

TRANSCRIPT_RAMPION2_ISH2_SESSION3 _15052024

Wed, May 15, 2024 4:19PM • 1:41:06

00:09

was to sort of resume the hearing.

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And

00:14

firstly, can I just ask for a

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document to be brought up on the screen as one I mentioned before, it's the exact applicants response to access, first written questions. And it's appendix haitch. As the noise threshold for black seabream, that's rep 3051.

00:51

We're looking at Figure haitch. One.

00:56

If we just scroll down a little bit,

00:59

there we go. That's fine. Thank you very much.

01:04

Just a couple of questions. Is the is the MMO. Available? still miss? Totally.

01:11

Totally Yes.

01:20

Most of MMO online at the moment.

01:25

Hello, yeah. Hi. Present. Can you hear me? Sorry? Yes, yes.

01:29

Sorry. I just wanted to if you can you see the plan that's displayed there? Yes, I can't. Yes. Yeah. So this is the upon exclusion zone ProPILOT monopiles. This is used in the 135 decibel with a 20 decibel reduction.

01:50

What I would like to know from, from your perspective, is with the use of the 135, decibel contour and and the 20 decibel noise mitigation.

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It looks like they would this would mean a restriction on most, if not all of the western part of the array for the month of July, for example, for the MMO, then would a restriction of no pilot in July for the Western array based on this plan be acceptable and sufficient mitigation when it comes to the king near and the black Sebring?

02:28

Okay, so Harriet Haley, marine management organisation.

02:33

Unfortunately, without our technical advisors here, I can't comment on whether that'll be acceptable or not, our response will be unchanged from our written response at deadline three. And we will have an updated response to the additional

02:45

items that the applicant has put into examination at deadline for we also have a call with the applicant embassy fast after deadline for where we hope to be able to also update on that.

02:59

Okay, and yeah, could

03:02

be a response specifically respond to these plans. Now, obviously, the applicant is not putting forward at the moment, this is this is as a response to our written questions, the use of 130 by decibel. But this is something that MMO have have suggested, as well as a potential solution. So yeah, comments on that on these plans within this document would be very useful. Yes. Okay. Thank you very much. Okay. won't need that diagram anymore. Thank you.

03:37

So, we'd like to know, when I go to the applicant, first of all, as a backup to mitigation, and the use of zoning as proposed by the applicant, is it possible for there to be monitoring at the MCS Ed boundary, to demonstrate or to ensure that there will be no noise level exceeding any agreed threshold from piling? And now we haven't got the agreed threshold at the moment. But if there was an agreed one, I mean, what I'm thinking is if that level was then exceeded on the boundary,

04:11

could it be a commitment then to for there to be further

04:16

piling to cease prior to any potential further mitigation needed? Or even that at that point, there would be no piling until the beginning of August? Could that be something that could be done so it's thinking about monitoring around the edge of the MCS Zed to ensure that any agreed threshold isn't isn't breached?

04:38

Is Tim Goulding on behalf of the applicant

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if it is couple of things there.

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So firstly, yes, it's possible to provide some monitoring of noise levels at the King Lear MC said boundary.

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I think in terms of adaptive management

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Following the

05:03

results of the monitoring,

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that's something that we're going to be providing some proposals for AD D for. So currently,

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it'd be very difficult to just stop a filing event. I think there are potentially

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aspects and lessons that we can take from the

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application of noise thresholds in German waters, for example, Dutch waters, cross other European nations where there is a

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percentile

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achievement of those threshold values, so that that has some merit. And I think as well, we've been considering the way in which

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the piling exclusion zoning plan, we've got, again, going back to our need to monitor the efficacy of the mitigation measures to find out exactly what's happening, there can be some sort of feedback loop positive or negative in terms of where we need to

06:13

avoid piling or can permit piling. Yes. So all of that's going to be hopefully responded to by us in our depot submission. So I think that's probably as far as we'd go. Yes, for today. I'm just trying to think of a way that could help. Obviously, Natural England, for example, I've got concerns about the efficacy of the noise abatement measures, if there was say, some sort of requirement condition commitment, which basically said that we really think this won't be exceeded at the MC said boundary.

06:49

If there is, then we can we can take adaptive management measures, then that maybe that could help provide a solution. It was just something that I think might be worth while raising. I raised it with Natural England as well. Is there anything that MMO would like to

07:08

comment on the guards sort of monitoring of noise levels at the MC said boundaries?

07:16

And potential adaptive management?

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The mo know nothing that we hadn't already said so far in our response.

07:26

Okay, thank you. Well, I'll put that point as well to Natural England.

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And, yeah, it's just something it'd be quite interesting to get some feedback on.

07:41

Just another quick question for MMO. If I could,

07:46

something that the applicant has put forward? Would the MMO agree that the level of piling noise if the pilot noise was 141 decibels at the edge of the MC said, then is it therefore likely that any sensitive features within the MCS ed will be exposed to a lesser noise input impact?

08:06

So if a more central than MC said for example, yeah, Harriet totally MMO. Again, I can't comment on anything other than what we've put into our written response without having our technical advisors see FOSS here. So I'll just have to go with what we've got written in our written response for now. And we'll update that with anything new that comes through in examination and deadline for okay. Okay, thank you.

08:31

And final one on this on seabream matters, just for the applicant?

08:39

How accurate is the noise modelling? Because some of these thresholds are quite close to boundaries, etc. And when a noise threshold contours is close to an MC said, for example, would that be a margin of error to be considered? When you're looking at things from a sort of precautionary standpoint?

09:01

To Mason for the applicant?

09:04

Yes, there is always a margin of error. There's there's no getting away without with any model ever. There is always going to be some some uncertainty in it. However, when we when we go to calculating the worst case scenario that we apply for more

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present, everything is is intended to be precautionary, and based on measurements, empirical measurements that we have taken in other locations around the around the

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UK waters, and so we've got a good confidence in what we predict is going to be what, what we would expect to see on site but yes, you're right. The reality is there is always going to be some sort of uncertainty, but the the, the the margin of error is inherent within the worst case scenario that you put forward. Is that Is that what you're saying?

09:59

Yes,

10:00

There is always going to be a margin of error.

10:03

But the margin of error mean the worst, it's slightly worse than the worst case scenario that you put forward.

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It's if the absolute worst case scenario could occur, yeah, where we are, we're looking at the the maximum maximum energies used. And for the

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longest period of time that we predict all of these are elements of worst case scenario that are laid. So it is unlikely that this worst case scenario will occur in practice, but that's built in to the worst case scenario in the model. So it should be

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right on the on the the worst, worst case edge of predictions. Understand Thank you very much.

10:47

Just just a single question on the potential for a measure of equivalent environmental benefit or meet as as cold.

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Obviously, at the moment, there is no agreement with battling and on whether there's going to the conservation objectives of the MCS that will be hindered a lot. In our written questions, the examiner authority asked about potential measures of a potential need.

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Essentially, if there was no agreement between the applicant and Natural England, particularly by the end of examination.

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Regarding the Black Sea bream at Kings mu MC said the examiner authority understands that more information will be forthcoming from the applicant on a meet a decision deadline for but can the applicant provide an update on this whether there's been any discussions with Natural England on this matter, and maybe what type of meat is being considered

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and anti to bear on behalf of the applicant? So

11:52

just to reconfirm the applicant maintains the position that the conservation objectives of the kingdom's he said won't be hindered by rampion. T. Understood. However, based on the consultation responses we've had from Natural England, SNC bass, we are preparing me currently. And that will be submitted at deadline for

12:11

we haven't consulted on that based on timeframes that we are putting it together. But I can go into some detail on some of the measures that we're looking at currently, which include research and development, understanding Black sea green behaviour and population dynamics.

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No anchor zones potentially in the MC set, eco mooring

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and also looking at a reduction in vessel traffic. Well, recreation vessel traffic. So, you know, these are all measures we're currently developing. So we'll be submitting a deadline for for for further feedback. Will they be when passed naturally and before deadline for do you think so deadline for we the first step as we can see these as well? Yeah. Okay.

13:04

Okay, thanks for the update on that one.

13:11

As anyone else got any comments on this matter, or generally on Black Sea bring

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and then the room or anyone online?

13:23

Okay, I'll move on then to got a few questions on the effects of Perlin noise on seahorses.

13:32

First of all, can the applicant clarify what would be the noise threshold for behavioural effects on seahorses?

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I couldn't quite find that information submitted.

13:45

And yeah, Anna laugh on behalf of the applicant. And we're confident that a 141 decibels behavioural threshold as defined by Casta Lane etalon 2017 is appropriate to see horse

14:00

so 145 engine 41 different 41 Yes.

14:08

That's the same as the black sibling that is, yeah, okay. And

14:16

there seems to have been quite a lot of focus on the temporary threshold shift the TTS noise effects on Seahorses, but what could be the potential behavioural effects on tea on seahorses from piling noise?

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From an ecological perspective, the potential behavioural effects that could occur include the disruption to breeding or courting behaviours and possible displacement from breeding grounds as well

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through your stew display hive Site, site fidelity,

14:45

though we are confident they would return to site in the following breeding season,

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but we didn't maintain our position that any planning activities will not hinder the conservation objectives of the MCS Ed's designates to see horse

14:58

okay, I mean

15:00

and follow on. My next question really is can the applicant provide the evidence and figures showing the behavioural noise threshold both mitigated and unmitigated with the MC said at the Beachy Head? I think it's mainly the Beachy Head MC SATs but any any MCs Ed's which were in the area where see horses are a feature it's something Natural England Avast deadline three as well.

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That would be useful to have. I think we've we've got TTS but not behavioural.

15:33

Yep, as mentioned before, we have some being content considering some additional mitigation measures. And would it be possible to show those figures at this point? Yes, sure. Okay.

16:05

Hey, this speaker here is showing the mitigated and unmitigated noise contours using the behaviour threshold of 135 decibels

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in relation to key sensitive features surrounding the sight. And these are showing the use of double bubble curtains which would have a 16 decibel noise reduction is worse they

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say at this point, however, that we still maintain opposition that we do not support the 135 decibel thresholds. Yes, yes. Okay. So if you can see on the figure here, the dashed purple contours that are in the smaller contours, these are the mitigated impact ranges. You also have the MC sides that are along the case, these are designated for the fields feature.

16:57

As you can see, with these mitigated contours, they are pulled outside of the embassy said, and we were confident that the implementation of this mitigation measures throughout the piling campaign, which is what we are proposing would

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mitigate well against any potential impacts on seahorse as a feature of the MCS ad.

17:19

Yeah, I can, I can

17:22

clearly see the differences there. This is on based on 135 would be useful to have this base 141 decimal as well, because that's obviously what you think of as the as the range. But that would be useful to be submitted also.

17:36

Thank you very much.

17:45

I mean, there was following on from that there was a point I think naturally and then made a bank the use of a

17:52

use of kind of the six decibel as a minimum. For the majority of the year, there's sort of single noise abatement measures outside of the black seeping season. And I think their point was take more of a precautionary position to maybe use two at all times rather than just the single one. But I think it'd be interesting now to see what their response will be because obviously, this 16 is a lot higher than six. And so I think I'll maybe just wait to see what they come back with on that and then we'll follow up any questions? Okay.

18:31

Is there any comment from MMO on the sea horse issue or indeed, what is they've submitted? They've put up on the screen there to do with

18:44

the use of double curtains throughout the year. Hi, Harriet, tiny MMA sofa issues pertaining to seahorses we always defer to Natural England as the SNCB that we will have this reviewed by C pass as well and if we do have any comments and we will put them in our deadline for responses, that's great. Thank you very much. Anyone else got any comments on sea horses and how they can be affected by noise?

19:09

No one online either.

19:13

Okay.

19:16

The last species of fish I want to discuss is herring.

19:28

It might be worthwhile keeping this document actually for that be quite useful because obviously you've got the the larvae density areas shown on that on this plan as well.

19:48

What I wanted to know though, is from the evidence the application has submitted up until today, such as the responses to the to the examining authorities written questions

20:01

There is a high confidence of suitable herring spawning areas based on density of larvae and type of substrates, just approximately eight kilometres from the from the proposed array area. While this may not be the peak larval density areas, does this indicate that could be herring spawning

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closer to the than indicated than the cool little shapefile, which you can see in the hatched area in the bottom right of the screen there for the dome spawning ground, which I think is about 45 kilometres away.

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As I said, it's not the peak global area, but it did show they were to be an area of sort of high confidence

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is that an issue is it could there be potentially having sporting as close as that to the site

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to the array area to say,

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and I love on behalf of the applicant.

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Any kind of any overlap with areas of high density eggs and larvae

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are not gonna be indicative of areas of back to be spawning herring away there are strong hydrodynamic conditions in the English Channel, which can cause larvae to drift away from this morning round in the area. So we are confident that the spawning is happening in the defined area as defined by Kohler cell.

21:26

And any eggs larvae in the area are going to be as a result of drift out of that spawning ground.

21:34

It did mention about the I think it's the seabed being quite suitable as well, close by. So it's the combination of the two makes you think that it's a bit that the you know, the spawning ground is further away, is that correct?

21:52

As Tim Goulding on behalf of the applicant, I think the

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point being raised there about locations within eight kilometres of the budget area related to the seabed habitat suitability, yes, index results. So what that does is it looks at proportions of sands and gravels. What the finds content is of the seabed and layers of view if you datasets and then comes up with a sort of scoring system. Yes. So, so there will be areas that sorry.

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Thank you. Sorry, I did that before as well.

22:32

There will be areas that have been identified as potentially suitable in terms of seabed conditions, but for which there is no

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evidence to support spawning by herring in those areas. So I think this is the case in this instance, there's there's no data that support that there are

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hearing that there are hearing activity spalling in those areas, nor are they high density of eggs and larvae from any of the surveys. It's just that the physical attributes of the seabed are theoretically suitable for supporting spawning herring. So don't think that we've we consider that to be an issue of concern in terms of any effects on herring spawning, certainly at the population level arising from any state any activities being undertaken at the proposed development. Okay, thank you.

23:28

Can I just come back to MMR? I don't know is if if, Ms. tylee there's anyone there that that would be able to respond on issues of

23:39

the herring issue. Say Harriet tylee MMA. There's no one here. That's a technical adviser today from see fast. But I can just reiterate opposition that because there are suitable substrates within eight kilometres opposition is that there could be herring spawning as close to eight kilometres from the the

array area. But again, we can get more detailed response to you for that in our next headline response. Okay, thank you. I mean, the

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that was that was pretty much my next question, actually. But

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also, Mike, just to take away with it for the MMO is is that question of sort of drifting larval

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larvae away from the site towards the north might be a

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explanation about what as shown on the plan in front of us here, why the high level density is kind of to the north northwest of the coolant or site, and whether that is that is a potentially a potential explanation for that.

24:52

How that's displayed. Would that be something

24:56

on that? Yes, absolutely. Yep. That's great. Thank you very much.

25:01

Going back to the applicants at that MMO. I was previously suggested that the cooler tools shapefile for herring spawning ground should not be relied on as a sole indicator. Is it fair to say there could be some inter annual variability, and the spawning ground for herring may be a bit different to what's shown by cool.

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On the left on behalf of the applicant, we acknowledge that there could be some inter annual variability. However, we have been undertaking estimates that deadline, three rounds ticket heat mapping exercise, where we look into the

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pilot seeds of eggs and larvae, habitat conditions of the site as well.

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And the locations of fishing grounds and things like that. And these are all kind of these all looked at together to provide a confidence scale as to where we think the herring could be actively spawning.

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There are multiple different factors that can influence where we think they would be actively spawning. And that's why it's useful for us to use various different data sources and as an indicator, not just the call. So

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I mean, it might be worthwhile, maybe you can post here a note to

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maybe amplify that, because from reading some of the information, it sounds like there was, you know, you've decided, there's been a decision that curto was probably the most likely

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area. But if there was other research that went into it for you to sort of basically agree that cool was the correct and, and that was the way forward in terms of your data, then that would be useful to see as well.

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And enough on behalf the applicant.

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We are we've currently received feedback from Seaforth Nemo on this as well. And we will be incorporating their feedback into that for deadline for and we can I'm sure bringing some of that information into that note that sounds very useful. Thank you very much.

27:15

And just one last question for MMO.

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Is

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the the thresholds to be used

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for the behavioural effects? The applicant have used the 135 decibel contour?

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Is that in agreement with yourselves, just for clarity?

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Quantities Harriet tirely on behalf of the MMA, I believe that is an agreement. But again, I don't have our technical advisors here to just cooperate that with myself. So we will make sure that we reiterate our position on that in our next headline response. Whereas Greg, thank you very much. Thanks.

28:04

There was another point to talk about noise abatement measures. But I think we've covered that sufficiently already. And thank you for the new information that you put forward to date with with the

28:17

the extra information on the double bubble curtains, for example, as anyone got any questions on the issue of underwater noise and the effects on fish, including Herring

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is anything else either in the room or online?

28:34

Okay.

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In that case, I shall now pass it on to Mr. Allen for some questions related to the draft DML. Thank you.

28:48

Thank you, Mr. Aney.

28:52

So acknowledging that this is slightly out of context in terms of what we're talking about, but as I said in openings morning, it's the questions here on Article Five, the benefits of the order are mainly for the MMO and makes use of their attendance today. So I'm going to ask a series of questions that I've got mainly for the MMO. And then I'll come back to the applicant after that for their views, if that's okay.

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So I am assuming my questions are going to be posed to you Mr. Taylor, is that correct?

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Or is it

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sir, yes, I believe it is correct. I'll do my best to

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thank you.

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So

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I'm referring here to the MMOs concerns in respect that you have set out in Section 3.3 of your relevant representation, which is r 219.

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Which you then crosshairs

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furthering your deadline, three submissions, rep three Oh 76 as nothing having changed in terms of your

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concerns with it.

30:11

And as I understand it, the MMO object to the inclusion of Article Five, paragraph 656,

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which says that the Secretary of State must consult the MMO, before giving consent to the transfer, or grant to another person the benefit of the provisions of the deemed marine licences. That's correct, isn't it later.

30:38

So I've switched my camera off, I'm afraid because I'm having trouble with bandwidth, though. Hopefully, you can hear me that yeah, the MMOs concerns really relate generally to the proposals for the transfer or indeed the grounds of DMLS generally. And one element of that is the the issues relating to to five, six. In essence, the MMOs position is that the act already contains an effective mechanism to enable

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transfer that will be a much better for all parties to utilise. It'll be faster and more efficient for all it will avoid the need to involve the Secretary of State at all.

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That provision is made and section 72 of the 2009 Act. And in essence, the wind compatible that process is compared to the process that's outlined in Article Five as currently drafted, that the proposed process is unnecessary, cumbersome, more administratively burdensome. The reality is that the MMO does in fact deal with these applications to transfer very quickly.

32:00

Although officially they say 13 weeks, it's usually much quicker around six, the MMO was never actually refused a request to transfer a marine licence.

32:11

Okay. Can I just ask, bring you back a little bit if I may, so that I'm absolutely clear napkins absolutely clear as to the concern. So when you say the 2009 Act, you called me in the marine and coastal access does act? That's correct. Yes, yes. And you say that there is no mechanism in the DCO, or indeed the

the 2009 Act for DML to be leased, or for it to revert back to the licence holder? That's my understanding your first concern. So I just want to be absolutely clear. The MMO is not objecting to the provision for the undertaker to transfer the benefit permanently. Because on a permanent basis, because as you say, that is permitted by section 72 of the 2009. Act. That's right, isn't it? Yes, that's right. Yeah. So it is, it is it is I will I will let you answer just a moment. I just want to be clear in my mind. So you are objecting so where the Article Six, five? Sorry, five, six comes in, you're objecting to the leasing of the benefit this this idea that the the transfer could be done on a temporary basis? Because you say that there's no provision for that in the act that that's I've got that right. I haven't I Yes.

33:38

Okay, thank you. The other aspect, the other aspect there is that the power in in Article Five, two and five, three is currently drafted, quite apart from the fact that they those two provisions overlap the the power in relation to the leasing provision is a power to grant

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a

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marine licence as opposed to transfer.

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Okay. Understood. So I was just about to ask you on that. So, does your objection then and to the inclusion of five six also

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include?

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Five, three B?

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Yes, so it's not just five, six, it's five, three, B as well. Yes, and, and indeed, five, two. So at the moment, as drafted in the latest DCO.

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Under five to there's power to transfer to another person, all of the benefits of provisions of the order, including the deemed marine licences, for as five to a five to be is a similar power in relation to a lease arrangement. And then under five, three, there's an additional power

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to transfer to a transferee the whole of anything marine licence.

35:00

under three A, or to do it on a lease basis under three B. So there's a, there's an overlap, that doesn't make any sense at the moment. Okay?

35:10

The the, we've got concerns about the power to ground to D marine licence and how that works in practice, who imposes conditions what what particular process is followed. There's there's concerns about the power to grant, a de marine licence for a period of time, we've got concerns about the basis of defect is application of the need for the Secretary of State to consent.

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And indeed, we've also got concerns about the absence of a power provided in the DCO, to enable the MMO to change its records change the DML held on its systems to reflect any transfer,

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all of which combines to actually raise serious concerns about enforceability and enforcement going forward.

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But Are most of these concerns you raise, really about the the need to be raised at the secretary of state rather than in this particular application?

36:11

No, because these are all matters that go to the drafting of Article Five and whether in principle, there should be a provision that transfers the roles included in the DCR. And what the what the justification for that is. And we've seen from the applicant, identification of what it's been done in the past that that that's certainly the case. But what we haven't seen, what we're happy to discuss, and indeed keen to discuss, is the rationale for it, why does it need to be included? And actually, how are all the parties including the applicant, and the Secretary State better off with these provisions in place, and what what we intend to do is to provide you with a written explanation in a bit more detail than I'm going to provide today.

36:57

at the earliest opportunity, we've also on a without prejudice basis produced a draft of Article Five, which we believe meets some of the concerns obviously not the principal concern about including a power to transfer, again, to try and assist you and to assist the the applicant in in producing an article which which actually does operate and avoids some of these issues. In that draft, we've thought about how to give effect to a grant of a deed marine licence for a period of time, effectively by creating two transfers one, one to the to the lessee. And then at the end of the the agreed term, the lessee then effectively applies to to transfer the D marine licence back to the undertaker. So we're trying to solve problems in the drafting, albeit we are far from convinced that there is benefit in any of these arrangements. Okay. But one final question on the leasing side of things, if I may.

38:06

I think you mentioned that the DMCA, the 2009 Act, makes no provision for leasing.

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But does that prohibit it?

38:19

Does it prohibit it? There's no, there's no use? I think you've said that the 2009 Act? And correct me if I've got this wrong. You've said that the 2008 makes no provision to to lease the transfer. You we established earlier on that you didn't you MMOs objections isn't to the permanent transfer, because the Act allows that. But though, I think in your comments and your relevant representations, you argue that there's no provision for leasing for to vote on a temporary basis. And my question to you is, but does the Act actually prohibit that, in your opinion, the app makes no provision for it, there's no power to do it. That's that's the point. What there's a power to do is to change the name of the person who holds the the dean, the Marine licence, and that can be done. And so the solution that we've been thinking about, we're happy to discuss with the applicant is a solution that achieves the same effect of transferring to a person for a period of time, but effectively with two transfers, one after the one at the start of the period. And then back to the Undertaker at the end.

39:29

Okay.

39:32

Thank you. I'm going to come on to the issue about the Secretary of State is the determining determinative body, which I think is another part of your concern. But I just want to give Mr. Mouse is there any do you want to come back at this point? Or do you want to see what the MMO come back in with in written form a deadline for that? Certainly, I'd like to see what the MMO come in with a deadline for and then and then respond. I may come back at the end of your discussions if I can, sir. And just

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Make some potentially overarching comments about the structure of, of Article Five, generally. Okay, thank you that would be helpful.

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So if I could just come on to the second, I think transfer, your concern is the MMO.

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I think as said, as because you are the determinative body as the as the licencing authority, I think you say that the Secretary State shouldn't be the one that that consents to a transfer of the licence. Is that correct? That's correct, isn't it? I've got that right.

40:42

That's part of the position. So if I can put it that way, the the in essence,

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we say that the DMO is the appropriate body to to give effect to the transfer. But as I said, the reality is this is effectively an administrative act. It's simply receiving an application and effectively changing the name.

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The the and so it's not a complicated process. The article five process that's been set up requires pre application consultation with the Secretary of State, an application to the Secretary of State consultation with the MMO a decision by the Secretary of State and then notification of the decision to the MMO and other parties. It's it's complicated and convoluted.

41:37

Right? So in the, in the verse in your deadline for responses that you're about to give on this, where you say you're going to put forward a redrafting of this article? That's correct. Yes, that's what you were saying? Yes. Who if you could just and if you've already answered this, or do forgive me, because I do want to make sure that I'm clear on this. So who would Detroit who would be the determiner to body in your redraft for any transfer of the benefits? Would it be a you proposing it to be yourselves or the Secretary of State? Are the three drafts been done on a without prejudice basis, so it's without prejudice to that particular point. And it maintains the position that the Secretary of State has to consent, what it has changed is the circumstances of dis application of the Secretary of State's consent in Article Five, eight as currently drafted, simply because we do not understand the rationale for the DIS application

42:47

provisions and how it relates to DMLS.

42:51

Okay.

43:04

But if I can just bring you back to five, six itself. And one of the things you have I mean, I know you want the removal of five, six at the moment, in your representation, you want that taken out. But I think one of the concerns that you put in your representations is the fact that you felt that the

43:26

whilst the Secretary of State is compelled to consult the MMO,

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before giving consent to the transfer

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of the licence is nothing to say that the Secretary of State has to take that advice. And that's another one of your concerns as well, isn't it? Yes. It's not that he has to take it. It's that he's he has to consider it. There's nothing I'm just gonna say that this is a in in in real terms. Is that like, Is that likely? I mean, is the Secretary of State

43:57

likely to not consider any concerns raised by the MMO? And can you point to any previous incidents where that has happened? I can't point to any examples where whether it's likely or not. Again, I don't know if our attempt depends very much on the internal arrangements, the Secretary of State's got in place, but it's certainly strikes the MMO that, that it would be better to make it explicit that there's a duty to take it into account. Well, that was my next point to you is should the factory state be minded to keep that provision in?

44:34

Would would? Would you support additional wording in that which says and the MMO must raise no objection or something words to that effect? In order before the Secretary State can

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can grant the consent for the transfer? Would there be would you like, wording to that effect that which effectively says that he can't do it?

45:00

If the MMO objects at that, that would certainly suit the MMO purposes. Yes. Thank you.

45:12

And then moving on to sections

45:16

72, seven and eight. So this is the just this is a clarification point. So this is article 513. Here. Yes.

45:27

Which in which those two sections of the 2009 Act are disapplied.

45:34

I just want clarification that they would in order for this article to exist, Article Five, those two sections in the Act have to be disapplied. Is that is my understanding of that correct? If they were not disapplied, then Article Five couldn't sit as it currently stands. Yes, I believe that's the case because there'd be requirements to seek a transfer pursuant from the MMO pursuant to the act as well as go through the Article Five process.

46:09

Yes, thank you, Mr. Taylor vote. That's been very helpful. I've got one final question for you before I ask. Mr. Male to come back. Now, I have looked at

46:21

the last offshore wind farm to be

46:27

to be granted which I think is the sharing and Dudgeon order. Yes. And I had noticed that,

46:35

that Article Five in that order, which is which is the same thing, the benefits, the order is largely identical to the one the applicant has proposed, which suggests to me that the Secretary of State's has already accepted the article as worded as being appropriate. So whether you can give an answer now whether it will be more deadline for submission? Could you explain to me why the Secretary of State should be considering a dish a change in wording and whether you brought up the same arguments in the sharing

47:11

discussions or not? Yes, okay. Well, the first thing to note is that there is a material difference in articles five, two and five three in the sharing MDCs there is yes in five to the words into a into b relating to D marine licences say excluding the D marine licences was what was proposed by the applicant in the in the present draft is included. So, in the sharing DCO, five, three is the only operative provision relating to deemed main licences, not five, two, so the overlap doesn't exist. That's the first point.

47:55

But there are there are other differences, too, all of which we will go into in the written process that we'll go into rather than debating them now.

48:06

But the second key point is that whilst in unmeasured decisions, there's obviously

48:14

merit in life decisions being decided in a like way, decision maker always has the ability to depart from a previous decision. And one has to look at the reasons for an earlier decision in order to understand whether those reasons are or continue to be justified.

48:32

Certainly, I've been unable, from my reading of either the panel's recommendation report or the Secretary of State's decision letter, to identify any rationale for the a the existence of the ability to transfer in that article,

48:51

or indeed, any of the other elements are which including the need for Secretary of State's consent, that is the DIS application of Secretary of State's consent, and the like. And so that's a key point from from our perspective now, because of course, we're raising now, the issue, the extent to which this is actually justified, we recognise that that rationale is is important in terms of what was raised by the MMO. In that case, that I believe, and I will correct this if this is incorrect in the written representations to follow that the points that are being raised now were not raised in that process.

49:49

Thank you very much. Mr. Male, I'm going to come to you next.

49:55

If you would you want to, as you indicated, may want to make some overarching calm

50:00

and responses. And then following that I'll come on to the dean during licence themselves.

50:08

Yes, thank you, sir. I mean,

50:11

I think what I I'll obviously comment on the detail of the suggested amendments and the point of the MMO raise in writing in due course.

50:21

What I will say is that, as the applicant stated in his response to

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the examining authorities first written questions, and I think he raised the question BTO 1.3.

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Article Five is well precedented in a number of made orders. And we refer to East Anglia, one North East Anglia, to

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Hornsey, for Norfolk Borealis Norfolk Vanguard. And indeed, you could go back,

50:51

I think, probably for most made orders over the course of the last 10 years on offshore wind farms, including similar provisions, I'll accept that the detail of those provisions has evolved over the years. But essentially, those same provisions were included. And much of the MMOs points that it seems to be making here and again, I'll I'll reserve my position until we see

51:21

the written submissions did seem to be considered in the examination for the Hornsey for project. And the examining authority noted there, that the provisions equivalent to Article Five were well precedented and recommended that they be retained in the order. And obviously the Secretary of State included them within the order largely on that basis. So

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the applicant is not suggesting anything novel, in its approach to the benefit of of the order. And of course, there are good reasons why

52:03

a deemed marine licence may be

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may want to be transferred in in the route suggested and that's because

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in all likelihood, the benefit of the order for those relevant provisions will be transferred at the same time. And so what the applicant is trying to achieve is a single process by which the Secretary of State can consent to the transfer of the benefits of the order, and also the transfer of the benefit of the relevant marine licence. And the most obvious example of that will come when

52:38

an off toe is identified, and there will be a transfer of the benefit of the older to the auto for the auto assets, and the transfer of the deemed marine licence to the off Topher for those assets as well. So there is an inherent good reason in the applicants perspective for retaining the article as drafted. And of course, there are obligations within the draft article. Firstly, for the Secretary of State to consult the MMO, as has been discussed, but also within the article that prior to the transfer of any marine licence notice must be given both to the Secretary of State and to the MMO.

53:25

In respect of in respect of that transfer. So

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it's really an inherent Lee trying to consolidate the transfer process alongside the order in in in one mechanism. And I think, perhaps part of the MMO submissions,

53:45

relating to its issues with consultation with the Secretary of State would give rise to another concern that applicants and Undertaker's generally would have that you could find a situation where the secretary of state might agree to the consent to transfer the benefit of the order. But the MMO would not consent to the transfer of the benefit of the de marine licence. And in that situation, applicants and Undertaker's will be caught between a rock and a hard place. Is that the key difference or you may not have the showing him and dodge in order before you which I may have caught you on the on the hop on that, so to speak. But, but but I think the point that was raised by the MMO is correct, because five to be and I would ask you perhaps to look into if you don't have it before you have the Sheringham order does exclude the D marine licences in So where it says the subject to paragraphs in there six seven and eight The Undertaker may with written consent of that Secretary State and then it says in be grants for another person for the period agreed between the Undertaker and the LISI for any of all the benefits of the provisions of the order, excluding the deemed marine licence, but of course he

55:00

In the proposed DCO, your one, it includes the D marine licence is that that the point you're, you're making about this position that the reason for that change is because it, it's in one place, if you like, it is, I think I'd like to consider that in a bit more detail with that without without order in front of me. And it

may it may actually be that, you know, that wording, including the de marine licences can be removed from

55:30

five to A, because effectively it is picked up by by five, three with the consent process has gone through. Okay, if you've heard, because I would like to think that is quite a big difference between the two orders. And I can understand, I wanted to know, the question I was going to ask you is, Has the Secretary of State considered such wording before including the deme relicense? The approach you're, you've just advocated has the Secretary of State considered that before and including it in orders? So I'd certainly welcome your investigation. looking into that. Thank you very much indeed. Mr. Taylor, anything further, you want to say on Article Five? Or do you just want to reserve now to your submissions that deadline for I think I better just reserved my position. Thank you. Thank you very much indeed.

56:20

The second part of this is I wanted to go through the continued changes required by the MMO to schedule 11 and 12. I have to be honest with you, Mr. Mayor, I don't particularly want to do that this particular exercise, because the wording is quite minor in a lot of the cases. But I will do so unless

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because I haven't really had an answer from the applicant to those changes, and they've been in the in the examination for some time.

56:51

Can I leave it to you to perhaps look at those suggested changes, which they have set out.

56:59

There's two from Natural England and

57:04

x 789 10. From the MMO that I've got, where they've requested minor word changes to the schedules that apply to both schedule 11 and 12. And where there were differences that I think that MMO now agreed that they've been resolved. Can I leave those with you to look into and amend accordingly, please?

57:27

Because I don't want to really waste the hearings time to go through each individual one. But if we have to, I will do so that no, sir. I'll save your time, we'll we'll address it a deadline for

57:38

where we don't accept things. We'll provide reasons as necessary so that you can take those forward. I mean, just to just to give you an example, one of them, which is

57:51

paragraph two of part one is to do is they just noted a double semicolon. It you know, it's things like that, that that's been it's been in the examination for some time, but but by no changes.

58:08

Another one is paragraph nine, page 155. Where the MMO has asked that unlikely to can be changed to will not.

58:18

Now I appreciate that wording is in other orders, but it may be something that you'd be prepared to do. But I would like you as a site to go through it rather than me having to sit here now and and plough through it because they are what as I see it, in a lot of cases minor minor wording changes.

58:38

Yes, sir. I could confirm we'll do that. And we'll respond the deadline for Thank you very much. Anything further from the MMO? on that? Yes. If I may, just just to say this is Reuben Taylor, Casey for the MMO that points about will not unlikely to actually isn't iron appointed. It's in order to reflect the case law in Barker and Bromley

59:03

which provides that a subsequent grant of a variation or consent

59:09

can't occur, if that variation gives would give rise to lightly significant effects that haven't already been assessed in the Yes. And so the will not is actually is actually important from a legal perspective.

59:24

Thank you. Okay, I will leave that with you, Mr. Male to look into that. Okay. Thank you very much. If there's nothing further on Article Five or the deemed marine licences

59:38

No, thank you, sir. Okay. Okay. Thank you. And I'll revert back now. Oh, sorry. There is a hack. I didn't see your hand up from

59:46

high is high. No, that's okay. I wasn't sure if we had one further representation from Ruben Taylor case he disregarding condition 10 on the deemed marine licences, I wasn't sure if we had anything to say on that or if that's something we can put in our written with.

1:00:00

response.

1:00:01

Sorry, I'd assume we were going to put that in, in writing. That's okay. We can if there's no time today, I just thought I'd mentioned it quickly in case. Yes, that's condition 10. One. I believe. That's correct. Yes. Yeah. Yes.

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I need 160. I do have that down. So.

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I mean, I mean, um, is there anything specific you wanted to mention on that there? No.

1:00:27

I know that you've you This is force majeure, isn't it? Questioning the need for for it? Because it's already covered? I think you're saying in the in the act, is that correct? Since the prompt.

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Okay. So again, Mr. Mayor, you'll have seen that heard that you'll you'll look into that I I'm prepared to respond to that one, sir. And I'll do it in in writing a deadline for alongside the other amendments.

1:00:54

Okay. was tired. Is that acceptable? That is great. Yeah. Thank you very much for clarifying. Thank you. No problem at all. There's nothing further on the marine licence in the room. Online. Okay, well, I'll hand back to Mr. Rainey. Thank you.

1:01:11

Okay, thank you.

1:01:13

Just want to ask some questions to do with the benefic ecology benthic environment.

1:01:22

First of all, for the applicants, PT just clarify that the HDD cable into the near shore seabed beach and dunes area would be at least five metres deep? And if so, could this be secured in the DCO?

1:01:50

Toby Lee on behalf of the applicant, yeah, we can confirm it will be at least five metres deep.

1:01:56

Accepting the positions where it transitions from, where it enters and exits.

1:02:02

We can certainly include that within within the DCO. Okay, thank you very much. So make an action point on that for that to be included within the DCO. I understand the transition point, about 10 metres or so. Is that from basically seabed level or ground level? To the five metres deep? Minimum?

1:02:21

Yeah, it will be around that level. We'll think about that in terms of how it's presented in the in the DCO. Okay, thank you very much.

1:02:31

Sir, if I make comments on that, just generally, I mean, it one of the changes to the DCO that was made at deadline three was to include within requirements 23

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within the construction method statement, or an obligation to include details for the location, and then depth, there's really not added in respect to HDD drilling. We'll see if we can firm up that any further in combination with the outline CMS that's that's referred to as the way to reflect that commit. Yes, yeah, I think there's it seems that there's a

1:03:06

I think the five metres deep was something that particularly Natural England were would be

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interested in getting that confirmed as a minimum. So that's, that's good. The applicant has mentioned the possibility of a duct extension for the HDD at the coast. However, we understand that that might require further trenching for this. This has to do with bringing the HDD out a bit further offshore to avoid as much sort of childcare is possible.

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That was on page 161 of the response to written question one

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as such, would there be any benefit to HCD duct extension if there were more seabed works required possibly ensure carriers?

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He had a totally on behalf of the applicant. So yeah, the principal reason why we put the duct extension into the

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into the application is really around being able to get keep the vessel as far away from the shore as possible.

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Certainly, if we mean, in the first instance, is we're hasty doing so we're gonna start from London, from the location we've set out in the in the plans with a drill out as far as we can, and that will be a minimum to

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low water springs. We'll try and get that out as far as possible. And if

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if it's deemed an appropriate method, we will consider the use of a duct extension. And the principal reason for that is really a like I said, to get the vessel as far away from from the shore as possible, because it's quite a challenging approach. It's relatively shallow, the vessel will be able to float that high water, but it won't be able to float at low water to get as close as possible to be able to do that.

1:05:00

The cable landfall operation. So, yeah, we are proposing that the duct extension would be trenched into the chalk. Right. Okay. So at the same time as that, then there's there's a, I think we have to factor in that with a duct extension there may be more seabed works than otherwise or is it a case that you're they would have to be the trenches anyway to deal with the cable link.

1:05:29

Either way the cable we have opposing the cables buried now will require trenching of some sort. So in the case of the ducts extension, it would be done before the main cable installation work. So we would go there we dig the trench instal the duct, recover the duct that would be then available for when we did the

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the cable installation itself. But either way it would need to be trenched in. So just think of a duct extension, the main benefit would be that you might be under the gate the need for gravel beds for the

1:06:05

installation of asphalt principally the reason for it that farther we can get out. The farther the vessel the farther the vessel will be from when it is able to then access that doctor then installed cable. So that may mean that we're able to ground the vessel less. Yes. And and obviously one of the potential mitigations about not being able to ground the vessel is to is to put in the gravel bed. But to be honest, that is not an up choice number one. Yes. Good. Okay. Thanks for clarifying that. I understand that no, thank you.

1:06:46

Just for the African then is there any more information based on data you may have about the possibility of extending the HDD out further from the coast to minimise the impact of chalk?

1:06:58

Accepting that, with the extent of chalk off the coast, it can't be fully avoided.

1:07:08

Typically, on behalf of the applicant, as I stated, yeah, we will try and look to get the HDD as far as possible. But there's only so far that that technology will work. Yes. So we've got two locations where we're preparing to launch it. So I think it's going to be a function of that one of them is notably a bit

further away from from the coastline. It's also going to be a function of the ground conditions, as we've I think we've previously discussed, we've not done any

1:07:38

any site investigation works out the lungs, yet some that will not be completed prior to the conclusion of this examination. So what we'll do is once you've got information, we'll be going out to tender as and getting designs done for that HDD. And again, our our preferred solution is to get that as far as possible, but it's going to be within the realms of the technology on the ground conditions. So under landfall, I know with the Sholem antigen case that they there was a identification of a zone. I think offshore they were they were saying the the the exit pit was going to be within the zone. Do you think something like that it was possible based on the data that you have?

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Totally on behalf of the applicant, I'd say no, we've not got any sighting information about that. If we look to the example of rampion one, we were able to get

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bit further than mean low water springs, but that was from a position close to the coastline. It's all going to be dependent upon what we can contract and how far the technology can get to and it's not something we can commit to in the application. Okay.

1:08:54

Just some questions about the gravel beds, or the use of gravel bags that we touched on just just now. The application is the applicant has stated that the gravel bags would cause abrasion of the seabed, but that will recover over time. How would this recovery occur? And what about if there was a features like outcrop in short, for example, would they be able to recover

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and do to bear on behalf of the applicant.

1:09:24

So following removal of substratum the chalk can't recover. And we understand that that feature of chalk, however, a subsurface layer of some sort and can be exposed and can be recolonized by the key features of that habitat type. So as long as we aren't having a widespread impact on that feature, the key species can we colonise? So, for example, the products in particular they're quite sedentary in nature, and they have a column to the Marlin sensitivity assessments evolved effective strategy

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to use to larval dispersion and juvenile recruitment. So, the resilience of that feature? Well, the ecology of that feature, according to the Marlin sensitivity assessment is medium, which

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effectively states that they can recolonize the chalk within two to 10 years.

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So, I think the key point there is that we, as long as not impacting the whole feature, there's there's a key key recovery right there for the primary habitats and features of that. So the seabed itself, especially with chalk won't in itself recover. But flora and fauna wise, that is recoverable in time? Yeah, that's correct. Okay.

1:10:45

If I may, sir, excuse me, David Lamkin, ABP mayor, on behalf of the applicant, perhaps I could just speak to the the physical impact he's doing alongside the benthic habitat.

1:10:57

So yes, we've considered the comments from Natural England about abrasion caused by either gravel bags, that could be well, abrasion, by definition is movement between surfaces and sort of wearing down, which would suggest a, you know, a loss of some of the surface material, I think we can't rule out something along those lines,

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caused perhaps by the presence of the bags, the vessel resting onto it, and the application and removal of the bags. We can accept that,

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however,

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that that degree of abrasion considering that it's underneath those bags, it seems very unlikely that there will be a loss of truck volume, that would be a measurable quantity. So on that basis, we're not expecting abrasion as a process to cause significant removal of chalk. I think it's fair to say that the very surface texture, which is naturally weathered and open at the moment may become slightly compacted, the surface may become slightly deformed by the pressure of the bags and the vessel. But on the whole, we certainly don't expect any measurable loss of chalk material through that process. And then, as my colleague Andrew was saying, benthic habitats are very likely to recolonize from the physical side, we see no reason why the the slightly modified surface would not recover to a natural surface in time. Yes, and stent. So the compaction itself, that wouldn't result in much arm itself is what you're suggesting as well, the sort of abrasion about the weight of the bags itself, that some effect on the seabed, but

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is that quantified as well.

1:12:42

David Lamkin on behalf of the applicant, I think it's fair to assume that some, some effects may happen in a physical sense. But of course, the the action of the benthic communities will aid in that recovery day dry as much as the physical weathering processes, recovery of the surface back to its

original form and function. Texture. Okay, thank you. So you know, naturally come down here today for me to obviously come back on that, but we'll put all those points to them. Thank you very much.

1:13:16

The African states the gravel banks would be laid using a microsite an approach where practicable to avoid sensitive offshore features, I think a C to a three of the commitment register, does the use of the phrase where practical will mean that some sensitive features may or

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may be could not be avoided? And if so, could you provide some examples and as how has this been taken into account with you assessment,

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and you did there on behalf of the applicant centre, and sorry, in terms of sensitive features within that nearshore environment, we're not expecting anything, really, except your habitat. The nesting features of seabream is probably too shallow for them. They're in addition to several area, it's been your low serif as well, which we found only in two locations, but slightly further offshore from when we're looking at as well. The peat and clay exposures again, are further offshore. And the Stoney reef, again, is funny to feather ashore there as well. So it really is the chalk habitat that we're concerned about. And obviously, the where practicable bit comes in, because that feature extends across the whole of the nearshore environment of that part of the coastline. Would it be

1:14:28

better than to rephrase that to make it clear that what you're talking about were practical relates to the chalk environment, which can't be fully avoided, rather than just abernant more broad?

1:14:41

I think that'd be fine. Some travel look at okay, maybe we put an action point for that one.

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There is Tim Goulding on behalf of the applicant to I think we can consider that and we'll come back to you. As I said before, I think there is

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potential for ephemeral

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features that might be considered as habitats of disparate importance that we would need to include in that provision. Okay, why it's worded as it is currently. So just just flagging that, okay. Understand? Well, yeah, just if you could just have a consideration of that and see

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where that could be tightened up, that would be fantastic.

1:15:29

We understand that other wind farm and CIP projects had some level of geotechnical data which was used to inform an outline cable burial risk assessment CVRA. And a cable specification and an installation plan.

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Has the applicant enough data to provide into the examination, an outline version of both of these documents?

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Think we'll take that one away. We have covered some information on the site. And certainly you'll see within the application, we've included

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the outline of where we think we could route the export cable. So God to avoiding

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particular features. And as you'll see, it's not a straight line. And it does, it did make the we were considering reducing the the export cable length, but we had to go back on that due to us trying to have to avoid this feature. So I think it's something we could look at.

1:16:34

Certainly, we have certainly considered that, within that that scope of work. So we'll come back to you. On that point. Just to know, I mean, I Well, first of all, I did note that you have submitted a technical note, cable corridor. Exactly 145. And some of the information that has already been submitted into us will be the sort of things that we would have seen in an outline document similar to that. But there's there's things which I've seen on other projects such as the a bit about HDD exit pits, for example, commitments to cable burial and cable protection,

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repair and decommissioning the cabling, remediation, remediation burials

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extracted parameters and limitations, and also risks of shipping and fishing. These are the some of the sort of things that have been included in the outline document for examination and Natural England have mentioned these these documents. So I mean, I think it would be beneficial for an outline version to be submitted if that was possible.

1:17:43

You hopefully, if nothing has confirmed, that's just for the export cable corridor that you're interested in that for.

1:17:51

I would say so. Yes. I mean, that's, that's that's what we're really looking at. But I mean, some of the some of the bits such as what to do in terms of when there needs to be a repair or re burial that might be general throughout the, you know, the cable network, basically. Thank you. Okay.

1:18:11

Last couple of questions on this.

1:18:14

Natural England upstate today would be useful for a comparison of equipment and methods for cable burial to be clearly set out using lessons learned from rampion. One, is this something that the applicant could possibly provide by the next deadline?

1:18:42

Just repeat the question, please. Sorry. Well, Natural England this is this is within the naturalness submissions have stated that it would be useful for a comparison of equipment and methods for cable burial to be clearly set out using lessons learned from from rampion. One.

1:19:00

So I think that's looking at I think there's there's commitments to do with minimising the impact by use of specialist tools and such like. So I think it's about maybe having some more information about that some maybe some comparisons with that. Maybe what was used at rampion. One, if you knew knew that sort of thing. It's it's basically a particular request from Natural England, which we which we noted

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and we turn that one away. I think he's actually quite difficult to do. In practice, we have discussed it.

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But actually making comparison with ramping one and ramping to grab specific tools is actually quite difficult. Lessons learned from him. Yeah, yeah. I mean, yeah, we, yeah, we'll take it away. And we'll, we'll try and try and deliver something along along those lines. But principally, we want to approach this in terms of being able to go to tender to the market.

1:20:00

With

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the ability to be able to, for them to choose the right tool for the job that get principally get the job done in terms of getting buried, but also then looking at how can we minimise impact and delivering on that basis? I think it's probably because we're naturally and then they've seen the commitment to, you know, having an equipment that that specialist equipment to reduce the footprint exam, for trenching, etc. And I think we're looking for a little bit more detail about what what that could mean, without

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in any kind of outline document, rather than saying this is specifically what we would want to see that you will be using, for example, maybe some some examples, that sort of thing. But it is in the natural England's rag documents, so maybe have a look at that and see the exact word and they've used and see see what can be produced. Okay, thanks.

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My final question

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related to cable protection,

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what would the applicant

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considered to be the most likely type of cable protection to be used? That would be what was likely type of cable protection that will be removable at decommissioning stage? So question we've asked MMO unnaturally and recently, just wondering what, from your consideration about what types that you may use?

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What you think would be the most removable decommissioning stage?

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That's a difficult question to answer, because I'm not aware of any of these works actually ever taking place.

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What we'd be looking to do principally from putting Well, first of all, we don't want to put cable protection down if we don't need to. First point is to bury it. Again, the previous point was about getting the right tool for the job to do that, that work. If we were to put something down, it will be there for a very long time. We're talking about a 30 year scheme, and the application is

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trying to remove something which Ben has been on the seabed for 30 years will be challenging. I think it whatever you put down. Principally, what we tended to do in on previous projects has been instal rock protection. We have put in other methods. But again, they're all be subject to them being on the seabed for 30 years, and what methods would you be using to remove them? And like I said, We've never done any of that work before. So it's actually very difficult to pick a technology or a method, this point in time, that would be have any benefit over another? Either way, it's probably going to involve some sort of dredging, you can imagine something like a concrete mattress maybe being in a bigger piece. But is it going to be in a big piece in 30 years time when it's on the seabed? So it's a difficult question to answer. I don't think we'll be in a position to be able to recommend a particular technology or a particular method for cable barrier, which will in any way the demonstratively easier to remove after 30

years, then and then another method. I think something that's been mentioned is the use of rock backs rather than loose rock. And then you've got the issue of plastics. Yeah. And they also want to avoid. So it's how is that is that bag designed to be there for 30 years, what's the little up 30 years, we have put rock rock back down on rampion. One, again, we don't know what those maps will look like. When that comes to be decommissioned. It's a it's a challenging problem, but when in all instances mean you'd be able to dredge it at least.

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But again, I can't think of a specific method, which will have any advantage over another at this point in time. And I understand a lot of these won't have reached the end of they're the ones that have may be used elsewhere. They haven't reached that sort of 30 or 40 years. I think the

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direction from particularly in Natural England seems to be to for the applicant to consider primarily

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the type of cable detection on what could be

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the easiest to remove a decommissioned interface. So I think that's probably something that as the applicant to respond to, and

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and see what information can be provided. Because I think when it comes to the choice, but that seems to be the sort of hierarchy that Natural England are looking for, and I think MMO possibly as well. Okay.

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Is there any final points that anyone wants to raise on benefit ecology issues

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and no one online Okay.

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In that case,

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I'll pass on to miss below to cover the some questions on marine mammals. Thank you very much.

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Thank you Mr. Ronnie. So we'll do marine mammals and then we'll break after that

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okay, so I'd like to just refer back to the worst case piling scenario discussed at point three A on the agenda this morning. So the applicant confirmed the worst case scenario was for monopiles and eight pin pals in a 24 hour period.

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Could the applicant confirm that this is the worst case scenario that has been modelled in the environmental statement in Appendix 11. Two, which is the Marine Mammal quantitative, underwater noise impact assessment and aipp 148 and appendix 11.3, which is the underwater noise assessment technical report a pp 149.

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It most of the applicant, I think we need to make absolutely clear on this and so we'll take this way and confirm in writing.

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Okay, thank you. Very appreciated.

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Can we take that as an action point, please to confirm to confirm that in writing. Thank you.

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So at the last set of hearings, the applicant explained the soft start procedure, commitment. Si 52 confirms the details of the soft start. That will be in the triple MP. Can the applicant confirm whether the soft start ramp up has changed at all since then,

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Josephine Brown on behalf of the applicant, the applicant confirms this has not changed since that time period and in our responses at the most recent representations from yourselves. We've provided on that point. So that's been submitted in the examination.

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Thank you.

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So are there I'd like to ask Natural England and the MMO whether there are any outstanding concerns regarding the wording or content of the draft piling marine mammal mitigation Protocol, or how the commitments C 52 Or c 265. Relating to the triple MP are secured in the draft DCO.

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Is it there's no one from Natural England here today. So I'll post or lost that to them in post hit hearing questions. But is there anyone from the Marine Mammal management organisation who could respond to that please?

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It may not be No. Okay. I will post that question to the MMO after this hearing as well. Thank you.

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Okay, moving on now to the revised bottlenose dolphin impact assessment.

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So this is around this will regarding the evidence to support the assessment of medium impact magnitude and post consent monitoring proposals.

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So the applicant submitted an updated bottlenose dolphin baseline characterization that deadline to which is rep 2019 In response to natural England's concerns and at the request of the examining authority.

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Natural England stated in Appendix C three rep 3081 That Natural England does not agree with the applicants conclusions that the impacts to bottlenose dolphins will not be significant. The worst case scenario is that all bottlenose dolphins may be disturbed per day of concurrent piling. And this comprises 10% of the CDC management unit which is 10 times larger than the predicted impact any other species me population for

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Grampian to and Natural England state that this makes it the most significant marine impact. And they advise that post consent monitoring is appropriate to test the conclusions of not significant in EIA terms. So could I ask the applicant to respond to this point from Natural England please?

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Hi, Rachel Sinclair, on behalf of the applicants

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Natural England has advised, we are now currently in the process of running the population modelling that they advised using the AIP called model to assess the potential for a population level effects to the bottlenose dolphins both from the project alone and in combination with other projects and we will use the results of that to justify a conclusion from the magnitude score.

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This will be submitted at deadline five.

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Thank you, thank you for confirming that.

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So the applicant has assessed the magnitude of the impact is medium and Natural England state that the applicant has not provided any evidence to support their assertion that this percentage of the population disturbed correlates to the definition of medium impact magnitude. Natural England advise that they cannot agree and that the applicant should therefore present evidence to support their assessment of medium impact. So could you also respond to their point on that please?

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Rachel Sinclair on behalf of the applicant, again, this will come from the results of the population modelling using IP Court that will determine whether or not there is a population level impact and will therefore assign the correct magnitude score based on those results.

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Thank you

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Natural England state in Appendix C three rep 3081 that they're proposing noise mitigation relation to fish and shellfish impacts and advise that the applicant should consider further how the mitigation proposed may reduce the possibility of negative impacts on the bottlenose dolphin population. So, can I ask if the applicant is taking marine mammals into account during the design of this mitigation?

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Is Tim Golding on behalf of the applicant? So can I just clarify are we talking about the soft start protocols for piling or the noise abatement measures associated with it would be the the mitigation design for fish and shellfish impacts and whether that can also be applied to the bottlenose dolphin population. So it will Yeah. So, it will effectively provide protection for all noise sensitive receptors in the water column within relevant distances from the piling as we displayed earlier, we have plots showing what relevant noise threshold levels and the extents of that and sonification in terms of propagation through the water water column looks like. So yes, that has also informed the potential disturbance overlap with marine mammal populations according to the management units to densities of cetacean species etc. Okay, thank you

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can moving on to harbour poor points of population trajectory, that unnatural England advice and its risks and issues log it deadline to which is rep 2041 that the applicant should provide further evidence that the latest number of harbour porpoise likely to be impacted by the proposed development would not affect the overall harbour porpoise projection trajectory, and the applicant provided a response to this at deadline three in rep three zero before they provided a response to the examining authorities written questions on this which was in rep three zero 50.

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But natural England's response to this point remains unchanged in its risk in issue log, which is rep 3087. So, how

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has the applicant discuss this point with Natural England at all since then,

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Josephine Brown on behalf of the applicant, it's not been discussed with Natural England

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Our response has been set out in deadline three submission 8.5 for applicants response, the examining authorities first written questions rep 3051. We have not had any correspondence as far as whether that has been reviewed by them or their opinions on the matter. Okay, thanks for confirming that I will post that question to Natural England after this hearing as well. Okay.

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So now turning to the Marine Mammal section of the offshore in principle monitoring plan. The applicant said it welcomes natural England's detailed comments on the offshore in principle monitoring plan, which is a pp 240.

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And will continue to collaborate with Natural England regarding this. So, the XA would like to understand the progress made in this area.

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Josephine Brown on behalf of the applicant in the in principle monitoring plan, we were committed to monitoring the underwater noise at the first four piles to validate underwater noise modelling in the SNSs standard in line with the guidance provided by the authorities. From our discussions as well, there's also been the mention of our commitment to noise abatement systems. And there is an acceptance on the applicant side that we will need to validate the mitigation measures proposed.

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And we're considering how best to this can be achieved in light of the understanding and what's being posted currently. And we're going to continue to consult with that during the demo on this point and seek their advice when required.

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Okay, thank you for confirming that. Do you think there will be an updated deadline for

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is Tim Golding on behalf of the applicant? I don't think there'll be an updated deadline for I think that's when we'll be presenting some of those monitoring proposals not not necessarily relating to marine mammals. But more generally, there is certainly a need and we recognise that the applicant recognises that to engage, discuss and look to reach agreement with Natural England have more of these monitoring proposals. It is a work in progress and to complete rather than being at a reporting an update to you for deadline for we'd very much we've got some

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sheduled are trying to schedule some calls after deadline for.

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So hopefully we'll be able to provide an updated deadline five as to progress on these matters. Okay, that's understood. Thank you.

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And then lastly, just just just to touch on the potential marine mammal trans boundary issues highlighted in the trans boundary consultation response from the French authorities, which is our EP 3104. Does the applicant have any comments to raise on the issues raised in the trans boundary response from the French authorities, Josephine Brown on behalf of the applicant, I think we'd just like to confirm the approach that we've taken to provide that explanation. So following consultation on the applicant screening report, the screening was revisited with respect to Gracio and harbour seals. And then the applicant applied the relevancy or management units, which for those species is South England, which is unit 10, which is provided by the Scientific Committee on seals. When we applied this area, it showed that there were no SSCs for either of the seal species that are in that management unit, along with where the proposed development is and consequently, no sites were identified for either see your species for screening in and the conclusion remains that there was no likely significant effect.

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This aligns with

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the advice we received from Natural England on the ninth of October 2020, whereby email they advise that we should be using these management units as opposed to larger screening ranges that have been reported in literature. So that is set out in the Rio where that that consultation has taken place and how we've come to that decision. And we also just want to flag that.

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Typically see all sites are only usually assessed during the critical period. So this is breeding, moulting and the current advice from the statutory nature conservation bodies, in particularly for connectivity distances to grey seals, which is what the French were particularly the French authorities were particularly asking about is 20 kilometres, and the closest site French site that has gracile as a listed feature is 73.6 kilometres away from rampion. So we're quite confident that

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The assessment we've presented is in line with the advisor by SN CBS and the science team. Okay, thanks for clarifying that. Will the applicant be submitting a translation of the French authorities letter into the examination?

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Yes, we have that translation and we can submit that into the examination.

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Okay, that concludes the Marine Mammal section. So I pose a break now and we return at

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bypassable bypass before Thank you