

ISH3 Part 2

0:02

OK. Well, it's just done noon. So the hearing is resuming.

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Miss Grogan, the plan point that we were touched on just before the adjournment, you have an answer. Yeah. Thank you. Yes, Rose Grogan for CLDN.

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We think it would assist for you to have an explanation from us as to how the different shipping lines are accommodated at Gillingham. It's not the case that each shipping line has its own red line area and what happens at killing them is that all the freight is handled as one because it's considered to be more efficient to do that. That way you don't then have shipping lines being territorial with one another and where you've got one that's full up and one that's empty and people saying you can't use each other's space. So what we will furnish

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with is an explanation of, you know, simple explanation of just how it works and and some further pictures of capacity in terms of both births available and

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land available. As well as an explanation as we've set out already about what the conditions were at the time of Brexit, how those conditions have changed and matching that chronology to the different offers that have been made over time. And also what the situation is now because as I'm sure you appreciate the commercial

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and market conditions change all the time. So we thought it would be helpful to, yeah, to illustrate that for you and then also to look into the future and set out what the expansion

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proposals are.

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So what we have done and what we've done with and what we've done by way of expansion since the commercial negotiations took place,

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Thank you. I think that will certainly

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help the examining authorities understanding of the position at killing home. Hopefully it will also address the points that Mister Strahan was indicating he was unclear for on behalf of the applicant,

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what might or might not be available, and that will then give the applicant the opportunity, following the submission of that material, to make some sort of written response to it in due course.

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Check.

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Presumably Miss Grogan or somebody from the team, you'll be able to provide that. Note what the explanation by deadline for which is in the next examine. Yeah, good.

2:53

Just before we move away from this question, on to my next question, both Miss Grogan and Throwing, You're going to be making written submissions in which there are going to be some references to case law.

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Now you might decide there is a need to submit the various judgments. Can I ask that there's some coordination between the pair of you to ensure that we don't get a duplication of the same material? Otherwise we just end up with lots and lots of the same material, which just

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makes it more difficult to navigate documents. And on a general point about documents, I really should have touched on this earlier in introductions

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lurking away in one of our procedural decisions in the Rule 6 letter before we commence the examination. There is a requirement for all parties to this examination where you've got a document of over 50 pages to submit a hard copy version of that. We to date haven't had any hard copies. So can I look to all parties to review your documents? The one party that doesn't have to worry about that is the hub master because his have been quite short.

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I think some of the rest of you are applicant and certainly I think DFDS

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and I suspect some of IOT's the the the navigation or NRA go above the 50. Can you review all of your documents and make arrangements for copies to be submitted

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by the case team? So James Train for the upcoming so I I'm told we have submitted hard copies. So we're just slightly worried in case they

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haven't made their way to you is that hard copies post the commencement we've had at least I have had some hard copy documents that have application documents right at the very beginning, right. But as far as I'm aware, we've had no in effect deadline one and later documents that exceed the 50 page limit.

5:04

Ohh, we'll we'll find out soon. Thank you.

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And I'm looking at the case team. You're not aware of anything that's been sent to

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HQ, albeit HQ isn't quite where it is normally at the moment because it's been closed for refurbishment. But

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yeah, OK. I think the general view is that we haven't seen anything.

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I think the one exception is I think and it particularly applies to DFDS,

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in amongst some of your submissions, there are a lot of traffic type background raw data. I think we can exclude that because that raw data is more for the experts. We are not going to sit there ploughing through hundreds of pages of Hwy data

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shortly. We're going to come to the question about whether or not certain parties consider the proposed development would or would not be sustainable development and sort of couching that in policy terms. But before I I ask

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in fact the objecting eye peas to to comment on that question for the applicant

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lurking away. In the harbour improvement summary statement, which is Section 5 of the planning statement a double P019,

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there's a reference to unconstrained river births in terms of the development providing unconstrained riverboat. Can you explain what unconstrained in River Birth actually means in that context?

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Mr Riley's going to address him.

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Sir Philip Raul, on behalf of Associated British Ports and I think that reference is shorthand to a a river birth, IE a birth that you do not know need to go through a a lock entrance or into an an enclosed dock to to get access to,

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but obviously a river berth with suitable itself. It suits with suitable sort of marine access that you can get the vessels to and from, or can be provided with that access relatively straightforwardly.

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Thank you.

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Right. Next question directed really for CLDN DFDS and IT operators and will my series of questions we're going to do in alphabetical order, no preferences, it's just alphabetical. So CLDN you're batting game, but that's nothing in particular to be read into that.

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And this question really is allied to the written question that we've asked BGC to to

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by reference to policy stated in the national planning policy statement for ports. Can you explain why you consider the proposed development would or would not be sustainable or be a sustainable form of development

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and comment

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and in so doing comment on any bearing those observations that you have might have firstly upon governments view

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and that there's a need for additional port capacity

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and secondly the presumption

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in favour of consenting applications for ports development.

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Is that clear in terms of or do you want me to reread it Rose Grogan for CDN? Yes that's clear what and what you're asking. And I think what we'd also ask of the IP's responding to this question if you can be fairly punchy in your because you are preparing a written submission this is really about ensuring that you're clear what we're expecting to see in writing. And so really it's it's the headlines of what it is that may be causing you difficulty

9:56

with the applicant and how that ties into policy.

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Thank you Rose Grogan for CDN. The relevant bits of the policy are three-point 3.1 onwards to three-point 3.3.

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Have sat with me Volterra

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at who I was proposing would help you on the technical

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basis for CDN's position, which is that this is not sustainable port development and the focus of our submissions in writing will be on 3 point 3.1 and then within 3 point 3.3.

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The

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first bullet. Sorry the I just lost myself in my notes here.

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And

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within the, sorry, within 3 point 3.3, the focus of our submissions is on the bullet dealing with competition and resilience. And so that's where the focus of our objection will be. To answer you very pithily, CDN says this is not sustainable port development within the meaning of the MPs because it doesn't respond to those features as set out in 3.3 point one and three-point 3.3.

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And that should be weighed against the weight that you give to the need for port development

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and should diminish the weight that you give to it.

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Would you like to hear a potted summary from Volterra as to why we say

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that it's not sustainable development? Or is that something that you wish largely to receive in writing? I mean, your hands, given your indication,

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is any of what might be about to be said likely to stray into what was said as

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in part in response to the first question of this morning?

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No, it's quite different, no, OK. I think if we can have a very potted

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summation, I'll then hand over to Ellie Evans from Volterra. And as per your indication earlier, I will go through all of her many qualifications and experience and we'll put that out in writing.

12:27

Thank you Ellie Evans from Volterra for CLDN. And I'm normally told I'm too quick in my responses. So hopefully that this will be nice and pippy for you. Yeah. So we were commissioned by CLDN to undertake an independent study to look at freight capacity and the Humber and general need for that. We were brought on after CDN made their first initial representation and we agreed with them that we would only take on the Commission if we found the case to be robust. Just to fill you in on that, in terms of the fact, we do believe we've undertaken A robust

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and independent study.

13:03

It's been claimed in the applicant's responses to our report that we've just simply taken what CLDN have told us to be true and that's incorrect. We've substantiated all of that information through both a site visit to Killing Home and our own independent review of the Royal primary data that was provided to us. And having looked at all of that, we do not believe that it's been demonstrated that the proposed development caters for any claimed growth. Whether there's a need to cater for the long term growth through a development such as this one comes down to two factors, whether there's a forecast

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growth in demand and whether there are constraints on existing capacity. On the point on demand, just very briefly, the applicant has engaged through its responses with our review of the market studies, demand forecasts. There is some agreement at an in principle at a broad level between both parties that there will be growth in the future, both nationally and in the Humber. The exact level of that future demand is uncertain. The Applicant and Volterra arrive at different levels, Forecast demand. The applicant presents largely one scenario of demand

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with a degree of certainty that we don't believe is fair. Volterra aligns more with DFT's approach, which presents a wider range of demand scenarios, accounting for the uncertainty that's inherent in demand forecasting. However, I would say that the minor disagreements on that future level of demand largely distract from much of the things we're here to discuss today and the bigger issue of contention. And the key issue with respect to that is around the calculations used to determine existing capacity. And that's the point relevant to paragraph

14:43

3, point 3.1, the applicant's capacity calculations are incorrect and inconsistent. Incorrect in respect

of killing homes capacity and inconsistent in our view between their own market studies, assessment of the need case and then their own assessment of the proposed development and the capacity throughput that that can handle. In our view, there's no capacity constraint on the Humber and therefore there is no imminent need for the proposed development to take it really simply. The only fundamental,

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well, the really fundamental assumption that underpins all of this is dwell times. So when you move goods, and apologies if my terminology is pretty lay, you know they go on a ship, then they come off, they sit somewhere for a while and they go somewhere else. How long they sit somewhere is the dwell time and that obviously determines once you've got the size of those containers, how and how many times you stuck them, how much land do you need, how much physical space you need to deal with a certain amount of throughput. That's by far the biggest difference of position

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which is explained in our report. The market study uses an average real time of 2.25 days. We raised that as a significant challenge in our report, but there's been no response on that. It's not been substantiated with any real primary data and instead it's simply stated that they rely on the general view of their consultants. And there's no, as far as I'm aware, any empirical evidence that has been shown to support that 2.25. In contrast, we have looked at CDN's own real data

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over a period of 10 years to calculate the actual dwell times at killing home, which vary from between one and 1 1/2 days. The market study of the applicant undertakes some sensitivities with respect to dwell times. The lowest one they look at is 1.75 days, so Killing homes owned dwell times are considerably below that lower sensitivity.

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WHO dwell times are then combined with the landside storage space to estimate the total capacity. The applicants used Google Maps to try and identify that space at Killing Home. The result of that was to assume that there are 220 container ground slots at Killing Home when in fact there are 893. So there's a very big difference there in and combining the physical amount of space and container ground slots with the dwell time. We have estimated in our report that the existing capacity at Killing Home

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has been underestimated in the market study by between 64% and 164%. So pretty large difference there. We've presented in our report the impact that has on the estimates of current capacity. We've included lots of sensitivities and different assumptions which are all transparently set out in our report and it depends exactly which of those you take. But fundamentally the scenarios will conclude that it's not been demonstrated that there's any capacity constraint at Killing Home. It's not full, far from it.

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Furthermore, even if you don't necessarily take that position about killing home, there's a fundamental inconsistency within the applicant's own case. So if we take the 2.25 day dwell time and we assume that that can be substantiated, if you apply that to the amount of space in the proposed development, it would only be able to achieve a throughput of 195,000 unaccompanied units per annum. To achieve the throughput that they've put in the DCO of 660,000 or even the lower figure that I believe is now being mooted

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525,000, they'd need to achieve a dwell time of more like 1. So between point 921.16.

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So

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if the applicant is right about dwell time so the 2.25 is correct, then the proposed development does not cater for the scale of growth that they are claiming and it's not there for a well designed functionally development to accommodate that throughput. And put very simply, and I'm a great believer in not doing big black box economic models and hiding behind them all. There's one simple number and it's really some basic maths and either 2.25 is correct or one is correct. You can't have both

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and. If one is correct, then the development doesn't serve the throughput it claims, and if the other is correct, there's no identified need. There's no current capacity constraint. So

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to our mind that inconsistency fundamentally undermines the case. So if alternatively you believe Volterra is assessment and seal the ends assumptions. So if we compare our slight difference on demand scenarios where we've tested some slightly different GDP assumptions and the corrected capacity, then our analysis shows that in the central most likely scenario capacity isn't breached at all in the period to 2050. And even in the worst case where you take some of the more conservative assumptions, it would be breached

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much later than the 2026 figure which is stated in the market study. So our scenarios ranged from 2031 to 2044

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and our conclusion reached from that assessment therefore is the fact that many of our scenarios replay can be show that demand can be assessed, can be fitted in, sorry accommodated, cast significant doubt over whether there is actually a need to expand port capacity on the Humber.

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And that was the main response in in reflection of 3.31. There are a couple of points in relation to 3.33. Shall I go into those? They are quite brief,

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which is around contributing to local employment and regeneration, and it's our view, having critiqued the assessment in the socioeconomic chapter, that again, these are significantly overstated.

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The assessment lacks credibility and doesn't follow best practise. There are a number of examples of poorly applied assumptions in terms of displacement comparing to different subsectors.

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The applicant claims that the 175 jobs created at the Grimsby travelled to work area would be a high magnitude of effect, which results in a a beneficial impact that's significant. In reality that 176 jobs is only a .2% uplift on the total workforce, which is tiny. We raised that query, the applicant responded and sort of changed the goal posts slightly and said that actually it's a 1.9% uplift if you only look at sub sector of the workforce. However, for a couple of reasons that doesn't really solve the problem.

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The 176 jobs is net additional, which put simply includes supply chain activities which wouldn't all be in the transport and storage sector. So it's not a like for like comparison is the first issue. And secondly, within social economic assessment there is no set of benchmarks as to which 1% categorises, as you know, low or medium or high. A lot of judgement is required, but having done many of these assessments myself over the years, I've never seen a 1.9% uplift claim to be high magnitude

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anyway. So we disagree with the 1.9%. But I would also disagree it's not high magnitude and that just constitutes to mean the applicants overstated their employment benefit of the case. And then the second point just briefly to add to the points made earlier around competition, stepping back from any commercial discussion which is not for me to discuss, there are lots of different forms of competition.

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And on the Humber we have competition relating to both shipping lines and port terminal operators. CLDN as you've heard operates both a shipping line and has the terminal operations, but it does act independently as a terminal operator in its own right. And we've heard a lot about whether they have acted anti competitively in respect of how they've treated their own shipping line and Stenner. But it's worth noting that ABP also currently owns two out of three row row terminals on the Humber, which would rise to three out of four

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if this proposed development goes ahead. That would give them a monopoly of a railway operations on the Humber and would give them a lot more power to exert monopolistic power and pricing and how they charge for their shipping lines. So in our view sort of taking that into consideration and the fact that the the proposed development largely seeks to re to displace and move services of Stena from one terminal to another, the competition effects are are largely neutral rather than the beneficial that have been claimed.

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Thank you.

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Before let him, Mr Gould take this one forward, I'd like to ask a couple of if you like, scoping questions and really goes to where, forgive me if I take some time to try to work out this question, but it's along the lines of testing the dwell time assumptions. Now obviously one can look at historical data and one can look at trends. So

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I'd like to have your observation on how much you've taken trends into account and indeed what other factors, external factors and I'm just

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regarding I guess here that one external factor might will be the availability of of tractor units

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and drivers

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of sight,

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which may have a factor of significance here. Whether there's any differential between two different ports on the Humber is also around the point that I'd like to have your observation on. So how wide have you drawn the net in looking at your your consideration factors? Before you answer, I'm going to put a slight flying ointment

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because there's obvious disagreement between CLDN and the applicant

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and I think it's also right to characterise DFDS not necessarily agreeing on some of this dwell time point. I think this is territory that would usefully be explored within the statement of common grounds that you're all busily working on at the moment,

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rather than spending a lot of time talking about it here this morning. I think it's it's for the various experts to try and resolve those differences because

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at the moment there is significant difference and to get to the bottom of those differences I think might take quite a lot of hearing time.

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Does that sound reasonable approach for applicant at the various IP because I presume statement of common ground negotiations and conclude is is pretty well advanced. I'm definitely getting nods from DFDS

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Strong

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James from the app, and I was just finding out about how advanced the

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statement of common ground was, in fact on that particular topic. But in principle whether it's in the statement common, excuse me statement common ground or in

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writing to address the question we're we're, we're neutral.

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I I think it might be useful in in a statement of common ground not least because that will give the opportunity because the numbers do seem to be so clearly to set out the numbers and how the calculations are being done and where the key areas of difference are. Because it's that bit I think that really matters as to what assumptions are being applied and if there are differences about assumptions, what what it is making

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the difference in terms of those assumptions.

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So James from for the applicant. But we're happy to to explore those

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I we're we're in your hands. I mean,

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the submissions that you've just heard

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as far as we're concerned

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don't really address the question that's at 3B. They seem to be addressing the question of the extent of capacity as to which there is a dispute,

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which is a different point. I3 point 3.1

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is talking about encouraging sustainable port development to cater for long term forecast growth with a competitive and efficient port industry. So we're back to the question of what a competitive and efficient port industry is. It doesn't.

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You have to make a decision but on that, but in relation to policy, demonstrating what the capacity is on the Humber may be of interest for different other reasons, but doesn't mean that it's not sustainable to have additional capacity even if there is existing capacity. And so I I was unclear as to why we're entering into debate about capacity in answer to 3B, although I'm perfectly happy to have that debate. But it wasn't. It wasn't apparent to me what the connection is

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with the agenda item

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if it was. I think the the cases that are being made in this regard,

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in essence applicant is saying there is a need

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and that we can in effect operate the safe port extension.

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Various IP's are saying

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we don't agree with that.

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Now there's nuances amongst the IP's as to how they're handling that. TLN have got a slightly different approach, perhaps to DFDS and IoT.

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lotic and DFTS are clearly arguing a case of safety and whether or not there might be a functional implication for the operation of the port

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and again not wishing to put too many words in other parties mouths. But I think the line that's being pursued

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is that if the safety case is so bad from those various IP perspectives and that has a bearing, a significant bearing on the functioning of the port, then you might end up in a conclusion that the proposed development is not sustainable.

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Well, we're certainly seeking through this question.

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I suppose I've taken slightly out of turn is to get a clear handle on which bits of the MPs it's considered. If there's an objection,

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there would be a breach of that policy. Now as far as CLDN are concerned, I think their objection perhaps is a slightly higher level than that in that they're looking at wider issues

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of which the safety point starts to come into play, as does perhaps the marine ecology point and that you might not be able to get through the gate of sustainability. Allied to that is this broader point about, well there's a scheme being proposed,

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will it really add much capacity? And in terms of that that additional capacity and meeting the need, are there too many negatives that in effect mean that there is a problem with the need argument?

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Does that kind of certainly as far as CLDN, DFDS and IT outline the various points that are coming together to perhaps challenge the sustainability of the proposed development

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looking at, you know, just enough of medical Rose Grogan for CDL, yes, that's precisely right. We have a higher level point and the harms feed into that

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DFF Isabella tough for on behalf of DFDS. So I'm aware we haven't yet addressed you on this agenda item, but you have encapsulated in broad terms our concern in terms of this issue of sustainable development

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and for IoT, David Elvin for IT operators,

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I would accept your summary with the addition that of course we also say at a slightly lower strategic level though not much the agent of change principle is also engaged. So that there are, there are implications with regard to the operation of the terminals. But as you say, our case is that if all else fails, then the proposals are not sustainable.

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Our cases, however, that it can be made sustainable through appropriate measures. Yeah, what? I'm now gonna just briefly ask CLD, in terms of MPs, are there any other aspects of the MPs specific policy areas

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that in fact you wanna put out there now? Remembering that you're gonna address this in writing through the answering of the written question

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before, I then quickly ask DFDS and IT which bits of the MPs policy they are concerned about. So CLDN, anything else to add on MPs policy flags?

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Rose Grogan for CDN. And as you outlined in your summary, obviously we have

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drawn into our case the ecological impacts we support but don't advance our own separate case or navigational safety and transport. And so the functional element of sustainable development does also apply to us. But we are not taking up your time by duplicating any of the cases advanced by other parties on that point. So other than that, I think we have covered off all of these specific points that we wanted to raise under 3.3 point one and three-point 3.3.

33:41

Thank you Mr. Green, Mr Full DFS, Isabella Tafur for DFDS. Well Sir, paragraph 3.3 point three of the ports MPs identifies a number of criteria that Newport infrastructure should satisfy to help meet the government's policies on sustainable development. DFDS Particular concern is the matter identified in the 5th bullet point. New infrastructure should be well designed, functionally and environmentally.

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DFDS does not consider the applicant has demonstrated that the proposed infrastructure is functionally well designed

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in light of the safety risks it poses and the likely implications on existing commercial operations at the port of Immingham,

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for reasons which we have already explained and will explore in more detail in later agenda items. And if the proposal doesn't

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meet the criteria in three-point 3.3 so as to constitute sustainable port development, then it doesn't benefit from the policy encouragement in paragraph 3.3, point one of the MPs,

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which is to encourage sustainable port development.

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Thank you. And Mr Elvin or somebody else from IT operators, yes, David Elvin for IoT principally section 4.2, consideration of benefits and impacts,

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adverse impacts are four point 2.4. And as you know from our written material,

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safety impacts and commercial impacts are both matters of concern and impacts on the public interest in energy resilience and energy supply.

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So that's essentially 4.24 point 3 and 4.4 of the ports MPPS.

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Thank you. Mr Allman,

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does the applicant want as well? I mean we've got a pretty good understanding from the planning statement and various other application documents where you're at least your starting point is. We've also seen quite a lot of written submission and heard quite a lot in response particularly to the points raised by CLDN that if you like higher level,

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do you want to add anything to what you've just heard?

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Remembering that of course there are going to be responsive to the written question and you're going to get the opportunity to respond to that in due course. James Strahan for the applicant, Sir, Mr Age is gonna have one point of just to flag it for you,

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but I'll I'll obviously take your lead on us responding in more detail in writing as necessary. He I I'm grateful for the clarification. As to the scope of the sustainability points, that's subject to the higher what's described the higher level point. We're obviously covering the topics that are raised under the heading sustainability or in the case of IoT 4.2 as a separate agenda item

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or items like transport. And you know our position on them. We we are promoting what we consider to be a safe and indeed effective operation, functionally effective both in terms of safety and of course in transport terms. But I this isn't the time obviously to make those points in more detail. But can I just ask Mr Ronnie just to come come back to you on one other point relevant to plan policy.

38:00

Thank you Sir Philip Raul on behalf of the applicant ABP. So yes, as you as you set out our information and our evidence on sustainable development is contained within the planning statement. So you've obviously read that and we won't go through that detail again here. But the point I just wanted to add to that if I may and this is a a town planning point is it's effectively it should be remembered here that we've got a local plan. We've got the NE Lincolnshire local plan which is effectively in order to be found sound

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one of its objectives and one of one of it one of the tests that it had to sort of have regard to in being found sound was it had to contribute to the achievement of sustainable development.

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So again if I can short circuit in saying simple terms, clearly for development comes forward that's found to be in accordance with

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the local plan. That local plan having been found sound, having regard to sustainable development

matters, then clearly if a proposal comes forward in that regard which is found which is in accordance with that plan, you have to conclude that that development is itself sustainable development.

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Because if you're in accordance with the plan, the plan is promoting the achievement of sustainable development. And in that regard. So we would just point you to the fact that

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we we are evidences that we accord and conform in entirety with the local plan and actually that position hasn't been disputed by the local authority who indicate they effectively support the analysis that we've undertaken in that regard.

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Thank you, Mr. Al. I think

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in terms of that MPs sustainability quite, I think that's taken as far as we can usefully get

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today.

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And I'd now again briefly like to look at UK marine policy. I Marine

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policy statement of 2011

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and of particular evidence in this instance is the East Inshore

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marine plan of of 2014 albeit because

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the offshore version is in the same document makes it a little bit difficult to to handle that that particular policy statement. But again going in order CLDN, DFDS, IO, T operators in terms of policy contained either in the UK marine policy statement or the

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Insure Marine plan for the area

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And can you indicate where you consider the there is already

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probably more that might not be compliance sealed in

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Rose Grogan for CDN. We've reviewed the marine plan and the objective it's objectives it sets out in terms of ensuring a sort of efficient and economic use of marine infrastructure are consistent with the requirements of the NPS. So we don't have any specific policy that we would point to to say this is an additional reason why this development is not sustainable development. It all feeds into our overarching point and the plan has some specific policies on

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navigational safety, but I expect that others will pick those up.

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Mr Full Isabella at F4 for DFDS. Well, as you know, Sir, it's mandatory to have regard to these marine policy statements pursuant to Section 104 of the Planning Act and and

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so at the outset I make clear that I understand your question to be any areas where there might not be compliance. At the risk of opening myself to criticism by Mr Strong that I haven't taken you to every part of the these policy statements, I will focus on theirs. Where we have concerns that there might not be compliance. Starting first with the UK Marine Policy Statement, which is the framework for preparing the plans that sit beneath and for taking decisions affecting the marine environment and is said to contribute to the achievement of sustainable development in the UK marine

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areas. That I would refer you to paragraph 3, point 4.7 of the UK Marine Policy Statement,

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which says increased competition for marine resources may affect the sea space available for the safe navigation of ships.

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Marine plan authorities and decision makers should take into account and seek to minimise any negative impacts on shipping activity, freedom of navigation and navigational safety and ensure their decisions are taken in compliance with International Maritime law and marine plan development. And individual decisions should also take account of environmental, social and economic effects and be in compliance with international law.

43:17

Marine plan authorities will also need to take account of the need to protect the efficiency and resilience of existing port operations, as well as further port development. So of note there, we say, is the requirement to seek to minimise negative impacts on shipping activity and navigational safety.

43:36

It's the fact that economic effects must be taken into account, including on commercial impacts, we say, of existing port operations

43:46

and the need to protect the efficiency and resilience of continuing port operations as they're currently exist.

43:55

Turning then to the East Inshore and Offshore Plan, which as you say, come together,

44:02

paragraph 248 of that document

44:06

again provides that decision makers should take into account and seek to minimise any negative impacts on shipping activity, freedom of navigation and navigational safety

44:18

policy. PS2

44:22

provides the proposals should a be compatible with the need to maintain space for safe navigation, avoiding adverse economic impact,

44:35

be anticipate and provide for future safe navigational requirements,

44:42

and see account for impacts upon navigation in combination with other existing and proposed activities.

44:51

Paragraph 358

44:54

explains that, as other activities seek to capitalise on the resources of the area, these should be carried out in such a way as to afford protection of safe and competitive shipping.

45:09

Paragraph 359

45:12

says that it should be demonstrated that the outcomes of consultation with harbour and other navigation authorities, public authorities and commercial shipping have informed the application proposed.

45:25

This requires insight from navigation and shipping representatives to be gained that materially informs proposals where development might impede navigation

45:38
policy. PS3,

45:41
which provides that proposal, should demonstrate in order of preference, first, that they will not interfere with current activity and future opportunity for expansion.

45:53
2nd, if they may interfere with current activity or future opportunities, how this will be minimised?

45:59
3rd if interference can't be minimised that it how it will be mitigated

46:05
and 4th the case for proceeding if it's not possible to minimise or mitigate the interference.

46:12
And in the context of that policy, paragraph 367 finally discusses the need to minimise negative impacts again on shipping activity, freedom of navigation and and navigational safety,

46:27
and protecting the efficiency and resilience of continuing port operations. So you understand our concerns as they relate to safety and operational impacts on the basis of the mitigation that's currently proposed. And we say in light of those impacts, there's conflict with those parts of the plans.

46:48

47:11
Thank you, Mr for turning to io T operators. Mr Elvin, David Eldon, prior TV operators. I can be short. I agree with Mr Fur,

47:22
principally section 3.4 of the Marine Policy Statement

47:27
and peer sorry, PS2 and PS3 of the Eastern Shore and E Offshore Marine Plans and the accompanying paragraphs which Mr. Ford has just read. So I'm grateful to her. Thank you,

47:49
Thank you, Mr Elvin. Applicant Do you want to say anything at this stage? Or again, do we take it as far as you're concerned given particularly what's in planning statement and various various other documents submitted that you are content that your scheme complies

48:08
and particularly with the parts of either the policy statement

48:14
or

48:16
the initial plan that the Objective IP's have highlighted.

48:23
James Strain for the applicant. In a nutshell, yes, that is our position. Obviously we're going you will hear more about safety matters in relation to NRA. The the relevant paragraphs to which you've been referred,

48:40
yes of course refer to safety and the principles expressed and but they also refer to resilience supports and you've got some submissions about the resilience of what that means here and of course freedom of navigation, which of course is a freedom for all users including those seeking to operate new and additional facilities. So there there are obviously parts of those policies which not only do we say we don't conflict with but we actually positively support in this development. But beyond that, I won't go into the

49:14
other parts of the safety and continued operations at the port, which you can address later.

49:27
Thank you, Mr Strawn.

49:37
Next question touches on energy, energy security and the points particularly raised by IO T previously and if at the touching on

49:51
national policy statement, Ian one in particular and the emerging draught for that that national policy statement.

50:01

50:03
Are there any other national policy documents that you think we should be taking account of

50:12
in the context of the representations that you're making about this proposal?

50:19
David Allan, prior to operators at Yes, Sir. And of course we'll reference them in our written answers in due course.

50:28

I think I referred to Powering Up Britain March 2023 at the last

50:35

hearing, but pages three to four of that,

50:40

you also need to have regard to the current version of the Energy Bill going through Parliament, Part 12, which contains provisions for core fuel sector resilience and the power of government to require operators

50:57

to install specific equipment or to carry out certain operations to ensure our core fuel sector resilience, which includes the transport and refining of oil.

51:11

And in that respect you can see the basic policy aim set out in the explanatory notes

51:19

to the Bill, which at that stage were Part 10, not part 12, paragraphs 464 to 465, which we will provide in due course.

51:29

Also of course, and I think I mentioned this last time Draught

51:34

EM1. The overriding overarching Energy Draught NPS paragraphs 2.3, point 10, three-point 6.7. And a recent Secretary of State decision with Miss with which Mr Straw in his family because her both he and I were defending it in the High Court earlier in the summer. The Loxley appeal decision which related to exploration of gas reserves. But the same applies to oil importance attached

52:05

and benefit attached to energy resilience and I will provide copies of that. I know Mr Straw has seen it already but the references in due course inspectors report 3.4 to 3 point 1311.122

52:21

to 11.126

52:26

which paragraphs were adopted by the Secretary of State in his decision letter C paragraphs 1026

52:33

and 34 of the decision Secretary of State's decision which was issued on the 7th of June last year.

52:42

So it's an up to date

52:44

case where energy resilience

52:47

played a significant part, albeit only at the exploratory stage for a gas well.

52:55

All those matters will be referenced properly in our written statements and excerpts of the relevant documents provided where they're not available by Internet link.

53:07

Thank you, Mr Elvin. And in terms of the Energy Bill, can you assist where that is in Parliament at the moment and when it might possibly get to the stage of getting Royal Assent?

53:21

It's waiting. Royal Assent, Mr Owens kindly prompts me.

53:25

It's as I said the the the core fuel sector resilience began as part 10. It's now part 12 of the which of what will be the act.

53:39

We'll provide you with the relevant provisions of of Part 12 of the bill along with the explanatory statement.

53:51

Thank you, Mr Evan. Turning to the applicant, Mr Strawn, anything in that regard, any

53:57

comments in terms of energy type

54:01

resilience policy that we haven't already seen or been made aware of James Strong for the applicant, I I'm not aware of any and I I think probably it's best if I wait and see what points are being made about particular documents because particularly if you're being referred to draught documents or bills rather than acts and actual policy statements. But it may be there's nothing in issue. I I'll just wait and see. I just point out

54:34

on that note,

54:37

the Secretary of State's decision to which

54:41

you've been referred the court case. I say this because there's Mr Elvin points out we were involved in

the same case, but there were in fact two Secretary of State decisions in issue in that case, one decision being challenged and another taken on the same day where the Secretary of State said it was alleged, reached the diametric opposite view on whether or not to permit an energy expiration. So I think it's a matter of fairness. If you're going to look at one of the decisions, you ought to look at the other,

55:14

which reaches a rather different view. And the question in the case was whether there was some inherent inconsistency in the two approaches, which is what the legal case is about.

55:25

But if you're being asked to look at one of the decisions, you'll need to look at the other decision on the same day by the same Secretary of State. I think, Minister, that that's reasonable that yeah, we, we, we. And indeed, if I might might commend Mr Strawn. He valiantly distinguished the Ellesmere Port decision such that missus justice Stain rejected the challenge in accordance with his and my submissions. You will find that she gives a good reason give good good reasons why the two were not similar and all I look,

55:58

all I seek to do is to point out that that weight was attached to energy resilience. The factors as Mr Straw's own submissions for the Secretary of State in in the Protect Dunsfold case demonstrated it was quite a different case. But we'll we'll cross swords on that if we need to in due course. But we'll we'll give you a copy of Ellesmere Port and we'll give you a copy of the High Court judgement. And if you can clearly explain

56:23

why that diametrical difference well arose and how it's been rested, missus just yesterday explained. Yeah, rather rather concisely in a couple of purchases. If you can make sure you've highlighted where we need to be Well, to visit. Yep. Yes, thank you.

56:45

I'm conscious we're virtually on 1:00, which is where we've suggested

56:51

we would adjourn for lunch because it just helps the logistics of getting lunch sorted out. I've got, I think a couple more questions, but I think this is an appropriate time to adjourn and resume at one

57:07

just to finish off the the policy side of things before we head off into Section 3 of

57:16

what did. Yeah. For Freudian slip, yes, resume at 2:00.

57:23

So yeah, I think we'll adjourn until 2:00. Thank you.

57:34

Well, good afternoon, everybody. Time is now 2:00 and the hearing is resuming.

57:40

Um, we're still

57:44

within the agenda item 2, but we are getting to the end of agenda item 2, which is possibly just as well because my voice is beginning to give up the ghost.

57:56

I think we examine Authority is content. We've heard enough about policy, at least at the highest level. So would you would you forgive me for interrupting David Elvin? For IOTI inadvertently misled you on the the passage of the bill. It hasn't reached royal assent. It's it's at the Parliamentary ping pong stage. So the Commons are going to consider the Lord's amendments on the 18th of October, but it's it's at a very late stage. So apologies for that. Thank you, Mr. Allen. But it it, it sounds like it's maybe not too far away.

58:30

And so, yeah, the examining authority, I think we, we, we consider we've we've covered enough of the policy sort of issues that we felt we needed to tackle today.

58:41

There is of course the written questions or questions that relate to it which you'll all be responding to. So I'd now like to look at some sort of legislative type points. Miss Grogan, yes, Rose Grogan, 4, CLDN. My apologies Sir. There are just two short matters arising from the spoiling's discussion that we would appreciate. Your steer on the 1st is dealing with dwell times through the statement of common ground process. We just wanted to put out for discussion how that process might actually

59:15

work or suggestion is that there should be a three-way statement of common ground between CLDN DFDS who have not had an opportunity. This is a surprise not had an opportunity to discuss with while learned friend and Stana where the dwell times are sought to be agreed. But we thought we'd just put that out there to see if anyone had any objection to that. Rather than ABP because they don't have that type of information, it would be saying that would have that information. And the second point

59:48

is to what extent would you like our submissions on policy and sustainability to address the concept of desirability from the AFP F regulations? That may be a matter you're planning on coming onto. But again, any guidance you could give us on whether you want that in this set of written representations would be helpful. I just missed the last point. I'm so sorry. What was that? You need not worry because there was a question coming to deal with it because there's a particular issue I think between CLDN.

1:00:21

And the applicant And I'm going to ask a question about interpretation, which you will then get the opportunity to address briefly and then deal with in writing.

1:00:31

1:00:35

Yeah, the dwell time point we did say with statement of common ground,

1:00:40

there was scope on a topic basis. If various IP's felt that it was better to deal with it on a topic basis rather than in the violate bilateral statement company, that was would be in order.

1:00:55

1:00:57

Ohh, DFDS content to to work with CLDN to try and address that and then bringing Stenner in.

1:01:10

Do they feel able to also partake in that dialogue to try and get some understanding of the numbers Isabella to four for DFDS? Yes, we think that sounds like a very sensible suggestion and are happy to engage with both CLDN and Stena.

1:01:27

Mr Peterson forced dinner.

1:01:34

Yeah,

1:01:38

Yeah. I'm just Peterson for ABP Scanner. Yes,

1:01:42

yeah. And do do parties think there might be any merit, also at least the applicant being party to any discussions to again to try and

1:01:51

narrow any methodological type matters? In particular,

1:01:59

yes, that's James Swan for the applicant. Yes, certainly we would want to be involved in that as the applicant and as having provided evidence on the topic

1:02:10

risk taking for CDN. We've got no objection to that.

1:02:16

They're not saying that that's the appropriate way to progress and it sounds like that will become a almost a freestanding statement of common ground that is just specifically dealing with that matter dwell times. Thank you.

1:02:35

Right. So yeah, moving on to a little bit of sort of legislative stuff and the first question really is, is for IT operators and the applicant and it revolves around coma. Now again I'm going to try and summarise what I understand the position to be at the moment from the applicants perspective and this is really voiced through Chapter 18 of the Environmental statement.

1:03:04

Umm,

1:03:06

you've assessed the development as not being a hazardous substance type concern because of what's going to flow through it.

1:03:16

Therefore, in itself would not be governed by the coma regulations.

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And you've also then gone on to look at the adjoining occupiers that are particularly, which includes IT operators

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and in effect sought to design A scheme where you can keep under the thresholds that would concern health and safety executive. So for instance, we've got the the 100 passengers a day limit

1:03:47

to keep you within

1:03:52

that particular concern of HSE. And you've also gone on to look at the relationship of the site in terms of how many employees there were, the operatives on site and whether there's any issues about the numbers of operatives versus the relationship with,

1:04:10

If I then turn to IT position, their concern

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is that potentially there's a development that would adjoin their site. Their site is a coma site subject to a safety plan

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and they have to go through a regime where in effect they get sign off from the competent authority, which in that instance is HSE.

1:04:37

So with all hopefully factually that's all right and that

1:04:42
sort of sets out

1:04:44
the two position where there is some difficulty

1:04:49
um is is there any other legislation in that in effect needs to be taken account of

1:04:59
that he's dealing with

1:05:01
the safe relationship between the two schemes

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because the applicant is quite is clear. If I understand correctly that in your case you are saying the onus is on IoT potentially to certainly review its safety plan, potentially identify any adaptations

1:05:22
to it, its way of operating

1:05:26
now that then might bring into play the protective provisions that are included in the draught order that might ultimately mean

1:05:36
some physical works were undertaken to the trunk way I the installation of

1:05:43
and the impact protection measures. If a decision was made in the context of requirement 18 within the draught order that those measures were needed. But legislatively, legislatively, is there anything else out there that we need to be taking account of?

1:06:02
Because up to this point there's been a lot of discussion about navigational safety and how that's dealt with under the navigational safety side of things,

1:06:10
is quite distinct And it certainly if I understand the way that the regulations are written,

1:06:18
there doesn't seem to be some owners on

1:06:23

IO T operators to review what it does to be able to get through the coma side of things administered by HSE,

1:06:32

Mr Alvin her David Elvin for IoT,

1:06:36

yes. And we're not identifying any other legislation. The position, of course, is is not quite as simple as that summary, although it's accurate.

1:06:47

The fact that the proposed development

1:06:53

would require the OT operators to review their plan, of course, is part of the agent of change impact that it will have on the operation and the public interest inherent in the terminals.

1:07:08

So whilst legislatively that may be correct and that an IT will have to review its plan, it's the implications therefore of inadequate protection from the consented scheme

1:07:22

on the IoT duties with regard to,

1:07:26

which will give rise to issues so far as impact on our operations and on the interest of energy security.

1:07:40

And for the for the record, as you'll have seen from our shadow NRA, we do not consider that the applicants NRA provides A qualitative risk assessment in relation to the Comer issues. But that's a different question.

1:08:04

Mr Straw, any observations to make in that regard. So James Straw for the applicant. Sir, I agree with Mr Elvin that there is no other legislation

1:08:15

of relevance to the consideration.

1:08:19

And as to the other issue, that is of course is the subject of contention, if I can put it that way, as to our own NRA and what we've addressed and the safe operations.

1:08:37

But I think strictly speaking, your question was, is there any other legislation you need to take account? So far as we're aware, no,

1:08:47

that's helpful. So really the question was posed to ensure that we weren't missing any jigsaw pieces.

1:08:56

There is then the issue of how IT's concerns are addressed.

1:09:04

They've got one view, applicants got another. But at least at least we're clear on the legislation and and the slight difficulty, yeah that's the easy bit that the coma side of things seems to

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stop without actually maybe providing UM

1:09:24

a route through to to dealing with this that clearly engages the applicant and doesn't put the onus wholly on IoT.

1:09:35

Um,

1:09:37

slightly off talent off tangent but allied to can it doesn't really matter whether it's applicant or IoT. But one of you explain in terms of the landlord, landlord and tenant

1:09:51

side of things

1:09:54

and what the relationship is, what sort of tendency is operating, is it full repairing?

1:10:06

OK, what what we're trying to establish is

1:10:10

if if under engine had changed, something has to happen, who is going to take the responsibility for adapting the IoT site? Well, I have to say you've caught me on the hop that I don't, I'm not actually seeing the leasing arrangements and I'm not sure that the learned friend knows any any more than I do.

1:10:33

If if we may need to check on this, if yeah, if necessary then we'll we'll deal with that as an action point. Just as a note to update after the hearing,

1:10:44

it seems to have caused a bit of flat spin around the room, no? Well, James Strong, the applicants. So I think we don't have the answer, but rather than

1:10:56

get it wrong, I will will come back to you and perhaps we can speak to IT to get an agreed position on that should it should be. Well, I always say these things. It should be capable of being grieve, but maybe not.

1:11:11

I mean, it may be something that we can touch on tomorrow in the hearing I SH 4, which is going to deal with ECO matters because it it kind of has a bearing there as well. Yes, there might be something Mr Straw wants to talk to you about in a minute about that

1:11:28

they they, they, the landlord and tenant position may not. I've not seen the leasing arrangements. There may be a complication in that works that are being carried out by the landlord could amount to a derogation of grant.

1:11:41

So far as the IT operators are concerned I have no idea because I haven't seen the lease yet but I I'm not James. Turns out I'm not sure you're going to see at least cause I think it's a licenced commercial agreement but yeah well it whatever whatever it is. So before we before we go down the mysteries of landlord and tenant law, we'll we'll come back to you with an answer and let's see what we can

1:12:07

agree the position

1:12:09

the essence of the question we we just need to have an understanding of who does what and how that might be dealt with whether that then touches into the protective provision fine. But we just want would like to have some clarity,

1:12:26

it does anticipate something's going to be raised in the next agenda item actually which is entirely congruent which is actually who owns the IoT trunk way and

1:12:40

you know as physical asset

1:12:43

as opposed to operating services through thereby.

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1:13:15

And final question, people will be pleased to hear in this section or this agenda item

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does come back to a point that Miss Grogan was just starting to touch on

1:13:27

in in terms of the harbour improvement summary statement, which is included as Section 5 of the planning statement, which is a statutory requirement for submission under the regulations.

1:13:44

I'm gonna ask the applicant first, then I'll turn to CLDN.

1:13:49

What do you consider the purpose of that statement? Is

1:13:57

Rose Grogan for CLDN? Sorry. Did you see the applicant first? Have I interrupted? I did. My apologies. I will turn my microphone off

1:14:14

I'll I'll I'll explain that because it does seem to be a bit of a difference in your written representations and how the applicants responded

1:14:23

and in terms of what you do with this

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object because some of the requirement does touch on economics.

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Mr Strahan.

1:14:37

So I'm James Strong for the applicant I'm I'm, I probably haven't grasped the significance of your question in so. I apologise for that

1:14:47

in a in a straightforward manner. The harbour improvement statement is to

1:14:51

the purpose of it is to meet the requirements of providing such statement. But I I doubt that's an answer that you're gonna provide. Particularly helpful. But I'm not entirely sure what the point of dispute, if there is one, might be with CLDN in that respect, so I apologise if I'm not. Should we put it back to Miss Grogan? She was ready to fire even before I asked the question. And have you got a copy of the legislation to hand or somebody on your site? I have got it somewhere I it's it's quite a brief sketch

1:15:24

and it's just worth whether it's worth reading out, perhaps for the benefit of Mr Strahan and others on that side of the table who may not have it readily to hand

1:15:35

at

1:15:36

Yes Sir Rose Grogan for CDN and Regulation 6. Three of the regulations provides that if the application is for the construction or alteration of harbour facilities, it must be accompanied by a statement setting out why the making of the order is desirable. In the interests of a securing the improvement, maintenance or management of the harbour in an efficient and economical manner, or be facilitating the efficient and economic transport of goods or passengers by sea,

1:16:09

or in the interests of the recreational use of seagoing ships. So that is the regulatory requirement that triggers the need for a harbour statement that has been provided in Section 5 of the applicants planning statement.

1:16:24

I think the question you're really asking us is to what you should be examining. Authority put the information in that statement, and as we set out in our written reps at 6.23,

1:16:39

that is a relevant and important matter for your consideration that you are entitled to take into account. So the the information there whether the information is right and what weight you should put on that information are are matters that we say are relevant and important to your consideration of whether or not development consent should be granted or not.

1:17:19

Mr Strong

1:17:23

so the James Storm for the applicant. So you have I well I know you cause you're referring to the statement itself attached to our planning statement we've set out in that document regulation 6 three and the two sub provisions of it. There is then, under the heading of each of those relevant provisions, the position, our position as required under the regulations for a statement setting out

1:17:51

why the making of the order is desirable. In the interests set out, there isn't any other required format for such a statement beyond the provision of such a statement which has been met. And the insofar as it's being suggested that this is a routine to some other aspect of CLDN's case on economic development or consideration of economic development, we we don't accept that. We think we've responded in writing on that point,

1:18:24

but in any event you have our evidence on the

1:18:29

proposed development in the round on all aspects. But I I think if there's strictly speaking your

question is does this provide some wider opening of policy principles which in some way is different to that in the ports MPs we we wouldn't agree with that

1:18:56

Rose Grogan for CLD. And if I may respond very briefly I'll wait till you finish taking a note.

1:19:13

Thank you Sir. I think the difference between us is there for

1:19:18

the applicant's position is that they have provided this statement, they've set out their case and that's the end of it. I'll be corrected if I'm wrong. CLDN's position is that you need to take that information into account and scrutinise it and plug it into the planning balance. And therefore the question of whether or not it is economic and efficient is alive question for investigation in the examination, because otherwise

1:19:46

it doesn't really make any sense as a procedural requirement. Why would Parliament have required this information to be provided if you're not supposed to do anything with it?

1:20:29

So James drawn for the applicant.

1:20:32

There's a tendency whenever I say something to put it in different ways than the way I've articulated it.

1:20:40

I think it's being suggested that it we provide the statement and that's it. It's ignored. And that's not what I said. It's not what we've said in our relevant representations. And you can see what's in the statement and you can see what we've identified as, for example, to the efficient and economic transport of goods and passengers secured by the provision of facilities, unconstrained river bursts as one of the terminologies for Stenner at this port.

1:21:17

My my response was about in, in, in if. If it was suggested that some form of derogation from the principles of the national policy statement for ports or some support for other submissions, you've heard about need or anything of that kind. And then we certainly don't accept that this statement requirement impinges, contradicts or undermines

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national policy has set out in that document.

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I think what I'm hearing from both CLDN and the applicant though that there is agreement

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the

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under the regulation and the statement that's been cited submitted there is a need to consider

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the facilitation of the efficient

1:22:35
operation of the harbour and the undertaking in inner

1:22:44
yeah, the physical facilitation of the efficient and economic transport of goods and the the issue between the parties is apparent feels no, there is no problem. The scheme has been designed to enable that.

1:22:59
Certainly CLD, CLDN and other

1:23:05
parties don't necessarily share that view.

1:23:09
Is that a fair summary, Mr Strawn?

1:23:15
So James Strong for the applicant. I I'm not going to try and put words in

1:23:22
other parties mouths as to what their their cases if they disagree, but certainly yes you're right. So far as we're concerned we have submitted a statement. It does

1:23:35
address how this development improves maintenance management of the harbour,

1:23:44
we say an efficient and economical manner. And it does also state how we consider this facilitates economic and

1:23:53
efficient transport of goods

1:23:55
by sea

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and that's what we contend.

1:24:12

The reason why I keep coming back to the national policy Statement for ports is because that then provides in answering those questions or addressing those questions provides the government's policy context

1:24:30

as to how

1:24:33

ports will

1:24:35

facilitate efficient and economic transport of goods by sea for which there is strong support.

1:24:53

Ohh, hey, that helps, but maybe there's maybe there's nothing between us other than the differences as to the end result, but there's nothing between us in relation to what the regulations say and what you'll take into account as to the result. That's maybe what's between us.

1:25:12

I think that's a fair something that yeah it's it's

1:25:16

it's what flows out of that process where the disagreement is.

1:25:24

I don't think I need to ask CLD fairly clarification. Anything from DFDS or IO T

1:25:33

no.

1:25:45

That then concludes agenda item 2, that's going to take us into Agenda item 3, which is navigation and shipping. Now having said that,

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Mister Bradley will lead on it, there is one question

1:26:02

then I'm going to ask in opening when I can find where I've just buried it.

1:26:21

So I don't want to interrupt you James Strong for the applicant, but just before you start the session

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just got to move some people if that's alright and I've just got one

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one,

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it's a matter to raise with you just about the order of

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and which you're gonna deal with the agenda item if that's convenient. Sorry, I didn't mean to so. So

1:26:52

the applicant has is in continued discussions with the IT operators

1:27:00

and there are obviously two NRA's that form the subject of today, two additional NRA documents to form the subject of of the agenda item. And as a result of our continuing discussions with IO T, we would request, and I've spoken to Mr Elvin about this, that we addressed

1:27:26

the

1:27:28

IOTNRA if I can use such

1:27:32

acronyms. But APT's are NRA tomorrow

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to the extent necessary tomorrow

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as a result of our continuing discussions and if we can reach greater common ground or agreement in in consequence of that

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we may even ask and without binding IT at all we may even ask for further

1:28:02

indulgence as to when we actually address to the extent necessary there in RA subsequently. Cause I think I'm talking about the next

1:28:14

issue specific hearings

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and the the reason I do that is because as I said we're in discussions which appear at least to be

1:28:23

helpful for both

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parties. Helpful. I don't mean to put any spin on it, but constructive, I think it's a better word, constructive discussions

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and therefore, rather than take

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time today,

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we prefer to revisit that matter as to where we've got to tomorrow morning. I hope if I've misspoken, Mr Elvin will correct me.

1:28:51

I would very much welcome increased conversation overnight and your proposition is absolutely fine. We will see how we go. In fact, we'd hoped that we might get through shipping this afternoon, but that clearly isn't going to happen. I think that we'll just plough on with the the, the sequence of agenda that we've got down at the moment. But I think if if we get faster progress than I thought

1:29:22

to get to NRA points then we'll we'll perhaps reorder at that time.

1:29:28

OK, that's very helpful. And I I didn't want in case I've misrepresented things from Mr Elvin's perspective. Could I just

1:29:36

no. Mr Strong and I have been in discussion and there have been discussions between

1:29:42

APT and ABP over the last few days as to the possibility of

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considering protective provisions which would

1:29:56

address some significant concerns. We haven't

1:30:01

and we need to consider certain other matters that Mister Straw and I have been addressing. And as he said, it may be that what we would want to do would be to put matters in front of yourselves and then reserve our position to come back if if that were not acceptable to the examining authority to come back to raise the issues in November. And when we've tentatively pencilled that in, it is hoped that we can make substantial progress towards addressing our concerns. But we obviously need to make provision in the event that

1:30:35

that doesn't succeed. Thank you. We'll, we'll keep an open mind,

1:30:45

I mean in terms of timetabling and negotiations that are that are ongoing

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in terms of potentially

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narrowing the ground substantively to wherever you might end up, Is that something that you expect you'll you'll be able to achieve by the statement of common ground deadline at deadline five.

1:31:07

I don't mean necessarily in them, and I'm shy of wording, but in terms of principles,

1:31:16

sorry James Strahan. For the applicant, the answer to your question is yes. That is

1:31:24

what we're certainly we're anticipating, if not earlier

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since they relate to discussions that Mister Elvin's referring to we would hope to reach if we're going to reach satisfactory agreement on both paths with both parties to do that

1:31:47

by deadline four.

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I say I I emphasis on hope because I'm not committing committing hope. But we I, we are

1:31:59

conscious of the need to

1:32:01

deal with this

1:32:03

quickly

1:32:06

and and and just I agree with Mr Strahan. Sorry, David Elvin Fry, OT.

1:32:13

It will also likely be dependent upon your decision as to the acceptability of changes that reflect

1:32:21

if we reach agreement which reflect that agreement.

1:32:25

I'm so deadline for what I think is probably the realistic point isn't it Mr Strong.

1:32:31

And in terms of that time scale, we we we asked a second written question that dealt with

1:32:37

possible mitigation alternative. Does that all tie into the answering of that question?

1:32:46

Yes, it does. In in a, in a without, without wanting to

1:32:52

put pressure on any party or including ourselves the the simple answer is yes it does

1:32:58

that the discussions are over enhanced measures and it would go to that. Yes,

1:33:12

certainly. I think as suggested and as Mr Bradley highlighted,

1:33:18

we'll try and certainly throughout the course of the rest of this afternoon

1:33:24

keep away from too much and that's got to do in relation to the the scheme's relationship with IoT

1:33:33

And and then tomorrow morning we may get a further update from both parties when we resume.

1:33:39

Umm.

1:33:41

But before Mr Bradley does commence his questioning, I've got

1:33:48
one question. Um

1:33:51
4.

1:33:55
Hobbymaster Hamba

1:33:58
and

1:34:00
Captain Colin, do you prefer to be referred to as Dockmaster or Statutory harbour authority for Immingham? What? What's the best way to to quickly describe you

1:34:12
in terms of your role? The dockmaster? Dockmaster Yeah,

1:34:17
so yeah, I mean this this question is for harbormaster. Dockmaster

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and it it it

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it really is, what do you respectively consider the purpose of the navigational risk assessment that's been submitted as an application document?

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So a double P-089, a document that's been subject to a lot of scrutiny by a lot of parties. But in terms of your respective roles,

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what do you consider in effect the status of that document is at the moment?

1:34:54
Is it something that is, if you like, finalised in stone? Or is it in effect a working document that you would expect in the fullness of time will take on a different form, perhaps being embedded into the existing

1:35:16
NRA for the port of Immingham?

1:35:19
Or potentially some other document? I don't know which of you wants to,

1:35:28

so just before sorry James drawn for again, there is one further person sitting at the table to assist you if you if so required. And that's Commander Paul Bristow, who is too Doc Masters

1:35:43

left, and he is head of Marine Humber

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at ABP

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and has held that position since 2022. And he's accountable for the safe and efficient marine operations across all four Humber ports.

1:36:04

So as part of the organisation,

1:36:09

well, I can put it part of the safe operation for which the dock master is also looking after a port of the port of Immingham, so I hope she's there as well. So I just want to make that clear and just for absolute clarity, Mr Bristow's role in the same way

1:36:32

that Captain Collier's role

1:36:35

in terms of jurisdiction at Immingham

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is Immingham's harbour limits, which is what we've seen on the A plan. I think it was in something that was submitted at deadline one

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which is in effect

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whatever's been approved under the act and or subsequent orders and or empowerment orders

1:37:03

with this 200 yard extension

1:37:07

around the boundary

1:37:09

of the physical works that you actually see on the ground.

1:37:13

Mr Reza, is that correct and or Captain Collier is, is is that correct that that that's your jurisdiction versus

1:37:22

umm

1:37:23

how must the Humber who's got in effect the main river as his jurisdiction?

1:37:33

So Paul Bristow for ABP.

1:37:38

So there's a slight difference there from the way that you just described my position as the as the head of Marine Humber, I am the line manager for both Harbourmaster Humber and the Dockmaster Humber and also a third member of my team who's the harbour control manager who looks after the vessel traffic service that you visited during your first tour

1:38:02

of the Humber. So as their line manager and also as a member of the Humble leadership team, I have a somewhat wider remit for the coordination of resources, the interaction between those members of my team and overall that accountability for the safe navigation and the efficient operation

1:38:25

of the four ports and the river itself. So it's a a slightly high level coordination role, but also part of the humble leadership team. So the interaction with the other functions, operations, engineering and so on.

1:38:42

Does that clarify sufficiently for you, Sir?

1:38:45

It does, Mr Bristow. Thank you.

1:38:50

Think Captain Thurman, you're gonna lead off, so over to you.

1:38:55

Yeah. Good afternoon, Sir Andrew Furman, Harbormaster Humber. And the purpose of the specific navigation risk assessment in a in a project like this is to capture new hazards and risk those and risks and rate those accordingly looking for any impact of change

1:39:16

in regards to whether it's a living document, very much so. And I would see going forward that everything captured that we've learned through the collaborative process in the workshops then fed

into our own thoughts with our own formal risk assessment for the port and any controls and procedures would then feed into our marine safety management system. And that would be the that would be how I would see it as it is now and going forward.

1:39:49

Thank you, Captain Ferman, Captain Collier, or Mr Bristow, which

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Paul Bristow for ABP. I agree entirely with the the words that the Harbourmaster put together there, and I very much see the.

1:40:08

This is the assessing the viability of the scheme

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and it acts as a springboard for us to conduct

1:40:16

further assessments and put those operating limits in as we get to the point of commissioning

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the IRT and operating the scheme. So it's very much this baseline to confirm viability and we then springboard from that to ensure safe operation going forwards.

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1:40:59

Thank you, Commander Brisa. I'll get underway now. Could we have the agenda back up on screen?

1:41:09

What I'd like to start with is acknowledging the port Marine Safety Management system for Immingham that was submitted very recently. The line 3 immensely helpful. I think that's a a great addition to the Safety Governance paper that was submitted at deadline one.

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It does still beg a number of further questions and whilst you'll have had a heads up on these questions from the written questions

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released a few days ago,

1:41:44

there's a number that I think will benefit from some moral examination today and tomorrow if necessary, and if we can look at item A first. I'm not going to read it out in detail, but what I do want to pick up on here is

1:42:03

trying to understand in terms of the safety management system where different handovers take place and where the, if you like, the transitions between different roles

1:42:17

Ohh operated. Now

1:42:21

I think it'll be most useful to do this by reference to a hypothetical incident. And if we treat this as an incident relating to row, row birthing at the outer harbour, we think it might be helpful because it's essentially a well established routine and it's neutral to the other issues that we've been considering in this examination.

1:42:46

So and it's neutral to the the the parties in in in this hearing could we have on screen

1:42:55

the Rep 2038 which is the extract submitted from the

1:43:03

pilot handbook handbook Pilot handbook

1:43:06

And it I think will be a useful basis for explaining the manoeuvres involved for RO ro vessels berthing at the outer harbour.

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Now this is a

1:43:26

this, this submission was for an EBT approach. If we could take in this

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case study as you as it, we may say

1:43:41

an assumption that this is taking place at close to limit state operation or limits.

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Could we ask perhaps first the dockmaster, to explain what typically would be the limiting conditions if we assume

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that? If if I may,

1:44:07

I rather guess that a gusting N easterly wind may well be one of the factors to consider in the safety of this manoeuvre.

1:44:20

But without leading you any further than that, could you explain at what point the Dock masters team would be considering that there is an elevated degree of risk in this manoeuvre?

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Except Paul Bristow, I'm head of Marine. I think what you've described is A is A is a manoeuvring limitations. I think the most appropriate person, if he is amenable to that to initially filled that question because it is around specific manoeuvring and the Harbourmaster leads the team of pilots

1:45:11

and awards the perks that are enabled that manoeuvring be most appropriate for the Harbourmaster to make an initial response to that question. If you're comfortable, Sir, defer to your judgement on that.

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Andrew Furman, Harbourmaster, Humber.

1:45:29

The outer harbour has been developed now about 1518 years. We we worked strongly with DFDS in working out in a very similar similar way to this and how we were going to do it safely

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in regards to parameters tugs. If tugs are required, there is a slightly different set of rules for birth #3, and in general at 20 knots then tucks would start to become the controlling factor.

1:46:00

Beyond that, a speed of 30 knots would start to put the operation into doubt, even with the assistance of tucks. They're they're the two parameters that are reasonably common throughout ships of many sizes and types that that are regular runners to different births.

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Thank you. That's a good start and and would it be right to assume that there is some differential depending on the the state of tide

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there would so in in regards to degree of difficulty although the vessels are regular runners so over time have built up experience across most of the tides. So the one that is, is variable is the wind and the tide together. So that that might make the difference on the tough decision being 20 knots or or 25 knots depending depending on the situation. But the combination of those factors

1:47:00

good, thank you. Could you in that case then talk us through how that decision gets made? And indeed is this a matter of dialogue between VTS and the ship's master or the pilot or a three-way tell us how it happens

1:47:21

it in this case the decision would normally be made on board with the PEC or pilot or master and with the row row of this type in. In other parts of the port with less manoeuvrable vessels they'd be fixed limits where 20 knots would be a definite stop or a 30 knots A definite stop. In regards to Rd traffic

1:47:43

that are running 365 days a year around around European ports, generally we share the same concerns around 20 knots and 30 knots. But the vessel when it gets there will assess, assess the conditions unless there's a beast from the east type incident where where everything is clearly stopped.

1:48:03

So that there is a there is a a level of autonomy on the vessel. If a particular vessel has a track record of not being particularly manoeuvrable et cetera, then we'll step in and and apply specific parameters for that vessel.

1:48:17

You step in dynamically or at the at the at the point of of entry to the Humber.

1:48:23

No. If if a vessel, if a vessel for the same destination was not so manoeuvrable, then it may have that that vessel will always take tucks at a lesser point than the other. So there is a combination of factors of the manoeuvrability of the vessel as well as the wind and the tide.

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Now on the on the issue of tugs,

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I understand from other evidence that we've we've had and indeed I

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like to just test the understanding and that is that booking of telegrams of course is a a matter between the the, the, the the vessel and the tug operator rather than being passed through HS.

1:49:04

At what point would that decision to

1:49:09

engaged tug support be taken and is that related to the the in particular the wind trend?

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Yes, best based on forecast as early as possible without things to hopefully before arrival using our weather forecast. Hopefully everyone will will know. It's not uncommon for a vessel to be coming up the river

1:49:35

and decide it needs another tug. And there are cases of vessels then having to wait for another two or conditions to improve before making the manoeuvre. Or if there's two tugs and it's still not safe then then the manoeuvre would be aborted and go back to sea. So there is because as things change over time but in simple terms as soon as possible but there is always that stop the job or or report safety option available.

1:50:04

Thank you. That's helpful.

1:50:06

Umm,

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I think it's you may well feel a little degree of frustration with this line of questioning because it's obviously a situation I'm I'm going towards a situation that you're doing everything you can to prevent happening. But if that manoeuvre came,

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came to grief in other words the manoeuvre was started and the the the, the the gusting suddenly became much greater than expected and you're you're you're. I wasn't sure whether your wind limits were steady or or gusting limits, but let's say that you you were expecting 20 knots, gusting 30

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and you suddenly got a a 3540 not blast

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in the middle of the manoeuvre.

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Things are going to start to get uncomfortable, to say the least.

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What happens then?

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I'm sorry, just just to put the the wind speeds that we set are generally the mean wind speed and that's again standard across general marine parameters.

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I think if you're saying that it's gone wrong and there's been an incident then the incident procedure will start

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if that if that's where where we're going. But there is there is that possibility In regards to weather

forecasting, we have a you know a system that will give us both mean wind speed and and gusting. So we're we're always feeding off that live real time data but it's not it's not

1:51:45

unbelievable what you said that may happen. Yeah,

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I mean, we saw it, yes. An example yesterday when there was a a DFDS ferry inbound to the inner dock.

1:52:02

Umm your colleague, I think it was the the pilot manager explained what the what the master was doing. Because of the the local rule you've got that in fact the master has to demonstrate he's got stable control of his vessel before he starts the approach, certainly into the inner dock. So presumably following through this example,

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the there's a birthing due to take place at the outer harbour,

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the the master starts to move, it decides the conditions are unfavourable so in effect has to make an abort.

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I think that was the question that Mister Bradley was asking. What happens at the abort stage? Does that vessel in effect return back out into main channel and potentially go to Anchorage to wait for favourable weather conditions?

1:52:56

Yes sorry that that is correct Sir. What what we would call on a board would be a a council birthing. So he he wouldn't stay in that location. He would be sent to Anchorage or or back to see your tour to another or a simpler destination depending on where he was going. And then the whole plant the whole the whole venture would be replanned. And I think I've I've got some of that in my in a written question written answer to one of your questions in in the in the next submission,

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other anchorages in in the Humber or other out past the head.

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Yes, there are that they're not all suitable for all of the vessels, but a vessel of this type would be able to to use the bull anchorage

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and you say simpler destinations is is is a a fall back that you use in these kind of circumstances

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for this for these vessels it would be back to the anchorage but if there was a vessel that was going

upriver it could go to a lay by berth etcetera. But that's that's talking in more general terms. In this particular scenario it would be back to Anchorage. OK,

1:54:04

what I was actually driving out was going a step beyond that Mister Gould's just outlined, and that is that obviously we're going to try to abort if the conditions start to get ugly. But if the manoeuvre is already underway and the vessel is starting to pass, the western jetty

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was starting to come in the proximity of the western jetty, but is is then subject to extreme gusts

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and unfavourable current conditions.

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Worst case, there's a coming together on the western jetty.

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Talk us through what happens then,

1:54:49

OK, but we we would expect while the dockmaster should be observed in any way, but we would expect the vessel to call that in immediately and then we would start to react depending on on the severity

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with all the things in things. So it's safety of life, safety of the vessel, safety and environment. So depending on the the seriousness of the

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of the damage or the consequences would then dictate whether we formally

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started to emergency serious marine emergency plan or whether the vessel simply lined up and went back in and got to its destination berth and when we took it from there. So there's there's real ends of the scale there, but there's a there's a plan for every, every scale

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in terms of the different parties involved here. Um, who is,

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who is really commanding the the, the recovery operate. I mean I say recovery in in a guided way. I'm not talking about recovery of vessel, recovery of the situation. Now

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you've got a clearly a whole series of escalating procedures, but in the first instance

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there has been a A, A coming together

1:56:17

who's who's making the decisions as to what to do next? Is it the master or is the master being told what to do?

1:56:28

The master returns his responsibility, but in general we will be helping him with that. So just a point to make around if it's in the Immingham area

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than it is under the Imming MSH here

1:56:43

however has have a pilot, if they've got a pilot or a PC on board we are there as the CHP as well. So we both do have a responsibility in the in the same incident but between you know between the dockmaster and ourselves will be making those decisions

1:57:00

that that's anticipating really the the direction of questioning which is that it's at this point within the Immingham harbour limits The

1:57:11

in terms of the safety management system it seems to us that it's the dockmaster that is is if you like the the overriding authority is that the that's the right

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interpretation that that's correct from a statutory perspective he could say I I don't want that vessel in this port or etcetera it's absolutely his harbour area. We as Hess in this situation are providing pilot teachers the competent harbour authority where we have our own responsibilities to investigate incidents manage the pilots and manage the pieces. So in a sense, is it right then to characterise this as the the dockmaster? Is is at that point the the competent? Sorry, I be careful

1:57:56

not to use phrases which actually means something else. Let's get it. Keep away from competent authority is the authority that then will consult with HS

1:58:09

that that is correct. Yeah, OK.

1:58:16

What?

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What were the likely consequences of of an incident to other Porter operations?

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Again, it's a rather open question because as you've anticipated, it depends how serious it is. But

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let's take an example that

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the vessel is.

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1:58:49

Not actually because of investigation not able to leave the the port. It basically is is burst when whatever way and then it's under investigation.

1:59:01

What are the sort of consequences that flow from that

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And I mean there's a an impact there on business continuity. So part of a process once the vessel was to a point of safety, other parties would become involved maritime, Coast Guard and you'll see potentially marine acting investigation brands and also the vessels classification society we would ensure was satisfied before the vessel proceeded back to sea.

1:59:29

Quite often, practically, if it was blocking up a particular berth and there was another berth, quite often a vessel might get dispensation to move, but basically that vessel is on that berth until all the relevant authorities are are happy to move it somewhere else.

1:59:48

Is this a matter of hours or a matter of days? Typically

1:59:53

our how how hours more often but days in A in a worst case scenario.

2:00:04

I think we'll leave that line of questioning for the moment because we've got a lot to get through. But thank you very much for the frank answers. Is there anything that

2:00:13

don't master would like to add? Is there any further observation

2:00:18

Mark Collier don't dockmaster for BP? No that's exactly can we

2:00:23

and head of Marine Humber

2:00:28

poor stove for AVP. So the only thing I would add is that I think you alluded to it as you took Captain Firman through the the journey of the hypothetical incident is that it's very dynamic and it really is a case by case basis. So you you're very much reacting to what you see out of the window of the bridge or what the assistant dockmaster sees out the window of the marine control centre as they're observing. So it's a dynamic situation and and every incident

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was judged and reacted to on its own merits.

2:01:02

Thank you, Sir.

2:01:14

So just developing on on a scenario

2:01:19

situation where there's been an election

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with a a Roro ferry and something birthed on the western

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jetty.

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So we've potentially got two damaged ships.

2:01:35

Who is making the decision about

2:01:39

what happens within the port of Immingham? Is that the dockmaster who has to make a decision in pretty short order that he's gonna close Immingham while the recovery of that situation in the initial assessment recovering what's happened, in fact, some formulating some sort of plan of action to deal with it?

2:02:02

But that might mean closure of Immingham?

2:02:05

What

2:02:07

So so that's one part of the site then what implication is if if that does mean closure of Immingham. What are the implications in out in the Humber in terms of particularly TS and what they're doing managing

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potentially inbound shipping? Because presumably as far as outbound ship if Immingham is shut, nothing moves in Immingham.

2:02:32

But the traffic management issues might start to come into play in the wider river if you've got a queue of

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railroads that expect him to go to Immingham mixed in with other vessels that are going to killing home or to Hull. So if we start, first of all

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you've got the illusion

2:02:53

and a bit of a

2:02:57

emergency planning going on and you potentially getting up to the point of closing. Immingham can able to talk us through what what might happen in that scenario

2:03:07

get game really what we're we're trying to establish who is doing what and then what the knock on effects are.

2:03:16

Sir Paul Bristow for ABP. So that that's the scenario that you've just described is is a significant incident. So let's just so we're clear on that that that is a significant incident 2 vessels involved both of them incapacitated to the point where we're having to make decisions around blocking births and potentially closing the port. At that point we would have the has major emergency plan and

2:03:48

the

2:03:49

Doc Masters team would all be at alert dealing with the incident the the the immediate incident with very much a focus on safety and containment.

2:04:02

The business continuity aspects would be a matter for the more senior Humble wide Emergency

Response plan where one of the senior members of the Humble Leadership team would lead on the incident with a clear line of communications through to the Regional Director as the ultimate decision maker here.

2:04:24

Umm,

2:04:26

the marine team are fully authorised to make those decisions for immediate safety

2:04:33

but we would be feeding in the information

2:04:37

to enable wider business continuity decisions to be made. And and again

2:04:44

certainly not avoiding the question but it is very much case by case. So the example you've described, would one of those vessels be able to be using appropriate towage to be moved to another berth, Could both vessels be that done? Is there another vessel planned to come on to that berth is a whole range of considerations that would be made to determine the best outcome, but it's very much a marine team leading on the safety first aspect and then the Humble leadership team emergency response

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looking at the business continuity and how that fits in with commercial

2:05:24

you. You mentioned the knock on impacts then

2:05:28

to the to the river.

2:05:31

As you're aware having visited VTS the the execution of the schedule is conducted by the Vessel Traffic Service at the Humber Marine Control Centre, but in the background and I believe you didn't visit them, it's a it's a small team of two people. They're watchkeeping so they're they're they're on watch 24/7 and they are responsible the data centre as we call them are responsible for the scheduling. So as soon as we become aware that there might be a problem

2:06:01

if vessels are actually moving towards Immingham and we need to divert them, that is a matter for VTS.

2:06:08

If we're looking

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a tied further or 12 hours later, perhaps it would be the data centre team that would be looking to reschedule, delay or perhaps look for alternative births for those inbound vessels.

2:06:24

And then back to the business continuity aspect.

2:06:28

If we were unable to safely bring a vessel into the Humber, then of course we would leave them at anchor until such time as it was safe to do so.

2:06:37

But it it's it is. Again, it's a very dynamic process involving a range of members of my team and then my team

2:06:47

interacting with the wider humble leadership team.

2:07:01

I think before we pass on, we should give the opportunity for the IP's to make any observations or or comments. May we start, I think in this case perhaps perhaps we should start with DFDS. Does anybody want to comment on this in the?

2:07:20

Just know this particular

2:07:23

manoeuvre better than anybody else,

2:07:26

Isabella tough for for DFDS. So in terms of the manoeuvre that you have up and shown on the screen and it's comparability with the manoeuvres as PDF DSC into the proposed new development, then we do have Mr Nelson and Captain Timofeyev who can speak to that if this is the appropriate moment in the agenda to do that, to have that discussion.

2:07:56

Because we certainly do want to, because you'll be aware that there's some been some debate between the parties as to the comparability of the Eastern and Western jetties and the manoeuvrability around them to the outer harbour and to the proposed development. If I may, I'd like to hold you on that until later on. We're trying to trying to build a picture here and I think if we stick with what we what we know and is is really well established routine and we're we're starting to get a a much greater appreciation of of the safety systems and indeed if you like the resilience

2:08:29

safety systems. But in this I am really in your hands as to

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understanding the likelihood of this kind of incidence occurring

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at the outer harbour, At the outer harbour, understood. And I will then turn in a moment to those beside me there. There's just one part of the as it were control or governance hierarchy that I am not sure has been touched upon and that's one that is beyond ABP itself. The the only one I think, which is the provision in the Merchant Shipping Act of 1995 and its Schedule 3A which allows for the Secretary of State to become involved

2:09:19

where there is an incident on a ship that's created a risk to safety or a risk of pollution by a hazardous substance. And in those circumstances, the Secretary of State is entitled to become involved and to issue directions requiring any person to ensure the ship is not moved, the cargo is not unloaded, and that specific salvage measures are taken or not taken in. Short directions can be given by the Secretary of State that have potentially far reaching consequences

2:09:52

for continuing operations at the port of Immingham. And those powers have been used in a number of instances in previous oil spills and groundings, and we can provide further details on that in due course.

2:10:07

Just just quickly, I assume Secretary of State Transport,

2:10:11

yes, yes,

2:10:15

I think so. That would make sense,

2:10:18

yeah. So in terms then of the specifics of the manoeuvre into the outer harbour and its proximity to the Western jetty, I was going to turn first to Mr Nelson and I think he will then pass over for the more detailed description to Captain Timofeyev.

2:10:48

Yeah.

2:10:51

Thank you, Sir. Yes, Danielson on behalf of of DFDS, I'll just give very quickly and an overview and with the layout that we have in the in the outer harbour, then we are using the tide to make sure we have a quite safe approach. And my colleague here, Mr Jim Life, he will explain in details what's the difference in our manoeuvres, whether it's an IP or or a flood tide. So over to you. Thank you.

2:11:20

Thank you. Good afternoon, Captain. Colour Timofeev TFs

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Yes we do using all the factors we can use to ensure the safe arrival or departure of the vessel from outer harbour and we have a number of the measures we employing

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to make to make sure it happens in the most safe way. For instance, if commenting on the arrival would not easterly winds, which are quite dangerous in many ways, we on arrival on outer harbour we would do all the manoeuvres, all the proper preparations just outside the outer harbour on the river where there is a we outside, any obstructions. And then if we are using the ducks, I will not

2:12:21

to see it before

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before performing the check. So what I'm doing I'm just doing the break check. If I before entering the outer harbour, before committing to my manoeuvre I will test if both ducks and my engines can hold the ship. And based on this I can see how much spare power I have on my engines and how much trust I am using. And then I can make decision should I proceed or I will abandon. This gives me opportunity to

2:12:57

abandoned their approach because abandoning the approach is same difficult as performing their approach, because then in this case I need to give up

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one side of the of the vessel, so forward or aft reducing the windage

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and then sail into the wind and into the tide with the assistance of the tax.

2:13:21

So this is basically how we improve avoiding any difficult situations with S westerly winds. It's opposite situation, we can line up, we can try to attempt to enter the outer harbour with the assistance of the tight outside and if the ship stops lift then the ship will. At this stage we will not have any speed ahead or stern, so it will be nearly zero speed.

2:13:50

Then we can just

2:13:52

the wind will blow us back to the river where we safely can swing around again and then hold the tide wait for call for more talks or cancel the the approach. So this is the the way how we performing normally day-to-day. If there is a new that weather conditions

2:14:13

Sir Isabella Tafur for DFDS we intend to submit in our written summary.

2:14:23

We were hoping video, but it takes up an enormous amount of space, so it will probably be a series of stills which show the manoeuvres into and out of the Outer Harbour in differing wind conditions. And

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I think one of the things that Mister Nelson wanted just to come back to you on were the

2:14:47

the characteristics of the Immingham Outer Harbour that mean that it is

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there are various options for getting into and out of it. I think in Captain Tom Movie's experience of for the year 2022, I think it's around 140 times you've come into and out of there and on only on four of those occasions has he required the assistance of tugs. And I think Mr Nielsen would just like to explain very briefly that overall characteristics of the outer harbour that make it

2:15:23

easy to manoeuvre into and out of fine. I think, Nelson, this is perhaps if we could treat this as preliminary to something, we might come back to you later on in that. I think we do appreciate the difference between the outer harbour and the proposed development there. There are different characteristics, but perhaps if you could

2:15:44

bear that in mind and give us a a basis on which we can discuss later. Can I just make a small adjustment? Yes, many listen on behalf of DFDS. It's not only kept in the macula that has taken the vessel in, it's 140 times the

2:16:00

his vessel has birth or it's either him or his colleague but but otherwise we are we are fully aligned. Thank you.

2:16:15

Yes, on behalf of of DFDS. So just to make it very, very fast and we will come back to it. But what we see is that inside the the layout of of the Aiming Out outer terminal is

2:16:30

it's consisting of the finger pier as the only infrastructure once you are in. Otherwise we are surrounded by mud

2:16:37

and the finger, the finger pier. That's it. Where we actually need to, to lay on,

2:16:42

we believe we have quite a lot of space outside of of the harbour. And again, like my very good colleague capturing the team type said, we have various ways to get in where we can work with the tide with whether it's an IP or flood tide to get there safely in and to to assist whether it's a safe approach before we are entering the outer harbour.

2:17:05

Thank you very much, Sir.

2:17:08

Thank you very much customers. That's all been very helpful. I'd like to move on now unless there's anything urgent from any other IP, but there will be other opportunities later on. I think when we start to look at the proposed development. But they could command Bristow had one edition

2:17:30

Sir Paul Bristow for AVP. I know just to to reinforce we understand that was a fictitious scenario that you'd created. But we want to say certainly to my knowledge there have been no impacts between DFDS vessels and the Western jetty. We just wanted to make that clear with the professionalism of the team. But if it was a useful vehicle for the discussions then that's understood. Thank you. You've interpreted that exactly right. It's just a, as you say it's a hypothetical vehicle what I would like to do now

2:18:03

phase two, can we have the agenda back on screen? I think we've had.

2:18:09

Umm.

2:18:12

The question is whether there are any

2:18:16

port layouts in the UK where Row, Row Births and Fuel Imports All Export, Import Export Bus have a relationship which is comparable to that which is being proposed here.

2:18:32

Essentially,

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I'd like to understand whether there are any precedents in

2:18:41

tideways and

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with the kind of proximity that we're talking about here now, who should I

2:18:52

asked the applicants team to speak

2:18:56

on this? It's just drawn

2:18:59

for the applicant. So I think the the Mr Hannon, who's the maritime consultant at ABP Mer to 1 to my left with is the best person to address that. I he, he probably could also explain some of his regulatory experience and experience of ports to try and assist you with that question.

2:19:30

Thank you. Good afternoon, Sir. James Hannan, Associated Bridge Reports

2:19:36

Yeah just have done just touch on the the, the, my, my regulatory background. I'm on the former port policy lead for the Maritime Coast Guard Agency and also acted as the National competent authority for vessel traffic services for the United Kingdom.

2:19:55

Touching on the on on the point relating to the intervention of the Secretary of State, which was brought up by DFDS. That is correct. The Secretary of State does have the powers of intervention, however, they are a last resort.

2:20:09

The primacy for incident response remains with the statutory harbour authority and with the Harbour Master and it is a tiered response And that response would be from from IS is initiated through the Secretary of State's Representative for Counter Pollution and Salvage, which is a position that sits within the Maritime and Coast Guard Agency. And he will liaise accordingly with the with the Harbour Master in the event of an instant and escalation of an incident

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with reference to port facilities in the United Kingdom which have a similarity to the IT development. The I suppose the the the primary or the most plausible one would be the DFDS operation of the outer harbour as as it stands

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it's it's it. It's in the same same area. It's as a close proximity because the same operations but mirrored but in close proximity to a a a coma coma facility and it demonstrates that

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it it's has well, has all of the

2:21:22

all of the potential impacts that you would find on the IoT, on the IoT development as it stands. So as comparables go, that would be your closest, your your closest one.

2:21:37

If we take a look at the Purfleet One, please, Matt, if you could bring that up.

2:21:44

So this is on the on the River Thames.

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The crossing there is the Queen Elizabeth crossing the the bridge over the River Thames

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and to the left of the bridge you will see the terminal railroad terminal on the north banks of the Thames. And if you go to the right hand side of the bridge you will see that there is a fuel jetty there. So there is a a fuel jetty. This doesn't just show close proximity of a row row facility which has a have vessels turning in a very strong tidal stream of the of the River Thames, but also shows that these are in operation next to each other. We've also a piece of

2:22:28

critical national infrastructure which is the road bridge which joins the M25 together.

2:22:35

Actually move on to the next thing to have just before you do, can you give us some help with distances between the Roro terminal and the the fuel jetty?

2:22:52

I I will declare a person I know that crossing pretty well. And Sarah Rose Grogan for CLD edit if it helps. I think that is CDN's port and so we may be able to provide some assistance on that in writing if it would help you. Yeah, I I think we are talking probably at least 400 odd metres in. But yeah, CLDN can help with a bit of geography.

2:23:25

Thank you, Sir.

2:23:28

If we just move on to the next picture please, which is for Milford Haven for Milford Haven.

2:23:37

So these are the multiple terminals of the coma status sitting within Milford Haven. And the dark line that you can see running through is not the actual track, but is is the an indicated track of the of the of the vessel movement that would go down to the terminal in Pembroke in sorry in the in Pembroke docks.

2:24:02

And that vessel operation is is undertaken on a regular basis and as you can see it passes very close to several coma sites.

2:24:14

And finally, Matt, if you bring up Portsmouth, please no which the comma sites are.

2:24:19

Do you know which Cobra sites

2:24:27

this is a picture of Portsmouth Harbour.

2:24:31

The ferry port is actually tucked away just to the north where the blue, the dark Blue Square David is perfect. That's that's the location of the international ports. There's 5 railroad terminals there and also to general cargo berths

2:24:49

for just over to the left you'll see just a small little white dot that is a ammunition ING facility for the Royal Navy.

2:25:00

Vessels are taken from the port on a cold move from the dockyard port on a cold move placed alongside, and the ammunition

2:25:08

operations are conducted there, while ferries are actually transiting to and from the international port.

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The two large grey structures there are the Mod were called as a rather strategically important assets.

2:25:27

Numerous vessel movements in and out of the harbour should controlled by Queens Harbour or sorry Kings Harbour Masters VTS

2:25:34

and the little orange bit on the hook that's just running down there, that is a tanker which is almost permanently moored alongside oil fuel jetty again that is a jetty that provides fuelling services towards the MOD. So all of these harbours, all all managed very safely, very well using well, well founded procedures, safety management systems taken into consideration not just critical assets or assets,

2:26:06

I've not strategic national importance, but also once it's obliged under, regulations.

2:26:15

So could I just ask Mr Hannan, one just to go back to the first plan, I'm sorry, James drawn for the applicant because if we could just pan out, I I'm sure you've already

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may know this the the western jetty we were talking about is

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that one and Mr Hannan can help you with what that serves in terms of what what's unloaded on or not and there's another eastern jetty in between. We need to go further out, I'm afraid.

2:26:52

Exactly. Again,

2:26:55

if you could assist Mr Hannan on that.

2:27:10

Thank you. I would just say that perhaps I shouldn't anticipate, but we would like to have this submitted with an answer to the written question which I can basically bundle both the responses that have been given

2:27:29

orally and what you're going to be sending in any way including distances.

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But in terms of the operation of the East and West and if we if I may I think we should move on.

2:27:43

Yeah I I was just my understanding is that the the the western jetty serves a coma site and that's really what we're

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we're interested in it just let's leave it at that

2:27:55

fine. I think that I I I'll do whatever you want Sir. I over the the other ones are used in Jersey which also serves yeah we'll come onto the the east and later on if we may I think that it's fair to say we have now got a pretty good understanding of the geography of the port. Well I've benefit of two inspections absolutely fine so

2:28:15

so so could I just Isabella tougher for DFDS on this agenda item we have also carried out an analysis of ports we we don't need to trouble you with it now we can put it in writing but we've looked for example in the Milford Haven one that was referred to. We understand that the distance between the row row and the oil facility is 2500 metres and and we haven't been able to find anything of a comparable distance. I think here

2:28:46

birth three of the proposed development is I think 95 metres from the finger pier and we do not consider the arrangement at the western jetty to be comparable to that at the proposed development. We've touched on that partly already. Just one other factor just to mention at this stage, there is no tidal influence inside the outer harbour, so it's slack water, so the tide can be used in the river to manoeuvre the vessel into the right position. If it's not working,

2:29:17

there's plenty of space within the river to readjust, abort realign and once you're getting close to the once you're in the outer harbour, there is no influence of the tide there. And so it's much less complex

and manoeuvre than it would be at the proposed development where the influence of tide and wind are operating even as you're pulling up to those birds.

2:29:42

Thank you. I think that certainly be very helpful for my colleagues as well to build a more complete picture. Is there anything that any other IP would like to add on this?

2:29:55

So yeah, just turning to CLD and perfectly have you been able to establish any numbers for distances or not? Rose Gold good for CDN, we don't have the right people with us today to do that, but we can certainly comment when this is submitted, we can respond in writing. OK. Thank you.

2:30:14

I'm not saying it should I should comment on. Sorry,

2:30:19

David, Elvin Fry, OT, We have some views on this, but I'm not going to advance them at this stage for the reasons that we're told

2:30:26

earlier today. And if necessary, we'll put them in our written responses.

2:30:34

It's now just after 3:30. I think this is probably a good moment to have another break, but should we say 20 minutes or is that too long?

2:30:47

This is strong. Do you do you think that 20 minutes is too long for that, or should we try for a 15 minute break?

2:30:57

I don't think 20 minutes is too long, so let's let's say in that case, let's aim to get underway at 5:00 to 4:00.

2:31:08