28:50

Yes, Jack off the Emory management organisation. I believe that is the case, sir. Yes. Excellent. Good. And so in which case, if we can then move on to the first item of the agenda, agenda, underwater noise implications, including those arising from the inclusion of monopile foundations. And now in relation to the MMOs position around noise effects impacting fish and shellfish? And can you just take me to your, your latest position, with with the applicants on that other other any significant outstanding matters in your view?

29:32

Jakku for the animal in terms of the animal opposition on this agenda point, the animal did so in their line five response, which is rep 5075. At the we were asking for further justification from the applicant in terms of the appropriateness of the inclusion of monopiles for offshore platforms, because that was the deadline five response. We haven't had a response from that yet. But we did participate response deadline six I believe from the applicant and we'll be making comments

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what's waiting for that line seven? Yes. I was feeling that it was probably deadline seven, but that that's the only matter that was substantially outstanding.

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I missed a yes,

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I would say so. Yes. Okay. And sometimes can sometimes be quite hard to answer these questions. speculatively, when you haven't seen the applicants position, I'll obviously give the applicant an opportunity to respond. But do you have a sense that deadline seven is going to reach a satisfactory position? Or or does this feel like there might be a sort of any significant outstanding area of dispute we need to essentially adjudicate between yourselves and on the applicants?

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jack over the marine management organism? I wouldn't. I would like to think that darling seven would be able to resolve all outstanding issues. Okay, thank you very much. Let's watch dateline seven closely, then, in which case, then to the MMR. Again, I'm going to move on to the little two item and the question of seasonal restrictions. And there we've obviously been reviewing

31:12

issues around spawning and nursery areas for various fish species. There have been references to spawning and nursery for Whiting, and mackerel specifically, and are you content that the projects as they currently are your position, as of deadline, five plus matters still in play, and respond appropriately to boarding and nursery for lighting and macro?

31:41

Jacko for the marine management organisation? And yes, the best of my knowledge, those receptors, there's no standing issues regarding them. any issues? Oh, no, that was that was my understanding to any other spawning species or nursery issues that we might have somehow missed.

32:02

A jack or for the animal? Not that I think you would have missed. Obviously, we did have we made representations in our demo in five response regards to herring and no other spawning species that I think you would have missed. And we have no outstanding issues in that respect. Okay. Right. So just herring them remaining outstanding.

32:21

Oh, okay. Now moving, then on to then a kind of overarching capsule question at the bottom of that. And in terms of any further movement in the draft orders, the DML, or indeed any of the plans prepared under them in relation to the provision of security around seasonality spawning on nursery areas?

32:49

Yes, Jakob, the seasonal restriction was to be required at the animal, we're looking to work with the applicant to secure a condition for this that we found in the DML. And the animal would point out to the

examining authority at this stage that the rampion, one DML did have a herring spawning season, and condition in it. And anything that we do draft in anything that we do work with the applicant on is very likely to be similar to this. And for the benefit of the applicant and the examining authority, the memo intends to submit this condition in our demo insect response as an example. Excellent, that would be really useful. And and again, I just wanted to draw attention there without going to the detail here and now, but to the kind of step down timescale that was set out in our commentary on the draft development, consent orders, which are aiming to get everything that is currently in movement resolved by deadline, eight. Okay, I'm moving then on in terms of little agenda item for a three other effects. I do have a few questions here, but I trust they're going to be equivalently brief, and to the MMO. Now, the first of these relates to your deadline five states of ground with the applicants that's rep five dash 033. And there and table 2.4, an item 101. And in summary, this is a concern about re suspended solids or contaminated sediments on fish and shellfish ecology. And I just wanted to check whether these issues were resolved. And because looking at table then 2.8, which is the fish and shellfish ecology table, and there was an outstanding concern in item 101. But it hasn't mapped across to to fish and shellfish ecology and table 2.8 would we be should we be confident that the issue is

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has no remaining relevance for fish and shellfish ecology.

35:06

JACK kornfield will kind of just pass over to Rebecca Reeve To answer this question, please. You certainly May.

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Rebecca read the memo. And we are confident that we can close out all the remaining issues on in relation to the fish and sediment. But we will double check that one and work with the applicant. We do have a meeting with the applicant on Monday to discuss the statement of common ground and make sure that it is all aligned as well. Indeed, and on a similar kind of alignment point if you're going to check and there's no need to respond to me on these other than to pick them up as potential check items. Of those also table 2.4 item 203

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which is assessment conclusions, cumulative impacts, and updating the IPM P. And with some work anticipated in relation to post construction monitoring for post construction monitoring for non native invasive species. And there again, check and fish and shellfish relevance. And I'm assuming at the moment not. And table 2.4, item 204. Where again, there was an applicant's commitment to pre and post construction monitoring of benthic communities and with work to be produced for deadline six. And again.

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Miss Jones, I'm not sure if if you can hear this, but it appears that Mr. Smith is frozen at the moment.

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There we go. A

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brief interruption the internet gods are not with me. So just to summarise on that point, in case you missed my last words, I'm just take those away as a checkpoint and respond to us on a deadline six.

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Then finally, from the deadline post open to Common Ground table 2.8. And there were matters 302 and 303. And behavioural behavioural impacts on spawning herring from piling. Now we've touched on that already.

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But again, I'm just making clear that that is going to be updated at deadline six.

37:40

Oh, Rebecca, read the MMO. And yes, that'll be updated. However, that is the part that we are still in discussions. So it might not be agreed. That's that's the one that we're that is likely to not be agreed at deadlands. Six. Okay, well, again, if you can,

37:58

to the best of your ability of deadlines, six frame the matters that are still in dispute so that it gives us the clearest indication of, you know, what matters you believe you've got traction on and they just haven't landed because they haven't landed yet. And what matters, and we might actually then be being called upon to to essentially adjudicating disputes between yourselves and the applicants.

38:26

Okay, and then I've got a final question arising from the statement of common ground that relates to

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matter 304, which I believe, again, is table 2.8 and sandeel habitat and effects upon it, noting again, possible Read Across to red throated diver and wspa relevance. And, and I I'm this may already have been ticked off by by my colleagues about but just to make sure that again, that's going to come into us at deadlines six.

39:09

Rebecca read the MMO. Yes. So for that for the benefit of the invasive species, the monitoring and sandeel they are linked with the update to the in principle monitoring plan. And so they remain open until we can were satisfied that this is covered in the in principle monitoring plan. And so we anticipate it to be agreed. However, that'll more likely be deadlines seven once we've reviewed the in principle monitor and planet deadline, six, okay, right. It's all getting horribly back end. But anyway, that's we will have to deal with what we have to deal with. Okay, now that has taken me through the questions that I had on Item A one through three, B in relation to means of security, the bearing of any of this on dmls

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conditions and indeed on plan documents beneath the the orders. And we're not going to discuss that here in detail today because we have issue specific hearings nine for that.

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And obviously,

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can I

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I understand I think you are attending that Mr. Ko or at least the MMO is

40:25

our jackoff animal? Yes, we are attending as used to be doing a let's let's deal with that to deal with all drafting detail there then.

40:35

In which case, what I'm then going to do is I'm going to provide the applicants with an opportunity to respond on those specific questions that they have heard me put

40:48

to the MMO. And once the applicant has come to me on those points, I've then got some what I'm loosely referring to as the natural England matters across the same agenda items, that obviously we only can explore with the Africans because natural England they're not here, some of those may end up forming actions. So Mr. pasola,

41:10

thank you palette pizzaiolo for the applicant. So the first point was on the monopile Foundation for the substations. The outstanding point was whether or not the worst case had been assessed. And the it this is pretty straightforward. The worst case assessment from monopile within the ies was for for the turbines, and was a 15 metre monopile. So the worst case location and the worst case size for a 15 metre monopile has been assessed. So that should be relatively straightforward to agree that there is no difference between a 15 metre monopile for a platform or a substation, we've already looked at the worst case location that that foundation could be irrespective of what you stick on top of it. So that is we think that's relatively straightforward. We've responded to that in our whatever it deadlines six response is now that will be coming to you.

42:09

They really like to see that in deadlines. That's fine. Excellent. is

42:14

the point on herrings, there's been a bit of back and forth on the spawning, particularly with regard to exactly what it was that CFS wanted to see. Given that we felt that we run the gamut of all the different types of modelling that we could do. Fundamentally, the problem is that the advice that is available from

from popper, which is the key source talks about behavioural impacts going out to 1000s of metres, but it doesn't recommend a modelling pressure or criteria for that. And it doesn't actually say what 1000s of metres represents whether that's in the in the North 10 or the 10 plus. So that's the there's an issue there really with the guidance as to what we can do.

43:05

Effectively, then the question is, again, that's the other point on this is that in the latest response MMIC pass have said that because we've got a 27 month construction period that is quite lengthy and could cover number spawning seasons. The point though, obviously, is that there's 27 months offshore construction period, but only 40 days of piling time within that as an aggregate of time. So actually, the rationale for saying that the piling duration is short and intermittent is not based on 27 months or 54 months. If you have two projects, it's based on the 40 days. Therefore, we would see that initially that we would see that actually having a piling restriction in this in this case is disproportionate. However, obviously the detailed comments that have been made have only just been made at the last deadline. So we are looking at that we are considering that further. And again, we'll have a full of response at deadlines six with regard to closing this this issue out

44:13

into terms of the other issues that were discussed. I think as MMOs said, We the update to the IPM p will include provision for benthic monitoring for Sandy or monitoring through particle size analysis as part of that, and through looking at non natives as well. So those are going to be wrapped up within that. And I think I don't know Did I miss anything out? No, I don't believe you did miss. Thank you very much. Um, so I think we've we've we've dealt with that. I will just have a quick final check with the MMO. To to ask them the question if there were any other matters in principle that they wish to raise

45:00

Under agenda item four, he, before we move on from them definitively, I'm not seeing a hand

45:11

on it. No, so we haven't got anything further raised at this point. Yep. Excellent. Thank you very much, Mr. Koh. Very helpful. So now having dealt with the matters that were relevant to the MMO, I'm now going to turn to the natural England matters under the same agenda points, and noting again, that natural England

45:35

are not here. So essentially, what I'm wanting to do is to raise matters with the applicant to gain an understanding of progress to the extent we can with detail obviously to be provided in writing deadlines six. And my main source here is the risk and issues log that natural England have submitted app deadline five, which is rep five dash 08 8am and essentially reviewing the status of fish and shellfish matters there and one would need to turn to page 49 and the issue lines are issues 33 through 2:36am starting on page 49 there and

46:23

I do note that the matters are still all at Amber, which natural England characterises potentially fundamental concerns. And that could be critical strike pose integrity risk relevant points for HRA purposes. If not, excuse me resolved by the end of the examination. And

46:47

you know, my starting observation there will be that there are ambers there and I wanted to kind of Pro with the applicants because not only are they ambers, but they're on 3334 and 36. There's there's no record of update on progression really since deadline three and on item 35% deal then that has been referred across to C fast, but it's kind of greyed out so that there was no clear indication of progress there. So and the matters then there were matter 33 fish spawning in larval abundances, specifically herring and impacts on prey availability for interest features of marine protected areas, matter 34 tolerance to elevated suspended sediment concentrations during construction, matter 35 effects on sound deal. And then massive 36 was the the outstanding issue of cable burial and cable burial to a minimum depth of 1.5 metres. And

47:55

you know, this may all be in the wash to emerge in writing by deadline six. But my principal purpose in raising authority here today is really to flag that it needs to start moving considerably more swiftly than it's moved over the last pair of deadlines because if it doesn't move by deadline six, then these are potentially what in natural England's risk analysis become read risks because the amount of time available to us to to ensure that resolutions occur and the property examined really after deadline six begins to disappear. So to the applicant on those matters, please.

48:45

I think the last time we put any information in on on the fish with regard to the HRA was in our document on

48:55

it was the

48:58

it was the habitats with regard to the Thames Estuary SP a document that we provided.

49:04

And there were no in the original version of that which was based on the EIA information I don't believe there was any comments from natural England with regard to the fish and shellfish elements of that we updated the benthic element which was what they were have which they had issues with regard to the supporting habitats. So naturally when haven't made any more representations with regard to these matters since then, which was why I must admit when I then got to the deadline five Rep. And I looked at their dashboarding of it and looked at that sea of amber I was I was a little well what is happening here is the answer that conversations have stopped or that no reps have been made, but but somehow or other natural England still seem to be characterising this stuff as as quite high up its risk register.

49:57

I know nothing further has been

50:00

disgust on this. Obviously there's the, I think, potentially natural animals waiting to see what the outcome of our discussions with regard herring were with CFS. And obviously the related points on sandeel habitat and suitability of handt sandeel habitat, which again, I think we've resolved with with mmac first through the the acceptance that we will do the sandeel habitat suitability monitoring post consent. So, I did not believe that they were

50:35

they are assessment issues per se, as far as CFS was concerned, it was more that the outstanding there were outstanding knowledge gaps, which they wish to see through in terms of the Sunday or through the monitoring programme that we would undertake. Okay, with that case, can we leave this that there is an action on you remaining to refer these amber matters from

51:04

the issues logger page 49 issues 33 to 36. Back

51:11

to natural England,

51:13

specifically to question and what else needs to be done in their view, and to to start to move these down from amber to a lower to allow grading on their on their risk analysis. And where and whether, you know, essentially that is a a grading through absence of, of active communication on these topics, including taking into account the outputs from sea bass on herring and Sandy, and,

51:45

or whether there are weighty matters that are suddenly going to pitch onto our desks that deadline seven because if there are, we need to, we need to, we need to arm ourselves up. So that if you can take that as a as an action, we'll make sure it goes in the Action List against yourself and natural England. And then I think we'll find out where everything is resting in relation to fish and shellfish as a consequence of that by dateline six if that's at all possible.

52:17

pilots are of the opinion Yes, I was just looking back to so while you were speaking just to check the statement of common ground because the statement of common ground with natural England it's just submitted at deadline one, a second of November, has everything in shellfish, fish and shellfish either agreed, or with natural England's formula of the agreement that the matter is closed. Indeed. And I thought long and hard about whether given the this is the first oral examination session that we've had in detail on this topic. I did wonder about starting there. But then I thought well, I'm going to start at the the bottom end of the pipe rather than the top end of the pipe and look at what is considered to be outstanding in the risk and issues log given that we haven't had iterations of statements of common ground as we have with a number of other parties. So I went to the log, and I found a sea of Amber.

And so I think we just we just need to do some reality checking on it between now and deadline six and make sure that deadline, if there are serious issues that they are flushed out by deadline six, and if it is in fact, as was stated at deadline one. Fine.

53:28

Thank you. Okay, we'll make sure there's a an appropriately crafted action in the action list that that describes that. Okay, those were my questions in relation to the natural England matters. And so what I'm then going to ask is whether the applicant has any broad

53:55

submissions of a general nature as it wishes to put us on the agenda item.

54:04

Politics of the African? No, I think we've covered everything off, I think most things are straightforward. And they will be in our D six responses, and then agreed, say a lot of this was agreed through the commitment to undertake the monitoring. So a lot of the areas of outstanding discussion were around what we would do with the monitoring. So I think all of that stuff is pretty much resolved now. Okay, right. Well, that basis if, if, if you're currently contempt arrest there, I will, just before I let you go, and have a quick check around the room to see if there are any yellow hands from people who don't necessarily have maritime, formal maritime responsibilities, but who might want to speak on any of these matters. And I am just scrolling up and down my list of participants and I'm seeing no yellow hands. So on that basis, there's no

55:00

Nothing further to be heard and nothing further on which I need to ask the applicant to respond. So we can move on to Agenda Item Number five, Mrs. Jones.

55:13

Thank you, Mr. Smith. Now obviously, Mr. Innes did raise

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and some issues with us at the beginning of these hearings this morning. And I think I'm going to hand back to Mr. Smith to to run through

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some of those items that the examining authorities have had time to deliberate on over lunch. Thank you very much. Okay. And those items essentially relate to

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the

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procedural submissions that we received Mr. Ennis, from yourself this morning on the CS ham complaint document. And then the subsequent additional submissions, including a specific submission

from Fiona cram under referenced a s hyphen, 076. And now, we note the concerns that you have raised, and what we feel we need to do before making any procedural decision that could possibly, depending on the nature of arguments could have the effect of us determining the elements of somebody's submission, are not to be entertained and would cease to be published. And we do actually need to, in fairness, here, must cram herself. So what we've been endeavouring to do

56:43

over

56:45

over the time, since this morning, is to actually get hold of Miss cram to see if she could be with us here. Now. She can't. But what we have offered to her and I don't know yet, maybe the case team can tell me is whether or not she might be available on Friday, at the beginning of the issue specific hearings on the draft development consent order.

57:13

She has certainly been emailed on that basis. And what we would propose to do is to bring her in, ventilate the matter, hear her side

57:26

and

57:28

and then make a concluded procedural decision if necessary at that point. And indeed, I can confirm that as of now, we don't have a response to that email communication with with Fiona cram. Now, what I would emphasise to the applicants is that

57:44

we believe that providing her with an opportunity to be heard on Friday provides her with a reasonable opportunity to be heard. And if we don't hear from her by Friday, we will proceed and deal with the point in any case. And so Mr. minutes, can I just revert to you? Are there any other factors that you think we should be taking into account on that as a mode of action?

58:08

coins and half the outcome? No, sir, I'm perfectly content with the manner in which I've dealt with Amanda. Thank you. Okay. Now the second point, then, Mr. Ennis, related to

58:21

miss Horrocks, Dr. Horrocks apology submissions, and published showing the location of bad assets. Now, I understand that as soon as that was drawn to our attention, that has been redacted so that that matter has been settled, and there is now no longer any risk of badger site locations being inadvertently disclosed. And now I do see a hand from Mrs. Gilmore facies. And so before I move on from these points, I will invite Mrs. Gilmore in and then I'll obviously seek a response from the applicant on any matters that arise. So

59:08

good afternoon, sir. Thank you very much for giving me this opportunity to speak.

59:14

And I'm speaking obviously on behalf of the CS community group.

59:19

When earlier today, Mr. Ennis to the applicant made a plea asking for certain letters from IP to be withdrawn until such time that the subject of NDA is restricting parties from contributing to the examination process in opposition to the applicant is debated fully as a hearing in March. And we believe that it is not appropriate for me to comment on any specific letters written by IPS and a piece that is entirely their business. But we would suggest that these letters should remain published. This is not about individuals or an attack on innovation.

1:00:00

Too may have signed. This complaint is about the fairness of the examination process. We are asking the examining authorities to investigate fully what we have discovered in our submitted letter of complaint. We have seen the existence of a clause clause 16, to be precise, in a sample option agreement, that is, in essence a gagging order and we believe that undermined statutory examination procedure. It is right and proper that there is a full investigation. This issue is of wider important than just a question for a PS. It's just about the whole procedure. And therefore, we believe that it is only right that IPS are involved and engaged. Under these circumstances, we believe that any IP can be permitted to write about this issue. Dr. Jensen suggested yesterday that agenda item 11. And these letters should be published. It is for the examining authority, however, to make this judgement and to investigate the reasons for our complaint. So to sum up, our situation is

1:01:13

one, the CS complaint boils down to something very cool, we asked the examining authority to investigate to we suggest all you have to do is to ask scottishpower to provide you with all of their contracts agreements in whatever form there in which relate to land relevant to these application. Three, it is then for you to decide for yourself whether there is a problem or not. For if it turns out that the contract scottishpower offered to Dr. Jensen is a one off and sees is incorrect. And that clause or something equivalent to it is not widespread. And Soviet, if this is so we will gladly withdraw the feed complaint. Okay. Can I can I can I just stop you there, Mr. Gulen? Because I think the important thing that we need to do now is just to set up a destination for the for the substantive process around this to occur, we've identified that it can't fairly happen

1:02:21

today, precisely because it bears very specifically on a named individual who needs to be offered a, a reasonable opportunity to be heard in relation to her own position. And we're doing everything that we can to make sure that she can be engaged. And we're offering Friday morning as a mechanism to do that. But what I'm actually going to suggest is that we Additionally, join yourselves in that time. And so we can say that the kind of origination of this debate is something that is there and part of the

conversation. And we can seek your views on procedure at that particular point in time. And that means that that any procedural decision that we make, takes into account the people that it impacts you, as originator, the applicant is essentially the person who has raised a concern in return. And

1:03:19

and also was kram, who's who has been the subject of a specific reference in Mr. anuses request. So if we wrap all of that together, we deal with it, and we will deal with it as the first item on Friday morning. We'll deal with it in preliminary matters before we go on to the main agenda business. And so I would hope it shouldn't take too much time or inconvenience anybody who wasn't otherwise and proposing to attend that hearing. And now, if that commends itself to you, let me know.

1:03:57

Certainly, that makes a lot of sense. And it can be fully and properly. And we would be very happy to have that discussion on Friday. Thank you very much, sir. Okay, thank you. Well, I will then obviously returned to Australia to see if he's happy.

1:04:18

Yes, corners off the afternoon. Just to be absolutely clear. The reason why I raised concerns about matters this morning, was I was concerned about the nature of information that was being submitted. And in particular, the accuracy of information that was being submitted. I what I've been seeking to avoid is material coming in, and people putting material in, we have to have a debate about what is accurate or not. Because we will put our position forward as to where things sit as far as we're concerned. And we'll set out that basis at the appropriate time for movement invited to do so. And we will set a date appropriately. But what I have to say

1:05:00

I'm not happy if more material gets published, until we've had a proper proper basis on which to submit the material, or otherwise, I say there's a danger, the material gets submitted, which I will say I don't want to get down the route of having to have a debate about accuracy of material, we will put on our material. And if people want to put in a counter material, fine, but I think they have to be careful what they say. And it's got to be accurate. And that's what I say, I just laid on the position that I'm concerned about is the accuracy of material that has been put before you. And that is all I want, is to ensure that you get the right material, and to show that people are making statements are sure of the factual basis on which they are made, and the full context of again, to make statements about the conduct of the applicant. And that was really what I was trying to do this morning is to make sure that effectively, we didn't want to get into that round robin question of criticising the vigils. And I'm slightly reticent about it being singled out to have one particular letter, which is a particular concern. But as I say, let's see how we go on Friday. And then we can move forward to the full disclosure. When we deal with matters formally in writing later next week. I think I think that's by far the best course of action. And because we we can, we can deal with it under less time pressure than we're under now. And we can also deal with it fairly. And with, you know, the with with Miss crumby, at least able to decide that she doesn't want to attend if that if that's the case. But but but we're in a position today where where we will have fairly offered her the opportunity to be heard. So that's what we're proposing then to do and having having

heard you on that point. Mr. Ennis, I think we will stick to Friday morning as an arrangement. And if you're content with that, then then that is the best way forward.

1:07:00

Absolutely contempt for both. So thank you. Okey dokey. Well, in which case, then I believe that we have wrapped up all the points that arose from Mr. renesis procedural intervention this morning.

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Because I will just very briefly refer to the fact that there was also a request for matters to come in in good time, which we did deal with, actually, at the time, so we don't need to return to it now.

1:07:33

So I think that's all the matters that I had on my list. So if I can just return to Mrs. Jones, I don't believe we've got anything else. But I will leave that to you, Mrs. Jones. Thank you, Mr. Smith. Nope, that's correct. There are no other matters that the examining authorities which to raise during today's hearing. And so before we move on, and to actions and next steps, I'm just going to ask whether anybody else has any other business that they wish to raise in this hearing.

1:08:02

Miss Gilmore, your hand is raised. Is that from earlier?

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No, it's not.

1:08:12

It's actually I would like to raise

1:08:16

concern that seed has that occurred last night.

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And could I just have two minutes to share with you our concern.

1:08:31

As you know, CS is a community group. We're reliant on volunteers who give their time and expertise at no cost. We've only had one fee based consultant, namely read more on air quality, and we raise our funding through local events. And we work on a shoestring. volunteers have given up other projects to focus on this cause. And we acknowledge their dedication with gratitude. It is all but last night, just a day after the letter of complaint was published. Our social media started to receive for the first time in the whole of the last year and a half aggressive bullying messages from trolls stating that we must be funded by large companies. We weren't local. We weren't NIMBY. We couldn't produce so many video films and interviews if we were just a local community group, unless we were being funded by big companies.

1:09:31

we've ever received these trolling messages before. And we're left to speculate as to who would be incentivized to express pernicious comments about us at this particular moment. And I just wanted to share this with you we've we've archived messages, we're photographing them.

1:09:51

And it's not a nice situation to be in, because we're just local volunteers. I just wanted to share it with you guys.

1:10:00

Thank you very much.

1:10:03

You don't seem likely Miss Gilmore.

1:10:07

Is there anything else anybody would like to raise before we move on?

1:10:17

Okay, then we'll move on to

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actions. We do have a list of actions arising from these hearings. And these have been flagged as we've progressed. And we will aim to publish these on the national infrastructure planning website by close of play on Friday. And you need to look at the top of the Documents tab to find them. And we can also confirm that the Action List from compulsory acquisition hearings to has already been published and can be found on the website. We wouldn't advise all participants today and there was not an attendance but with an interest in the matters covered by this hearing to review this action list when published and act accordingly. I'm now going to hand back to my colleague Mrs. Power she will take you through the next steps and the clues of these hearings.

1:11:05

Thank you, Mrs. Jones. Okay, so this has been issued specific hearing number seven. Our next hearings in these examinations will be issued specific hearings, eight on the topics of seascape starting at 10am. Tomorrow, we are planning on the basis that we will hold a fourth issue specific hearing on biodiversity equality and HRA matters on the 16th and 17th of March, the intention being to focus then on offshore ornithology.

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But we will pick up any matters that we that we need to pick up at that stage. Although we are hoping to be able to reserve the time for mostly for sure ontology. The agendas will be issued at least a week in advance of the hearings. And we will endeavour to make those agendas as specific as we can not least because those are hearings for which we would really benefit from having natural England also in attendance as well as the MMO who have kindly attended today.

1:11:54

In the meantime, we are timetable to publish our reports on the implications for European sites we call the release,

1:12:01

which document the key information about potential effects of the applications on European sites on the fourth of March with comments invited by the 25th of March, which is deadline eight.

1:12:13

And so that brings us then to item seven, which is just to close our hearings today. I'd like to thank everybody who's attended this morning and given some really helpful contributions. We recognise the additional pressures on everybody at the moment as well due to the continued national lockdown and school closures are really, really appreciative of your time. I'd also like to thank our case team led by Mr. Williams for supporting these hearings. So some final check then there isn't anything else that anyone wants to raise before we close.

1:12:44

And I can't see any hand so I'll just ask my colleagues to say their goodbyes.

1:12:50

Thank you, everybody for your contributions today.

1:12:54

And indeed, thank you very much for your contributions and goodbye.

1:12:59

Thank you very much the time is 3:30pm and these issues specific hearing seven are now closed.