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FULL TRANSCRIPT (with timecode)

00:00:04:20 - 00:00:15:12

Good morning. Before I begin, can I just confirm that everybody can hear me clearly? And can I also confirm with Mr. Johansson that the live streaming of this event has commenced?

00:00:18:19 - 00:00:20:06

Good morning. I can confirm that.

00:00:20:08 - 00:00:28:10

I can see and hear you clearly. The internal recording has started. Loud captions are running and the livestream is also up and working.

00:00:29:17 - 00:01:00:12

Thank you very much, Mr. Johansson. So the time is now 930, and this 12th specific hearing in relation to the Hornsea project four Offshore Wind Farm is now open. At today's issue specific hearing, we will be considering the Habitats Regulations Assessment. My name is Joe Dowling. I'm a chartered town planner and I've been appointed by the Secretary of State to be the lead member of the panel. Today I will be managing the events, introductions and my colleague Mr. McArthur will be taking notes of any actions.

00:01:00:23 - 00:01:03:09

I'm not just going to ask my colleagues to introduce themselves.

00:01:04:26 - 00:01:08:09

Good morning. I'm a broadcaster. I'm a chartered architect, and I've been.

00:01:08:11 - 00:01:08:27

Appointed by the.

00:01:08:29 - 00:01:10:27

Secretary of state to be the member of a panel of.

00:01:10:29 - 00:01:13:00

Inspectors to examine this application.

00:01:14:24 - 00:01:24:08

Good morning. My name is Andrew, man. I have a background in ecology and Environmental Impact Assessment, and I'm a chartered environmentalist and a chartered landscape architect.

00:01:26:00 - 00:02:06:15

Together with Mr. Steven Bradley and Mr. Gavin Jones I to the livestream but not taking part today. We formed the examining authority appointed by the Secretary of State. There are also two more colleagues in the Planning Inspectorate here today. You'll spoken to Mr. Johansson, the case manager for the Projects in the Arrangements conference, and today he is assisted by Ms.. Caroline Hopewell, who is from the case team. If you have any questions regarding the application process in general, can I ask that you please email these the case team who will be happy to help at first light to deal with you? Housekeeping matters though I will be brief as those of you actively participating today have attended previous hearings for this examination.

00:02:07:17 - 00:02:42:26

Firstly, can I ask that all audible notifications for electronics devices be switched off and remember to make sure your microphones are switched to mute unless you are speaking. No requests have been made for any special measures or arrangements to enable participation in this hearing, but I'd just like to confirm that that is correct. Can't see any hands. Right. So I'm assuming that that is Mr. Johanns will have explained what to do if you lose your connection and we are able to jam for a short period of time if there are any more significant connection problems, if any medical or other urgent reasons, anybody requires a break at a specific time.

00:02:43:05 - 00:03:14:13

Could you please let the case team know and we will, if possible, just a program to accommodate you as we as we have said throughout this week, please make whatever wardrobe adjustments you need in order to make yourself comfortable for the purposes of identification and for the benefit of those who may listen to the digital recording later and are asked at every point at which you speak, you give your name. And if you're representing an organization or individual who it is that you represent, does anyone have any questions or concerns about the technology or the general management of today's event?

00:03:16:00 - 00:03:37:26

Again, a casino hand. So I'm going to move on. There is a digital recording being made of this hearing. This will be made available on the project page of the National Infrastructure website. If you take part in the hearing, it is important that you understand that your comments will be recorded and the digital recording will be published and retained usually for a period of five years from the Secretary of State's decision.

00:03:39:14 - 00:03:52:23

The Planning Inspectorate is subject to the General Data Protection Regulation and the Examining Authority will therefore not ask you to put sensitive personal information such as email addresses, economic, financial, cultural or health related matters into the public domain.

00:03:54:16 - 00:04:25:11

Please bear in mind that the only official record of the proceedings is the digital recording that will be placed on the project page of the National Infrastructure website. Tweets, blogs and similar communications arising out of this meeting will not be accepted as evidence in the examination of this application. Today's hearing is being held by the examining authority to explore a number of matters already in respect of the Habitat Regulations assessment. This is a public examination and if there is a point that you want to make, please raise your hand and switch on your camera.

00:04:25:26 - 00:04:56:18

But please wait to be invited before speaking. The hearing today will be a structured discussion, which Mr. Mann will lead based on the agenda that has already been published. Since the agenda and invitations were issued. We have been informed that the natural England, the Marine Management Organisation and the Royal Society for the Protection of Birds will not be with us today. We will nevertheless run through the agenda as issued and will subsequently issue action points and seek responses from those organisations in lieu of their participation.

00:04:59:20 - 00:05:41:16

Rule 14, two of the examination procedure rules requires the examining authority to identify matters to be considered at the start of the hearing. The agenda for this hearing was placed on the website on Monday, the 11th of July 2022. The main items for discussion today are the implications of the second run of the Mersey Ornithological, baseline character characterisation and the Marine Processes Supplementary Report, which is rep for A43 the Ornithological Assessment Sensitivity Report 565

and the Indirect Indirect Effects of Forage Fish and Ornithology Report 585 for the Habitats Regulations Assessment.

00:05:42:09 - 00:06:10:16

Matters relating to Derogation and Compensation. European Site Citations and the Cellcom sound exposure level impact range and instantaneous self peak sound pressure level permanent threshold shift onset impact range for the assessment of disturbance impact on marine mammals. So before we move on to deal with the items detailed in the agenda, are there any questions at this stage about the procedural side of today's hearing or the agenda?

00:06:13:23 - 00:06:15:27

I see no hands raised, so I'm going to move on.

00:06:17:13 - 00:06:28:25

As I've already mentioned, we've received a number of notifications from organisations advising that they will not be attending this morning's hearing and therefore I think that the only party we have in attendance today is the applicant. But can I just check?

00:06:32:27 - 00:06:57:03

I'm assuming from the sound of silence that it is just the applicant. So I would now like to take the names of those who will be speaking at this hearing. If you are sensitive, please can you state who you represent and your role within the organization or group and how you would like to be referred to, for example, Doctor, Mr. Mrs. Moss, etc.. So if I can hand over to the applicant if it's Mr. McGovern who is representing the applicant this morning.

00:06:58:22 - 00:07:19:22

Good morning, madam. It is indeed Garry McGovern and I am a partner for Pinsent Masons, legal advisers to the applicant. I am happy to be referred to as Mr. McGovern and the nature of the topic is quite wide ranging. So if you'll bear with us, there are quite a number of potential speakers and today who will know, invite and to introduce themselves in turn. Thank you.

00:07:24:29 - 00:07:44:03

My name is Sean Sweeney. Referred to as Mr. Sweeney. I'm the associate director and head of ornithology consultancy from APM Ltd, environmental consultancy. And we've been the lead for offshore and intertidal ornithology for this project for over four years. Then I passed on to my colleague, Mathematica.

00:07:45:01 - 00:07:45:16

Thank you.

00:07:47:07 - 00:07:55:21

Good morning, ma'am. Matthew Bower, senior ornithologist, Ape Ltd. Reps are representing the applicant. You can refer to myself as Mr. Bauer. Thank you.

00:07:59:06 - 00:08:05:04

Good morning, Dr. Julian. Curtain Consent Project Manager on behalf of the applicant. Good morning.

00:08:08:23 - 00:08:09:12

Good morning.

00:08:09:17 - 00:08:15:23

Fraser Carter, senior ornithologist that gave you consultants on behalf of the applicant.

00:08:15:25 - 00:08:16:27

Today. Good morning.

00:08:17:05 - 00:08:17:20

Thank you.

00:08:20:09 - 00:08:26:03

Good morning. Felicity Brown, environment manager at AusAID. And you can refer to me as Ms. Browner.

00:08:27:20 - 00:08:28:05

Thank you.

00:08:31:01 - 00:08:31:19

Good morning.

00:08:31:26 - 00:08:32:25

Glen Gillespie.

00:08:33:02 - 00:08:38:07

Technical director at Gobi, consultants for the applicant. And you can refer to me as Mr. Gillespie.

00:08:39:12 - 00:08:40:10

Thank you, Mr. Gillespie.

00:08:42:28 - 00:08:50:03

Good morning. A thorough run through for the applicants. Happy to be referred to as Dr. Random.

00:08:53:03 - 00:08:53:25

Thank you, Dr. Randall.

00:08:57:15 - 00:09:03:20

And we also have one further speaker joining us remotely. Ms.. Sinclair will have to introduce herself.

00:09:05:06 - 00:09:13:16

Good morning, Rachel Sinclair for asthma or you consulting? Marine mammal consultant representing the applicant. Thank you, Miss Sinclair.

00:09:15:15 - 00:09:21:09

I'm just going to confirm just for process that there is no one else who is in attendance today who wishes to speak.

00:09:24:04 - 00:09:30:00

In which case I'm not going to hand over to Mr. Mullins. Lead on items to trade agenda. Thank you.

00:09:35:25 - 00:10:04:29

Thank you, darling. So, as you've have heard, the main purpose of this hearing is to examine evidence in respect of the habitats, regulations, assessment that the Secretary of State would have to undertake has the competent authority for this application. We will consider the implications of recent submissions to the examination that updated the baseline assessment and mitigation, and will also include matters relating to acknowledged and without prejudice, derogation and compensation.

00:10:07:06 - 00:10:18:27

How much of what we will cover today extends matters discussed in issue specific hearings ten and 11 held over the last two days where they have relevance to the habitats regulations assessment.

00:10:20:21 - 00:10:32:21

Mr. McGovern In the absence of natural England, is the applicant content to include its additional submission as zero 48 in today's discussions, as we did yesterday in issue specific hearing. 11.

00:10:34:07 - 00:10:38:20

Got him government for the applicant. Yes, sir. We're content to answer questions on that material. Thank you.

00:10:40:00 - 00:10:41:00

Thank you very much.

00:10:46:02 - 00:10:53:02

Okay. Let's move on to agenda item two. And this is the Marine Processes supplementary report.

00:10:54:17 - 00:11:23:18

We heard on Wednesday that natural England's risk lock still includes some fundamental issues relating to the identification of risk factors for the marine processes except assessment, which could include European protected sites. Does the applicant believe that the Marine Processes Supplement Report supports your earlier contention that all likely pathways to such protected sites from the proposed development have been accounted for in the report to inform the appropriate assessment.

00:11:26:16 - 00:11:43:06

Kind of McGovern for the. And yes, sir, we do believe that that supplemental work supports our position, that all relevant pathways have been identified and therefore all relevant impacts on designated sites have also been assessed appropriately, and the report can form appropriate assessment. Thank you.

00:11:44:09 - 00:11:59:09

Thank you. So our first action point this morning then is for natural England and to ask Natural England if the Marine Processes Supplement report now satisfies their concerns in relation to the identification of receptors and the HRA.

00:12:01:04 - 00:12:20:21

And I seem to point to his any implications for the examination timetable. I'm guessing, Mr. McGovern, that you don't consider any further work as necessary in relation to marine processes and related matters in the HRA. So presumably you see no further implications to the examination timetable in this respect.

00:12:22:28 - 00:12:31:17

Gary McGovern for now. No, sir. We're not proposing to do any further work in this area, so we see no implications for the examination timetable. And.

00:12:31:19 - 00:12:39:12

Q Is there anything else the applicant wishes to raise in relation to the HRA and the Marine Processes Supplementary Report?

00:12:41:27 - 00:12:43:12

No, sir, not at this stage. Thank you.

00:12:43:24 - 00:12:53:15

Thank you. Let's move straight on to agenda item three. This is the must see version two and the baseline ornithological data characterization.

00:12:55:08 - 00:13:04:03

Yesterday, you'll recall, we looked at the output from the applicant second run of MRC and the revised ornithological baseline characterization.

00:13:05:21 - 00:13:51:10

The potential need for updating the environmental impact assessment was discussed by the applicant was content that the environmental statement is robust as it stands. We also considered the implications of incorporating enhanced for macro avoidance in the context, assessment and problems with the pivotal that has necessitated a rerun of the KITTIWAKE analysis. So could I ask the applicant, having updated us on the situation with the Environmental Impact Assessment for Marine Ornithology? Could you now please summarize your position as you see it in relation to marine ornithology in the HRA and to include the quantum of compensation that you consider is required for KITTIWAKE and without prejudice, compensation for the other relevant bird species.

00:13:51:29 - 00:14:03:23

I think it might make sense if you include agenda item 3.2 in terms of any ongoing work and agenda item 3.3 about any implications for the examination timetable as you go through this.

00:14:19:15 - 00:14:51:09

At Johns Hopkins. Yes. If I'm correct in my interpretation of what you're asking for, speak. The first question is what would the implications of the revised and updated MLC and the use of either MLC or reliance upon disagree rooms of design based upon its estimates of what the implications were as HRA level. And in this particular matter, with regards to the Flamborough and finally Coast S.p.a and the species associated that we've assessed within the report to inform appropriate assessment.

00:14:51:24 - 00:15:21:26

I can confirm that that yes, we reran and we agreed on the rerun for the MLC v2 and which species that would be applied to the methods and the baseline, which would then be relied upon either design based or MLC v2 to inform those assessments within the updated dates that are reported for the purpose assessment. So with regards to Gannets and Kittiwake, they now rely on the MRC V2 Seabird Density estimates.

00:15:22:20 - 00:16:16:19

Whilst for the displacement analysis for Gannet Razor Bill and Puffin, they now rely upon the design based abundance estimates for those assessments, and the Guillemot Displacement analysis relies upon the massive E2 seabed densities and then an abundance estimates. So with regard to the differences between the initial assessments at the point of application for each of these species because of flooding around 40 coast SBA and those now relied upon and placed into deadline five within our deadline five dated EIA, Ornithology, EIA and HRA annex, I can confirm that there is a reduction for organic collision risk modelling of 1.4 mortalities per annum, so it moves from 8.5 to 7.1.

00:16:17:01 - 00:16:50:04

And it's it must be noted here that this is not with the inclusion of the additional macro avoidance though. So a further 60 to 80% reduction would be applicable to those values if we were to add them. So that would effectively result in very negligible numbers, in fact, down to sort of 2 to 3 birds per annum perhaps. And with regards to displacement analysis, there was a slight increase begun. It's an increase of between one and 1.2 inches per annum.

00:16:50:06 - 00:17:22:29

So that would raise from 3.2 to 4.3 to 4 to 5.3 in total. With regards to Kittiwake, there least a minor increase in the values there, so an increase in 21.2 to 23.3, resulting in increase of 2.1 predicted mortalities per annum, whilst moving to the slight displacement for the AUK species to increase is minor increases to all three species, so an increase from 35.1 to 39.5 points.

00:17:23:01 - 00:18:05:13

An increase of 4.4 predicted mortalities per annum for Guillemot, an increase from 1.5 to 1.9, resulting in increase of 0.4 predicted mortality rate of fell whilst there was an increase of 0.7 to 0.9, so still resulting in one mortality per annum. But that was an increase of 0.2 predicted mortalities per annum. So so with regard to the actual outputs, there is no material difference effectively to the values which we used for the assessment against Flamborough Valley coastal any of these species and only minor amendments would be required to any values put through and relied upon for compensation.

00:18:05:15 - 00:18:06:00

So.

00:18:06:27 - 00:18:07:12

Thank you.

00:18:08:25 - 00:18:16:21

You mentioned the macro avoidance and gannets. Is it your intention to remove Gannet from consideration for compass and compensation measures?

00:18:19:15 - 00:18:23:07

Given that the additional assessment that you've done with the macro avoidance measures.

00:18:25:20 - 00:19:07:03

I feel so deeply up in the air. And yes, it's all our understanding that just a number of quick queries, minor queries raised by natural England with regards to the use of data in some table and typos, if you like, within a couple of reports, it now be amended and resubmitted. And we understand that they are in agreement following the addition of the macro avoidance, whether you utilize the lowest 60% macro avoidance or the the 80% macro avoidance value than the issue with regards to it is now ceases to exist both for project alone and in combination with regards to the sites.

00:19:07:05 - 00:19:16:07

And therefore we also understand it is now they are accepting that there is no requirement for compensation for that species and he even also.

00:19:17:10 - 00:19:25:20

Thank you in that cases are your intention to leave the relevant documentation for compensation for cannot in the examination or to remove it.

00:19:32:07 - 00:19:51:00

Got him for the applicant. And yes, it would be our intention subject to receiving the written confirmation and to examination by natural England of no adverse effect on integrity and respect of Gannett to update the composition documents to remove the organic composition measures from the compensation package. Thank you, sir.

00:19:52:18 - 00:20:12:06

That's the applicant's position very clear. And we will make an action point here to seek the views of Natural England and the RSPB about the adequacy of the revised ornithological baseline and any need for further assessment mitigation and compensation considerations in relation specifically to the HRA.

00:20:15:22 - 00:20:25:09

I think that we've covered everything we need to cover under an agenda item three there, unless there are any other matters to discuss in relation to the implications of the new baseline. Mr. Ackerman.

00:20:27:09 - 00:20:30:16

At, sir. Happy to move on to the next agenda item. Thank you.

00:20:33:02 - 00:21:12:20

So the next agenda item is agenda item four, which is the ontological assessment of sensitivity report yesterday and issue specific hearing 11. We looked at this report that the applicants submitted to illustrate the effect of compounding precautionary values for assessment input parameters. The applicant highlighted sources of uncertainty of variability and the extent to which these can affect the overall assessment. And we also heard how the applicant believes that up to date research results could potentially assist the statutory nature conservation bodies in tightening the level of precaution that is required for some of the parameters involved.

00:21:14:03 - 00:21:46:27

And we do not yet have the other parties views on the value and implications of the report, or on the suggestion that using precautionary values inevitably leads to an unrealistic outcome. I nevertheless like to hear from the applicant about the implications of your findings and the report for the HRA. Can we focus on where you believe any updates to the RIAA are merited? And I think there is a the report does suggest at one place that these some changes could result from the emergence of new evidence or guidance since original submission.

00:21:52:24 - 00:22:05:17

It's great and social for you. Yeah. So is this with regard to obviously there's there's a number of different species. Is this with regard to collision with modelling that we'd like to talk about at this point or.

00:22:06:00 - 00:22:21:15

Any changes, Mr. Sweeney which you think you may be making to the report to inform appropriate assessment as the there is one clearly was put into examination very early and we've moved on since then. So do you see any changes being necessary to the right?

00:22:21:24 - 00:22:57:22

I shall just if the police, if not interpreting it correctly and I mean the applicant's position remains that we consider that there are no there is no ideally them for the project alone and in combination for the species that we put forward within our report to the appropriate board to inform appropriate assessment with the exception that we have accepted an ally with regard to the Kittiwake feature. Now I'm following some of the more recent decisions from from the Secretary of State Within the Ornithology Sensitivity report.

00:22:57:24 - 00:23:29:05

We've obviously put forward the Hopkins position and the parameters which informed those that position remain the applicant's position. We not change those. We've just merely highlighted that a number of parameters could also be and would be useful to be accepted in future assessments to allow for a, I suppose, the evidence that's become from post consent monitoring, which we feel should be supported for future projects. So it's the Hopkins position remains the same.



00:23:29:07 - 00:23:45:18

So the only difference may be that obviously we have provided additional data now with regard to Gannets, if a macro avoidance is applied at that level between 60 and 80% in the 5% increments between those.

00:23:46:25 - 00:24:06:23

And as you suggest, I would like to come on to some of the detail behind that. Can you just clarify, you mentioned that since the original submission, you did modify your approach to accept an adverse effect on integrity for Kittiwake. Can you clarify whether that's for the project to alone off in combination?

00:24:09:12 - 00:24:34:26

Sure. Yeah. Yes. I'm happy to clarify that the project alone, if we remained at the position, elicited the minor or no material contribution there. So very minor effect as it is no ally for the project alone. Whilst we've accepted the decisions previously make an agreement, the secretary said that there is an API for that feature in combination with other plans and projects.

00:24:35:21 - 00:24:36:15

Thank you very much.

00:24:39:14 - 00:24:53:08

If you look at the agenda under item four, there's a list from 4.1 to 4.8 of the various components of the sensitive sensitivity analysis that was undertaken in the round put into that report.

00:24:55:02 - 00:25:23:23

Can I have that sort of part of the agenda over to you and your team, Mr. McGovern. So without unnecessarily, unnecessarily duplicating yesterday's discussions for items 4.1 to 4.7, could you just run through these and highlight any particular elements of the report that you think are relevant to H.R.? I think Mr. Sweeney just referred to one in terms of macro avoidance, for instance. But if you could just run through 4.1 to 4.7 and pick out any particular factors that we should know.

00:25:27:12 - 00:25:34:28

Go on for that? Yes, sir. We'd be happy to. And I'll pass you into Mr. Sweeney's capable hands to run through those items as he sees fit.

00:25:35:11 - 00:25:35:26

Thanks.

00:25:38:29 - 00:26:19:11

She wants to give you something again. Yes. Yes. Quite happy to. To run through a number. Why? I will try, when possible, not to replicate conversations we've had previously as Greeks appreciate that their time is precious. So I will refrain from going back across the gunning avoidance macro avoidance notes there, and perhaps we could start with them to draw your attention to. A document was actually published this week by the Crown Estate and this was at the plan level, HRA, which will be released on the 19th this week, which we've run through to make sure that we review

00:26:21:01 - 00:26:52:26

the information to inform that. And obviously with the client state being the competent authority for HRA, the decisions being made and the Secretary of State's approval of that report we feel is worth raising today because a number of those decisions and the number of the parameters that are advocated for use both for displacement analysis and the collision modelling, align with or actually are more or go along the line of some of the parameters that we highlighted within our report that could be considered.

00:26:53:14 - 00:26:59:10

So they are actually probably less precautionary than what we've done. And in fact, so. So if I could just start now.

00:26:59:12 - 00:27:02:11

Mr. Sweeney is in your intention to put that into the examination.

00:27:04:29 - 00:27:10:27

Gary McGovern for now. Yes, sir. Our intention would be to split that document into examination so that everyone has that.

00:27:11:18 - 00:27:13:21

We see that at that on 6 a.m..

00:27:13:23 - 00:27:14:08

Yes, sir.

00:27:14:19 - 00:27:17:08

Thank you. Sorry, Mr. Sweeney, but.

00:27:18:09 - 00:27:54:29

Yes. No, no problem at all. Yes. We have to put that into the application, into the examination fully. So I think in the first instance, we'd just like to raise from all the assessments within the New Ornithology Sensitivity report, we did look at KITTIWAKE in particular, the number of different parameters that then provided differences within the outputs that range from reductions of 73 to over 80% dependent upon which those parameters you change or apply. It is noted within the translates offshore round for leasing plan level HRA.

00:27:55:01 - 00:28:47:00

So a bit of a mouthful of the document there for you, so I'll try and just refer to it now as to plan a level head, right, if you like, the simplification. Simplification and it does state within that document that the current SNC be advocated parameters have weak if at all, any applicability to offshore wind farm assessments that have been superseded by the latest evidence and from post consent monitoring, especially when considering flight speeds. Nocturnal activity factors two parameters that would provide considerable reductions to the predicted level of collision risk mortality at HRA level three assessments at all designated sites within the UK, Sir said We do believe that and taking those forward would be wise and we do feel that there's a bit of weight behind that now, you know, for the two particular parameters.

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Thank you.

00:28:52:15 - 00:28:58:12

So if I go on to say that was with regards to collision risks, if I could move down to displacement.

00:28:58:23 - 00:29:05:07

Mr. SWEENEY. Sorry, can I interrupt once more? Could you just give us the the full title of that paper, the report again?

00:29:08:28 - 00:29:18:22

She was waiting for the Applicant. Yes, no problem. It's a it's a document published by the Crown Estate and it's called Offshore Round for Leasing Plan Level. All right.

00:29:19:13 - 00:29:20:06

Thank you very much.

00:29:20:08 - 00:29:23:22

And we believe it's available on the Marine,

00:29:25:21 - 00:29:27:06

the Granite States website. Yes.

00:29:27:23 - 00:29:31:27

I look forward to putting that to the deadline six. Sorry, I interrupted again. Please go.

00:29:33:24 - 00:30:10:14

That you'll see if you have no problem against it. And yes, if we could just move to displacement again, the applicant undertook an in-depth review of all available research and monitoring projects, particularly post consent monitoring research and evidence on displacement and predicted mortality rates. With regards to Garrett and the ORC species, notably really guillemot and graceful for some for Puffin as well. And those documents were submitted as Rep 2045 for Gannets and RAT 2085 for Orcs.

00:30:10:22 - 00:30:42:12

And I won't replicate or say too much more about that. We did go through those notes in detail yesterday, sir. But again, I think I'd like to draw attention to a couple of other facts that other offshore wind farms are using or preparing their development applications, utilising the data that's come out of those two reports, some of which have already submitted either their preliminary environmental information reports or in fact, they're their applications.

00:30:42:14 - 00:31:42:25

So full season report and appropriate assessments that utilize those data and assumptions that we actually put forward for this project and that now being used more widely by the industry. Also, I'd like to draw your attention once again to the same document that we we've that we just raised to you, which is the plan level HRA, which also states in similar terminology if you like around the the the current SNC be advocated displacement rates for orcs not being applicable following the latest evidence for applicability in offshore wind farm assessments and the plan little nature actually states that new displacement at upper end displacement rates ranges ranging from 0 to 50% and in the case of rate of build up to 40% and so far lower than that advocated currently by SNC but for all species and that these new rates should supersede previously previous rates advocated following the new evidence supported by posting and monitoring projects.

00:31:44:04 - 00:32:24:19

So and also stipulating that it's highly likely that the levels of displacement are even lower than those upper new upper reaches that have been put forward. And again, you just obviously like to point out to to those in the wider audience, you know, the Crown Estate as the competent authority for HRA. And this report has been signed off and published by Secretary of State for Base. And we consider the additional consideration of those of this report and the emphasis on changes within the parameters that should be considered for impact assessment and particularly at the HRA level, merited from the findings of that report.

00:32:24:21 - 00:32:26:09

Sir, thank you.

00:32:29:27 - 00:32:37:24

Okay. Charles, if I could just move through some of the other topics, I feel it's probably

00:32:39:13 - 00:32:43:14

not needed to go on about. They'll talk again about the macro avoidance. As I say.

00:32:43:16 - 00:32:44:28

As we've come across things, as we.

00:32:45:00 - 00:33:06:13

Talked about that point on 4.3 and I can pass over just through an update on the the PGA, if you like, in terms of it's that in relation to hate race, it's a slightly different perspective in today's conversation than it was in yesterday's conversation. So. So if I hand over to my colleague, Mr. Bullet. Thank you.

00:33:08:17 - 00:33:57:25

So I see. Think for the applicant. So I was raised yesterday and we have been made aware that there has been an issue flagged with the PVA model and we have reviewed all of our HRA level PVS and as stated, the only one which will have been affected will have been kittiwake. However, in relation to PVA modelling for the Kittiwake feature of the FCC SBA, as has been previously stated, an applicant has changed its position in relation to in combination lie, which means that there is no longer requirement for PVA to be used for assessment, as PVA is typically used to find the tipping point which in AUI would be and would happen.

00:33:58:12 - 00:34:16:17

So therefore the implications of this PVA issue has no effect on compensation. Apart from that, there is no further updates required for HIPAA than what has been put within the revise within the assessment on Anthology Assessment.

00:34:18:28 - 00:34:36:10

Mr.. Bell That so you talk about using it as a tipping point and that you're already looking at an acknowledged adverse impact in relation to the in combination effect. Presumably you don't believe you're anywhere near the tipping point in terms of project alone to require the use of it.

00:34:37:25 - 00:34:39:29

By both the applicant? That's correct, sir.

00:34:40:12 - 00:34:40:27

Thank you.

00:34:48:12 - 00:34:53:28

And could we move on to my favorite topic, the counterfactuals.

00:34:57:13 - 00:35:02:06

I see both the applicant, no problem and opposition remains the same.

00:35:02:21 - 00:35:04:11

You can say them this morning, Mr. Bauer.

00:35:06:00 - 00:35:45:20

In relation to the counterfactual, the final population size opposition remains. Yes. What was discussed yesterday? The HRA level is still we consider it to not be applicable and again, we would direct yourselves to look at the validation, which is in particular in regards to population modeling at the FCC, SBA level, which does show that the population and in a density independent model is just

wholly unrealistic and therefore making the outputs from a counterfactual, the final population size, very low confidence and unrealistic of what would be expected in a natural environment.

00:35:46:02 - 00:36:00:27

Hence why we have decided the best course of action is to rely solely on the counterfactual of final population growth, which is insensitive and is time insensitive and therefore makes it less prone to these issues.

00:36:02:13 - 00:36:02:28

And Kim.

00:36:07:17 - 00:36:54:16

Sure for any 50 applicant. Danielle, if I may, I can carry on getting through the remainder of the agenda item for you. Thank you. So with regard to regional breeding season populations, we understand obviously that the definitions here are defined by those colonies which are within foraging range of the full array area. To help define those regional crop, the the populations at which impacts are assessed and the effect on those and that those birds if you like in the apportionment out from that say I understand and I believe that for all the HRA assessments that the applicant naturally and the RSPB all agree on the population size used for the latest assessments detailed within the Ornithology, EIA and HRA annex.

00:36:55:02 - 00:37:00:20

I believe that matters regarding that topic are all at all agreed and key.

00:37:02:27 - 00:37:54:29

If I may move on to 4.7. Now, there has obviously been an updated position from Natural England presented earlier this week and accepted by you. So into the examination of that note, which is referred to as 048 and obviously we still are or we still have a difference of opinion with regards to Gannets and KITTIWAKE. Seasonal definitions are the applicant obviously put forward our position with regard to the use of site specific data as well as taking data in support of our definition of seasons and therefore providing evidence of when birds are either migrating north and south or foraging to and fro during the breeding season, or when they are more widely dispersed with connection to no fixed location during the non breeding season.

00:37:55:09 - 00:38:35:21

And but I think it's worth raising the natural. England have said that despite the matters being slightly different for those two species, that they are aware that it would make up no consequence to the outcomes. With regards to the HRA topic here and the FCO Flamborough Valley Coast update, so I think in order to save time, I won't rattle through any further explanations for or for ourselves on that topic. So other than to note that obviously we did follow very similar definitions to that of system Project HORNSEA Project three, which was supported by the Secretary of State's decision on that.

00:38:35:28 - 00:38:43:13

Our efforts at that project of the seasons that are three that we've put forward as well. I think we did discuss that yesterday as well.

00:38:43:15 - 00:39:03:02

So yes, and we've seen natural England's position in that note. So thank you. That's a very useful run through for me. I 4.8 comes next, which clearly is the approach to apportioning impacts on European site interest features, which is slightly different because we didn't discuss this to any length yesterday,

00:39:05:17 - 00:39:25:03

just by way of my understanding of the background. Natural England, I believe, provided the applicant with further advice the deadline five and two notes one on the additional guidance of apportionment for Gannet and KITTIWAKE and one guidance on the assessment of Guillemot and rateable displacement impacts.

00:39:26:27 - 00:40:08:22

And we also have further comments from Natural England in the additional submission as zero 48, which relate again to all apportionment for the Flamborough and Filey Coast Special Protection Area, and that includes confirmation from natural England that there are additional advice was specific to Hornsea Project four, and that it was provided due to the very large number of walks recorded in the area during August and September, and because of its close proximity to the Flamborough Filey Coast Special Protection Area, Natural England, I think, contends that the numbers here are considerably higher than the peaks recorded at other project sites by which I'm assuming they may know those similar offshore wind farm sites.

00:40:09:27 - 00:40:41:06

And we have of course seen your response to natural England's approach to apportionment a deadline five A and this confirmed not the natural England's advice in the two deadline five documents was used in your ornithology EIA and HRA annex, but that you continue to wholly disagree with the recommendation and you do set out quite clearly and explain why in the report. It's our first summary of your known position as it stands from your perspective.

00:40:44:05 - 00:40:51:07

I say? Yes, the position is put forward in that response. Notice it remains that the case. There has been the applicant position, sir.

00:40:51:28 - 00:40:52:13

Thank you.

00:40:54:05 - 00:41:13:22

We heard yesterday, I think and please, can you confirm or otherwise that you believe there can be similar temporary clusters of high numbers of oaks elsewhere in the northern and southern North Sea, some of which may coincide with other offshore wind farm areas. And the phenomenon is therefore not unique to Hornsea four. It is correct.

00:41:16:16 - 00:41:32:04

She also knew for the applicant? Yes, that that is correct. So what we discussed yesterday is the applicant's opinion and some of those details are provided in the report that was submitted on an indirect effects and for education ornithology to the examination at deadline five.

00:41:32:09 - 00:41:32:24

So

00:41:34:04 - 00:41:59:06

I think that sort of covers your response to not drilling on this first point about the considerably higher peak than the other sites, which you clearly don't necessarily agree with. You think that peaks in clusters elsewhere, but can you comment on natural England's further reasoning that humans before can be regarded as different from the other offshore wind farms in this context, because of its close proximity to the flamboyant phallic special protection area.

00:42:04:05 - 00:42:49:18

Actually, I'm concerned. Yes. I mean, I think we would disagree in in in the point that's being made here to pick out one particular project and suggest that it is only that particular area of the entire North

Sea where this particular instance happens. There are multiple other projects within the North Sea which are evidence throughout their own baseline characterization reports that are agreed upon. And they go all the way along the east coast of both England and Scotland, where offshore wind farms are indeed at times closer to those seabird colonies than holds for, you know, considerable distance from the particular this particular topic of the thunder and valley coastal.

00:42:50:09 - 00:43:40:10

So those even those projects around the new zonal areas that we surveyed suggest that, you know, pulses of orcs of similar seabird densities have been recorded across Dogger Bank or the projects within the Hornsea Zone and projects north of the border, in particular in the fourth and Tay regions, but also in the Moray Firth as well. And it's particularly note that obviously the connotations that this would be the other projects noted also within the plan level, HRA and the field projects for the realm considered for that in the round for projects and expansion projects would also you know it's similar distance would also have similar experience of orcs pulsing through during this period and it's not considered that they within that report that they would be treated or should be treated differently.

00:43:41:03 - 00:43:54:29

And so we do think it's a worrying precedent to be set for one particular project in isolation to the consenting regime, both within English waters and Scottish waters. With regards to this particular topic, sir.

00:43:56:23 - 00:43:57:08

Thank you.

00:43:58:21 - 00:44:22:14

So just to check, my understanding is correct on that. Despite its proximity to the actual SBA itself, you don't believe that in August and September there are unusually high clusters of numbers of birds coinciding with the Hornsea four site when compared to other places, which are much more remote from the actual spa, but nevertheless most large clusters of birds.

00:44:26:19 - 00:44:27:20

Sure I made that clear.

00:44:29:10 - 00:44:59:19

It's our chance to give the opinion. And I think what we made with the here so is that it's not a unique phenomenon for any project site or indeed offshore wind farm area that has been surveyed and that it is commonly recorded phenomenon seabed densities particularly for orcs and seabed abundances with regards to those array areas. It is not a unique thing for hornsea for so say those projects that we have already listed under the projects.

00:45:00:16 - 00:45:28:12

And we do feel actually that the densities of birds would be much higher, much greater towards the FC actual colony itself. So I think that's where the birds are more likely to be in that particular instance and that those birds do travel through as described in the first 2015 paper is a quick pulse. And so it's a movement of birds, which, you know, is quite a quick phenomenon, if you like, that is picked up across all these of the project sites.

00:45:30:00 - 00:45:30:15

Thank you.

00:45:38:27 - 00:46:02:18

As a just thought, Mr. MCGOVERN. Mr. Sweeney, given that you're making quite a lot of reference to this Crown Estate HRA report and making oral comparisons today with some of the output from

your own sensitivity report, would it be worth an additional to put in that report? In a quick summary of where you see the correlations between your approach and the approaches being promoted in that?

00:46:09:09 - 00:46:31:25

Got him. Go on. For now. Yes, sir. We agree. It would probably be helpful for us to draw out the aspects of that report that we see as supporting and aligning with our position. And it would be our intention to submit the current status plan. Level three document itself deadline six, so that that before the examination as soon as possible. And then we can follow up with our summary deadline seven, along with our updated position on other matters of our case.

00:46:33:01 - 00:46:36:19

And we'll make an action point along those lines, if we may. Thank you, Mr. McGovern.

00:46:38:05 - 00:46:43:16

If I can just. Sorry, go back to the apportionment item on the agenda.

00:46:45:05 - 00:47:16:23

I just note we note that the Hopkins you've demonstrated your concerns in the report by way of an example for Guillemot Compensation, where you note that your approach results in a compensation requirement for 175 breeding pairs. Whilst natural England's approach as it stands leads to a requirement for some 2000 breeding pairs. This is clearly a very significant variation of more than an order of magnitude. And would you agree that this apportionment parameter is potentially of most concern?

00:47:21:00 - 00:47:39:23

As you see video. Yes, I would agree with that. Your thoughts there said that this is a precaution of precaution and normalcy multiplying and an impact we don't believe is the answer. So, yes, just the overinflating the requirement for compensation for this particular species at that site.

00:47:40:17 - 00:47:45:26

Have you developed any sort of hypothesis as to why this particular parameter may lead to the greatest variability?

00:47:49:11 - 00:48:37:15

And if we're talking with regards to the parameter being the addition of a further biases in for consideration. We talked a little bit on yesterday, sir. And it's it's simply the case of if you have an additional matrices added into the mix, then there's an additional value that you again assessing be gained. So with regard to this particular species, then it's common practice and has been called practice for projects alone and projects in combination with others to advance while to assess any potential for adverse effect with regards to breeding season and non breeding season displacement matrices, sort of populations going into that on a project alone and then in combination values going into not made into those matrices.

00:48:37:22 - 00:49:10:00

So the addition of a further matrix which has a further value in it, we then increase that that displacement impact by having simply by having three values adding up. So we do feel that just the additional precaution provided within natural England's displacement assessments in the first instance over inflates the potential effect level and then by adding in further displacement matrix than that's in a further third value into the mix as well.

00:49:10:02 - 00:49:37:18

So so we do feel that it is inappropriate in this circumstance and actually for, you know, the circumstances of other projects as well. We don't feel that the precedent should be set here and the



process that has led to decision making for all of the offshore wind farm projects, assessing this particular species, guillemot for this particular designated site and all of the designated sites that they are qualified features of and should not go down that route.

00:49:39:03 - 00:49:44:25

So this is effectively, in my simplistic terms, the double accounting for August and September we talked about yesterday.

00:49:46:14 - 00:50:04:27

Yeah. And we have noted the the implications not only for this project but for the future problem of future program of offshore wind projects that need to come forward in response to government energy policy. We have noted that as well. So thank you for all. Is there anything to add on Agenda Item 4.8?

00:50:07:11 - 00:50:52:06

So if I just if I could just provide one further thing into the examination, just as to where we're on the conversation of this topic said and that was just in response to one of the comments, some of the text that was within a natural Ingrid's notes submitted this week. He is 48 and he's actually just to just to clarify for the record that we that we went through a consultation process with natural England. And during that the topic expert topic group meeting number nine and it was stipulated to us and actually did provide that advice to us that it would not be a good idea for us to include an additional matrices or additional mini bio season of those particular months in question of August and September, as that would create problems.

00:50:53:01 - 00:51:27:28

And they didn't feel that that was the right approach. And it's also just a just a reminder that we did also consult on the weighted mean approach in our bespoke apportionment, and that's the apportionment process which considers immature and juveniles within the population, because once before being quite distant from the colony and outside of the of the demesne foraging range for these particular species from the farmer and finally coast s.p.a and just the inclusion of that was put forward ahead of the application and the consultation.

00:51:28:00 - 00:52:05:11

And as we spoke of, yes, we not we can't confirm the reasons why that wasn't responded to ahead of the application. But we did just want to make the point of the record that it was put forward ahead of the application for those points. And again, just not wanting to over labour the reference to the plan level HRA. But again there is a lot of reference within that that correlates to the assumptions that we put forward in clearly in the of the inclusion of sabbatical birds, non breeding birds, juveniles and the reliance upon generic datasets to feed into that process.

00:52:05:24 - 00:52:23:11

And the agreement there on what was the approach appropriate measures to incorporate for apportionment for the projects that were being assessed within that plant level. HRA So, so we see, we do feel this further support and most recent support for the conclusions that we put forward for our apportionment process.

00:52:24:10 - 00:52:27:18

Thank you. Well, we look forward to getting your evidence on that at deadline seven.

00:52:31:26 - 00:52:41:29

Which case can I move on to? Agenda Item 4.9 Police Natural England and RSPB Responses to the Sensitivity Report.

00:52:44:01 - 00:53:15:04

We did make a number of action points yesterday to confirm that we do require submissions from Natural England and the RSPB on the matters that are raised in their own logical assessment sensitivity report. And I don't think there's any merit in repeating these today, but can we make one further action point for Natural England and the RSPB? And that's in relation to Natural England's advocated approach to apportioning sea birds to the Flamborough and finally coast special protection area and having seen the applicant's report and the calculations.

00:53:15:24 - 00:53:29:22

I'd like to know if Natural England and the RSPB have any views on the approach that should be taken and do they have any concerns about the quantum of compensation that natural England's allocated approach appears to generate for guillemots in this case.

00:53:34:15 - 00:53:52:01

An Item 4.10. I say implications of all of this. The examination timetable, which I think we probably covered. Is there anything else you would like to add, Mr. Kevan, on the indication of work that's outstanding? We've just heard what's coming in at deadline six. DEADLINE seven in relation to this. Is there anything else?

00:53:54:03 - 00:53:58:03

Got him gunning for that? No. So there's nothing else we're envisaging for Dateline seven.

00:53:58:20 - 00:54:02:29

Thank you. So. Any other matters to discuss a gender item for?

00:54:07:00 - 00:54:08:06

No, sir. Happy to move on.

00:54:08:23 - 00:54:09:08

Thank you.

00:54:11:06 - 00:54:19:20

And we will continue with agenda item five, which is the report on the indirect effects on forage, fish and ornithology.

00:54:21:24 - 00:54:39:26

We discussed this in some length yesterday in relation to the Environmental Impact Assessment. So am I safe to assume from what was said then that the applicant does not believe there are any further implications coming out of this report to inform the for the report to inform appropriate assent or the HRA?

00:54:43:26 - 00:55:20:23

Got him a fall out? No, sir. And we are pleased that that report and the warrant that's been presented in that report confirms and supports the position that we've already presented. The analysis in that document indicates that the Hornsea four area is comprised of low to medium productivity waters in comparison to the wider area and is of lesser importance with regards to fronts and productivity in comparison to other areas. And so drawing on those headline points, we are content that validates and the conclusions that we've reached and included in the reports and form.

00:55:22:05 - 00:55:22:20

Thank you.

00:55:23:00 - 00:55:27:27

So looking ahead to agenda item 5.3, there's no further implications for the timetable.

00:55:29:04 - 00:55:31:04

Certainly no implications for your timetable.

00:55:31:07 - 00:55:49:12

Thank you. Thank you. Such as leaves the natural England the RSPB responses to that report which we have not yet had. So an action point for the RSPB and natural England to comment at own six on any implications that come out of that report for the HRA.

00:55:52:01 - 00:56:05:21

We're going to move on to matters relating to derogation and compensation, which is quite a long item on the agenda. So I suggest we take just a short break before that, come back at 1035. Thank you.