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00:09

Good morning. Can I just confirm that everybody can hear me clearly if you could give me a few thumbs up? That would be great.

00:23

Excellent, thank you very much. can also confirm with Shawn that the live streaming of this event has commenced.

00:33

Yes, it has.

00:35

Thank you very much. For those people watching the live stream can I also advise you that should we at any point adjourn proceedings this morning, we will have to stop the live stream in order to give us clear recording files. And as a result, at a point we recommence the meeting and we start the live stream you'll need to refresh your browser page to view the restarted stream. I'll remind you of this again should we need to adjourn. It is now 10 o'clock. And I would like to welcome you all to this issue specific hearing number one on the draft development consent order for the Boston alternative energy facility. My name is Max watcher. I'm a chartered civil engineer. And I'm employed by the planning Inspectorate and have been appointed by the Secretary of State to be the examining authority to examine this application. You'll have already spoken to and heard from Sian Evans, who is the case manager for this project. John has been supported today by Caroline Hopewell. Together, they make up the case team for this project. And if you have any questions or queries, they should be your first point of contact. Their contact details can be found at the top of any letter you have received from us on the project page of the national infrastructure website. Before I consider the items on the agenda for this meeting, I now need to deal with some additional housekeeping matters to those raised by Miss Evans in the arrangements conference. As far as I'm aware, no requests be made for any special measures or arrangements to enable participation in this hearing. Can I just check that is correct. Thank you. As I've already mentioned, this event is being both live streamed and recorded. As was explained in my wall six letter of the 17th of August 2021. Because the digital recordings that we make are retained and published, they form a public record that can contain your personal information, and to which the General Data Protection Regulation GDPR applies.

The planning inspector practice is to retain and publish recordings for a period of five years from the Secretary of State's decision on development consent order. Consequently, if you participate in today's hearing, it is important that you understand that you will be recorded and that you therefore consent to the retention and publication of the digital recording. We will only ever asked for information to be placed on the public record that is important and relevant to the planning decision. It will only be in the rarest of circumstances that we might ask you to provide personal information, the type that most of us would prefer to keep private or confidential. Therefore, to avoid the need to edit the digital recordings, what we would ask is that you try your best not to add information to the public record that you would

wish to be kept private or that is confidential. Does anyone have any questions with regards to this matter? Thank you. Finally, can I repeat, Pete the requests made in the arrangements conference that in order to minimise background noise, you make sure your phone is switched off or turn to silent and you stay muted unless you are speaking. As this is a virtual meeting. We have structured the meeting today in such a way the questions or points that you may wish to raise can be done so at the relevant point in the proceedings. When we get to those points, I would ask that if you want to speak you either use the raise of hand function on Ms teams or asked to speak at the appropriate time. Can I also remind people that the chat function on teams will not work. So please do not try to use this to ask any questions or post any comments. If you do not manage to ask your question, or raise your point at the relevant point in time, there will be an opportunity at the end of the meeting for you to raise this under item 12 from the agenda any other business or alternatively you can submit your question or information in writing by deadline three, which is Monday, the sixth of December. Are there any comments or questions regarding any of the points I've just made? Thank you. You're all here today because you are the applicant or representative of the apple Do you represent the local authority or neighbouring authority, you represent bodies that are statue parties, you've sent in a relevant representation and thus become an interested party by a combination of any of these categories. There may also be people here who are not covered by any of these descriptions. Whichever you are, you're all very welcome.

05:26

This meeting will follow the agenda published on the 19th of November 2021. I hope you have a copy of that agenda to hand. If you do please turn to it. As you will see, we are currently on item one. The agenda is available on the project page of the national infrastructure website where it can be found in the examination Library Reference, EV-001. This is a working meeting running it we intend to temper efficiency with fairness and mean to allow you all to have your say if it is relevant, and to allow you to inform us of all we need to know at this stage. However, we will endeavour to make sure that your and your our contributions are as to the point and focused as possible, so that we make the best use of the time available and allow everyone who wishes to speak an opportunity to do so we hope that you will support us in this endeavour. As already mentioned, digital recordings are being made of today's hearing. And these will be placed on the project page of the national infrastructure planning website as soon as practicable after this hearing. With this in mind, it will be enormously beneficial to us if each time you speak you would state your name and if you are representing someone whom it is you represent. Please also bear in mind that the only official recording of today's proceedings are the notes and the digital recording, tweets blogs and similar communications arising out of this hearing will not be accepted to evidence in the examination of this application. Thank you. I've been provided by the case team with a list of those interested parties who have expressed a wish to be heard today. Those persons or people representing the following organisations BDB Pitmans for the applicant who will be speaking applicant team members, Boston Borough Council, Lincolnshire County Council and the Environment Agency. I am going to now ask those who are participating in today's hearing to introduce themselves to the examining authority. And the people who are watching the live stream at this event. When I state your organization's name, if you could unmute yourself. And if you have your camera turned off, switch it on then introduce yourself stating your name and who you represent. We also have a number of people who are observing this event live and whilst they cannot be involved today, as they are watching the event, I would like to remind them if there are any questions or points they will wish to

raise they need to do so in writing by deadlines three, which is as I've already mentioned, is Monday the sixth of December. So for the applicant, please could be dB Pitmans introduce themselves. Morning, sir. My name is Richard Marsh from b2b Pitmans. And I will be speaking on behalf of the applicants in respect of all agenda items other than agenda item nine, which will be covered by my colleague, Sophie Reese. Thank you

08:58

Good afternoon, Mr. Ace for the applicant. As my colleague said I'll be covering Agenda Item nine. Thank you.

09:06

Thank you very much.

09:10

I think that's everybody from PDB Pitmans. Lincolnshire county counts or do you like to introduce yourselves, please? I think we've got

09:26

the estimate, right? Yes, you all together.

09:29

Good morning, sir. My name is Nick McBride from mixed county council. Council. And in particular, we'll be looking at talking on agenda item seven.

09:43

Thank you very much. And for Boston Borough Council please.

09:56

Morning, Mike Gildersleeve, Assistant Director for planning I'm here to represent Boston Borough Council and joined by my colleague DITA Udi. And our main area of potential making comments is in reference to item number seven.

10:12

Thank you very much. And the Environment Agency please.

10:21

Good morning, sir. My name is Jake Newby. I'm here representing the Environment Agency. We're ready to answer any questions as when they arise that you need. Thank you very much.

10:35

Good morning, sir. My name is John BYOT. I'm from the Environmental Agency assisting any questions with my colleague Jake.

10:44

Thank you. Thank you very much. Can I just confirm that I've now heard from everyone who wishes to participate in today's event? Thank you. Turning to item two on the agenda, let me briefly explain why we're here today. The purpose of this issue specific hearing is for me to hear from invited participants on matters I consider require clarification or examination in a hearing in connection with the draft development consent order. Turning to Item three on the agenda, please Would the applicant provide an update on the recent changes to draft DCO at deadline one.

11:42

Which on behalf of the applicants, so deadline one, on the 19th of October, a number of changes were made to the to the draft DCO submission version, which are set out in the interchange schedule. Let's rip one hyphen 003. Those changes, number 70 and title. And they have been incorporated to address various matters raised in relevant representations to address minor errors and also make updates to reflect latest drafting in other DCS. I don't propose to go through the changes schedule item by item but I think the key points will be picked up during the rest of the agenda items for deadline three, so the sixth of December, we will be submitting a further draft version of the DCA. And there are certain amendments that we are aware of its presence, some of which I may refer to today. But I'll in terms of any minor amendments and corrections. Unless I'm told to do something I'll probably leave those to later down the line. Thank you sir. Thank you. Do any of the interested parties wish to comment on this item? Turn into item form the agenda the articles. I'm seeking confirmation from the applicant on whether the articles are agreed and if not which specific articles remain on agreed and the reasons for this please. Thank you Sir Richard Marshall behalf of the applicants. So under this agenda item, I will focus on the on the articles that parties made representations on in their in their relevant reps and written reps. And that remain subject of discussion.

Again, as I said, I may refer to amendments that will be incorporated within the next version of the DCA fits deadline three submission. So moving on to the first point definitions, I was going to say that there were no outstanding matters in relation to the DCA definitions. But there, there may be further discussion. I'm sure there will be further discussion on the definition of relevant planning authority. And obviously we've got both authorities here today. In the original submission version, the definition of relevant planning authority was listed as Boston Borough Council. In the deadline, one updated version that was essentially amended to the statutory version of relevant planning authority, which would be In default be Lincolnshire county council. But there are ongoing discussions about whether there should be a division of labour essentially, on the discharge of requirements, which is obviously linked to that that definition say, I mean, I don't I don't propose going into the issue in great detail. But I've suggested to Boston Borough Council that we have a separate meeting as soon as possible after this hearing, to discuss how that should be defined. And whether we do seeker essentially a division of labour on, on discharge. So that's, that is I'm sure something that's that LCC and BBC will want to comment on, either in this agenda item or, or in respect of Agenda Item seven. Moving on to Article Seven, which is the limits of deviation article. The environmental agency in its relevant representation, that's our hyphens 013 noted that, quote, It was unclear as to the interpretation of article 701 C.

16:23

And we would be grateful for further clarification. So the applicant submitted a deadline to updated works plans, that is rip to hyphen zero to seven to show the maximum 20 metre lateral limited deviation

in respect of the boundary between two number of works as set out in Article One, see that sheets, nine to 15. Now there's no lateral limited deviation for any boundary with work number one, a four, that's the emission stats, and the boundary would work number two D, that's the the lightweight aggregate facility, snacks, and any boundary with work number four, and that is the wharf. So the applicant has provided these works, works plans to the Environment Agency. And we hope that that this is has been sufficient to satisfy the agency but if they have any issue would be that they will obviously have an opportunity today to work to raise any concerns. In addition, Natural England in his comments on the draft DCO and the treasurer of changes, that's our EP two hyphens 044 requested clarification be provided on the maximum extent of the limits of deviation. And we are hopeful that now with with the clarification that's should satisfy Natural England. On that point, obviously they're not not here today. But we will seek to to to have it confirmed in writing following the hearing. One further points in relation to the next version of the DCO. We will be making a minor amendment to subparagraph C of Article Seven to add the words up to to make it clear that that deviation of 20 metres could be less than than 20 metres or 20 metres. Moving on to article 19, and that's powers in relation to relevant navigation, navigation to water courses. The marine management management organisation in its relevant representation that's our hyphens 008 stated that it considered the use of interfere since subparagraph II of article 19, one was too vague and flexible and should be more specific. Now in the applicants comments on those relevant representations, that's our EP one hyphens 035. We noted that article 19 is based on Article 16 of the M for motorway junctions three to 12 Smart motorway order 2016, which also included the words interfere with no issues were raised by the MMA in respect to the examination of that DCO and therefore we consider its inclusion to be appropriate. Now, the MMO aren't here today but Gam will will seek to confirm in writing that they are satisfied. There may be some additional wording within sheduled nine the deme marine licence, which should provide further comfort on on that particular point. And my colleagues safe release for open pick that up in Agenda Item nine. Moving on to article 22, which is protected to buildings. The Environment Agency in its representation, that's our hyphen 013. Paragraph three point 14 requested that article 22 be amended so that it does not apply to work that would affect the environment agency's flood defence structures.

20:51

Now the applicant is is willing to consider this amendment. We have requested a meeting with the environment agency to provide an example of a main DCO where flood defence structures have been similarly excluded, as this cement amendment doesn't appear to be precedented. We're currently waiting for for that example this year to be to be sent. So the agency may be able to provide an update today. But if that follows that they haven't, and that's absolutely fine, fine with us. Moving on to article 41, and that is the DIS application of legislative legislative provisions. Deadline one. The applicants amended article 41 want to include the DIS application of parts of the Water Resources act 1991, which had inadvertently not being included, despite being referred to in the in the explanatory memorandum. The E M being a PP hyphen series error six in the environment agencies deadline to submission our EP to hyphen 038. It was noted that the the amendment was was noted and that the EA is currently reviewing which local bylaws. This may relate to and will provide further advice to the XA. Once we've considered whether any further protective provisions are required, should they be dis applied by the DCI now that we as the applicants are content to engage with the enforcement agency on any protected provisions that may be required to enable the application of any relevant water resources, act bylaws. So that is an ongoing discussion, tied up with the negotiation and protective provisions. And

that is all I have to say in terms of based on articles. Thank you. Thank you, Mr. Marsh. Are there any submissions on the articles from interested parties? I'll turn first to Lincolnshire County Council.

23:38

Thank you. So I just confirmed that we had been in discussion with the applicant about the definition of relevant playing authority, and that the wording that we requested is now included in the definition. So obviously submit that that's where we're comfortable about.

24:02

Thank you very much. Boston bar accounts. So do you want to comment on anything related to the articles?

24:13

Thank you, sir. Just again, on the point of relevant planning authority. We note the change that has been made. However, we are not particularly comfortable with it as it is currently worded. That's the point that we have raised with the applicants. And as Mr. Marsh said, it's under discussion, because we believe that there are a number of those matters that relate to more localised issues which would typically be dealt with by the district or Borough Council. So we hope that we can address that issue by deadline three, following dialogue with Mr. Marsh and the rest of the team.

24:48

Thank you, Mr. Gildas. Sleeves and the Environment Agency. Do you wish to comment on anything that was said about the articles

25:00

Sir. Thank you. So in relation to Article Seven, the changes that have been made in relation to the works yet we're happy for that subject, obviously to any amendments that might come forward through the discussions. We're having the applicants to work number four. So in principle, that seems fine. Article 22? Yes, we will follow that up with the applicants and confirm it's quite an uncommon situation. So we're not sure there will be a precedent for it. But we will discuss that with the applicants and hopefully come to an agreement as we go through those issues. And in article 41, we are that's incorporated into the ongoing discussions that we've got with regards to the protective provisions, which is linked to the legal agreements. So yes, we support everything the applicant said that in relation to those.

25:53

Thank you very much, Mr. noobie. Turning to item five on the agenda, which is scheduled, eight, the protective provisions. Again, I'm seeking confirmation from the applicant on whether the protected provisions in sheduled eight agreed and if not, which specific provisions remain on agreed and the reasons for this.

26:40

Thank it's so it was Was there anything else you were going to add or? No, no, I was just going to tell us which protection provisions are not agreed. So yes, so Richard Marsh, again on behalf of the

applicants certain respects, irrespective part one of schedule eight, and that is electricity, gas, water and sewage Undertaker's. These protection provisions apply to a number of stakeholders, including Anglian Water and Western Power Distribution who are not in attendance today. But there are ongoing discussions with both parties in relation to Anglian Water. The applicant is currently in discussions regarding a bespoke set of protective provisions. And the applicant will update the examining authority once the parties have concluded their discussions on those that we don't anticipate any, any particular issues there. In relation to Western Power Distribution, again, the applicant is in discussions with W PD in respect of a bespoke Asset Protection Agreement in lieu of protective provisions on the face of the DCA. And again, one, it's progress further progress and, and an APA has been agreed we will update the ESA in due course. In respect of part two, of schedule eight that's operators of electric, electronic communications code networks. No stakeholders raised any issues in relation to these protective provisions as drafted in relation to part three that's highways and traffic Undertaker's. Just to note there that Lincolnshire county council is the local highway authority and to date as raised no specific issues with the draft protective provisions within the current draft DCA in relation to part four, that's the Environment Agency. So the applicant and the Environment Agency are in discussions regarding sweet protected provisions the applicant and the he had a had a meeting on the 23rd of September of this year and discussions are progressing. So we are awaiting from the a track change version of the sector versions from the EA. And again, once we have made further progress on that we will update the exe. So if if the agency has an update on the progress of those protection versions that that would be that would be helpful. In relation to part five of sheduled eight does drainage authorities say black sluice internal drainage board is the drainage authority for the purpose of this development? Black sluice are not in attendance today. However, the applicant has confirmed to them the protective provisions in favour of them are included within the draft DCA. So at present, we don't have any comments from the IDB. And that is all I have to say. on agenda item five. Thank you, sir. Thank you, Mr. Marsh. Lincolnshire county council, do you wish to comment on anything said about the shedule? Eight protected provisions?

30:54

Yes, I think is today to have not received any concern raised by my highway colleagues in relation to the roads that have been set out in the image document. I will confirm with them that that still is the case in time for the deadline pre but I'm not expecting the situation to change. I think it's just a precautionary approach is to make sure that they're still comfortable with what's set out as I'm not expecting that to change but I think will be useful just to get that for me confirmed by them.

31:30

Okay, thank you very much. Boston Borough Council. Do you have any comments?

31:39

No comments from us. Thank you.

31:41

Thank you. And the Environment Agency. Any comments on protective provisions?

31:56

Hello, John, Hello, John buyer for the Environment Agency. Yes, we can give initial comments on our protected provisions fairly shortly. I anticipate within the next couple of weeks however, we won't be able to agree on protective provisions until we're happy that they tie properly in with our side agreement which might take a little a little longer. Thank you

32:28

Thank you very much. Mr. Marsh I presume you don't want to say anything further than that. And nothing further out of them where we we look forward to progressing both the agreement and the PPS with agency Young. Thank you very much all of you. Item six on the agenda is sheduled one authorised development are there any submissions from the applicant or interested parties on shedule one authorised development Mr. Marsh Thank you, sir. Again, Richard Marsh on behalf of the applicants. So as far as far as, as the applicant is aware, none of the interested parties has any standing concerns in relation to schedule one authorised developments. Couple of points to note in terms of amendments to the next version of the DCA four, deadline three, couple of minor points. So, in relation to what number three that will be amended to include the construction of the potential construction of additional additional pilot. This pilot is referred to in paragraph one point 4.1 of the electricity grid connection statement. And that's document reference 5.6 a PP 035 and also paragraph five point 5.37 of ies chapter five, project description, document reference six point 2.5 and examination live reference a PP 043 and also paragraph 9.7 point one ever yes chapter nine, landscape of visual impact assessment document reference six point 2.9 and a p p 047. So, in relation to that pile on, it is not 100% certain that the pylon will be required. However, the assessment has has taken place In respect of the environmental assessment on a worst case basis, and assumes that the additional pilot will be required and that assessment is is found within the within the submitted Yes. So, therefore, that additional pylon will be included with it in with it shedule one Emerson to work number five p sheduled one that will be amended to alter the voltage of the Transformers from 11 kV to 33 KV this change in voltage as a resin as the design has been slightly refined and will bring the current power in the connecting cables better aligned with with industry norms and will also help extend the lifespan of the cable cables. So, a minor update there in respect of what number five p. And that is all I have to say on shedule. One, sir. Thank you, Mr. Marsh any submissions from interested parties on shedule one the authorised development

36:26

I don't think anybody has a wish to speak on that. I'll turn now to item seven on the agenda which is sheduled. Two requirements. Again, I'm seeking confirmation from the applicant on whether the requirements in sheduled two agreed and if not, which specific requirements remain agreed. And the reasons for this. This the marsh please. Thank you. So again, Richard Marsh on behalf of the applicants. So respect of sheduled two, I'll go through each of the requirements and identify which remain and agreed and the reasons for that. I may also comment on prospective amendments to the to the DCO for the deadline three version. So in relation to requirements one and two, that's definitions and time limits. They are taken as agreed subject to any any comments made there may be made by BBC and NLCC. In relation to requirement three, this will be subject to ongoing discussion with with the authorities. So requirement three is the detailed design approval. Now that there's been discussion with Boston Borough Council in respect of a requirement to deal with the approval of materials to be included in the design, detailed design of buildings. So, as I say that that is going to be subject to further discussion with BBC and at LCC. So I don't have anything further down on that on that for the

time being but it is a it's a moving feast in relation to requirement for that is the parameters of the authorised development. So, in response to your first written questions, and that is PD hyphen 008. The applicant confirmed in its comments on those first written questions, that is our our EP two hyphens 008 That requirement for will be amended at deadline three. So that the maximum length of the turbine building is 53 metres as opposed to 55 minutes and the max at the minimum height of the energy recovery stacks to be at 80 metres and also the lightweight aggregate building stacks will be added other than that we understand that that that requirement is taken to be agreed by all parties. In respect of requirement five that's landscaping ecological mitigation strategy, no interest about positive raised any issues on on that specific requirements. However, we will be amending subparagraph three II to delete an erroneous erroneous reference to the environment bank. So that will be amended for for deadline In respect of requirements, six, that's archaeology. Again, no interested parties have raised any issues as to the drafting drafting of climate six. We note that Historic England has agreed in its draft statement common ground with the applicant. That's our EP 1042. That the requirements relevant to historic England's interest provide a simple framework for securing the necessary and relevant environmental mitigation measures. In relation to requirement seven, that's highway access, Lincolnshire county council because the Highway Authority has not raised any concern with drafting to date. But some LCC may want to comment on that today in relation to requirements at surface water drainage. So the the outline service was drained strategy will be updated at deadline three. And that is to include found water so it will be updated to the outline surface and found water drainage strategy. And that's the request of the Environment Agency.

41:14

So that means that requirement eight will be updated as well as relevant definitions. And as far as we're aware, there were no other other comments on that specific requirements. In relation to requirement nine, that's contamination. So the the applicants has made fairly substantial changes. qualm and non Dental in order to better reflect and whether we're going to address the environment agency's concerns relating to landfill gas. So we are happy with those and we understand that the agencies is equally happy. So in in its written representation, and that's already p 1051. sought to amend requirement nine to assess the level of contaminants to be found in material to be removed and or dredged from within The Haven, either adjacent River, setting it in the applicants comments on the written representations, so I'm getting a bad connection. Can you still hear me sir? I can. Yes. Thank you. I'll continue. So in relation to those representation, representations, the applicant is liaising with the marine management organisation regarding the inclusion of a condition in the deemed marine licence that sheduled nine relating to the sampling of dredged material and it's considered this would be a more appropriate place to address the environmental concerns rather than by amending requirement nine. So my colleague Reese will touch upon that during her submissions. So I mean, the Romans agency may have something to say, say on that today, but otherwise, we consider requirement nine to be greed in relation to requirements 10 and 11. That's construction practising construction hours, we have no further comments, and have not received any representations in respect to those requirements in respect of requirement 12 That's the construction traffic management plan. Natural England and its comments on the draft DCO and schedule of changes to draft ECA. That's our EP two hyphens 044 submitted a deadline to their requested that it be consulted in relation to paragraph two D. And that is wording where practicable proposals for temporary diversions of any public right away and just to the applicants agrees with that amendment and will update the requirements within the next version. At

deadline three. There's nothing to add with respect to requirements 13 to 16 inclusive in respect to requirement 17. That's operational vehicle movements. So as outlined earlier requirement 17 was added to the schedule. Two, deadline one to address matters raised by Lincolnshire county council in its relevant representations are often 014 and impose application consultation meetings. And that's namely to include restriction on the delivery of waste via the road network and the inclusion of an operational worker travel plan that includes measures to encourage the use of sustainable motor transport by employees. And we are awaiting any further response from Lincolnshire county council Council on that. So, hopefully they'll be able to provide an update today if appropriate in relation to Arctic requirements 18 to 21 inclusive, we have nothing to add on to those to be agreed in respect of requirement 22 That is decommissioning. So, we wish to clarify the position in relation to the decommissioning of work number four, that is the wharf. So, the applicant can confirm that the suspended wharf structure and other infrastructure on the wharf will be decommissioned at the end of its operational life. However, the flood defence structure will remain in situ.

46:04

Accordingly, we will amend requirement 22 to include the decommissioning of what number four and that will include exclude any parts of work number four, that are covered by a decommissioning plan approved under the DeMarini licence again, my colleagues sacred Reese will touch upon that under Agenda Item number nine. So, the applicant will add to the deeming relicence the approval of decommissioning plan for parts work number for that are within the licenced civil marine area obviously, excluding that flood defence structure which will remain in situ.

46:54

In relation to requirements 23 to 25 There are no further comments from us and we are assuming they are agreed. Finally, in relation to a new requirement or a new potential new requirement, an outline public Right, right. This will add line improvement measures to the existing public rights of way network in the vicinity of the facility. At present, we are considering the most appropriate mechanism to secure those improvements. So that would be either via a new requirement or via a section 106 planning obligation. So that will be become clear deadline three. And then finally in relation to part two. So that's the procedure for discharging requirements. We obviously touched upon the relevant planning authority issue and the discharge of requirements. So that remains under discussion. And hopefully there will be progress made prior to Deadline three, that's all I've got to say. on agenda item seven, sir. Thank you, Mr. Marsh.

48:19

Sir. So let's go through the interested parties.

48:25

Let's change the order just has no preference here and the Environment Agency. Would you like to respond to anything that's been said on requirements? Thank you, Mr. noobie.

48:41

Okay, so check newbie for the environmental agency. Thank you, sir. Yes, we broadly agree with a lot of the issues of a lot of amendments been made, which have resolved some of our concerns raised,

there were few issues that we raised both in our relevant representations and also in our written representations. One of them in our relevant representations in paragraph 3.17. Was, we asked for the word substantially to be removed from requirement five and requirements eight, paragraph two and one. The reason being that we felt that they it was vague. So we wanted to ensure that the works that are carried forward are in line with what has been proposed, and there hasn't been a comment made back by the applicant. on that. The further issues we raised in a written representations, rep 1051. In requirement five, we have asked for a scheme of monitoring of the impacts of the salt marsh potentially beyond the immediate scope of the development because This is tied up with matters, I believe will be discussed tomorrow about changes in the dynamics of the system and increasing erosion, or accretion and things like that. And we we've asked for some requirements and proposals to keep track of that. We also asked in requirement 10 for some monitoring and an action plan in relation to the management of contaminants. But it may well be that that will now be covered by the proposal to cover that within the deemed marine licence. And in principle, we don't have an issue with that. It's just obviously that is subject to seeing what is in the deemed marine licence when it comes forward. Think they were the only issues I had to raise?

50:57

Thank you, Mr. noobie. Loss and Barrett Council, do you wish to comment on anything relating to sheduled? Two requirements?

51:12

Thank you, sir. And as we've already touched on already this morning in relation to the definition of relevant planning authority, as I've previously said, Boston Borough Council does believe that there is a more significant role for us to play in terms of the discharge of those requirements. And that's a point that is under discussion. And looking through that if you'd like me to so I can give you a list of the requirements that we believe we should have a greater level of interest in. Or I'm happy to provide that as a list following today, in terms of the the deadline for submission. But generally speaking, we'd like to think that we can work through those with the applicants in readiness for deadline three.

51:53

I think if it's if it's a relatively short list, it will be useful to provide it now. And then the applicants got it.

52:01

Yeah, no, that's fine. So picking up on requirement number three, and the change there in relation to materials and appearance to bring that in. And then it's requirements 569 10 1214 1516 1719 through 224, and then potentially the new one in relation to the public right of way at 26.

52:31

Thank you very much. Lincolnshire county council, any comment on what's been said about the requirements in shedule? Two,

52:46

effect the bribe from the county council. So there are a number of requirements that are just like to add some comments to serve to start with requirements six, which relates to archaeology, both in our

relevant representations, and our discussions around the statement of common ground, we have raised the fact that at the moment, there is still an issue between us and the developer, around what is necessary for the archaeological works that needs to be undertaken. So I think to summarise at the moment, were from a position to say that we feel there's a need for additional trial, trenching to be undertaken. predetermination, and the applicant has provided a response to that. So that's still under under discussion. But we did say that until that position had been resolved, we were minded to make some further comments on the wording of requirements six. So that's still our position. I think that we would like to see whatever the outcome of that conclusion that some additional word into to item six, to get a bit more specification about the areas where I feel work and or watching brief or required, bond measures to be taken to protect, record and preserve any significant archaeological remains. We also think that the requirements should include details of a scheme to deter measures for post field work processing, assessment, analysis and reporting of results and the position to the archives. So essentially, we feel that the needs To be further, further worded in that requirements, you need to pick up those issues. So move on to requirements 17. As Mr. Marsh has said, on behalf of the applicant, there was some discussion between ourselves and the applicant, again, that was picked up at the relevant representations and through our discussions or through to the statement the common ground. So the issue there is that as a as an authority, we are very conscious and keen to ensure that scheme as it's promoted, talks about significant movements of the other waste to the facility by by barge, and by boat. And we are keen that there's no opportunity that that material could end up come in by road at any point or the if it does, so when it needs to be closely monitored and controlled. And we welcome some of the additional word inverters appears or requirements 17. And in terms of setting out a schedule as to the situation where waste might need to come by road, and also the removal of lightweight aggregates. But I think there's still some concern that we have that, that doesn't capture every eventuality in terms of whether some of the material into the co2 gas programme would be removed by by tanker. So it's a question about whether there's still any activity connected to the development, which isn't captured by provisions in 17 17. Two. So I think we're still just need to have assurance around that. I think it's, we're a step in the right direction, we're pleased to see the word infer 71 or 72. And I think there's still just that need for us to be comfortable that that covers all potential vehicle movements, and there's nothing that could sort of slip through, aren't caught, caught up in 71 and 17, to welcome the word into 17. Three in terms of the travel plan, that I'm so comfortable about that. They're moving on to requirements 24 and 25. It's, there's no particular concern with what they're seeking to do. I think that from a monitoring and compliance position, it might be helpful if there is a provision in there so that there is an opportunity, or the records that are kept to confirm those limits are being sort of achieved and not been exceeded, are available to the relevant planning authority for inspection. So what I was maybe thinking of that, in requirements 18. Provision, provision F, it's thoughts about the former records that must be kept for purposes of demonstrating compliance with the arrangements, something similar could be included in 24 and 25. So that there is an opportunity or irrelevant planning authority to make sure that those financial limits and the generation electricity generation limits aren't being exceeded them. So that's around a compliance requirement or or measure that measures to be incorporated. And finally, want the addition which I we haven't yet mentioned to the to the applicant, but it just came up when I was reviewing the documentation yesterday, whether there could be a similar requirement to requirement 21 that deals with carbon capture. So it's an issue that is of some importance To the county council that measures to ensure that carbon capture are, are basically addressed as the development progresses. So a similar wording

that's been used in relation to combined heat and power could be added to to examine future possibilities around carbon capture. So I have this time, sir. Thank you.

1:00:33

Thank you, Mr. Bride.

1:00:39

Mr. Marsh, do you want to say anything relating to the comments that be made by the IPs? Thank you, sir. For Shamar shuffles the applicants. So just in relation to the environment agencies, for the comments. So in respect of requirement five and eight, it was raised that substantially should be included within within those requirements. And that's, that has been agreed in relation to requirement five and the agency's relevant rap there in respect of salt marsh. If it's okay, we'd like to come back on that some that issue to tomorrow. Or on Thursday, if if appropriate. So during the environmental hearing, in respect of requirement 10. That's monitoring action plan. That is something that my colleagues, Sophie Reese will cover in the in the DML section of agenda item nine, in respect of the BBCs comments, on the requirements with thankfully those of the list, and that's something that we will discuss with with the authority in the coming days. In respect of Lincolnshire County Council's comments on archaeological works, that is something that's again, is in discussion with with the authority. As LCC mentioned, we've sent a response over to them and awaiting further response. So I think the action there is to is to set up a meeting forthwith to thrash it out. So we're nothing nothing further to add a presence in relation to requirement 17, which is the operation operational vehicle movements. The additional comments in relation to making sure that certain vehicles aren't missed from that, that's noted. And hopefully, that is something we can have further discussion on before the submission of the of the revised DCO work for deadline three, in relation to requirements 24 and 25, which is tonnage and caps. And the suggestion that records could be kept to ensure that the the limits aren't being exceeded. Again, in principle that that sounds, that sounds okay, obviously, in terms of inspection and investigation that with the powers within the Planning Act 2008 For to inspect and gather information. So, but it's only in terms of keeping records. I personally don't see an issue with that, but obviously subject to instructions. And then finally, in relation to the carbon capture point, and potential requirements. We've had had discussions in relation to carbon capture. Obviously, it's not a it's not a legal requirement to to do that, but it is an element of our scheme. So, I mean, we haven't fully established whether that should be a requirement or an obligation of reasonable endeavours obligation within within the section 106 agreement. So again, that is that is to be confirmed. My personal preference is that it should be within the planning obligation. And it shouldn't be an absolute obligation. But again, that's subject to subject to discussion. And once the hearings are at the way with all due respect, we will make further progress on on the proposed one a sex with with both authorities. And that's all I've got to add on these on these points. Thank you Thank you very much. XR two item eight on the agenda which covers a number of schedules shedule three streets subject to street works shedule for streets subject to alteration of layout shedule five temporary closure, alteration, diversion and restriction of the use of the streets shedule six permanent stopping up of streets and public rights of way and sheduled. Seven land for which temporary possession may be taken.

1:05:38

Are there any submissions on schedules three to seven from the applicant? Mr. Moss? Do you want to say anything on schedules three to seven? Thank you. So Richard Marshall behalf the applicants. So none of the interested parties have submitted any representations on on these sheduled. So there's nothing of substance to add, other than to say that in the next version of the DCA for deadline three sheduled three will be amended to refer to Lincolnshire county council in the first column rather than Boston Borough Council obviously as LCC is the Highway Authority and also within sheduled seven that will be amended in the deadline 3d SEO version to refer to order limits rather than order land and this question is required as the temporary possession would be for the benefit of the entire site rather than just the the order land and that's all I think we just lost you mister man Marsh the connections broken up. I will pause for a minute while we reestablish that connection. I assume you can't hear me Mr. Marsh. Last night, yeah. Can you hear me? Yes, we did. Do you just want to try turning off your camera for a second to see if that improves the sound quality? We lost you as you seem to be saying you didn't have any further comments on those schedules. Is some that clearer? Yes, it is. Thank you. So other than that, those two two minor points on the deadline three amendments? I have nothing. Nothing further to answer. Thank you very much. Boston Borough Council. Any comment on schedules three to seven?

1:08:15

No, sir, just to confirm that we are we raised the point about the cost of our council not being the highway authority. So we're comfortable with that change in schedule

1:08:24

three. Thank you very much.

1:08:27

And Lincolnshire anything further on schedules three to seven. Okay, thank you. Nice assume the environmental agency don't want to say anything, so don't think they apply.

1:08:49

Setting to Item nine on the agenda, which is shedule. Nine, the deemed marine licence. Again, I'm seeking confirmation from the applicant on whether the Deem marine licence is agreed and if not, which specific items remain agreed and the reasons for this.

1:09:10

The applicant please.

1:09:14

Good morning, sir. Miss race for the applicant. I'll be addressing Agenda Item nine. So I'll start by first noting that the MMI in its written representation, our EP 1056 set out a number of amendments to the drafting of the de marine licence or DML. The applicant will amend the DML at deadline three to incorporate these amendments, or to include alternative wording to address these concerns. The only points of difference in relation to those amendments relate to the 30 day time frame for the request for further information under condition 25 and the 13 week timeframe to give notice of a determination under conditions 27 and 28, which I'll elaborate on later. The MMO in its design to submission are EP

2040 advised a paragraph 1.1. They all differ further substantial comments until after a view of the deadline three submission of the DCO. Given the potential for further comments, the applicant considers it best to assume the entire DML remains under discussion. The applicant will be grateful if the MMR and will request for some writing as they're not in attendance today could advise deadline for whether each of each condition is agreed or further amendments are required. Therefore, rather than setting out specific items that are agreed, oh detail the changes that will be made at deadline three and any outstanding matters. Turning to condition one interpretation. The MMO in its written representation set out a number of amendments to condition one, the applicant will make the suggested amendments and the version of the draft DCO to be submitted at deadline three. The applicant considers that further amendments should be made to the definition of commence. So that is consistent with that included in the order with some minor amendments to take out pre commencement activities that are not applicable to works in the marine licensable marine area such as temporary car parking. The applicant will include disagreement and the draft DCO to be submitted at deadline three. Turning now to part two unlicensed activities. The MMO and it's written representation requested a number of amendments to part two, that was at paragraph 4.37 of their written representation. The applicant will include amendments at deadline three to address DME most concerns. And this includes adding reference to work for and paragraph five. And the addition of wording to make clear that they use the clear that ancillary or related works approved under paragraphs j two in must not give rise to any materially new or materially different effects and those assessed in the environmental statements. As mentioned by my colleague, Mr. Marsh, a further amendment will be made to link through to article 19, one of the order and that was powers in relation to water courses. So that will ensure that the works done under that those powers are captured by the DML and therefore controlled by the conditions included in the DML. Moving on to the general conditions, and that's condition to seven to 11. The MMO and it's written representation set at a number of amendments to these conditions. As set out on the applicants comments on written representations submitted at deadline to the applicant will amend these conditions to address those matters that didn't abide by the MMI. Moving now on to condition 12 prior approval of licenced activities, the MMO and its deadline to submission requested further amendments to this condition. Namely, that the programme of work should include a plan timetable for each activity as outlined in paragraphs four to five of the conditions, timings for the mobilisation of plant and for deliveries by sea, a plan for notifying the MMO of commencement and cessation of activities and phases of activities and a plan for noting the MMO, notifying the MMO of changes to the programme. The MMO has also requested the inclusion of the condition for a construction environmental management plan. We'll see see emp, and has provided sis Jested wording for this condition. The applicant considers that there's considerable overlap between the matters included in the suggested CMP condition and those in condition 12 and considers there may be benefit emerging the proposed CMP condition and existing condition 12 to form a singular CE NP condition.

1:14:17

The applicant will liaise with the MMO on this and include amended wording in the DML to be submitted at deadline three. I also note that the MMO suggested and its deadline to submission at paragraph 1.47. That clarify that for clarity the timing restrictions for dredging could be included as a condition within the DML. Well, this will be captured as part of the details of the licenced activities to be submitted under condition 12. The applicant is content to include a paragraph and condition code or any new CE MP condition that specifies the timing restriction for dredging. additionally, Natural England has

requested to be consulted as part of the approval process and under condition 12. And the applicant is willing to add Natural England as a constant e to this condition or any merge condition that results from further discussions with the MMI. Moving on to condition 13, piling the MMR and it's written representation requested minor amendments to this condition which the applicant will make deadline three, Natural England and its comments on the draft ACO and schedule of changes to the draft DCO. That's our EP 2044 requested justification for why the requirement for marine mammal observers had been removed in the version of the DCO submitted at deadline one. The applicant can confirm that all mitigation for marine mammals has been included in the Marine Mammal mitigation protocol, including the requirement for marine mammal observers, which is secured by can new condition 17. Therefore, it was decided to remove the specific mitigation from the conditions and instead include a requirement for the piling method statement to include measures for managing potential risks to marine mammals, in accordance with the Marine Mammal mitigation protocol approved under condition 17. The streamlines the drafting of the conditions by including the detail in the protocol, rather than in the condition itself. The applicant will seek confirmation from the Natural England following this hearing to confirm that that's the set of I suppose a query. The applicant also notes that the MN Mo and its deadline to submission. Workers did a number of mitigation measures to reduce the impact on fish and these and that these measures be secured by conditions on the DML. The applicant is considering these measures and will provide a response at deadline three. Moving on to condition 14 and the navigation management plan. This was moved from scheduled two requirements to the de marine licence at deadline won at a request from the MMO. As Sita and the applicant comments to your first written questions, that's PD 008. The applicant will amend condition 14 to require that the navigation management plan submitted for approval under certain paragraph one must be informed by the assessment of risks to navigational safety and the navigational risk assessment and be substantially in accordance with the recommendations as to the management of vessel movements and on the Haven SC chart and the navigation risk risk assessment. So, this forms the link between the two documents and ensures that the navigation management plan as informed by the navigation risk assessment additionally subparagraph two f of condition 214 will be amended so that it will include details on how each stage of the construction process and the operation of the authorised development will be managed to ensure minimal impact on the safety of the navigation and additionally ensure that any delay or interference that may be caused to the source which may be using the Haven is minimised as far as reasonably practicable. Both of these amendments are set out on writing and the applicants comments on the your first written questions. Moving on to condition 15 Marine archaeology. The applicant added condition 15 at deadline one at the request of the MMO and no issues have been raised with regards to its wording. Moving on now to condition 16 and the marine pollution contingency plan. The applicant added this condition at deadline one at the request of the MMO Natural England and its comments on the draft ACR and schedule of changes to the draft DCO. That's our EP 2044 submitted at deadline who

1:19:07

requested to be consulted on this condition. The applicants content add the relevant statutory nature conservation body as a console T on this conversion petition. I will do so in the version submitted at deadline three. Additionally, the applicant proposes to amend subparagraph two of this condition to address any concerns as to letter entering the marine environment. The proposed wording is that the the plan will be required to set out the Undertaker's assessment of the potential for letter derived from

either vessels or from land based sources within the authorised development to enter the marine area and identify management measures to be put in place. Moving now on to condition 17 and the marine management protocol Raymarine minimal management protocol mitigation protocol condition 17 was added at deadline one to provide for the approval of a marine mammal mitigate management protocol. That is in accordance with the outline marine mammal mitigation protocol. The outline protocol was submitted at deadline one. This protocol draws together all the mitigation for marine mammals in one place and it is cross referenced in the conditions previously discussed. Well, the MMO and Natural England have made representations as to the contents of the protocol, no representations were made, it did lend to us to the wording of the condition. Turning now to conditions 18 and 19. These conditions will be updated in accordance with the suggested amendment amendment set out in the MMOs written representation, but they are otherwise not the subject of any representations. Condition 24 No representations have been made in relation to this condition either. The applicant is considering the addition of the number of new conditions. These have resulted from representations made by the MMR and other parties. I'll briefly outline these now. A new condition will be added on reporting of the impact of pole driving their tics for this condition is set out in the AMA most Russian representation. As outlined earlier, a condition will be added on the submission and approval of a decommissioning plan for the parts of work number for that within the licensable marine area. This will exclude the flood defence structure which will remain in situ and as to the subject of a separate agreement with the Environment Agency. decision on bathymetric surveys will also be added the MMO and its deadline to submission set out Suggested Wording of this condition which the MMR which the applicant thanks team mo for the applicant is considering this wording and will include a condition in the de marine licence based on this wording condition on the sampling of dredge materials, which has come up in earlier in terms of the requirements is currently being considered and is under discussion with the EMR. The MMO has advised in its deadline to submission that it's currently considering the suggested something requirements what they should be going forward due to the disposal to land aspect of the project and that will be confirmed at deadline three. The applicant is willing to consider any sampling wording provided by the MMR. The applicant will also liaise with the Environment Agency with regards to the sampling and condition to ensure that the matters raised in the environment agencies representation in relation to sampling are addressed. Natural England and its comments on the draft DCO and schedule of changes to the draft DCO noted that it considers a condition may be needed to ensure that the use of dynamic positioning systems within the anchorage area is kept to a minimum and that it would welcome discussion with the applicant MMO and the navigation bodies on this issue. The applicant is considering natural England's comments and we'll address this point in more detail tomorrow at the issue specific hearing on environmental matters. Moving on to part five and the procedure for the discharge of conditions.

1:23:55

The only matters that are still subject to discussion in Part Five relate to the 30 day timeframe for the request for further information under condition 25 and the 13 week timeframe to give notice of a determination under conditions 27 and 28. The MMO in its relevant and written representations raise concerns about the inclusion of these timeframes, the applicant and both its comments on the relevant representations and rect and representations addressed these points. The MMO has advised in its submission at the end lento that it's concert currently considering the appropriateness of these timescales or provide further comment following the receipt of the updated DML at deadline three. Sir, if

you'd like I can briefly say that the applicants position but alternatively, you can refer to our comments on written representations as well.

1:24:52

I'm happy to do that Miss Reece.

1:24:54

Thank you so well, that completes all our comments on the deme timeline.

1:25:01

Thank you for those comprehensive comments. Does the EA wish to say anything on that?

1:25:13

I said Sir Jake Newby for the Environment Agency, yet just subject to what we see next. Yeah, that that seems possibly a suitable way to address our concerns around contamination. As long as there's the inclusion of the monitoring and action plan, as well, but we'll wait to see what comes in and deadline three.

1:25:33

Thank you. Thank you. I'm assuming the two local authorities don't wish to comment on the de marine licence.

1:25:46

Okay.

1:25:48

Moving on to item 10 on the agenda, which is sheduled 10 documents and plans to be certified. Are there any submissions from either the applicant or interested parties on sheduled 10. Thank you. So I've my connection, it's Fisher Marsh. On behalf of the applicant, my connection continues to be unstable. So I'll keep my video if that's if that's okay. Just briefly to add add on this in terms of documents and plans to be certified under schedule 10. At deadline one has just referred to by my colleague, Sophie reached the outline management, marine mammal mitigation protocol was was added and also the outline surface water management plan to the list. In terms of any representations by interested parties, we we haven't received any, but we notes that a deadline three, the navigation risk assessment will be added to schedule 10. And also is also referred to earlier the outline surface water drainage strategy will be updated to to refer to its revise name of the outline surface and found water drainage strategy. And that's all I have to add on that item sir. Thank you, Mr. Marsh any submissions from any of the interested parties? No, thank you very much. Turning to item 11, on the agenda, any other matters in connection with the draft DC Oh, I have no other matters that be notified to me. Are there any other relevant items that anyone wishes to raise?

1:27:59

Turning to item 12 on the agenda this is for where I've been made aware of any technical difficulties around participation so that I could provide an opportunity for persons who have not been heard on

earlier agenda items to participate as necessary and appropriate. There have been no technical difficulties. So turning to item 13, on the agenda actions arising, including any procedural decisions, if required and the next steps. If you've spoken today, it would assist me if you could please provide a written version of your submissions by deadline three, Monday, the sixth of December. Are there any other relevant items that anyone wishes to raise? So following completion of the issue specific hearings this week, deadline three is on Monday, the sixth of December when you are able to submit any post hearing submissions, in addition to other items, which are detailed in the examination timetable. Moving to agenda item 14 The closing of this hearing. Thank you all for contributing so fully and usefully to this hearing. May I remind you that a digital recording of the proceedings today will be made available as soon as is practicable on the project page of the national infrastructure web site. Time is now 1129. And this issue specific hearing number one on the draft development consent order for the Boston alternative energy facility is now closed