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00:00:05:18 - 00:00:24:18

Welcome back, everybody. The time now is 1:45 p.m. and I am resuming session three of the issue specific hearing five. Um, I understand we've got a few attendees who joined us. Um, just after lunch, if I could ask you to introduce yourselves, please.

00:00:31:04 - 00:00:35:09

Hey, good afternoon. I'm Kristi Powell from the Marine Management Organization.

00:00:37:20 - 00:00:42:08

Hello, Miss Powell. Do you have any other colleagues from the Marine Management Organization joining us today?

00:00:43:06 - 00:00:46:26

Yes. So we have Nicola Wilson, who is the case officer for the case.

00:00:47:21 - 00:00:56:28

Okay. Hello. Uh, great. So, um, I'm just going to hand back to Mr. Wallace, who will start with agenda item six.

00:00:57:26 - 00:01:37:22

I said, yes. Thank you very much. And welcome back, everyone. We come on to agenda item six, which is to talk about the extent, scope and security of mitigation for marine mammals. Um, this section does include some questions that may, um, overlap with what we were talking about this morning to a certain extent. Um, but we'll see where we get to. Um, first of all, in terms of six one, um, is there agreement on the content, the scope and the level of mitigation that is secured in the Marine Mammal Management Protocol? The Triple MP.

00:01:38:05 - 00:01:57:08

Um, if not, what amendments are perceived to be required in order for agreement to be reached? I understand that natural England are relatively content now with the Triple MP. Does the marine management organisation have anything that they are concerned about regarding the the Triple MP?

00:01:59:15 - 00:02:32:13

Uh, Christy Powell from Memory Management Organization. So we consult our scientific advisors on the trial. Unfortunately, they were unable to make it today, but they have provided some comments for us. They are. They were originally largely content with the mitigation measures proposed, which were in keeping with other offshore wind developments. However, initially there were some reservations regarding the breaks in piling. Uh, have had a very brief review of the revised triple and it appears to have sufficiently addressed previous reservations.

00:02:32:19 - 00:02:38:27

The revised triple proposes that for any breaks and piling of more than ten minutes, the full mitigation procedure is required.

00:02:41:04 - 00:02:47:11

And we believe that this the approach is listed within the triple. Ah now in keeping with the best practice guidance.

00:02:48:28 - 00:02:54:06

Excellent. Thank you very much for that. Does the applicant wish to say anything else about the Triple MP?

00:02:56:02 - 00:03:21:23

Gemma Starmer, marine mammal specialist at well, her scanning on behalf of the applicant. And no think as the memo stated, there is a large agreement on the on the trip with natural England and other parties. There was one outstanding issue with regard to activation duration. So that's acoustic deterrent devices and we will provide further information on that point. Within the marine mammals. Technical note and addendum at deadline three.

00:03:23:21 - 00:03:54:22

Thank you very much. The one thing that came to mind sort of looking through, obviously the the mitigation mainly affects, um, healing activities just in respect of in the, the nearshore area. We're looking at the, the horizontal directional drilling to bring cables from the offshore into the onshore environment in terms of the drilling and the noise associated with that. Is that also factored into the Triple MP or is there any mitigation required for, for that?

00:03:56:29 - 00:03:58:06

On behalf of the applicant.

00:04:00:06 - 00:04:05:23

Drilling noise tends to be significantly less than the noise associated with piling works. And we haven't

00:04:08:05 - 00:04:12:28

assessed or predicted the need for any mitigation for those for those works in terms of noise.

00:04:13:10 - 00:04:44:03

Okay. The the only reason I asked that think there was a question you responded to in the first written questions in respect of vibration, noise and vibration on rivers, sort of in the onshore environment, you know, when you're doing and the rivers and I forget the exact amount, it was sort of over 200dB worth of noise coming off of the the drill there. And that's why I thought I'd ask the question just to see if that's A correct and B, whether anything needed to be done in the offshore environment.

00:05:10:25 - 00:05:28:16

A statement on behalf of the applicant. So the the onshore and offshore environment in terms of drilling are quite different. They're not really comparable in terms of underwater noise levels. So we don't think that there is an issue there, though, and it's certainly not something that has been considered by other offshore wind farms. Okay.

00:05:28:27 - 00:05:55:24

Thank you very much for for that. I'll move on to the next section under this agenda item. Um. I'll come to the the first. Are there any fundamental issues remaining on either an in or basis in respect of marine mammals that warrant further work to be done? If so, can you explain what, please?

00:05:57:13 - 00:06:28:05

The have no major outstanding concerns with the. We largely defeat a natural England on this point anyway. And there were still some remaining reservations regarding the environmental impact assessment that we think still require addressing um the cumulative impact assessments. The screening identified that there was potential for cumulative impacts on marine mammals as a result of disturbance from underwater noise during piling and other construction activities, including vessels.

00:06:29:29 - 00:07:10:21

And all other potential impacts, including permanent threshold shift from underwater noise and temporary threshold shift from underwater noise were screened out of the CIA. All operational impacts have also been screened out of the assessment. There does not appear to be a justification for scoping out and from underwater noise or operational impacts unless this is included in the screening. There were a few comments on specific paragraphs that have been raised previously and we can follow up on In written after the hearing, however, there were certain paragraphs in chapter ten, paragraph 309 and 709 which used.

00:07:12:26 - 00:07:26:08

And it was not considered appropriate for the use of onset thresholds as a proxy for disturbance. Temporary threshold shift occurs at a much higher sound exposure, and so we'll underestimate the risk of disturbance and.

00:07:29:26 - 00:08:01:23

And there were a few. Are there specific sort of wording comments on the document itself? Um, there are a few minor clarification comments that can be followed up in writing. Um, it will be important to verify the predictions made in the environmental statement through construction noise monitoring to aid comparison of predicted versus measured data. The noise modeling report submitted should include a plot showing the predicted received levels versus range for both monopoles and PIN piles to be representative of hammer strikes.

00:08:04:14 - 00:08:20:02

Okay. Thank you. So can I just before hand back to the applicant as of this this moment now, does more underwater noise modeling need to be undertaken or can that be in a post consent if consent was granted situation?

00:08:22:09 - 00:08:34:06

Uh, as of now, I am under the impression that it would be able to be undertaken at a post consent situation. However, I would like to clarify that point with CFAs and give written confirmation of that.

00:08:35:03 - 00:08:37:20

Of course. No. Understood.

00:08:46:02 - 00:08:55:07

If I can hand over to the applicant, then to to respond to those points raised, particularly the the. And issue as well, please.

00:08:56:24 - 00:09:08:09

Jam statement on behalf of the applicant with regards to the screening out of and from the cumulative assessment, there is justification provided in that within the screening appendix, which was.

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AP 193.

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Regards to the project alone underwater noise disturbance issues. We are currently undertaking additional assessments using dose response curves which factor in the individual response of marine mammals to noise disturbance and provide a more detailed assessment on that. We are also undertaking updates to the cumulative and in combination assessments for both seal species and we are also going through the process of population modelling for harbour Porpoise, Grey Seal and Harbour Seal, which are the three species that we don't have agreement yet with natural England on the outcomes of those cumulative assessments and all that information will be provided in the marine mammals.

00:09:57:21 - 00:10:00:12

Technical note in addendum at deadline three and.

00:10:12:01 - 00:10:13:26

Or just trying to remember all the other comments from the.

00:10:37:03 - 00:10:43:17

But with respect to the noise from piling itself, we can respond with further information on that deadline as well.

00:10:46:10 - 00:11:07:29

Thank you. I'll come back to the memo then. It was said that the screening appendix App 1.93 provides the necessary justification for screening out. And I assume you've had a chance to review that document. Does that why does that not provide enough justification for you?

00:11:09:18 - 00:11:20:12

Apologies. I must admit that we haven't had a chance to review that document in depth and it must have been missed when we were undertaking our review for Deadline two. We will review it and submit comments at deadline three.

00:11:21:02 - 00:11:45:03

Excellent. Thank you very much. If an action can be taken on that one. Okay. Thank you for confirming that. And just sticking with the the obviously, although we've talked about the Triple MP, there's also the site integrity plan for the Southern North Sea special area of conservation. Do you have any concerns with the documentation prepared so far for that?

00:11:46:09 - 00:11:50:21

And we have no concerns at this moment on the for that.

00:11:54:20 - 00:12:02:27

Excellent. Okay. Thank you very much for that. Did the applicant want to say anything about the site integrity plan at all.

00:12:04:22 - 00:12:20:11

On behalf of the applicant? And I think, as the memo stated, there is agreement on the what is included in the CIP itself. We are still doing extra assessments to look at disturbance on other species that aren't covered through that CIP that we did at deadline three.

00:12:20:21 - 00:13:01:14

Okay. Thank you very much. Um, one question that I'll ask now. It's not related to marine mammals. Um, it was, it came up earlier prior to your, your, your involvement. And it was, it was relating to a species red throated dive. Don't worry. I'm not going to start asking you bird questions, but, um, one of the issues that came up was about the best practice protocol for vessels and vessel movements and

that that best practice protocol was secured in the applicants of Offshore Project Environmental Management Plan.

00:13:01:16 - 00:13:28:12

And one of the questions I asked the applicant was how you know, who's involved with the enforcement of that, who makes sure it's adhered to. And a response was given that they know referred back to the Marine licenses and the compliance with that. In terms of the enforceability of that best practice protocol and vessel movements, where does the MMO sit on that and are you happy that it's sufficiently secured through the Marine licenses?

00:13:29:17 - 00:14:02:02

Kristi Powell from the Marine management organization WI, the red throated diver. Best practice protocol is something that we currently include in license conditions on standard Marine licenses. So we are happy that it can be included within a marine license. And we are currently having a look at whether we are happy it is included within a document to be consented alongside the marine license or whether we would like it as a provision within the marine license. However, either way, as long as it is attached to the document, we should be okay with the enforceability of it.

00:14:04:02 - 00:14:08:15

Right. Okay. Thank you. Thank you for that clarification on that.

00:14:10:19 - 00:14:21:04

That completes my questions under that particular agenda item. Don't think anyone else does have anything else they want to say about marine mammals that's not been raised.

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We have nothing else to say. Thank you.

00:14:23:24 - 00:14:32:13

Excellent. Thank you very much. Then we'll move on to agenda item seven In relation to development consent order matters,

00:14:33:29 - 00:14:45:12

I'd ask everyone to have a copy of the applicant's latest version of the DCO to hand some of the questions may may invoke discussion on the specifics of that DCO.

00:14:47:13 - 00:15:18:18

So okay, we'll come on to the first part of the question, and I have a theory that the answer to this is going to be deadline free for all. The applicant promised a number of documents that deadline one to be submitted early in the examination. Such documents were the ork Construction Phase Displacement Assessment, technical note, the export cable laying vessel, red throated diver displacement assessment and the ORC bycatch reduction feasibility statement and the marine mammals.

00:15:18:20 - 00:15:28:21

Technical note For a couple of those, I think we have received or they've been co-operated in other ways. But in terms of those documents when we expect to see them, please.

00:15:31:26 - 00:16:17:11

Laura Villa, solicitor and senior associate at Burgess Salmon, representing the applicant. Yep. So the, the first document, the, uh, we can confirm that the export cable laying vessel displacement assessment has already been incorporated into the apportioning and updates to tech note, which is rep 2036 um at deadline two the ORC bycatch reduction feasibility statement will be submitted at

deadline three and also the Marine Mammals Technical Note addendum, which has already been referred to earlier, will be submitted at deadline three.

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Um, and just to clarify, we've added an addendum to the title of this to clarify that it provides an update to the assessments submitted at the application stage.

00:16:30:04 - 00:17:11:17

Okay. Thank you very much. Let's put some dates in the diary for those. That's good. Thank you very much. Now, coming on to the next point, then a number of technical notes were submitted at deadline one and deadline two. And we've got the promise of further documents at deadline three, all of which sort of supplement add to or revise the data used to to inform the environmental statement. Um, obviously that's going to start getting a large library of documents related to that. So can the applicant set out how these examination based revisions will affect the usability of the environmental statement and ultimately the documents that require certification under the DCO? Please.

00:17:14:16 - 00:17:42:07

Laura Feller for the applicant. So we we certainly recognize that there is now an a growing suite of supplementary documents that form part of the environmental statement. We recognize that what we're what we will do is that we're considering how to to approach that. But they either need to be incorporated within the existing environmental statement chapters. So some documents we believe are capable of.

00:17:44:09 - 00:18:08:00

Being incorporated into the chapter so that we will then submit an updated chapter and clarify that that note has been incorporated in that way, or they would need to be included as certified documents under Article 38 if they are not capable of incorporation into the in that way or the chapters in that way. Um.

00:18:10:05 - 00:18:15:27

What we're proposing is that we will submit any final versions and updates at deadlines six.

00:18:17:25 - 00:18:21:23

To accommodate all changes throughout the examination process.

00:18:37:00 - 00:18:51:27

No. Okay. So so Deadline six is is the aim in terms of allowing sort of responses to that and then your own responses to the responses, as it were, would deadline five be more appropriate?

00:19:04:21 - 00:19:27:06

Baritones Chandler for the applicant. And I think when we discussed this together, we were assuming that anything that we're then updating into those documents for deadline six is not new information that's coming into the examination. It's just a means of, um, you know, bringing that all together towards the end of the examination. So we felt deadline six was appropriate such that if there were any comments, those could come in at deadline seven.

00:19:31:07 - 00:19:31:24

Um.

00:19:33:09 - 00:19:35:01

Is that line five achievable?

00:19:39:00 - 00:19:53:18

And Sarah Chandler. For the applicant, it's achievable. It's just a question of then whether there's any updates beyond deadline five that then need to be subsequently caught again in a further revision into deadline six. So my feel is that for

00:19:55:03 - 00:19:59:26

the sake of volume for everyone, deadline six probably makes the most sense.

00:19:59:28 - 00:20:31:05

So Deadline six is just a week before the close of the examination. I think just in terms of fairness to all parties, I'm not convinced that that's adequate notice for people. I understand that they would have seen it before examination, but I don't think that that would be adequate. Um, notice for people to respond or even if it is just to confirm that this is what their understanding was. So and just looking at the timetable, um.

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That Line five already is After our commentary examining authority's commentary and commentary on the draft development consent order. So if there's anything further from the examining authority that will have to go as a rule 17 anyway, um, but I, I don't see how. Deadline six. Um, would work, to be honest.

00:20:57:00 - 00:21:01:26

And what date is deadline five? It's the 13th of June. It's not that much before deadline six.

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Well, no, it's a month before deadline six. Um.

00:21:12:11 - 00:21:39:00

A madam Laura Philip of the applicant of of the yesterday we were discussing that there may be the need to add some additional potentially add some additional deadlines. So it could be that we could look at this again to confirm or or you could once you've made those decisions. Um, and perhaps there may be a more suitable deadline that would fall somewhere in between as a compromise.

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think that's a sensible idea will take that away. But in the meantime, for the actions, perhaps what we will note is that this will be before deadline six. Um, this will be due in the examination before deadline six, whatever that deadline might be. Yeah, that's fine.

00:22:25:04 - 00:22:43:05

Okay. So in the actions will not it'll be before deadline six are giving adequate notice for other parties to respond to any the information that you provide. Any updates to the ES and certified documents. Just on that point, there was one other thing. Is that okay, Miss Fuller?

00:22:44:00 - 00:22:46:09

Laura? Yes, ma'am, That's fine.

00:22:46:20 - 00:22:53:24

Um, at in the first round of written questions, we had asked you whether the environmental statement was inadequate. Description.

00:22:55:15 - 00:23:20:26

For the certified documents and you've responded to state that that would be and think just this reinforces whether that in fact is in Article 38, an adequate description for the range of documents that's included in the. And I'm just going to say that perhaps this is something that you might want to

consider further in light of this and just put some flesh on the bones and see if there is a way to put some flesh on those bones for Article 38.

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Laura miller for the applicant. Yes, madam. I am aware that there has been a move with some of the more recent decisions that the certified documents sit in a schedule.

00:23:34:06 - 00:23:36:12

Schedule? Yes. Yeah, we raised that before.

00:23:36:14 - 00:23:43:27

Yes. So I am assuming that that is possibly what you may be alluding to us considering here.

00:23:46:19 - 00:24:20:21

The recent experience of of undertaking that is that that is quite a significant task. So obviously that producing that schedule would fall in line with the deadlines we've just discussed. But the purpose of that schedule would be obviously that you would identify under subheadings what was classed as the environmental statement. So if there are updates that cannot be incorporated into the environmental statement chapters, then they would be listed under that subheading so that it's clear, okay, that they are part of the environmental statement.

00:24:20:27 - 00:24:52:05

So that seems a reasonable way to deal with that for clarity. But we're not proposing that we produce that schedule just yet while the documentation is still moving. But certainly we would produce it to accompany the list that we've just been talking about and the final updates so that we we are clear when we're producing that ourselves. Where those documents are because some are going to be incorporated into the chapters.

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Um, so the first point first, um, the idea of producing a schedule which includes the certified documents or a schedule of certified documents seems very sensible to me. And just to confirm that that would be to replace Article 38. So you will then get rid of Article 38.

00:25:12:04 - 00:25:18:09

Laura Filler for the applicant, No. You have Article 38, but it would simply cross refer to the schedule.

00:25:18:11 - 00:25:18:26

Okay.

00:25:18:28 - 00:25:25:16

To confirm that that is where the certified documents are. Okay. Set out. Can't remember the exact wording, but that is essentially what it does.

00:25:25:21 - 00:25:54:25

Okay. So my understanding, Mrs. Fuller, is that it's either one or the other, but I'll you know, it's for you to decide that and perhaps get back to us. Um, the second point was that, um, I don't see why you would need to wait to produce that schedule. I think that if you're going to produce a, the, an update at, for the, for deadline three, I think that could include the schedule. Um, I don't. And then the schedule can be updated.

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To.

00:26:23:26 - 00:26:34:01

Laura Fuller for the applicant. Yes, ma'am, we can. Excuse me. Yes, we can put in a sort of starting point for that schedule. At deadline three.

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That's fine. Thank you very much.

00:26:39:09 - 00:27:12:20

Okay. Thank you. Moving on then, to the next agenda item in this section three three. It relates to comments from the the MMO regarding the use of the phrase materially. Um, believe in rep 259 paragraph 8.9 um, the use of materially within the draft development consent order and the Dean marine licenses is causing some concern. Um, the examiner notes that the applicant has raised the argument of precedence and that other echoes incorporate this wording.

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So can the MMO explain why, if that phrase has indeed been accepted in other echoes, it is appropriate for that phrase to be removed or altered in this instance? Please.

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Uh, Christy Powell from the management organization. Um, the animal strongly considers the activities authorized under the and should be limited to those that are assessed within the EIA and the statement that activities will be limited to those that do not give rise to any materially new or materially different environmental effects should be updated. To clarify this, the MMO have previously raised concerns with the TYM materially and examinations for projects including Sizewell, C, Hornsea four and Boston Alternative Energy Facility. This is based on our experience working under the medium Marine, the Marine licenses of past projects.

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One of the issues with the CIP process is the delay between a decision being made on an application and then the consideration construction and operation of these projects. These delays mean that we become aware of issues with the drafting of marine licenses in terms of enforceability years after project decisions have been made As a licensing case team as a whole, we now have a wealth of experience in post consent work under MLRS and we intend to use that experience to continually improve the advice we provide to the Secretary of State for projects. This is to use the best available evidence that we have.

00:28:35:02 - 00:29:07:16

Our concern is that the inclusion of the word materially here would allow the undertaker to carry out works whose effects are outside of the likely significant effects of assessed in the EIA, providing they do not do so materially in i.e. in any significant way, greatly or considerably. This is not what the purpose of the process is and it runs contrary to the purpose of EIA. The other issue with this is that whilst the undertaker is responsible for producing the environmental information and statement on which an decision is based, the appropriate authority is responsible for the consent decision.

00:29:07:20 - 00:29:21:01

The inclusion of the word materially essentially means that the undertaker makes the decision as to what is and what is not material, and that is for the appropriate authority to determine what is the likely significant effects would be and how those should be mitigated.

00:29:23:16 - 00:29:43:04

Okay. So in terms of, as you say, you've had experience post consent, um, not necessarily naming names in that respect, but is there a trend or have you noticed problems with works being undertaken beyond the scope of an in practice?

00:29:44:25 - 00:30:16:23

Pretty powerful MMO. Yes, in that we are struggling to define what could be classed as. Operational maintenance activities that are included within the. And what can be included outside of that as a non-significant change and how we determine what a non-significant change would be under this term of materially. It has raised a lot of case discussions on post consent works and with developers coming with changes that they deem non-material.

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But we cannot assess that. We have no way of assessing it outside of the.

00:30:22:28 - 00:30:46:07

And then. I. Are you then powerless under the Marine licenses to sort of enforce or take action if you were to consider that they were outside the scope of the US? Or is it just that not necessarily having the in-house expertise to say that that specific action definitely is beyond the scope?

00:30:48:04 - 00:31:27:11

Firstly, part of the marine management organization. It leaves us in a gray area of enforceability because we would have to formally define what a significant or non-significant change would be. And as you said, it does leave us without the expertise within scope to be able to definitely say whether something is a significant or non-significant change when undertaking any consent decision for a standard Marine license, we undergo rigorous checks to determine whether things should be screened and or screened out of any consent decision. Under the Marine and Coastal Access Act, there is no definition for materially, there is no we would not include it in a standard Marine license.

00:31:27:13 - 00:31:29:18

There is no way for us to work underneath that term.

00:31:31:20 - 00:31:55:16

Okay. And I'm going to obviously throw this over to the applicant in a moment. But just one final question on this. Put a definition be included in a that would satisfy you on that point. If some way there is a way of defining this. Would that be sufficient for your purposes to then be able to make any such call in the future?

00:31:57:00 - 00:32:15:22

Christie performance management organization, we would feel a lot more comfortable with a definition included within the HTML to allow us some level of enforceability against what would and wouldn't be a significant change. As you say, we would have to review and determine whether that definition suited our requirements.

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And.

00:32:16:16 - 00:32:23:22

It would be based on the definition put forward by the applicant and we would be able to work with them on that. But we would feel a lot more secure if it was included.

00:32:24:22 - 00:32:50:12

Okay. Now, thank you very much for that. Now come over to the applicants team. And I do appreciate in terms of the president's argument and in terms of what's been done before, and I fully

understand that position, just sort of throwing it open. You can hear the the moss dilemma there, if you like. Can anything be done or could anything be done to alleviate their concerns on this materiality issue, please?

00:32:52:18 - 00:33:00:16

Laura Fuller for the applicant. So I have to admit, we are struggling slightly with the concerns that are being raised. Um.

00:33:02:13 - 00:33:22:10

Particularly, it was raised in the context of from the relevant representation of the MMO, which is RR 053 first raised in the context of in schedule ten, the first part one, paragraph nine one the same paragraph is in each HTML

00:33:23:28 - 00:33:54:21

and that paragraph relates is is I can read it out in full, but its any amendments to all variations from the approved details, plans or schemes must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given where it has been demonstrated to the satisfaction of the MOT that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

00:33:55:07 - 00:34:14:05

Um, obviously we've already mentioned precedent, but that is an entirely routine, entirely consistent way in which this is dealt with not only in, um, you know, in relation to deals but in general planning and consenting principles. Um, it's.

00:34:17:05 - 00:34:48:01

It there was mentioned that it the use of that wording in that paragraph somehow allows the undertaker or its contractors to do work without. The you know, that's materially different without the agreement of the MMO. But that isn't how that paragraph that they have raised. There is is is term because it's a it's about approval and agreement of any amendments or variations with the MO.

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So no, there was that one point in the representation um which we're not which don't follow, which I don't think is what that paragraph does. Um.

00:35:00:24 - 00:35:31:09

Also should highlight that in in the Planning Act 2008 guidance on changes to development consent orders. Paragraph 12. Again, a change should be treated as material if it would require an updated environmental statement from that At the time of the original development, consent order was made to take account of new or materially different likely significant effects on the environment. So this is all entirely in line with the guidance with.

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Precedent and with how it's been applied. Consistently in other.

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For other projects.

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A note that they seem to raise and then a concern around operation and maintenance.

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I would just like to. To remind.

00:35:55:20 - 00:36:01:13

The examination that there is a condition in the Marine licenses for the.

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I can never remember which way it's around the ump. The operation. Offshore Operation.

00:36:14:12 - 00:36:14:27

Outline.

00:36:17:13 - 00:36:46:11

Outline offshore operations and maintenance plan. Apologies used to using the acronym and that does set out situations. I think that the MMO are referring to there and is intended to sort of deal with that point around what would and would not require potentially a, you know, a new deemed marine license in the sense that it would be considered material. Um.

00:36:50:03 - 00:36:52:24

So just to sort of clarify the process.

00:36:52:26 - 00:37:44:08

Then at the moment, if hypothetical, if the applicant or undertaker is undertaken, a certain action or is about to and thinks, oh, this this might be beyond the scope, then do you prepare something to send the and say we think this is material or is it a case of you approached the the and tell them we're doing this action we don't believe it's material how does the effectively the point that was raised by the was you know it's up to the the undertaker to decide what is material and what is not and I'm just trying to get to the bottom of is that just a is that a discursive discussion point between the two of you or is that literally just the applicant says, we're making this, it's not mature in our eyes.

00:37:44:10 - 00:37:47:05

We're going ahead. How does it sort of work?

00:37:59:21 - 00:38:19:15

A whole MORGAN for that weekend. So, yeah, so within the outline offshore operations and maintenance plan. There's a table within Annex one. And in the final column of that table it's titled Consultation required with the and relevant. So for each activity it states there whether or not.

00:38:21:12 - 00:38:28:12

We would have to notify or consult with the animal before undertaking each of those activities. So, yeah, so.

00:38:29:29 - 00:38:41:13

Some of them, even though we've stated that an additional license is not likely to be required, we would still consult with the animal. And that stated. Yeah, just in that final column.

00:38:44:09 - 00:38:56:21

So yeah. Think that's that's that would be the way that we would consult with them or to determine whether or not there was agreement on whether the activity required any further consents or licenses.

00:38:56:29 - 00:39:04:27

Okay. Thank you very much. I'll bring back the at this point, is there anything that you'd like to respond to from what you've just heard?

00:39:07:01 - 00:39:44:28

Christi Paul from the management organization. Um. We will go away and do another review of the AMP and provide further comment on that at deadline three. On the comment where material is used under normal planning or consenting acts, I would like to remind the applicant that we do not work under planning or consenting acts. We work under the Marine and Coastal Access Act and it has different definitions and different liabilities under that, and we are primarily raising it in concerns of the marine licence which falls to our power as soon as it's been made, rather than us being able to make the decision on that document itself.

00:39:46:02 - 00:39:54:06

And we have less power well over whether it should be included within the or not. But obviously the document as a whole should line up.

00:39:56:15 - 00:40:00:29

I think that's all we have to raise on the point at this moment in time. Okay.

00:40:02:02 - 00:40:06:10

Okay. Thank you very much. Any final thoughts from the the applicant before I move on?

00:40:13:04 - 00:40:15:23

So we're filling for the applicant. We've got no further comments on that.

00:40:17:09 - 00:40:18:08

Thank you very much.

00:40:20:19 - 00:40:45:25

Okay. So moving on to the final item of this agenda entitled Progress on discussion with the regarding the time frames for post consent submissions. Understand that the applicant has recently sort of amended its documentation in respect to this. In some respects, perhaps it'd be useful to get your summary of what has changed in relation to this first before we move on.

00:40:47:12 - 00:41:10:24

Laura Fuller for the applicant. So, yes, we put in at deadline one an amendment in relation to the SIP condition, and that has been changed from four months to six months prior to construction. We currently haven't changed any of the other submission timescales in the draft DCO.

00:41:12:27 - 00:41:39:03

Would you like me to carry on and just explain where we are on that and where we are with. Yeah. Thank you. So I'm following the last set of hearings. We were anticipating that we would undertake a joint review with the MOH with regards to each of the pre-construction plans and documents listed in a condition 13, it is of schedule ten and the the equivalent condition in the other deals. Um.

00:41:40:18 - 00:42:14:13

So despite an initial indication of willingness on behalf of the MMO to to do that exercise with us, it has subsequently confirmed its position. I believe you probably will have seen that at deadline one that requires all plans to have a six month submission scale. Um, we understand that that is now the Mo's position across all projects, not just this project. We're aware, obviously, that this was an issue on the Hornsea four.

00:42:15:11 - 00:42:46:24

Examination. And we had rather, again, like some of the comments this morning, hope that that may have been resolved during this examination where the developer there, the horns ousted have included a four month submission timescale for all their documents and the MMO are requesting that that be

changed to six months and they've they weren't able to agree on that point and obviously has been left to the Secretary of State to make a decision.

00:42:47:15 - 00:43:25:06

We we won't have that. So what we are committing to, we won't have that decision obviously to inform where we go on this. So what we are committing to doing for Deadline three is undertaking our own review or continuing that review to set out which documents we feel could be six months and which ones should remain at four months. We will provide with that. The rationale or for for for that, you know, where where they should be four months and.

00:43:26:16 - 00:43:34:06

So we can provide a further update in effect at deadline three in writing when we've finished undertaking that review.

00:43:35:15 - 00:43:55:05

Excellent. Thank you very much. Thank you for that commitment. If that could be noted as an action and then I'll come to the the MMO and ask whether instead of waiting for that list to come in, whether you could do the same exercise for deadline free, and then at least you're sort of swapping notes, as it were, is that a good way forward?

00:43:56:04 - 00:44:28:25

Pretty par for the marine management organization. And so, yes, as the applicant stated, we did begin to open up discussions around what could and couldn't be a four month in a six month submission at the time. Advice we were given internally was that the position is to push for all for six months for all. While that is still a preference for us, we are and following internal further discussions with case teams who have rigorous experience, we are happy to work with the applicant to reopen discussions around what documents could be a four month or a six month submission.

00:44:28:27 - 00:44:58:27

We apologize for this change, but this is based on updated information that we have and we appreciate the applicant for opening that discussion with us in the first place. We will say as a minimum, the following documents would be a six month submission date pushed on our side and that would be a marine mammal mitigation plan. The in-principle monitoring plan, the site integrity plans and environmental plans that have been added due to complex issues and ornithological plans, operation and maintenance plans.

00:44:58:29 - 00:45:27:05

This is purely because, as stated in our Deadline two response. Due to the complexity around the discussions we have around those documents, the consultation we have to undertake and setting expectations for the applicant we don't want to. Pardon? We don't want to commit to a four month deadline and then not be able to provide in that time scope and then give uncertainty around when we would be able to provide that. Six months gives us a lot more certainty around when we'd be able to provide comment on them.

00:45:28:19 - 00:45:49:02

Okay. So just to confirm, that was the the Triple MP, the in-principle monitoring plan, the site integrity plan, the ornithology plan and the operations and maintenance plans. Yes. Okay. And in just in terms of the complexity of consultation, is the majority of the consultation with CFAs.

00:45:49:22 - 00:45:57:03

We will undertake consultation with Natural England and any other if applicable for some of them as well.

00:45:58:09 - 00:46:12:25

I. Okay. Okay. Thank you very much. But as I say, the applicant is helpfully committed to setting out their justification at deadline three. And if you can do the same, that'd be marvelous for that. Or just come for the applicant for any final thoughts?

00:46:13:24 - 00:46:21:22

Lawful if the applicant. We thank the for the opportunity to continue that discussion with them and obviously we'll try and move that forward with them.

00:46:22:26 - 00:46:39:14

Okay. Thank you very much. Thank you both for your actions on that. Um, that comes to the end of my series of questions. Under this agenda item, there's the wish to raise anything else in relation to the or was that requires attention today.

00:46:40:09 - 00:46:43:16

Christi. Paul Yamamoto we have no further questions for today.

00:46:44:08 - 00:46:46:27

Okay. Thank you very much. Anything further from the applicant?

00:46:48:23 - 00:46:51:16

Laura Fuller for the applicant? No, sir. Nothing further from us.

00:46:52:06 - 00:46:54:26

Thank you very much. Bear with me one moment.

00:47:06:12 - 00:47:21:09

Okay. Thank you very much. We are going to compile our list of post here in actions which will run through will take a brief adjournment. Now, just to be able to do that, it's 1432 at the moment. We'll be back here at 1445. Thank you.