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00:55
It's time is now 1150. And this hearing is now resumed into the examination and development consent order for net zero T side project. Mr. Gleason?

01:18
Thank you before I ask that to a deposition, can I just check please? Sorry

01:35
to ask Mr. Hill purchase to clarify further points and this is the fundamentals of the need for article 49. And just to be clear, this wasn't something that was included in the original TCL draft TCL is something that came in following the examination, the first hearing and the discussion we had there. And it was in response effectively to the scenarios you set out was. So, yes,

02:11
you'll recall when we had that discussion, we discussed the concept that different scenarios as to how the HP for examination might play out might have different implications for this order. And in working through those scenarios, one potential is that it might be refused the HB four DCA might be refused. But because in those circumstances, it is possible that the need to address the implications of the interface agreement might be accepted. That's why the article is now introduced.

02:51
Kevin, thank you. Good. So this Cohoon if you'd like to present the case for your clients,

03:01
thank you. So yes, in order to be of most help today, given what Milan, for instance, just outlined, I think what I can say on behalf of mustard is that clearly, article 49 as it is should go. And that seems to be a matter of agreement. We say of course that it should go in its entirety, and that the protected provisions which we've proposed, are, are appropriate and relevant. And so I don't want to start going into the protective provisions, because obviously you want to deal with that later. But in terms of of our position, that is what it is. Yes, in terms of, of seeing what comes out of the applicants revisions. And indeed, we'll be keeping an eye clearly on what happens next week with the HP four DCO examination. That is something that we will have to hold fire on and make submissions in respect of. So I was I would highlight at this moment clearly how this examination proceeds is entirely up to you. But it may well be if things get sticky that a further hearing that looks specifically at this issue and how it's dealt with might be relevant, but if not, then we'll deal with matters in writing. So, in terms of of the overall position, sorry, just one more thing. The clearly the Crown Estate hasn't had a chance to respond either. So you will need to hear from them. But But So with regard to Section 135 That's not a matter that's been

settled. I just note that so further issue which comes directly from the your the question you asked just after the break what I had wasn't clear of and perhaps I can ask through you is that if well, as this article came out of the position where as a consequence of HP for granted or otherwise, that the interface agreement could be disapplied, whatever happens to HP four? Is, is it the case still, that if that's if that is a decision that's made out of HP four, that somehow the current article 49 should should be reintroduced? Because we weren't clear about that. Clearly, we would resist that. Because what you don't accept that there should be any discipline does application at all? Yeah, so I just wanted to make sure that, that that position has now altered. So in terms of the overall issues, and how I accept this, this does, does affect slightly that the protective provisions point, but I think it's fair that you understand where or studies with regard to the extent that this examination should look at the impacts from the endurance the NEP part of that project, and what that has an effect that that has on HP for. So the link has been accepted entirely by the applicant. And I'm not going to read it to you. But there are passages for example, in our EP 3012, which accepts that the link is there, but doesn't accept and the term that is used throughout is the consequent link between the proposed development and the Hornsey project for it is something that needs to be the subject of condition or examination. Now, the term proposed development is not the term that is used in sheduled, due to the EIA regulations, the term that is used there is project.

07:11
And it's well established in series of set authorities, which I'm not going to recite to you. But we certainly can put that into response, that the project would be wider than the simple proposed development as is. So we are very used to mean orange. And the notion of a of a development that is associated with the proposed scheme is part of the project. And therefore, as part of the wider project, it is absolutely right at this, this examination that that your report that goes to the Secretary State in relation to this project, deals with the impact from endurance upon nearby land uses such as Juanzi. And that is a reflection, sir, of en one. I think it's paragraph 510. That deals with making sure that when schemes such as this are examined that you look to the impacts on land use, it's so so we say that it is absolutely right, that this examination looks as looks at this and has a an assessment of that impact before it. So we do not accept that it would be appropriate that matters are left simply within the hands of the examining authority that's dealing with HP four. Simply because we don't know when the HP four decision will make just as matters have now had to be introduced into this DCO examination. Equally, the same goes for that. So whilst they're running in parallel, it must be right for your report to deal with these matters and for your considerations to deal with these matters. So that is why we say the protective provisions is the right way forward. And that the simple answer is to insert those and to remove article 49 altogether. And so are there repeats that we will look to see what comes out of any revisions. I think that's really where we are in very simple terms. The technical evidence that Mr. Phillips referred to and how that might be addressed would be part of the mitigation. So in carrying out an assessment of the impact of this scheme, this project that those technical issues need to be understood we say by you. I think that's probably Mr. V. Do you want to say anything? In addition Thank you, sir.

10:16
So thank you. Thank you. Mr. Hill.

10:21

Yes, I just before I start on a response to that, there was a query raised by Miss Carr hain. And I tried to take a note of it, because I thought it was something that we might be asked to respond to. And I confess that I didn't fully understand the point. And therefore, I'm going to ask if I may, that it'd be repeated. It was, I believe it was as something to do with whether article 49 might come back in in some way. And I just wanted to entirely clear what

10:54
Peter it's is, we presented

10:59
the original reason for article 49. So was, it was as stated by Mr. Phil pod, if that is now gone, in other words, that the interface agreement will not be disapplied, whatever, whatever the decision of the Secretary of State in relation to HP four, then, clearly the matter no longer arises. But we had understood that as a as an alternative position. NZT and the NBP still push for the fact that the interface agreement should be disapplied if they if they've completely changed that position. That is very clear. But it wasn't clear to me that that had been decided.

11:53
So if I just deal with that, first, my understanding of the position in relation to the interface agreement is simply this. BP identifies has identified that there is a problem with the operation of the interface agreement, and it has put forward a dis application approach in order to address it that has met objections of a legal and virus nature, the response that has been able to identify an alternative means of addressing the interface agreement. That that is in the process of being developed. Ultimately, if we're right, that there is an issue over the interface agreement, then some provision ought to be included. To address it. The logical place to do that, in the first instance, is the HP for order, because that is the order which would otherwise authorise the provision of wind farms in the exclusion area. But for the reasons, I've said, there are circumstances in which a similar provision in terms of addressing the interface agreement would be appropriate in this order. Nevertheless, my understanding of what has been put forward in the HP for examination is that an alternative approach is being put forward as the preferred approach. But of course, that examination has not yet run its course. And as to this, the form that the Secretary of State might conclude off provision that would most appropriately deal with a problem we've identified, ultimately, that remains yet to be seen. It's an emerging picture. But whatever the answer to the interface agreement, if an answer is needed, and is identified through the HP for examination, we say that there is a good case for reproducing that answer here. Current current position is, as I set out, what I can't do is guarantee what the Secretary of State will ultimately conclude in the light of that examination as it runs its course because there are multiple parties, including, of course, Secretary of State himself, who will take a view on these matters. So I think that's as far as I can take that point. But by way of response to the issues that have been raised by Miss Calhoun, I should start by saying that a number of the points that have been articulated just now go beyond the question of the deception, deception, application or other means of dealing with the interface agreement and venture onto the territory of the proposed protected provisions advanced by Ofsted. I was anticipating and dealing with those later in the agenda. And if that's your intention, I'd hold back what I was going to say on that until we get to it because it is a distinct point. So far as the submissions that that were made, I can respond as follows. It said in the first place that that article 49, they say,

should go not only in its current form, but in its entirety. But what wasn't made clear as part of that submission is whether that is also its position in circumstances where the Secretary of State concludes, but something needs to be done about the interface agreement. In other words, whether they say there should be no article 49 e in this audit, even if the Secretary of State concludes that some provision is needed to address it. If so, it will be helpful to understand the basis on which that submission is made, so that we can focus on it on the narrow issue, which we say as properly before this examination. The next points, the next point that was made was about the definition of project for the purposes of the EIA regulations, that with respect is an entirely separate point as a matter of law, because it deals with the question of assessment. And it is moot in this case, because, as you will have seen, we have volunteered an assessment of the effect of imposing the exclusion area

16:42
on the HP for proposed development. Now, as you have seen from the introduction, introductory parts of that assessment, it's explained and clarified that of course, the exclusion area, which is the provision that would give rise to that effect on the HP for proposed development is not something that is proposed as part of this DCF. So the assessment that is provided necessarily takes a wide view as to the overall project, because it includes a provision which is, first of all, not proposed as part of this order. But secondly, as our material is made clear, is not necessary in order to facilitate the storage of the emissions from this particular development. We've sort of differentiate at all stages between this development and the wider ECC plan, which is, you know, is is is a much wider concept. And it was notable in those circumstances in that scenario, that the way this was put by my Leonard friend was the impact of endurance on honte. Now, of course, the endurance aquifer is not a proposed development, it is it is a place where emissions from the proposed development would be stored. And as we've, again sought consistently to explain, although this particular development is seeking to use the endurance store, and to do so, as soon as reasonably practicable because of the urgency of it, that store is in itself an important asset in terms of the public interest, because even if, for some reason this project were to be delayed, or was replaced by some other equivalent in due course, the ability to exploit that aquifer and its potential to store carbon is an important asset. It's an important public interest consideration, even stepping aside from the specifics of this particular proposal. I then want to come to the question of the extent to which it said you need to consider these matters in full the substance of the case that's being made by the parties for or against making provision to deal with the implications of liability under the interface agreement is being addressed addressed in detail in the HP for examination, and there's there's no suggestion that that is not the case. Or studs, legal submissions that deadline to that rep to onine to recognise the cost and time in efficiencies of reproducing that debate and that's a paragraph five. The same Secretary of State will have the benefit of the examining authorities report from the HB four oral examination before it makes a decision on this case, and that's the position. Even if the decision on the HB four application is delayed for any reason, the HP for examination as I understand it is due to conclude next month. I'll be corrected if I'm wrong, but I'm not aware of any indication is likely to be extended beyond the statutory six month period. That means that the three month reporting period will have concluded before the secretary of state comes to determine this application.

20:34
The Secretary State will therefore have the benefit of the HP for examining authorities report informed by all that the parties wish to debate on the issues of substance and can barely take that account that

into account in informing his decision on those matters. For the purposes of this exam, this application, and if for any reason, the examining authorities report for HP for was to be delayed, both the fact of the delay and the likely length of the delay would be known about well in advance of the decision on this application. And the Secretary of State could in those circumstances, asked for any further written representations, if that were needed. And in those circumstances, there is no proper basis. But suggesting that this examining authority should be tasked with duplicating that process of the examination itself, which would be wholly unnecessary, and will be wasteful of time and expense. And that's why we have proposed what we believe is a fair proportionate approach of avoiding that obviously unwelcome outcome. So that's what I propose to say by way of response in a second assist any further sir.

21:57
Thank you, Mr. Hill. miscounted descending further, you should say,

22:04
very, very quickly, sir. The in terms of the terms of the response about article 49, as it is, the the question still remains, I'm afraid as to how you as an examining body are to, to report to the Secretary of State on the consequences of the Secretary of State's decision on HP for as to the interphase agreement, because it does sound to me, and obviously, these are matters that may well be finalised as yet. But it does sound to me from what Mr. Philpott said that, that BP and the applicant are still keeping their toe in the door forgive the expression in respect of, of dicipline the interface agreement. And therefore, if article 49 is to change before you we still you still don't know. Certainly you still don't know how it is that that a future decision about that dis application comes back before this order. i i In my submission that applicants have not dealt with that point clearly. But we will indeed wait to see what what comes in terms of the in terms of how I phrased the effects of the project relating to insurance, clearly it's the NEP project and that is something that we the facts of that are before you. And so, I would be repeating myself if I was to say well, there is a clear connection. And there is a clear impact upon of, of that linked project the NEP project upon Oersted and that's why we say again, this is something that that really truly has to be performed you just with regard to the cost and potential issues that arise in terms of timing. So because the DCO examination for HP four has been able to look at this evidence, that is something that can be produced before you without we say much difficulty Indeed, you're already receiving that material. We don't suggest that it's going to have, I mean, maybe correct me if I'm wrong, but I we don't consider that it would have a consequential impact on the length of this examination to be able to consider those matters. If it does, and that's something that you will be able to take into account in addressing it. So, the suggestion that that it is to be accepted that the HP for decision, the examining report, and thereafter the Secretary of State's final decision will come before this one. But all the other reports and the decision on this one is not a guarantee. Because as we know, so it may be that the Secretary of State wishes to extend the period within which he makes a decision he or she makes a decision. And therefore, unless somehow there is some provision made, that no decision can be made on this project, until HB four is designed, which I don't expect that anybody is saying, then there are it is clear that there has to be some some way that that you as an examining body can deal with this issue. So putting it off, as I say to the Secretary of State's decision on HB four is not appropriate

26:43
just to have a quick word was vetoed. So the point made by Mr. Veto and if I get it wrong, is that it's important to recognise as well that our proposed protective provisions deal with that clunky scenario where where the decision making process gets held up one way or the other. So that is actually the way that that overlap as it were, the another form of overlap can be avoided.

27:53
I may come back to the it's not so much that it's that it allows for there to be ongoing outcomes that allow us to be an interface in terms of the communication between the parties in relation to that.

28:06
Thank you. We'll come on to protect visions later anyway. But as hopeful Mr. Phillpotts you do want to come back just

28:13
Yes, just for brief points, if I may, 1 of all the position as to article 49. itself. I suggest in principle is very simple. The Secretary of State may conclude having heard all that is said in the HP for examination, that the interface agreement needs to be addressed by drafting in the DCO. We are commending a particular approach which has been developed at present. But it's possible for the reasons I've explained that an amended version of that approach might come forward either from Austin as of reserved position or from the Secretary of State or from the examining authority. Whatever emerges by way of approach to addressing the problem at the interface agreement from that examination. The question then arises, narrow question, should it be reproduced here? As simple, conceptually simple. There are good reasons as I've articulated why I can't say it will definitely be this because it's not my decision. Ultimately, the Secretary state's decision what the form of it will be, but also still have not answered the question. Do they oppose the reproduction of such a provision in this order? If the Secretary of State concludes that such provision is appropriate, through the HP for examination, that's the issue for this examination, not clear, what else did set? Second point is this in response to my reference to the urines aquifer and whether that is the thing that causes the effect responses are no, it's the NDP project. But that fails to engage with the points we've made in writing, that there is a difference conceptually between the NE P project, which is able to make use of the inherent sacrifice outside the exclusion zone. That's made clear in the scenarios, and the wider ECC plan. That's the that's an important distinction to keep in mind. Third point is suggested that I don't fully understand why that if you were, in fact, to take on the task of examining both the technical arguments and the legal arguments in full, that that would not affect it said the length of the examination, if that's simply meant to mean how long the examination takes, or it might not. But in terms of the burden, that it would place upon this examination, both upon you and other parties, it would clearly be a significant expansion of your task, because the number of written questions would presumably increase in order to ensure that you fully understood all of the detailed technical evidence, which you have a flavour of, but I hope you haven't been too burdened by already. But if you are tasked with ensuring that you understand it, and can make recommendations to the secretary of state as to whether the two projects can or cannot coexist in the overlap area? And if so, the the impact in terms of timescales, these are all very detailed technical matters. And leaving aside the written questions, it would then be the issue of well, it would it be necessary to have further hearings, which you might want to have the opportunity to ask questions

of experts in the two sides about the technical material. So that there is I suggest, no doubt, that if you were to be persuaded to take on that task, it would come at a very significant cost in terms of the time that would be required to deal with it, and the expense that would be required by those parties who participate to address it.

32:30
And the final matter, it was said, Well, there's no guarantee as to when the HP for decision will be made. That was a point that I acknowledged and addressed in my submissions, because I ran through the chronology, and I ran through what is needed. And what's needed is not a decision on HP four. What's needed is the examining authorities report. And my submission is also dealt with what could happen in the event that there is a delay, depending on the extent of the delay. And I don't discern from anything that's been said that there was a flaw either in the chronology that I've set out, or the logic as to what flows from that chronology and the consequences, or the extent to which this examination would need to repeat that scrutiny in order to make sure the Secretary State is properly informed about the narrow matter that arises in this case. So those are my submissions from response.

33:35
Thank you. Think that's probably as far as we can take article 49. And the interface screams at this point, clearly, we'll come back to the issue of protective provisions serve to noon anyway. And clearly, all parties will have an opportunity to submit further in writing and there may well be further hearing on this. We'll see what what comes out of those written submissions, but that's probably as far as we can take it for now, party's content with that. Thank you. So can we now move on to the issue of vertical limits of deviation which was a point raised by STTC in a written representation, we have 397 A.

34:48
The basic points. Mr. Henson was that he was seeking the applicants to incorporate first cause limits of deviation into his draft order. The original version of the order has limits deviation inhibitors have been withdrawn, transcending further this point unless Mr. Phillpotts to respond.

35:08
Thank you, sir. Yes, I've got two points to make. In response to the summary you just gave. Fundamentally, it's not clear to us the extent to which and how the order now controls the level of works. And as you say, that's a matter on which we sought clarity from the applicant and would welcome to hear more about that today. Our particular concern, of course, being the utilities corridors, which are extensive, and have important implications for other activities that can take place on tees works. And just to summarise our concern, it's important for us to understand how the level of works are controlled and limited and what implications that has for other activities that can potentially take place on the site or not as a result of those works being implemented. We know, as we discussed earlier, there are now substantially revised protected revisions, which we acknowledged may go some way to address this issue, and will reflect on that and respond to the next deadline or via the updates the statement of common ground as appropriate. But we would like to hear general terms how the applicant considers that the levels of works are controlled by the order. Thank you.

36:34

So yes, we've responded to this in rep three, zero 12, in Section 17 of that document. And as we explained there, our understanding at the time was that the practical concern that arose here related to the noun dropped long tunnel option for works to a and six. And we said that we'd engage with STC s TDC. To understand their concerns. And we've, we've sought to do that we've sought to engage with them in discussions to try and understand if there are specific work numbers where this concern arises. And if so, why, but but those haven't been forthcoming. But the practical point so far as we understand it, is a concern in relation to the utilities corridor and potential sterilisation of land. Now. So far as that is concerned, we don't believe that vertical limited deviation would make any difference for the scape for further development in those corridors. Because essentially, the practical issue, as I understand and just chat, my instructions on the practical issue is that the pipelines in the utility corridor on the T's work land will be necessarily at a debt, where the land above wouldn't be suitable for development. It's not as though there's anything which could practically be achieved by controlling their depth, which would make a difference to this issue, and therefore, the the underlying concern about the effect on the development of land above wouldn't be addressed by means of vertical limits a deviation because anything that would be set would be a no practical utility. And so the real issue that arises there for in terms of potential sterilisation concerns, the width of the corridors and the related powers in terms of compulsory acquisition. And that therefore means that that the need for a Vertical Limit simply doesn't exist, it doesn't make a practical difference that the limits are on the on where Matt where development may take place within the order land are set by a combination of the lines that are shown on the work plans and the extent of the parameters that are set in sheduled 15 of the order, but so far is the particular concern about the pipeline corridor. There is no vertical limited deviation there hasn't been one wasn't one that was then removed and we Still, for the reasons I've explained, I don't believe that there is any need for it because it doesn't make any practical difference in terms of the implications for SDDC. And the concerns they have. So far as those concerns are a matter of potential objection, they fall to be addressed by the approach to with, and also the protective provisions, which more generally govern the overlap between the development of this proposal and STC STD sees proposals for development of the remaining land. So, but that's as far as able to take it at the moment where we are contenders, as you'll be aware, to engage with SDDC outside the examination on these concerns, but we think that the appropriate vehicle for addressing those is through the protective provisions as opposed to setting vertical limits, which won't ultimately resolve the issue.

41:05
Thank you, Mr. Hill, was 10, some of these these matters being addressed in other ways, as alternatives, or in addition? Or are you seeking this as a way to address that?

41:24
Thank you, sir. As I've said, we require some time to consider the latest protective provisions and whether they provide adequate protection. So I think it's a matter for negotiation between the parties. Just one point of clarity, though, I would note that at the most recent meeting, which was just over a week ago, we did ask for clarity over this issue in relation to Eastman Kodak was other than the one that was originally protected by the vertical limits of deviation that was taken out. So it wasn't the case that we weren't clear on what we were seeking information about. Obviously, we've had an answer today, which is helpful, and we'll reflect on that.

42:02
Okay, thank you. So I think this is one that's it's an evolving issue that hopefully can be resolved during the examination, but we may need to return to it at some point. No point going further today. Okay, thank you. So I think that concludes item three on the agenda, which is dealing with articles unless anyone else wishes to raise anything. Just check online. Now, hands up. And that case, we'll move on to Item four, which is sheduled, to draft DCO requirements. Again, I think if we can ask the applicant to provide a very brief overview of the changes that have been made, then we have quite an extensive list of requirements, which we have identified, we'd like to work our way through. And then couple of other issues at the end. So are there any general comments as to how the portal

43:06
works? So we noticed you've just pointed out that a number a significant number of individual requirements are identified for discussion on the agenda item for and we anticipate that whether had been changes, we can probably most economically insensitive be explained those at that stage because they can then be wrapped up with any comments that may be about the requirements themselves, say for a couple of minor changes and one new requirement which I'll just refer to in a moment, there are no other requirements where substantive changes have been made. And the minor changes that that had been made, there have been minor changes to requirement 22 which is control of noise operation, where there's a minor change to article 3222 one and also a minor change to 20. Or just bear with me a moment so on 22 One, the words have been inserted and which is consistent with the principles set out in chapter 11 of the environmental statement, hopefully not controversial, and then in requirement 24. One consultation with STD C has been introduced. And then paragraph two of requirement 24 There is a stipulation that the plan that has to be submitted under subparagraph, one must accord with the framework site waste management plan. Again, I don't anticipate that will be controversial. And then the only only new requirement that it's just perhaps worth picking up is requirement 36 which is to do with consultation with STD C. And this is simply to to set a sensible limit on the requirement for consultation with STD C. Insofar as where a requirement specifies the SDDC must be consulted, that only applies to the extent the matter submitter for approval relate to any part of the authorised development, which is either within the SDDC area, which is a defined term or in the relevant planning authorities opinion could affect the SDDC area. So it just ensures that anything which either falls outside their area, or, and is, and is not something which the planning authority thinks might nevertheless affect their area. They don't have to be consulted. And again, I don't anticipate that will be controversial, but this is a new addition. So maybe SDDC wants to consider that. In terms of its overall response in writing. We have also put in a sheduled of changes both that deadline to rep 2004 and the deadline for rep 4004 which identify and summarise the changes to the requirements. So whilst I'm Ken happy to assist with any other requirements other than those that are on the agenda, I suggest that probably the most effective thing then to do is to move on through the ones you've listed. Green, thank

47:13
you very much. So let's start then with the requirement number two, which is notice the start and completion of commissioning, she's on the screen. And there's been some change this in terms of the number of days, which are considered appropriate, it's an appropriate time period. This came up the previous hearing and applicants indicated they'd consider whether 14 days was an appropriate time periods. And we've also had comments from cemco on this relating to the necessary necessity to have

enough time to make preparations. Good time. So Mr. Phillpotts, you want to just summarise what you have now submitted a deadline for

48:23
you. Yeah, so the change of deadline for essentially is to bring the time requirement within the time element of requirement to into line with the equivalent time element for notifying sem corps pursuant to its protective provisions. They require 14 days advance notice of commissioning and final commissioning, because that will need to be done in order to meet what's in the protective provisions. It makes sense to mirror that in the timing elements of requirement and to. So that that's the explanation for that. I anticipate that that will be recognised as being clearer. And of course, it gives an extra seven days beyond that which was proposed. So I didn't have anything else to volunteer as it were on requirement to but we hope that change has helped to address that particular point.

49:27
Thank you, Mr. Byers. Did you have anything you wish to wish to comment on here? Give me some

49:40
loud and clear and the same.

49:44
It's very loud and clear. Forgive me if there's anything on my end, but no, it has addressed our concern. Thank you very much.

49:51
Thank you. That's good to hear. Okay, any other comments on that's requirements? Nope. Good. Requirement three then is detailed design. Again, the applicant said the last hearing, though consider any additional parties or to be named as console T. And some calls have comments on this provision as well. The need to be consulted prior to any subsequent approval of detailed plans or specifications relating to the corridor. And I think there's also an issue here, which was raised by a current Cleveland Borough Council Chair, I'll come on to but can miss to filopodial just summarise where you are.

50:46
Yes, as you'll see from the deadline for version, we have changed Rick requirement three, so as to specify the need for the local planning authority to consult with STD see, and we have not introduced require an expressed requirement for them to consult with others whether Semco or other private landowners. Consultation generally, will be at the discretion of the relevant planning authority, and it can decide what's appropriate on a case by case basis. We have however, specified console CS and a number of instances where there are thought to be good reasons for doing so. We've added STD C here and indeed elsewhere, as a public authority console T in a number of cases, at their request, we don't consider that it's appropriate or necessary to go on to specify individual private landowners as consultees not just for the general reasons of approach I've summarised in which we've set out in our written material, but also because where they have particular interests as private landowners, owners and operators of important infrastructure matters of that sort. The protected provisions are there, to provide for them to have an appropriate degree of consultation and indeed, where appropriate control

over works and activities that might directly affect their interests. And so the degree of protection that they enjoy as a result of the protective provisions, is much greater than simply being consulted by the planning authority. And that reflects the nature of the overlaps between this project. And the interests that the protective provisions seek to ensure are adequately taken into account that obliges the Undertaker, to engage with parties such as sencor, and others, where that's appropriate in relation to whether it's detailed design or some other element that needs to be approved under a requirement in any event. And there is a self regulating aspect to this, because clearly, it's in the applicants interest to ensure that whatever it puts forward, by way of details to discharge a requirement is not something that thing going to be impossible to implement, because it will fall foul of the protective provisions. And it won't be acceptable to those landowners whose interests are engaged by the relevant details and fall to be consulted, and in some cases have matters approved and another more extensive controls under the protective provisions. So if there is a concern about the extent to which the landowners would be engaged, for reasons that go to the protection of their interests, that is appropriately dealt with under the protective provisions, whether it matters where the local planning authority exercising its discretion, considers that a particular landowner may well have something important to say about it. A matter that it has to deal with by way of discharge of a requirement, it is able to and can be expected to consult with relevant landowners as the case may be. And therefore, there's no necessity to add more. And you end up otherwise with a an unnecessarily long and prescriptive list of everyone who says, Well, if you're going to consult them, I want to be consulted as well. And it becomes overly burdensome. And that's why as a generality and drafting one seeks to avoid it, unless there's a particularly compelling reason to listen.

55:37
Okay, thank you. Mr. Bias, clearly, from your representations, you see yourself as slightly different. Yes. So trying to explain that, please.

55:51
Yes, thank you, sir. And you'll have appreciated obviously, that insofar as this concern is raised, it overlaps with lots of the listed here, I really need to only make the point one, so it'll it'll flow on to the other requirements. There are other recent examples of private landowners being named as consultees. In relation to development consent orders, we in our deadline for presentations, we refer to the M 54 to M six link road development, and the M 25. Joshua 28. Development, I think from memory, that was a filling station and cemetery as landowners respectively. The essential point is, is that we do see ourselves as being in a unique position. And I will, I will develop that with four points effectively. The first of those is that as we've set out in our representations already, there is a wider public interest in ensuring the safe and efficient operation of the pipeline corridor. That's point one, I don't apprehend that's in any sense of any sort of dispute. The second point is that the operation of the pipeline corridor is particularly complex. And in our deadline to representations, we refer to ourselves as a pipeline authority. And we did so advisedly. There is an interlocking set of legal and practical provisions that govern the operation of the pipeline corridor. And it's been described as an ecosystem of interlocking provisions. The point that we seek to draw from that is that because of of that interlocking set of provisions on both a practical and legal basis, there are competing maintenance and operational demands, that some form is uniquely well placed to identify and respond to and be accountable to

respect because it has that oversight function and respect to the pipeline. The third point, I'm getting some feedback. So is the connection. Okay?

58:08
It's sounding fine here. Thank you.

58:10
Thank you. Thank you. The third point is that there are several means by which the works could impact on the safe and efficient running of the pipeline corridor. The pipeline corridor carries potentially hazardous products. There are several potential hazards impacting on construction and maintenance that are unique to that pipeline, which simpler managers given its central oversight role, and some of those have been touched on in writing I don't need to repeat them, but standard operating methods or standard construction methods may not be appropriate in all circumstances and Singapore is uniquely well placed to identify those and even something as straightforward as as or potentially as straightforward as a flood risk. Again, same core is able to say well, you know, your proposal there is going to come conflict with this particular aspect of our management in relation to flood risk. The example in relation to noise and vibration, there is a particular concern with vibration affecting existing infrastructure. And again intervening in a consultation stage we say is more appropriate. And that really brings me on to the fourth and final point, which is we say the optimal time at which to take account of the impact of any proposals impacting upon the pipeline corridor is at the time that those proposals are being approved by the planning authority. Now, Semco does have technical knowledge and experience of the unit requirements, pipeline corridor that can flag at that stage, its position is unique, it has been managing the pipeline corridor for 19 years. It is well aware of of the very particular and unique circumstances that apply to the safe, efficient, safe and efficient operation of the pipeline which is in the public interest. And these are not just illusory concerns. examples have been provided of of highway works, which could block access to the pipeline, which potentially place in jeopardy the safe operation of apparatus within it. And I've touched upon the noise of vibration concerns already, and it washes over to several of the requirements. Semco, of course, doesn't ask to stick it all in unnecessarily. It asks to be a consultative at the point in the decision making when a decision about the principle of approval of a particular work or action is being considered. If a bad decision has been made, touching upon my Leonard friends point, there is in theory, the prospect of some court withholding its consent. But by then a bad decision will have already been made. That is not good decision making. Some courts unique experience means that it can foster the good decision making through at the appropriate time in the process. And it is quite conceivable. And this is based upon experience that an applicant would point to a planning authorities approval of a particular requirement and say, well, your withholding of your consent is unreasonable in those circumstances. And that just is a situation which creates the potential for unnecessary dispute, which would be avoided if Semco was simply a consultation at the appropriate stage. There's no reason consulting with simcorp cause delay, if anything, it will speed up the process because when it comes to the point of asking for consent that can simply and easily be provided because sample will have already been a console T. And sir, as I touched on, at the beginning, far from being unprecedented, there are there are other including recent examples of private landholders being provided this opportunity of being a statutory consul team. This is not a floodgates sort of situation. Semco does have a unique role in relation to the pipeline corridor, which it is very concerned to guard. It is it is based upon its extensive experience of managing this corridor over 19 years, that it's

concerned stem from. And by having regard to those concerns at the appropriate stage, we say would be the best and optimal way to ensure that the correct decisions are made at the right time.

1:02:30
Thank you, sir. Thank you, Mr. Vice. Mr. Fuller, I must say that some call to have a unique position down though, in terms of managing that pipeline. And isn't there a case there that they should be treated differently in the way you've already agreed treats SDDC as a consultation and not the case, to treat some kind of similar way

1:03:00
or so will obviously take away that that observation? I think actually the the issue here is really very narrow. I don't think there's this as a learner friend anticipated. And there's any dispute about the importance of the pipeline corridor or the need to make sure that it's kept safe. Nor is there any dispute about the role of CEM Corp in doing that that same girl has a has an expertise and experience. And I don't believe that there's any dispute about whether it would be appropriate where such issues are engaged by a submission of an application discharge or requirement that it would be appropriate to consult them. So there's there's really very little issue here. The narrow point is simply this, whether it's necessary to name them whether their position is sufficiently unique to justify adding them where appropriate, without opening as it's been put the floodgates to naming everyone else and having what would be, I think a bad approach in terms of DCO drafting, not ultimately likely to make a difference in terms of who was consulted were some call have a legitimate interest. But we'll consider whether the there's a case for adding them as an exception. But it would have to be on the basis that there is something which marked them out is unique. And we've heard what I said and we'll take that we'll take that up outside the examination.

1:04:38
Thank you. Can I also ask the local authority Redcar and Cleveland council for their comments on the point that was raised in relation to monitoring the use of materials I think it was and the use of requirement three was something you To say that, Mr. Miller,

1:05:04
can you just just explain to me what the background to that comment was?

1:05:09
So and So requirement three local authorities, we have the approval of external appearance of structures, including colour materials and surface finishes. And the point was made that following that discharge, it's then a normal requirement for local authority to monitor the use of materials. And whether that should be included as a specific matter to be addressed. In requirement three, should the applicant be required, for instance, to submit a compliance statement to ensure that the materials discharged through the requirements have been implemented? Is that something you're still pursuing?

1:05:54
No, it wouldn't be my position on that. Sir. We, as far as the planning authority is concerned a planning condition and requires the approval of materials. It's then axiomatic that the development will be carried

out in accordance with that approval. The monitoring side is difficult for us because obviously, it's it can be resource intensive. We do have officers that do monitor sensitive development sites for these materials, but this would not be a site and I went anticipate that to be a requirement. So the expectation simply would be that if the condition was discharged, the development was then completed in accordance with the approval.

1:06:32
Thank you, Mr. Malla. Okay, can we move on then to requirement four, which is landscaping and biodiversity protection management and enhancement? Again, cemco, HUDs comments. Rep. Three, Oh, 25. mazing? Is this the same point, Mr. bias

1:07:05
in respect to requirements for seven 811 1618 2123 25 and 32, I think, maybe not 32. I'll just I'll just check that but it's fairly respective the others the point is all the same. I need to know nothing. In respect of point 29, local liaison group that has now agreed there's been amendments which satisfy our comments. Okay, I just need to check on 32 I think it's been satisfied, but I'll just check.

1:07:42
Thank you. So I'll try and pass over those but if I do come to them, please remind me That's it is the same point that's helpful then we can move on fairly quickly on some of those so that's requirement for dealt with unless anyone has anything further let's requirements seven I think was also just an issue for sem core so we can pass over that one apart from should the reference now be too relevant highway authority within that requirements. So they've just highway? See

1:08:38
sir, Nick MacDonald for the applicants, we have inserted a new definition of the to refer specifically to the local highway authority to deal with the particular position in a later requirements were consultation is required with both the local and the Strategic Highway Authority, and they both need to be referred to in other places in the development consent orders such as here, the Deaf the the term has been, has been left as it is. Okay. So the Highway Authority refers to whichever under the Highways Act 1980 Is the highway authority for the road in question. Okay. I believe I believe that there aren't actually any that are there are direct interactions between national highways, roads and the order limits, but the Nevertheless, the flexible term has remained elsewhere in the DCO to well to allow it to be whichever one is relevant

1:09:40
posts. Fine. Thank you for clarifying the requirements. Eights game was a sim core issue, which I don't think anyone else had any comments on that. So pass over that one week requirements 11. Same just Semco had comments on that. So can you can pass over requirement 13, which is contaminated lands and groundwater.

1:10:25
This was one where the environmental agency had some comments and the issue with rep three Oh 27, the Environmental Agency said that welcome revisions to section two, a two state that a preliminary

risk assessment and risk assessment that is supported by site investigation scheme should be included. And going on, say, to requirement necessitating the production of human monitoring plan, in respect of contamination, and future remedial works. This is one of the things that has been in the amendments had deadline for the word data has been replaced by citing investigation data. Sorry, the word data insights investigation data has been replaced by scheme. That sounds right. I'm presuming the environmental agency haven't come back yet to see if they're happy with that.

1:11:36
But, sir, I don't believe so. My understanding is that there is a meeting with the environmental agency next week. So we will hopefully be in a position either they will update you following that, or perhaps both of us will. But we as you see, we sought to make changes in response to their concerns, both deadline to and then a deadline for hopefully that will allow them. But we'll have to report to you in due course, whether that is the position. I understand we're also updating the statement of common ground through that meeting. So hopefully that will make that clear.

1:12:18
Okay, thank you. I'm conscious of the time. We should be breaking for lunch, any moments? I don't think I'm gonna skip through all of item four, but we might just get through a couple more, which we could do quite quickly. So I'll just push on for a short while. Certainly, requirements 14 which is listed on the agenda is access to work status and error. Recording reporting is archaeology. We don't have any issues on that at this time. Anyway. It's cold from Passover that requirements 16. Again, the Environment Agency was consulte.

1:13:18
So we've also in requirements 16. At sem cause request, added the word businesses to paragraph two, F because we understand the point that's been made as to why that's appropriate.

1:13:34
Yes. That's good. Thank you. So again, we'll be waiting for the environment agency's comments on that requirements anyway. I think that completes doesn't matter. So I

1:13:43
should also say my understanding is that changes are to be made to the framework CMP at deadline five. And so that obviously, will need to be considered when that comes through, but it's that should hopefully also help with the understanding of the practical implications of requirement 16

1:14:09
Thank you. Big Pharma requirements I'd seen some changes have been made to include other consultees and cemco had comments which we have considered probably nothing else and that thing now. Thank you, sir. Requirements 21 control of noise construction. On this one Semco has raised the point about its vibration being deleted. And partly this relates to the concerns if the applicants are required to drill the new tunnel and The River tease because of the proximity to the existing number two river tunnel. Clearly you're now looking at changing that proposal anyway. Because I asked Mr. Bias, if

that proposal would go through. Would that mean that your concerns about vibration are addressed generally was?

1:15:23
Can I check on that? I simply take instructions, but I will check on that. Yeah.

1:15:28
Okay. So have you come back the next deadline on that comment, but clearly the question Is there Thank you,

1:15:34
sir. If I may, just in case assessment under friend when he's looking at this in due course, the removal of reference to vibration doesn't mean that there are no controls over vibration because that those controls are set out in the framework CMP which is separately secured by requirement 16. And so it may assist in looking at whether or not the removal of reference to vibration in requirement 21 is a reason to concern to understand that is how it's dealt with.

1:16:14
Okay, thank you. Requirements 23 filing and penetrative foundation design. Semco again, not sure. Mr. Pious was that one that you said? You were content with as well, same principles. Was there any additional points?

1:16:47
It was an additional point, I think. But so maybe maybe I can just again, just check. I'll just check that over lunch if you don't mind. And I've confirmed okay.

1:17:00
Yes, okay. I think maybe that would be a good point stop. We're not going to get through all the three remaining requirements. So maybe it's now time to have the lunch break and we'll come back to the remaining requirements after lunch.

1:17:27
Give chalet to the German. Okay. So it is now five past just after five plus one. Can I suggest we come back at 10 to two gives us a reasonable time and saw the Gen the examination hearing until that point. Thank you very much.