

0

00:00:00.000 --> 00:00:00.610

Plus 12.

1

00:00:00.825 --> 00:00:05.765

Um, and we're now resuming ISH five.

2

00:00:08.495 --> 00:00:12.565

Thank you. We are now resuming ISH five, item two C.

3

00:00:13.505 --> 00:00:17.005

Uh, just before passing to the IPS for comments,

4

00:00:17.865 --> 00:00:22.045

we are not gonna be able to get through the next section on,

5

00:00:22.305 --> 00:00:26.005

uh, the simulations before lunch, uh, in total.

6

00:00:26.545 --> 00:00:29.285

Uh, so what we're gonna do is to make a start

7

00:00:29.665 --> 00:00:33.965

and then aim for, uh, an a, a sensible moment to break

8

00:00:33.965 --> 00:00:38.885

for lunch, uh, at a roundabout, um, one

9

00:00:38.885 --> 00:00:40.805

to 10 past one, if that's okay.

10

00:00:41.385 --> 00:00:43.445

Uh, we're gonna try to make sure that break

11

00:00:44.105 --> 00:00:47.085

occurs at a reasonably natural moment in proceedings,

12

00:00:47.085 --> 00:00:49.325

but it's going to be a matter of optimization.

13

00:00:50.305 --> 00:00:55.045

So I am gonna ask DFDS first to, uh, respond

14

00:00:55.145 --> 00:00:57.325

to the points that we were hearing before our break.

15

00:00:58.725 --> 00:01:03.165

Isabella four four DFDS, your initial question,

16

00:01:03.905 --> 00:01:07.645

uh, cer to, uh, ABP was about the senior safety workshop

17

00:01:07.665 --> 00:01:08.845

and the commercial workshop

18

00:01:08.845 --> 00:01:10.765

and what they're intended to address.

19

00:01:11.665 --> 00:01:14.725

Now we have a copy of the email, which was from the CEO

20

00:01:14.985 --> 00:01:17.845

of ABP, uh, in February of this year,

21

00:01:19.185 --> 00:01:20.245

in which he noted.

22

00:01:20.345 --> 00:01:23.765

And, and the invitation was to DFDS and to IOT

23

00:01:23.985 --> 00:01:26.965

and others, uh, operating in the Port of Ingham.

24

00:01:27.945 --> 00:01:31.525

And the CEO noted that concerns have been raised

25

00:01:31.625 --> 00:01:33.405

by stakeholders at that has ID

26

00:01:33.925 --> 00:01:35.165

workshops and the simulations.

27

00:01:35.945 --> 00:01:37.725

Uh, and his email said that in order

28

00:01:37.745 --> 00:01:40.285

to develop an improved shared understanding

29

00:01:40.305 --> 00:01:44.045

of our respective positions, he had asked Simon Byrd

30

00:01:44.045 --> 00:01:47.245

to chair the Senior Safety forum in the region to consider

31

00:01:47.345 --> 00:01:49.685

and fully review the issues and planned mitigations.

32

00:01:50.545 --> 00:01:53.765

Uh, and he explained that this would provide, uh,

33

00:01:53.865 --> 00:01:56.245

an opportunity for transparency

34

00:01:56.705 --> 00:02:00.245

and for everybody to understand, uh, the positions

35

00:02:00.245 --> 00:02:03.245

of the others and respond accordingly.

36

00:02:03.745 --> 00:02:07.405

Now, that meeting was canceled at short notice

37

00:02:08.345 --> 00:02:10.285

by the Humber Regional Director

38

00:02:10.895 --> 00:02:14.005

after the DFDS members had booked their flights

39

00:02:14.005 --> 00:02:16.525

to attend the meeting with no explanation.

40

00:02:17.485 --> 00:02:20.565

ABP said it would be fixed for another occasion,

41

00:02:20.665 --> 00:02:21.725

but that never happened.

42

00:02:23.505 --> 00:02:26.885

As to the commercial workshop, you'll be aware

43

00:02:26.885 --> 00:02:29.525

that DFDS have, um,

44

00:02:29.565 --> 00:02:32.405

serious concerns about the potential implications

45

00:02:32.425 --> 00:02:34.485

of this development on their operation,

46

00:02:35.365 --> 00:02:36.645

regardless of safety issues.

47

00:02:37.265 --> 00:02:39.725

Um, and we requested a commercial workshop

48

00:02:39.865 --> 00:02:44.045

to explain clearly our position to understand ABPs position,

49

00:02:44.665 --> 00:02:47.085

uh, in a similar way for the senior safety workshop

50

00:02:47.435 --> 00:02:48.685

that was offered to us.

51

00:02:49.815 --> 00:02:51.885

Again, it was canceled without explanation.

52

00:02:53.185 --> 00:02:56.405

In its deadline, six submissions, ABP suggests

53

00:02:56.405 --> 00:03:00.965

that the commercial workshop would've had little merit, um,

54

00:03:01.375 --> 00:03:02.965

which raises the query as

55

00:03:02.965 --> 00:03:04.645

to why it was ever offered in the first place.

56

00:03:05.545 --> 00:03:09.405

And for our part, we don't consider it appropriate for ABP

57

00:03:09.405 --> 00:03:11.005

to unilaterally decide

58

00:03:11.515 --> 00:03:13.525

there's no merit in a commercial workshop,

59

00:03:13.525 --> 00:03:17.805

given the very real concerns DFDS has about its operations.

60

00:03:18.625 --> 00:03:22.565

And so that does bring us to the wider picture

61

00:03:23.225 --> 00:03:25.645

of the applicant's approach to engagement

62

00:03:25.705 --> 00:03:28.045

and the way it has, uh, treated

63

00:03:28.105 --> 00:03:30.685

and responded to concerns raised by DFDS.

64

00:03:31.225 --> 00:03:34.045

Our position is that its attitude has

65

00:03:34.045 --> 00:03:36.405

and continues to be one of denial

66

00:03:36.545 --> 00:03:38.725

and aggression rather than engagement.

67

00:03:39.705 --> 00:03:42.805

It has repeatedly dismissed our concerns as motivated

68

00:03:42.865 --> 00:03:44.565

by simple commercial rivalry.

69

00:03:45.795 --> 00:03:49.205

It's derided the combined experience of our DFDS, uh,

70

00:03:49.205 --> 00:03:50.605

professionals and mariners.

71

00:03:51.025 --> 00:03:54.085

And just to pick some examples of its language,

72

00:03:54.155 --> 00:03:57.685

it's described our submissions as misleading, disingenuous,

73

00:03:57.865 --> 00:04:01.045

obtuse, uninformed, and even untrustworthy.

74

00:04:02.275 --> 00:04:06.205

Just a cursory glance at the language adopted in ABPs,

75

00:04:06.325 --> 00:04:08.285

comments on the most recent draft of the statement

76

00:04:08.285 --> 00:04:11.165

of common ground will illuminate the way that it treats

77

00:04:11.165 --> 00:04:13.325

and disparities those who disagree with it.

78

00:04:13.945 --> 00:04:15.925

And we say it appears entirely unwilling

79

00:04:15.925 --> 00:04:18.765

to accept the contributions of, at the very least,

80

00:04:19.115 --> 00:04:20.965

equally experienced professionals

81

00:04:21.395 --> 00:04:24.365

with undisputed expertise in navigating vessels in

82

00:04:24.365 --> 00:04:25.565

and around the port of Ingham.

83

00:04:26.505 --> 00:04:29.845

That's on the broader stakeholder engagement piece as

84

00:04:29.865 --> 00:04:31.445

to the NRA itself.

85

00:04:32.205 --> 00:04:34.405

I appreciate so that you have had the opportunity

86

00:04:34.405 --> 00:04:37.325

to read the nras and the comments on the nras.

87

00:04:37.775 --> 00:04:40.125

There hasn't actually been an opportunity in the hearing

88

00:04:40.265 --> 00:04:44.325

to explore the key differences, um, in positions

89

00:04:44.325 --> 00:04:46.045

because of the issue that rose last time.

90

00:04:46.045 --> 00:04:47.925

And so it was put off,

91

00:04:48.385 --> 00:04:52.245

and I would, if I, if I may just invite Brock Priest to, uh,

92

00:04:52.645 --> 00:04:56.525

identify what he considers to be the main, um, difficulties

93

00:04:56.635 --> 00:04:58.445

with the ABPs nra.

94

00:05:05.175 --> 00:05:07.405

Thank you Brock Priest for DFDS.

95

00:05:08.625 --> 00:05:11.165

Um, as Mr.

96

00:05:11.305 --> 00:05:13.205

For just said, there is is an awful lot

97

00:05:13.205 --> 00:05:16.605

of information written, uh, in the submission so far

98

00:05:16.605 --> 00:05:18.605

that express, uh, various concerns

99

00:05:18.625 --> 00:05:22.525

or, uh, objections, um, to the various nras

100

00:05:22.525 --> 00:05:24.205

that have been produced for the, uh,

101

00:05:24.205 --> 00:05:26.325

throughout this hearing and beforehand.

102

00:05:26.785 --> 00:05:31.285

Uh, what I'd like to touch on today, um, speaks more

103

00:05:31.285 --> 00:05:35.365

to the, um, all links together some

104

00:05:35.365 --> 00:05:36.845

of those concerns that

105

00:05:37.365 --> 00:05:41.085

DFDS has about the applicant's NRA in particular reference

106

00:05:41.085 --> 00:05:44.365

to how that relates back to tolerability and acceptability.

107

00:05:44.665 --> 00:05:48.165



So, uh, effectively tries to, uh, SubT tie together some

108

00:05:48.165 --> 00:05:50.765

of our concerns, uh, related to your earlier questions.

109

00:05:52.635 --> 00:05:55.095

At a high level, the main areas of difference

110

00:05:55.095 --> 00:05:57.245

between the DFDS, shadow NRA

111

00:05:57.465 --> 00:05:59.605

and the applicant's NRA is

112

00:05:59.605 --> 00:06:01.565

that the applicant's NRA has a general lack

113

00:06:01.565 --> 00:06:03.165

of transparency and detail.

114

00:06:04.945 --> 00:06:07.245

The examples are upon what basis

115

00:06:07.425 --> 00:06:10.725

and what justification the tolerability levels were set.

116

00:06:11.285 --> 00:06:14.245

Tolerability thresholds were not made aware to stakeholders

117

00:06:14.245 --> 00:06:15.645

during the assessment of risk.

118

00:06:15.825 --> 00:06:16.885

And the justification

119

00:06:16.945 --> 00:06:20.365

for why these have been selected is not clear other than it

120

00:06:20.365 --> 00:06:22.005

being by the HASB

121  
00:06:22.745 --> 00:06:24.485  
and being based on the same definitions

122  
00:06:24.485 --> 00:06:26.045  
of likelihood and consequence.

123  
00:06:27.385 --> 00:06:30.005  
For instance, the applicant's tolerability does not

124  
00:06:30.005 --> 00:06:32.565  
delineate between the stepped increases to likelihood

125  
00:06:33.025 --> 00:06:36.365  
and consequence as would be expected in a navigation risk

126  
00:06:36.365 --> 00:06:40.005  
assessment in the applicant's NRA two hazards,

127  
00:06:40.035 --> 00:06:43.605  
with a likelihood of unlikely, where one has a consequence

128  
00:06:43.605 --> 00:06:47.725  
to people of a single fatality, Uh,

129  
00:06:47.725 --> 00:06:50.805  
and the other multiple fatalities would both be

130  
00:06:50.805 --> 00:06:51.925  
equally tolerable.

131  
00:06:52.655 --> 00:06:56.125  
There is, in effect no way to differentiate this risk

132  
00:06:56.125 --> 00:06:58.205  
of hazard using the applicant's approach,

133  
00:06:58.875 --> 00:07:00.485  
despite the actual magnitude

134  
00:07:00.485 --> 00:07:02.885

of the consequences being significantly different.

135

00:07:05.505 --> 00:07:08.345

Additionally, there is no mention within the applicant's NRA

136

00:07:08.375 --> 00:07:10.385

that there may be up to 100 passengers

137

00:07:10.525 --> 00:07:11.905

to be onboard each vessel

138

00:07:12.325 --> 00:07:14.585

and how this has been factored in, uh,

139

00:07:14.655 --> 00:07:16.825

into the applicant's assessment of risk.

140

00:07:18.385 --> 00:07:20.665

I also understand that there was no discussion about this

141

00:07:20.665 --> 00:07:22.185

point at the stakeholder hazards.

142

00:07:23.235 --> 00:07:26.185

These passengers are also considered to be member members

143

00:07:26.205 --> 00:07:29.745

of the open public that are involved in potentially fatal

144

00:07:29.745 --> 00:07:33.065

situations from incidents at adjacent high risk locations,

145

00:07:33.905 --> 00:07:36.665

handling volatile flammable substances at the IOT

146

00:07:37.205 --> 00:07:39.265

and hazardous chemicals at the Eastern jetty.

147

00:07:42.045 --> 00:07:45.185

The applicant's NRA has a, a lack of structure clarity

148

00:07:45.285 --> 00:07:47.025  
for stakeholders or objectivity.

149

00:07:48.905 --> 00:07:52.305  
Examples are no distinction between likelihood rankings

150

00:07:52.605 --> 00:07:55.305  
and no defined guidance on the frequency of occurrence

151

00:07:55.325 --> 00:07:57.065  
or regularity of a hazard.

152

00:07:58.575 --> 00:08:00.945  
That is, whether the hazard could occur multiple times a

153

00:08:00.945 --> 00:08:02.425  
year, every two years,

154

00:08:02.445 --> 00:08:04.985  
or five years, 20 years, 50 years, et cetera.

155

00:08:07.035 --> 00:08:09.345  
There is no clear structured relationship

156

00:08:09.855 --> 00:08:11.545  
between risk and tolerability.

157

00:08:13.165 --> 00:08:16.345  
By this I mean specifically the risk, uh, classifications

158

00:08:16.365 --> 00:08:18.545  
of low, medium, significant,

159

00:08:18.725 --> 00:08:20.865  
or very high do not align

160

00:08:20.865 --> 00:08:22.825  
with the tolerability thresholds that have been set.

161

00:08:24.725 --> 00:08:27.745

For instance, a property damage between 4 million

162

00:08:27.745 --> 00:08:30.305

and 8 million pounds, where both likely

163

00:08:30.685 --> 00:08:33.345

and possible occurrences are classified

164

00:08:33.405 --> 00:08:36.705

as significant risks, but one is tolerable

165

00:08:36.845 --> 00:08:38.185

and the other intolerable.

166

00:08:39.455 --> 00:08:42.185

However, there is no clear definition of what likely

167

00:08:42.405 --> 00:08:44.225

or possible actually means.

168

00:08:47.235 --> 00:08:51.065

There is no awareness of the tolerability of thresholds, uh,

169

00:08:52.205 --> 00:08:53.545

was provided to the stakeholders,

170

00:08:54.165 --> 00:08:56.525

and there appears to be no consideration of the impact

171

00:08:56.525 --> 00:08:58.725

to stakeholders or their requirements when

172

00:08:58.925 --> 00:08:59.965

determining that tolerability.

173

00:09:01.625 --> 00:09:04.005

The tolerability is understood to be determined

174

00:09:04.305 --> 00:09:06.045

by the H-H-A-S-B,

175

00:09:06.665 --> 00:09:10.285

but due to the lack of definition for likelihoods, the HASB

176

00:09:11.135 --> 00:09:14.645

could easily have an entirely different perspective of

177

00:09:14.645 --> 00:09:17.525

what the likelihood values mean, which could easily lead

178

00:09:17.525 --> 00:09:19.325

to the overestimation of tolerability.

179

00:09:21.185 --> 00:09:23.765

In general, there is a lack of confidence

180

00:09:23.955 --> 00:09:25.085

that the correct assessment

181

00:09:25.105 --> 00:09:26.765

of risk has been made in the first place

182

00:09:26.765 --> 00:09:28.805

amongst stakeholders or

183

00:09:28.805 --> 00:09:31.805

by the HASB when defining their tolerability.

184

00:09:33.105 --> 00:09:35.605

It is simply far too open to interpretation

185

00:09:35.825 --> 00:09:37.005

and far too subjective.

186

00:09:39.215 --> 00:09:41.365

There is no evident relationship back

187

00:09:41.365 --> 00:09:43.565

to the port's own baseline risk assessment

188

00:09:44.625 --> 00:09:47.685

and no identification on how these new risks align with

189

00:09:48.025 --> 00:09:51.325

or influence the existing risk profile of the port.

190

00:09:53.775 --> 00:09:56.365

There are no details of the cost benefit analysis

191

00:09:56.365 --> 00:09:59.885

that is said to be an undertaken despite this having a sign

192

00:09:59.885 --> 00:10:01.285

being a significant reason

193

00:10:01.745 --> 00:10:04.285

for discounting the highly effective risk controls

194

00:10:04.965 --> 00:10:06.725

identified in the provision of impact protection

195

00:10:06.785 --> 00:10:08.525

and the relocation of the finger peer.

196

00:10:12.025 --> 00:10:14.565

Now, the applicant's NRA has a lack of structure

197

00:10:14.745 --> 00:10:16.645

and the information to facilitate

198

00:10:16.645 --> 00:10:18.405

stakeholder consensus in the first place.

199

00:10:19.635 --> 00:10:22.365

This is part unsurprising, uh,

200

00:10:22.365 --> 00:10:23.885

given the points already covered.

201

00:10:24.625 --> 00:10:27.685

But on this point, the PMSC states in relation to the matter

202

00:10:27.685 --> 00:10:29.925

of consensus, that the organization should strive

203

00:10:29.925 --> 00:10:32.245

to maintain a consensus about safe navigation.

204

00:10:33.625 --> 00:10:36.845

We understand that complete consensus may not always be

205

00:10:37.005 --> 00:10:40.085

achievable, however, the lack of structure, definition

206

00:10:40.145 --> 00:10:41.965

and transparency also prevent

207

00:10:41.965 --> 00:10:43.005

this from happening in the first place.

208

00:10:47.295 --> 00:10:49.365

Thank you, sir. Those are our key points

209

00:10:49.365 --> 00:10:50.965

that we wanted to convey.

210

00:10:52.815 --> 00:10:55.205

Thank you. I'm just gonna pick up, um, there's a lot

211

00:10:55.205 --> 00:10:57.845

of points, which of course will be very helpful in your

212

00:10:57.845 --> 00:10:59.285

written follow-up submission.

213

00:10:59.625 --> 00:11:02.605

Uh, and it's at that point that I think it's appropriate

214

00:11:02.705 --> 00:11:05.205

for the applicant's team to respond in detail rather than

215

00:11:05.205 --> 00:11:07.245



taking up a a lot of time this morning.

216

00:11:07.545 --> 00:11:09.765

But it's just one that I want to, actually,

217

00:11:09.765 --> 00:11:11.245

there's two I'm gonna pick up on,

218

00:11:11.425 --> 00:11:14.205

and firstly is your point that there was no

219

00:11:15.205 --> 00:11:16.285

consultation was,

220

00:11:16.425 --> 00:11:17.965

or inadequate consultation

221

00:11:18.075 --> 00:11:20.245

with stakeholders about tolerability.

222

00:11:21.345 --> 00:11:24.285

Um, my observation is from the evidence

223

00:11:24.285 --> 00:11:27.245

that's been presented so far is that the judgment

224

00:11:27.305 --> 00:11:30.405

of tolerability is that of the duty holder.

225

00:11:32.105 --> 00:11:34.405

Uh, it is essentially a subjective judgment.

226

00:11:35.265 --> 00:11:39.165

Um, could you perhaps, uh, add

227

00:11:39.165 --> 00:11:41.405

to yours your submission, um,

228

00:11:41.785 --> 00:11:43.205

why you think that is not the case?

229

00:11:45.785 --> 00:11:50.045

So, Isabella, DFDS, um, I, I'll ask Mr.

230

00:11:50.045 --> 00:11:53.565

Priest in a moment, but it may be

231

00:11:53.565 --> 00:11:55.845

that the ultimate decision is for the duty holder,

232

00:11:56.505 --> 00:11:59.525

but that decision cannot be taken in isolation

233

00:11:59.665 --> 00:12:03.325

or without due regard to concerns raised by stakeholders.

234

00:12:04.145 --> 00:12:07.005

And if, if ultimately, sir, it's just a matter

235

00:12:07.005 --> 00:12:08.365

for the duty holder, why are any

236

00:12:08.365 --> 00:12:09.845

of us here talking about it now?

237

00:12:10.625 --> 00:12:13.165

Um, we can just say, well, the applicant says it's okay.

238

00:12:13.625 --> 00:12:17.925

Um, but, but this is infrastructure,

239

00:12:18.485 --> 00:12:22.085

proposed infrastructure that has consequences, uh,

240

00:12:22.085 --> 00:12:23.165

potentially on others.

241

00:12:23.785 --> 00:12:25.125

And that's why it's so important

242

00:12:25.125 --> 00:12:30.005

that their views properly be heard taken into account

243

00:12:30.745 --> 00:12:34.045

and consensus reached in a way that's transparent

244

00:12:34.395 --> 00:12:35.805

that allows that process to happen.

245

00:12:36.105 --> 00:12:41.085

So it plainly navigational safety is a

246

00:12:41.085 --> 00:12:43.845

matter for all of those who are operating in the port

247

00:12:43.845 --> 00:12:46.485

of Ingham and their views as to what's tolerable.

248

00:12:46.645 --> 00:12:49.085

I mean, you know, it wouldn't say perhaps

249

00:12:49.105 --> 00:12:52.525

to take a farfetched example be for ABP to say, well,

250

00:12:52.525 --> 00:12:55.445

it's tolerable to us if the IOT's infrastructure is,

251

00:12:55.465 --> 00:12:57.285

uh, put out of action.

252

00:12:57.705 --> 00:13:00.125

Um, plainly, the views of those parties that are going

253

00:13:00.125 --> 00:13:02.325

to be affected must properly be taken into account.

254

00:13:02.325 --> 00:13:03.325

And we say they haven't been.

255

00:13:05.965 --> 00:13:09.245

I think that's precisely the, uh, the, the, the, the point

256

00:13:09.245 --> 00:13:13.405  
that we will value specific attention.

257

00:13:14.225 --> 00:13:16.685  
Um, we've heard from the applicant so far

258

00:13:16.715 --> 00:13:18.405  
that they have taken, uh,

259

00:13:18.675 --> 00:13:20.325  
into account the stakeholder views.

260

00:13:20.985 --> 00:13:24.565  
Um, your position is very clear that they have not

261

00:13:25.815 --> 00:13:29.525  
given satisfactory regard to the stakeholder, uh,

262

00:13:29.525 --> 00:13:31.245  
views in particular on tolerability.

263

00:13:31.965 --> 00:13:33.725  
I think what we need is more evidence of

264

00:13:33.745 --> 00:13:35.205  
how they've taken it into account,

265

00:13:35.385 --> 00:13:37.285  
and I think that's perhaps just, uh,

266

00:13:37.625 --> 00:13:39.245  
we have very little time left,

267

00:13:39.425 --> 00:13:41.485  
but by deadline seven, um,

268

00:13:41.705 --> 00:13:44.165  
the applicant must give us clarity on

269

00:13:44.785 --> 00:13:48.085

in which ways they have given specific regard to

270

00:13:48.625 --> 00:13:51.765

not only the views of the stakeholders prior

271

00:13:51.765 --> 00:13:55.205

to the submission of the application, but subsequently

272

00:13:55.985 --> 00:13:57.205

and what they're gonna do about it.

273

00:13:59.775 --> 00:14:00.885

James Strong for the applicant.

274

00:14:00.905 --> 00:14:03.685

Sir, I, I appreciate where push for time

275

00:14:04.745 --> 00:14:08.405

and I don't want to take on necessary time examination.

276

00:14:08.905 --> 00:14:12.045

Um, can I just say very briefly

277

00:14:12.185 --> 00:14:15.005

and firstly in respect of that, very happy to do that.

278

00:14:15.925 --> 00:14:19.605

Secondly, we do not accept the characterization

279

00:14:19.605 --> 00:14:23.525

that we haven't taken into account stakeholder views indeed

280

00:14:23.585 --> 00:14:25.765

to the opposite view we have.

281

00:14:26.575 --> 00:14:30.685

There is a big difference, of course, between taking

282

00:14:31.195 --> 00:14:33.405

into account everyone's different views

283

00:14:34.705 --> 00:14:38.005

and necessarily agreeing in the results.

284

00:14:39.305 --> 00:14:42.765

And we'll, we'll respond in much more detail

285

00:14:42.905 --> 00:14:45.725

as you've sought, but I just want to flag that up.

286

00:14:45.865 --> 00:14:48.485

And we, proper analysis will show we

287

00:14:48.485 --> 00:14:49.925

have gone through that process.

288

00:14:51.425 --> 00:14:55.005

The, you, you, the issue you asked about, about the duty,

289

00:14:55.185 --> 00:14:58.525

it is on the duty holder, the, to make those judgements

290

00:14:59.105 --> 00:15:01.965

and to make those judgements based on the information.

291

00:15:02.465 --> 00:15:05.725

And unfortunately, it, not everyone's going to agree

292

00:15:05.725 --> 00:15:07.525

with them, and that's just the nature of it.

293

00:15:07.585 --> 00:15:10.965

But the question is why are we all here now?

294

00:15:11.475 --> 00:15:14.685

Well, that is a question I raised at the very outset as

295

00:15:14.685 --> 00:15:18.365

to whether or not this process, um, that the,

296

00:15:19.025 --> 00:15:22.245

the substitute nras, et cetera, that are purporting to go

297

00:15:22.245 --> 00:15:23.845

through the same exercise.

298

00:15:24.675 --> 00:15:27.245

I've already made my submissions in brief that I didn't

299

00:15:27.905 --> 00:15:31.005

regard that as a necessary part of the process,

300

00:15:31.135 --> 00:15:34.565

given the statutory responsibilities that exist under

301

00:15:34.565 --> 00:15:37.325

that other legislation, which will have to be fulfilled

302

00:15:38.065 --> 00:15:41.405

and liabilities that flow both public law

303

00:15:41.465 --> 00:15:45.445

and general liabilities that flow, um, including

304

00:15:46.025 --> 00:15:49.285

on other separate bodies such as the Harbor master,

305

00:15:49.465 --> 00:15:52.245

who similarly has a statutory duty to fulfill.

306

00:15:52.985 --> 00:15:56.885

And I've already drawn your attention to other equivalent

307

00:15:57.765 --> 00:16:00.765

separate regulatory regimes which apply in relation

308

00:16:00.765 --> 00:16:03.805

to infrastructure, which aren't supplanted by the DCA.

309

00:16:03.805 --> 00:16:05.165

They sit alongside it

310

00:16:05.625 --> 00:16:08.565

and it will be necessary to comply with those in due course.

311

00:16:08.745 --> 00:16:10.085

But I won't repeat those. So,

312

00:16:10.085 --> 00:16:13.525

but just by way of answering that broader question that Mr.

313

00:16:13.725 --> 00:16:17.045

Fu raised, there is an answer there, there was a lot

314

00:16:17.045 --> 00:16:19.565

of criticism about engagement at the outset.

315

00:16:19.665 --> 00:16:21.045

I'm happy to respond in writing.

316

00:16:21.245 --> 00:16:24.165

I don't want it to be said where those sorts

317

00:16:24.165 --> 00:16:27.325

of things are aired that we haven't responded.

318

00:16:27.805 --> 00:16:29.485

I don't accept that characterization.

319

00:16:29.745 --> 00:16:31.925

We can come back as to the reasons why

320

00:16:32.235 --> 00:16:35.805

that meeting didn't take place, including the lack

321

00:16:35.805 --> 00:16:39.125

of senior members that was meant to be fielded being

322

00:16:39.645 --> 00:16:42.965

proposed, but rather than exchange blows.

323

00:16:43.045 --> 00:16:44.685



I, I'd just like you to note, we,

324

00:16:44.845 --> 00:16:46.605

I don't accept the characterization of it.

325

00:16:46.625 --> 00:16:48.445

We have engaged and we will set

326

00:16:48.445 --> 00:16:49.805

that out in much more detail,

327

00:16:50.025 --> 00:16:52.845

but there is a danger of a certainly momentum

328

00:16:53.455 --> 00:16:54.925

being carried forward if I don't say

329

00:16:55.125 --> 00:16:56.245

anything. I just wanted to be,

330

00:16:56.625 --> 00:16:58.525

We accept your, your rebuttal.

331

00:16:58.625 --> 00:17:02.205

But, uh, as you're well aware, you know, we don't want this

332

00:17:02.225 --> 00:17:05.685

to con to develop into an adversarial meeting.

333

00:17:06.305 --> 00:17:10.125

We are trying to get to certain nuggets of, of, of fact.

334

00:17:10.825 --> 00:17:11.965

And that's, I'm very

335

00:17:11.965 --> 00:17:13.365

Much the question point. Thank you,

336

00:17:13.945 --> 00:17:14.945

Sir. I'm so sorry to

337

00:17:14.945 --> 00:17:16.565  
come back, Isabella, to full for DFDS.

338

00:17:16.565 --> 00:17:19.045  
Just, just to ask you so briefly to please,

339

00:17:19.485 --> 00:17:20.485  
I know you have already,

340

00:17:20.665 --> 00:17:23.685  
but look again, um, in due course at the minutes

341

00:17:23.745 --> 00:17:27.605  
of the hasp, um, meeting in December 22,

342

00:17:28.325 --> 00:17:30.605  
bearing in mind that the designated person did not attend

343

00:17:30.605 --> 00:17:32.045  
any of the has ID workshops

344

00:17:32.065 --> 00:17:35.325  
or the simulations, so hadn't heard from the concerns raised

345

00:17:35.325 --> 00:17:36.485  
by DFDS and others

346

00:17:37.025 --> 00:17:39.965  
and have a look at how they're reported, the concerns

347

00:17:39.965 --> 00:17:41.725  
that have been raised by DFDS

348

00:17:41.725 --> 00:17:43.605  
and others in the minutes of that meeting.

349

00:17:43.665 --> 00:17:46.165  
And whether you consider that to be sufficient.

350

00:17:47.465 --> 00:17:51.405

Uh, I take your point.

351

00:17:51.745 --> 00:17:56.685

Um, by the way, the, uh, there is no, uh, report

352

00:17:56.705 --> 00:17:57.845

of anything said

353

00:17:57.865 --> 00:18:00.925

by the de the designated person in those minutes.

354

00:18:01.505 --> 00:18:03.725

Um, it's, uh, if you like, it's part

355

00:18:03.725 --> 00:18:06.085

of the general discussion that is re reported.

356

00:18:06.825 --> 00:18:10.245

Um, I think that I don't want to get drawn down

357

00:18:10.245 --> 00:18:12.285

that particular alley at this moment.

358

00:18:13.305 --> 00:18:15.165

Uh, I do want to give the opportunity

359

00:18:15.665 --> 00:18:18.325

and for the iot, uh, team

360

00:18:18.545 --> 00:18:21.165

to respond in the same way if you'd like to take

361

00:18:21.165 --> 00:18:23.765

that opportunity, um, to the, basically response to

362

00:18:23.795 --> 00:18:25.165

what we heard before the break.

363

00:18:27.305 --> 00:18:31.285

Uh, sir, thank you David Alvin, uh, for IOT, um,

364

00:18:31.925 --> 00:18:33.805  
I would echo a lot of what Mr.

365

00:18:33.905 --> 00:18:35.325  
For has said for DFDS.

366

00:18:35.345 --> 00:18:40.045  
We too, were invited by ABP to, um, uh,

367

00:18:40.125 --> 00:18:44.445  
a meeting, uh, a, a workshop on, uh, uh, safety, uh,

368

00:18:44.835 --> 00:18:47.805  
that was canceled and it's the same meeting we're invited

369

00:18:47.825 --> 00:18:51.405  
to no further meeting invitation was issued,

370

00:18:51.905 --> 00:18:54.645  
and no explanation really has been coming forward.

371

00:18:55.045 --> 00:18:57.085  
I appreciate that ABP are, are, are,

372

00:18:57.265 --> 00:19:00.365  
are cagey about having matters examined at too great

373

00:19:00.385 --> 00:19:01.725  
detail as Mr.

374

00:19:02.325 --> 00:19:04.445  
Strand's response has just indicated.

375

00:19:04.545 --> 00:19:07.845  
But we are, it's important we think that you understand,

376

00:19:08.625 --> 00:19:10.485  
you understand the facts

377

00:19:10.505 --> 00:19:13.605

behind which ABP has set out its case.

378

00:19:14.225 --> 00:19:16.565

And I'm, I'm, but the only point, uh,

379

00:19:16.995 --> 00:19:18.285

that we're concerned about is

380

00:19:18.285 --> 00:19:21.805

that you have accurate information so you understand

381

00:19:22.505 --> 00:19:26.525

how cost benefit were determined how, um, uh,

382

00:19:26.805 --> 00:19:28.445

tolerability was determined.

383

00:19:28.705 --> 00:19:32.165

It is simply not acceptable to say, oh, well,

384

00:19:32.165 --> 00:19:37.085

it's the judgment for the, um, the statutory body, uh,

385

00:19:37.265 --> 00:19:38.605

uh, and it's subjective, and

386

00:19:38.605 --> 00:19:39.765

therefore you don't need to know.

387

00:19:40.505 --> 00:19:43.525

The fact is all judgements, particularly in a public arena

388

00:19:43.525 --> 00:19:46.085

where you are justifying a certain assessment of risk

389

00:19:46.465 --> 00:19:47.525

to understand how

390

00:19:47.525 --> 00:19:49.245

that risk assessment has been put together.

391

00:19:49.345 --> 00:19:51.645

So I would support your request for that information.

392

00:19:52.235 --> 00:19:53.405

This is all material

393

00:19:53.405 --> 00:19:56.005

that we've been asking for, for some time. Sorry,

394

00:19:56.085 --> 00:19:57.245

I I I'm gonna have to respond.

395

00:19:57.345 --> 00:19:59.525

I'm, I'm sorry, Mr. Sta I haven't finished, please. I'm

396

00:19:59.525 --> 00:20:00.525

Sorry. I didn't realize I thought you

397

00:20:00.525 --> 00:20:01.005

stopped.

398

00:20:02.045 --> 00:20:05.725

I was taking a breath. I've gotta

399

00:20:05.825 --> 00:20:07.365

ask Dr. Rogers in a minute.

400

00:20:07.365 --> 00:20:10.965

Just to summarize our position on the, uh, on, on the, uh,

401

00:20:11.465 --> 00:20:14.605

the, uh, NRA, there is one matter I should draw

402

00:20:14.605 --> 00:20:16.005

to your attention, which I want

403

00:20:16.005 --> 00:20:18.325

to raise this afternoon on simulations,

404

00:20:18.895 --> 00:20:21.485

which is on the basis of information we only received

405

00:20:21.615 --> 00:20:25.005

after the last two issue specific hearings.

406

00:20:25.585 --> 00:20:27.045

It has become quite clear,

407

00:20:27.185 --> 00:20:29.565

and we raised it in the correspondence relating

408

00:20:29.565 --> 00:20:31.005

to the latest simulations

409

00:20:31.355 --> 00:20:33.885

that the correct design vessels have not been used.

410

00:20:34.275 --> 00:20:37.125

It's also investigating that matter further,

411

00:20:37.345 --> 00:20:39.685

it has become clear that despite

412

00:20:39.685 --> 00:20:42.325

what the environmental statement says about assessing

413

00:20:42.325 --> 00:20:46.485

maximum parameters at 2.3 0.6, um,

414

00:20:47.195 --> 00:20:48.365

that has not been done

415

00:20:48.365 --> 00:20:50.725

because the vessels that have been used

416

00:20:51.145 --> 00:20:55.805

for simulation purposes, they're either the DFDS vessel, um,

417

00:20:56.145 --> 00:20:58.765

or the STAINER T class, both

418

00:20:58.765 --> 00:21:01.005  
of which have significant differences.

419

00:21:01.025 --> 00:21:02.645  
And I wanted, I just wanted to flag that up

420

00:21:02.805 --> 00:21:04.085  
'cause I've raised it this afternoon.

421

00:21:04.335 --> 00:21:08.165  
Thank you. Um, it, it's certainly on our direction

422

00:21:08.165 --> 00:21:09.885  
of questions in the next section. Yeah.

423

00:21:10.075 --> 00:21:12.405  
Okay. I, I mean, I mean the, the, the short,

424

00:21:12.505 --> 00:21:15.965  
the short point on that is the displacement of the vessels

425

00:21:15.965 --> 00:21:18.405  
that have been used to carry out the simulations is

426

00:21:18.405 --> 00:21:21.285  
significantly less than the design parameters.

427

00:21:21.625 --> 00:21:24.445  
In the case of the DFDS model that was used

428

00:21:24.445 --> 00:21:29.165  
for the earlier simulations, it is only, um, it's, uh, 72%.

429

00:21:29.225 --> 00:21:33.045  
So I, it's 30% smaller than the design vessel displacement,

430

00:21:33.065 --> 00:21:36.165  
and the STAINER T class is less than 50% the displacement.

431

00:21:36.505 --> 00:21:39.005



So we question the validity of the simulations,

432

00:21:39.025 --> 00:21:40.765

but we'll deal with that this afternoon.

433

00:21:41.225 --> 00:21:44.165

On the question of the general points about the NRA,

434

00:21:44.165 --> 00:21:45.765

we have much in common with TFTS,

435

00:21:45.985 --> 00:21:48.845

but I'll ask Dr. Rogers just to summarize the main points.

436

00:21:48.855 --> 00:21:49.855

Thank you.

437

00:21:56.655 --> 00:22:00.275

Edward Rogers on behalf of, uh, IOT as, uh,

438

00:22:02.015 --> 00:22:03.795

my colleague David has explained, we have, uh,

439

00:22:03.795 --> 00:22:06.555

similar comments as those raised by DFDS.

440

00:22:07.215 --> 00:22:09.635

Um, the primary concern we have in relation

441

00:22:09.695 --> 00:22:12.675

to the applicant's navigation risk assessment really relates

442

00:22:12.775 --> 00:22:14.355

to five or six points.

443

00:22:14.855 --> 00:22:16.355

The most significant of those relates

444

00:22:16.355 --> 00:22:18.635

to the cost benefit assessment that has been undertaken.

445

00:22:19.495 --> 00:22:22.395

Uh, we have no evidence or no details

446

00:22:22.755 --> 00:22:26.155

provided that enable IOT to understand the costs

447

00:22:26.175 --> 00:22:28.635

and the relative benefits of the risk control measures

448

00:22:28.635 --> 00:22:30.635

that are been proposed by the applicant.

449

00:22:31.575 --> 00:22:33.715

Um, I think we've had enough time discussing

450

00:22:33.715 --> 00:22:34.875

that this morning, but we could go on

451

00:22:34.875 --> 00:22:36.595

for a great deal longer.

452

00:22:37.895 --> 00:22:41.195

The other aspects, uh, relate to acceptability of risk

453

00:22:41.255 --> 00:22:42.515

or tolerability of risk,

454

00:22:42.515 --> 00:22:43.755

and the general risk assessment

455

00:22:43.785 --> 00:22:45.355

methodology that's been employed.

456

00:22:46.135 --> 00:22:48.715

Um, we note that the methodology employed is, is different

457

00:22:48.715 --> 00:22:52.835

to that as, uh, prescribed, uh, at the, uh, preliminary, uh,

458

00:22:52.835 --> 00:22:54.515

environmental impact report.

459

00:22:54.645 --> 00:22:56.195

There was a change through the process.

460

00:22:57.175 --> 00:23:00.275

The methodology really only came to light at the, uh,

461

00:23:00.275 --> 00:23:01.475

second hazard workshop,

462

00:23:01.525 --> 00:23:03.995

which was the first hazard workshop in which stakeholders

463

00:23:04.025 --> 00:23:08.235

such as iot were, uh, invited to to attend for the project.

464

00:23:09.015 --> 00:23:12.075

Um, there appears to be no standards of, uh,

465

00:23:12.075 --> 00:23:13.395

acceptability provided.

466

00:23:14.255 --> 00:23:15.515

Um, risk assessments

467

00:23:15.535 --> 00:23:18.635

and risk matrices, in essence are trying

468

00:23:18.635 --> 00:23:21.355

to bring together a, a wide variety of, of,

469

00:23:21.375 --> 00:23:23.955

of different receptors, uh, impacts the port,

470

00:23:24.025 --> 00:23:25.835

impacts the people, impacts the

471

00:23:25.835 --> 00:23:27.515

environment, impacts the business.

472

00:23:28.415 --> 00:23:30.595

But there is certain information standards available

473

00:23:30.705 --> 00:23:33.835

that allows risk matrices to be calibrated to

474

00:23:34.395 --> 00:23:35.435

standards of acceptability.

475

00:23:35.855 --> 00:23:38.315

The health and safety executive, uh, uh,

476

00:23:38.315 --> 00:23:39.835

provide these, these details.

477

00:23:40.535 --> 00:23:43.275

Indeed, the International Maritime Authority has adopted

478

00:23:43.325 --> 00:23:46.125

those health and safety executive, uh, standards

479

00:23:46.125 --> 00:23:47.805

of acceptability in its use

480

00:23:47.865 --> 00:23:49.525

and prescription of the formal safety

481

00:23:49.525 --> 00:23:50.565

assessment methodology.

482

00:23:51.105 --> 00:23:53.645

Uh, this methodology is mandated both by the Port

483

00:23:53.645 --> 00:23:57.605

and Marine Safety Code and the, uh, MCA in the, uh,

484

00:23:57.965 --> 00:24:01.085

MGN uh, guidance to offshore renewable energy developers.

485

00:24:01.465 --> 00:24:05.445

It, there is a clear cascade where you would, uh,

486

00:24:05.445 --> 00:24:07.285

bring together these, these standards

487

00:24:10.585 --> 00:24:13.205

In terms of the control measures, uh, proposed

488

00:24:13.345 --> 00:24:14.565

by, by the applicant.

489

00:24:14.785 --> 00:24:16.845

The IOT's view is, is very clear.

490

00:24:16.915 --> 00:24:19.005

Many of the measures identified in the risk assessment

491

00:24:19.985 --> 00:24:22.765

are those, uh, control measures that are already embedded

492

00:24:23.555 --> 00:24:26.445

used every day in day-to-day port activities, uh,

493

00:24:26.475 --> 00:24:28.885

wind limits, tidal limits, the use of towage.

494

00:24:29.425 --> 00:24:32.205

Indeed, I think there is, uh, reference to, uh,

495

00:24:32.205 --> 00:24:34.765

appropriate PPE as a risk control measure

496

00:24:34.835 --> 00:24:37.125

that reduces the risk of construction activities

497

00:24:37.345 --> 00:24:38.725

for the IA development.

498

00:24:40.185 --> 00:24:41.685

It, it's also interesting to note

499

00:24:41.685 --> 00:24:44.405

that in the I get development all these, uh,

500

00:24:44.405 --> 00:24:47.645

control measures that are identified in the iert, uh,

501

00:24:47.645 --> 00:24:49.565

assessment as being additional

502

00:24:49.745 --> 00:24:53.365

or classified as embedded, IE the, uh, stakeholders

503

00:24:53.465 --> 00:24:56.085

who attended the hazard workshop would assume

504

00:24:56.475 --> 00:24:59.845

that these measures are or included in their assessment and,

505

00:25:00.065 --> 00:25:02.445

and their, uh, determination of, of risk.

506

00:25:07.785 --> 00:25:11.965

To date, we have not, uh, received, uh, any understanding

507

00:25:12.225 --> 00:25:16.125

of the, uh, uh, the ability of the IRT infrastructure

508

00:25:16.185 --> 00:25:19.045

to withstand impact by an errant vessel.

509

00:25:19.705 --> 00:25:22.805

Uh, we are not clear what that design is, uh, taken to.

510

00:25:23.225 --> 00:25:25.685

We are not clear how much protection is afforded

511

00:25:25.705 --> 00:25:28.525

by the infrastructure to the IOT's trunk way.

512

00:25:31.185 --> 00:25:33.405

We also don't have the details of the design vessel.

513

00:25:34.145 --> 00:25:36.005

We have some very basic parameters,

514

00:25:36.265 --> 00:25:41.245

but the details of the, uh, the windage, the, uh, the,

515

00:25:41.265 --> 00:25:42.565

uh, ability of the vessel

516

00:25:42.745 --> 00:25:45.085

to move in certain tidal states is,

517

00:25:45.145 --> 00:25:46.405

is not clear or understood.

518

00:25:47.105 --> 00:25:49.205

As, as my colleague David has explained, we

519

00:25:49.745 --> 00:25:51.685

we have some questions around the simulation

520

00:25:51.685 --> 00:25:53.765

and design vessel chosen for the simulation.

521

00:25:54.625 --> 00:25:56.765

We still don't have the details around the ability

522

00:25:56.905 --> 00:26:00.405

of the impact protection proposed for the, uh, TWA

523

00:26:00.425 --> 00:26:01.885

to withstand, um,

524

00:26:01.885 --> 00:26:04.045

vessel impacts from the IA facility, either.

525

00:26:08.215 --> 00:26:11.895

Ultimately, for IOT operators, we have a, a very simple, uh,

526

00:26:12.105 --> 00:26:14.615

three risk controls that, that are required.

527

00:26:15.035 --> 00:26:16.655

Uh, and the justification

528

00:26:16.655 --> 00:26:18.815

for those is embedded in the IOT's.

529

00:26:19.115 --> 00:26:23.895

Uh, NRA in terms

530

00:26:23.895 --> 00:26:26.095

of specific questions around the simulation, I would defer

531

00:26:26.095 --> 00:26:28.215

to my colleague, uh, captain Bassett, but

532

00:26:28.995 --> 00:26:31.415

before doing that, I'd also like to point out that the data

533

00:26:31.935 --> 00:26:34.895

analysis contained in the, uh, assessment undertaken by,

534

00:26:34.955 --> 00:26:38.855

by the applicant at no point includes the IE infrastructure.

535

00:26:39.315 --> 00:26:40.735

So all the analysis of where

536

00:26:40.735 --> 00:26:44.125

and how vessels navigate is, uh, with no reference

537

00:26:44.125 --> 00:26:45.365

to the infrastructure being proposed.

538

00:26:45.955 --> 00:26:47.765

It's very difficult for someone to look

539

00:26:47.765 --> 00:26:49.205



and review at those analysis

540

00:26:49.705 --> 00:26:52.325

and, uh, understand what impact would have on the how

541

00:26:52.465 --> 00:26:53.645

and where vessels navigate.

542

00:27:02.345 --> 00:27:02.965

We have, uh,

543

00:27:03.505 --> 00:27:07.605

May I just, uh, make sure clarification in particular

544

00:27:07.605 --> 00:27:10.645

for the recording, you are referring in that last point

545

00:27:10.645 --> 00:27:13.405

of yours to no

546

00:27:14.285 --> 00:27:17.885

reference in the applicant's NRA of how the

547

00:27:18.845 --> 00:27:20.805

I/O is operated.

548

00:27:21.505 --> 00:27:23.965

Is that, is that exactly what you said?

549

00:27:25.305 --> 00:27:27.805

Uh, ed Rogers for iot? No.

550

00:27:27.845 --> 00:27:30.365

I was referring to the analysis of AS data.

551

00:27:30.745 --> 00:27:32.565

The track plots, uh, on none

552

00:27:32.565 --> 00:27:34.885

of those analysis is the I/O development

553

00:27:34.885 --> 00:27:36.765

infrastructure actually identified on them.

554

00:27:38.345 --> 00:27:41.725

So on all the plots provided, it's not clear

555

00:27:42.225 --> 00:27:44.565

how the interaction of vessels today will happen in the

556

00:27:44.565 --> 00:27:47.005

future because the actual infrastructure proposed

557

00:27:47.005 --> 00:27:48.765

by the development is, is not included on them.

558

00:27:51.375 --> 00:27:52.485

Thank you for the clarification.

559

00:28:02.475 --> 00:28:05.885

I've touched on the, uh, baseline, uh, risk assessment,

560

00:28:06.225 --> 00:28:07.565

uh, that is a risk assessment

561

00:28:07.595 --> 00:28:11.205

that we understand is in place, uh, by the, uh,

562

00:28:11.485 --> 00:28:14.245

relevant Harbor authorities to manage, uh, marine

563

00:28:14.345 --> 00:28:15.965

and navigation safety as required

564

00:28:16.005 --> 00:28:17.325

by the Port Marine Safety Code.

565

00:28:17.905 --> 00:28:19.005

Um, we understand that

566

00:28:19.005 --> 00:28:21.525

that same risk assessment will be utilized at a point in

567

00:28:21.525 --> 00:28:24.205

time in the future to, uh, identify whether

568

00:28:24.205 --> 00:28:25.245

or not the additional risk

569

00:28:25.245 --> 00:28:26.565

control measures are taken forward.

570

00:28:27.445 --> 00:28:31.125

I think I'm still unclear whether in the assessment of risk

571

00:28:31.445 --> 00:28:34.685

provided, um, the control measures associated

572

00:28:34.755 --> 00:28:38.635

with impact protection are included or not.

573

00:28:47.685 --> 00:28:50.585

So we'll, we'll do with the simulation concerns later if

574

00:28:50.585 --> 00:28:51.665

that's, that's acceptable.

575

00:28:52.005 --> 00:28:54.545

Can I just finish by saying, I, I do understand Mr.

576

00:28:54.585 --> 00:28:57.265

Strong's point that there are overlapping statutory duties,

577

00:28:57.525 --> 00:29:01.065

but we are in a process which includes the definition

578

00:29:01.065 --> 00:29:04.545

of protective measures within the DCO itself, and it's

579

00:29:04.545 --> 00:29:07.425

therefore appropriate within the scope of this inquiry

580

00:29:07.925 --> 00:29:11.625

to determine whether what is proposed is sufficient to deal

581

00:29:11.625 --> 00:29:14.105

with the risk, which genuinely arises.

582

00:29:14.125 --> 00:29:16.985

And Dr. Rogers has indicated why we have difficulties

583

00:29:16.985 --> 00:29:18.785

understanding how they've reached that conclusion.

584

00:29:19.195 --> 00:29:20.195

Thank you.

585

00:29:21.515 --> 00:29:23.305

Thank you to the iot team.

586

00:29:23.885 --> 00:29:28.505

Uh, I want to ask one specific question to, uh, Mr.

587

00:29:28.905 --> 00:29:30.305

Hannan. Um,

588

00:29:32.405 --> 00:29:37.305

is there a correlation in the applicant's NRA to the, um,

589

00:29:38.345 --> 00:29:41.025

existing NRA for the Port of Immingham?

590

00:29:42.065 --> 00:29:46.965

And if so, can you defend the criticism

591

00:29:46.965 --> 00:29:50.565

that it is not transparently obvious in the, uh, in,

592

00:29:50.565 --> 00:29:52.605

in the applicant's NRA for the,

593

00:29:52.625 --> 00:29:53.685

for the proposed development,

594

00:29:55.625 --> 00:29:56.845

Uh, James Len, AVP?

595

00:29:56.985 --> 00:30:00.325

Uh, yes. The, uh, the, the, the baseline

596

00:30:00.425 --> 00:30:04.645

or the, the, the existing safety controls, uh, controlled,

597

00:30:04.855 --> 00:30:08.005

sorry, contained within the marine safety management system

598

00:30:08.385 --> 00:30:09.605

for both the Port of Ingham

599

00:30:09.825 --> 00:30:13.565

and for hes are included within the,

600

00:30:13.585 --> 00:30:15.725

the navigational risk assessment and are considered,

601

00:30:17.915 --> 00:30:22.245

They're considered are the, do you, uh, believe that, um,

602

00:30:22.555 --> 00:30:26.765

with closer reading, we should be able to, uh, understand

603

00:30:26.765 --> 00:30:30.085

that correlation between the proposed development NRA

604

00:30:30.105 --> 00:30:31.845

and the baseline NRA

605

00:30:33.935 --> 00:30:34.935

James? I guess the follow

606

00:30:34.935 --> 00:30:36.525

up question, I think you can probably

607

00:30:36.525 --> 00:30:40.165

imagine is, is there any way by now and, uh, between now

608

00:30:40.165 --> 00:30:44.805

and deadline seven, if you can, um, basically

609

00:30:45.595 --> 00:30:49.965

fill that gap for not only ourselves as the XA,

610

00:30:49.965 --> 00:30:51.205

but also for the Secretary of State,

611

00:30:53.305 --> 00:30:54.605

Uh, James Han and AVP?

612

00:30:55.105 --> 00:30:58.445

Uh, yes. And, uh, and yes, we, we, we will be able to

613

00:30:58.445 --> 00:30:59.445

Do that. Thank you.

614

00:30:59.445 --> 00:31:01.005

Another action point. Thank you very much.

615

00:31:02.385 --> 00:31:06.685

Um, now there's so much more that we could do on NRA,

616

00:31:06.945 --> 00:31:09.725

but I think that, um, if necessary,

617

00:31:09.725 --> 00:31:13.445

and I like to reserve the position to come back to NRA, uh,

618

00:31:13.695 --> 00:31:15.005

later on in this hearing,

619

00:31:15.585 --> 00:31:19.005

but we should pass on now to the simulation matters.

620

00:31:26.095 --> 00:31:30.905

Yeah, and I, I, I was actually, um, just prompted

621

00:31:31.165 --> 00:31:32.905

to do something I was gonna do anyway, which is,

622

00:31:32.905 --> 00:31:36.585

before we, um, do that, I do want to just ask if, um,

623

00:31:36.585 --> 00:31:38.065

Harbor Master Humble would like

624

00:31:38.065 --> 00:31:41.785

to respond anything he's heard from, uh, um,

625

00:31:42.865 --> 00:31:46.385

DFDS and IO ot, and then to pass to CLD

626

00:31:46.385 --> 00:31:48.065

and see if there's anything they would like to observe.

627

00:31:50.065 --> 00:31:51.945

Victoria Hudson for the Harbor Master. So thank you.

628

00:31:51.945 --> 00:31:54.705

We listened to the comments made by DFDS and I, ot.

629

00:31:54.785 --> 00:31:55.825

I don't think there was anything

630

00:31:56.345 --> 00:31:57.385

specifically directed at us.

631

00:31:57.735 --> 00:32:00.305

Remains the case that we'll respond in writing on

632

00:32:00.305 --> 00:32:01.665

individual points made.

633

00:32:01.795 --> 00:32:02.795

Thank you.

634

00:32:03.405 --> 00:32:04.585

And to CLDN,

635

00:32:06.685 --> 00:32:07.685

Uh, thank you, sir. Robbie

636

00:32:07.685 --> 00:32:10.305

Owen for CLDN, um, I don't need to say very much,

637

00:32:10.325 --> 00:32:12.545

but just on the subject of, uh, uh,

638

00:32:12.545 --> 00:32:15.705

navigational risk assessments, um, we,

639

00:32:15.725 --> 00:32:18.945

whilst we were invited, uh, by the applicant to the recent,

640

00:32:19.405 --> 00:32:23.025

um, simulation meetings to discuss the effects, um,

641

00:32:23.165 --> 00:32:26.545

on the NRA of the proposed scheme changes, uh, we,

642

00:32:26.565 --> 00:32:27.865

we did not participate in those.

643

00:32:28.025 --> 00:32:29.865

'cause we felt that, uh, IOTT

644

00:32:29.865 --> 00:32:32.585

and DFDS were much better placed to do so.

645

00:32:33.005 --> 00:32:36.145

Um, given that the principal impacts

646

00:32:36.495 --> 00:32:39.405

regarding the assessment navigational risk clearly relate

647

00:32:39.405 --> 00:32:41.885



to operations within the confines of the Port of Ingham.

648

00:32:42.305 --> 00:32:44.285

Um, and as you know, we do not operate there.

649

00:32:44.545 --> 00:32:45.645

And our principle concern,

650

00:32:45.665 --> 00:32:48.365

as we've made it clear throughout, is the potential

651

00:32:48.365 --> 00:32:52.005

for a navigation accident, uh, at Ingham to impact on

652

00:32:52.515 --> 00:32:55.325

CDNs operations, uh, upriver at killing home

653

00:32:55.325 --> 00:32:58.165

and interrupt our own vessel settings and services.

654

00:32:58.345 --> 00:33:00.605

And, um, I mean, whilst

655

00:33:01.415 --> 00:33:03.885

there are serious concerns being raised in relation

656

00:33:03.885 --> 00:33:06.205

to NRI matters, as we've heard today, whilst

657

00:33:06.205 --> 00:33:09.565

that's the case, then, uh, we remain concerned and,

658

00:33:09.625 --> 00:33:13.045

and we, we we're very content to adopt

659

00:33:13.045 --> 00:33:17.685

and support the points being made, um, by, uh, DFTS

660

00:33:17.685 --> 00:33:18.925

and IOTT in particular.

661

00:33:19.225 --> 00:33:21.245

Um, because it's, you know, insofar

662

00:33:21.245 --> 00:33:23.525

as there are those major concerns, then, uh,

663

00:33:23.525 --> 00:33:25.565

that is clearly an issue that we have an interest in.

664

00:33:25.685 --> 00:33:28.245

I mean, certainly so far as, uh, were the scheme

665

00:33:28.245 --> 00:33:30.085

to be approved, then, uh,

666

00:33:30.975 --> 00:33:33.285

there then comes issue protective provisions.

667

00:33:33.705 --> 00:33:35.485

Uh, that's obviously predominantly a matter

668

00:33:35.545 --> 00:33:36.965

for the hearing on Thursday.

669

00:33:37.545 --> 00:33:42.085

Um, but, uh, we, we, we, we, as we set out in, uh, our,

670

00:33:42.345 --> 00:33:43.805

uh, deadline for submissions

671

00:33:43.865 --> 00:33:46.325

and indeed our deadline six submissions, we

672

00:33:47.735 --> 00:33:49.965

still await hearing from the applicant in relation

673

00:33:49.965 --> 00:33:51.645

to the protective provisions

674

00:33:51.645 --> 00:33:54.805

that we proposed on the 9th of October, uh,

675

00:33:54.905 --> 00:33:56.805

so some six weeks or so ago.

676

00:33:57.105 --> 00:33:59.845

And it'd be helpful to, at some stage this week,

677

00:34:00.275 --> 00:34:01.845

hear progress from the applicant if there

678

00:34:01.845 --> 00:34:02.885

has been any in that respect.

679

00:34:02.945 --> 00:34:05.725

So that, that I think is a summary of

680

00:34:05.815 --> 00:34:08.005

where we are on navigational risk matters ourselves.

681

00:34:08.315 --> 00:34:10.685

Hope that's helpful. Thank you. Thank

682

00:34:10.685 --> 00:34:11.685

You. Thank you.

683

00:34:11.685 --> 00:34:16.045

Uh, it's slightly putting the, the, um, uh,

684

00:34:16.145 --> 00:34:18.045

uh, the, the comment outta sequence,

685

00:34:18.105 --> 00:34:22.565

but in response to your point on protective provisions, one

686

00:34:22.565 --> 00:34:25.365

of the things that, uh, we felt that we, we,

687

00:34:25.425 --> 00:34:30.205

we may well be prompted to say during this hearing is

688

00:34:30.365 --> 00:34:34.845  
that we've now got, um, a, a a a period

689

00:34:34.865 --> 00:34:38.245  
of well over 24 hours for the parties to get together

690

00:34:39.025 --> 00:34:41.245  
before the hearing six,

691

00:34:42.385 --> 00:34:44.765  
to make progress on the PPEs.

692

00:34:45.705 --> 00:34:48.805  
And, uh, we'd really encourage that to happen

693

00:34:48.835 --> 00:34:51.525  
because I think that if we find that, uh,

694

00:34:51.705 --> 00:34:53.805  
by deadline seven we've got little progress,

695

00:34:55.095 --> 00:34:56.205  
we'll be very disappointed.

696

00:34:57.515 --> 00:34:58.565  
I'll just interject there

697

00:34:58.565 --> 00:35:00.685  
because I'm gonna be leading on that side of things.

698

00:35:01.505 --> 00:35:04.045  
Um, there will be questions about protective provisions

699

00:35:04.045 --> 00:35:08.165  
about, uh, the status, um, what may

700

00:35:08.165 --> 00:35:10.285  
or may not be accepted by the applicant.

701

00:35:10.555 --> 00:35:13.285

What if they don't accept something in those

702

00:35:13.285 --> 00:35:15.005

protective why they're not accepting?

703

00:35:15.305 --> 00:35:19.645

So you should all be preparing for, um, questions that do,

704

00:35:19.945 --> 00:35:21.885

uh, revolve around those protective provisions.

705

00:35:22.075 --> 00:35:26.125

That will be D-F-D-S-C-L-D-N, um, I0 ot,

706

00:35:26.665 --> 00:35:30.165

albeit that, um, we might, well, I'm,

707

00:35:30.345 --> 00:35:32.005

I'm not getting much feel for it,

708

00:35:32.315 --> 00:35:35.605

that there's been much progress since the last hearing in

709

00:35:35.605 --> 00:35:37.445

terms of where discussions may

710

00:35:37.465 --> 00:35:42.165

or may not be going with IOT, Mr. Vin

711

00:35:42.405 --> 00:35:43.405

J. Just just to prefigure

712

00:35:43.405 --> 00:35:45.445

that part of the issue with

713

00:35:46.305 --> 00:35:48.245

the negotiations is, um,

714

00:35:49.115 --> 00:35:51.925

over control measures which are currently being put forward,

715

00:35:51.925 --> 00:35:55.325

which we're not content with in principle,

716

00:35:55.425 --> 00:35:58.245

but we are negotiating is they're being

717

00:35:58.245 --> 00:35:59.645

done without prejudice.

718

00:35:59.785 --> 00:36:03.205

So the examining authority can't be informed of them

719

00:36:03.205 --> 00:36:05.965

unless ABP wishes to release the without prejudice

720

00:36:05.965 --> 00:36:07.045

that they're operating under.

721

00:36:09.025 --> 00:36:12.885

We are gonna touch on IO OT later on this afternoon,

722

00:36:13.065 --> 00:36:15.885

so we, we may explore some of that when we get there.

723

00:36:20.405 --> 00:36:24.825

Mr. str, Sir, uh, I,

724

00:36:25.165 --> 00:36:28.545

I'm trying to follow your guidance as to how much we cover.

725

00:36:28.925 --> 00:36:31.585

Now, I've got plenty I'd like to say,

726

00:36:31.885 --> 00:36:34.945

and my witnesses would like to say about all of the nras

727

00:36:34.945 --> 00:36:36.185

and comments that have been made.

728

00:36:37.205 --> 00:36:39.425

Uh, and I don't, um,

729

00:36:41.045 --> 00:36:42.665  
accept the way it was put

730

00:36:42.665 --> 00:36:45.225  
that I'm in cagey about you examining this.

731

00:36:45.285 --> 00:36:46.625  
We, that, that's why we're here.

732

00:36:46.865 --> 00:36:50.345  
IW all I was pointing out is you had asked me not to respond

733

00:36:50.365 --> 00:36:52.625  
to everything other than in writing,

734

00:36:52.645 --> 00:36:53.985  
rather than take the time.

735

00:36:54.805 --> 00:36:57.705  
Of course, I'd be delighted to take the time to go

736

00:36:57.705 --> 00:36:59.265  
through all of these points.

737

00:36:59.525 --> 00:37:03.905  
Now, you clearly, that's going to put a bit of pressure,

738

00:37:03.905 --> 00:37:06.905  
but I, I'd utterly reject the notion that we're,

739

00:37:07.095 --> 00:37:08.185  
that I'm being cagey.

740

00:37:08.325 --> 00:37:09.665  
I'm to, to the contrary.

741

00:37:09.885 --> 00:37:12.385  
I'm just trying to follow your agenda.

742

00:37:12.805 --> 00:37:15.345

If you, if that's the impression, get from Mr.

743

00:37:15.625 --> 00:37:18.185

Vin, then, then I, we should be allowed to go

744

00:37:18.185 --> 00:37:19.305

through in each and every point,

745

00:37:19.445 --> 00:37:20.865

and we will, we will do that.

746

00:37:21.085 --> 00:37:24.545

But I, I'm in the spirit of an examination.

747

00:37:25.285 --> 00:37:28.305

You, you are the master masters of the procedure,

748

00:37:28.305 --> 00:37:30.225

and I'm trying to do what you've asked me to do,

749

00:38:01.865 --> 00:38:02.865

Mr. Str, uh,

750

00:38:02.865 --> 00:38:06.205

This will put

751

00:38:07.205 --> 00:38:09.605

pressure on the next session, which is the next part

752

00:38:09.745 --> 00:38:13.125

of this agenda, which is, I think, particularly important.

753

00:38:13.475 --> 00:38:18.045

However, we're very mind mindful of the need

754

00:38:18.065 --> 00:38:19.165

for fairness here.

755

00:38:19.945 --> 00:38:22.045



Um, I, but I would, and

756

00:38:22.045 --> 00:38:24.845  
therefore, we are going to let you have a,

757

00:38:25.085 --> 00:38:26.285  
a moment to respond.

758

00:38:26.985 --> 00:38:28.165  
Uh, but,

759

00:38:28.305 --> 00:38:30.845  
and this is essentially our last word on item two C,

760

00:38:31.225 --> 00:38:34.805  
but please confine, let, let's, um, I, I, I, I think

761

00:38:34.805 --> 00:38:38.045  
that if you could take the spirit of the, uh, um,

762

00:38:38.045 --> 00:38:39.365  
submissions that have been made

763

00:38:39.825 --> 00:38:43.125  
as being certainly not ad hoc helman, I think that, uh,

764

00:38:43.275 --> 00:38:47.085  
there's, there's no point in us taking time, uh, on, on, uh,

765

00:38:48.205 --> 00:38:50.445  
rebuttal of, of, um, the, the,

766

00:38:50.505 --> 00:38:52.125  
the way it's been characterized.

767

00:38:52.345 --> 00:38:54.885  
If you could focus your responses on the points

768

00:38:54.885 --> 00:38:58.445  
that have been made about NRA, then

769

00:38:58.635 --> 00:38:59.805  
that will be helpful to us.

770

00:39:01.395 --> 00:39:02.605  
Well, so I'll, I'll try

771

00:39:02.605 --> 00:39:05.885  
and be as brief as I can without attracting criticism

772

00:39:05.945 --> 00:39:09.845  
for being brief, but in the spirits of, um, responding.

773

00:39:11.625 --> 00:39:13.325  
So just to be clear,

774

00:39:13.665 --> 00:39:16.725  
and by way of recap, you have

775

00:39:17.105 --> 00:39:20.645  
before you the applicant's NRA

776

00:39:21.865 --> 00:39:26.725  
and in light of observations about it, you also have from

777

00:39:27.305 --> 00:39:31.885  
the authors an explanation of the methodology

778

00:39:32.065 --> 00:39:35.725  
that's been adopted, the approach to the assessment,

779

00:39:36.205 --> 00:39:38.925  
identification, and then assessment of risk and consequence,

780

00:39:39.785 --> 00:39:43.845  
and the reasons for the methodology that's been adopted

781

00:39:44.945 --> 00:39:49.205  
and the differences, if I can put it as neutrally

782

00:39:49.465 --> 00:39:53.045

as I may, in that respect between their methodology

783

00:39:54.145 --> 00:39:57.885  
and that adopted by nash, who,

784

00:39:58.105 --> 00:40:01.125  
who in fact are acting for both parties

785

00:40:02.555 --> 00:40:04.285  
with their alternative nras

786

00:40:04.545 --> 00:40:08.725  
and the reasons why their approach is not accepted.

787

00:40:10.025 --> 00:40:12.565  
And in the spirit of what you've just told me, I'm not going

788

00:40:12.565 --> 00:40:14.845  
to go item by item through that,

789

00:40:14.905 --> 00:40:18.485  
but I refer you to the response documents.

790

00:40:18.485 --> 00:40:22.685  
There's one on each where, for example, just for

791

00:40:23.345 --> 00:40:27.005  
as an illustration, in addition to dealing

792

00:40:27.005 --> 00:40:29.485  
with the points about how tolerability

793

00:40:30.385 --> 00:40:34.045  
is ultimately a matter for the, uh, duty holder

794

00:40:35.025 --> 00:40:38.565  
as well as, uh, AL, the

795

00:40:39.515 --> 00:40:42.925  
processes described of going through stakeholder engagement

796

00:40:43.665 --> 00:40:45.445  
to identify not just the risks

797

00:40:45.545 --> 00:40:49.365  
but attitudes as part of that.

798

00:40:50.425 --> 00:40:53.765  
The NRA draws on a very wide range

799

00:40:53.985 --> 00:40:57.965  
of proper NRA should draw on the range of expertise

800

00:40:58.465 --> 00:41:01.405  
and experience, which is precisely

801

00:41:01.405 --> 00:41:03.925  
what the applicant's NRA does.

802

00:41:05.475 --> 00:41:09.285  
That includes not simply the harbor master,

803

00:41:09.355 --> 00:41:12.565  
because he's the harbor master, but

804

00:41:12.565 --> 00:41:17.445  
because he is obviously hugely experienced in, uh,

805

00:41:17.505 --> 00:41:22.045  
the day-to-day operations of all the vessels in the area,

806

00:41:22.905 --> 00:41:24.165  
in all conditions,

807

00:41:25.145 --> 00:41:29.405  
and all of the challenges that are currently described

808

00:41:29.405 --> 00:41:30.445  
as challenges face.

809

00:41:30.545 --> 00:41:33.445

But on a day-to-day basis allow the Port of Humber

810

00:41:33.445 --> 00:41:35.085  
to operate safely

811

00:41:36.465 --> 00:41:38.845  
for a considerable amount and volume of traffic.

812

00:41:40.105 --> 00:41:41.765  
The same goes for the dock master.

813

00:41:42.585 --> 00:41:44.245  
The same goes for the pilots,

814

00:41:46.345 --> 00:41:49.525  
and the same goes for the masters, for example,

815

00:41:50.545 --> 00:41:52.205  
of the Stenner ships

816

00:41:53.515 --> 00:41:57.165  
that operate into the lock operate into killing them,

817

00:41:58.665 --> 00:42:00.205  
uh, with their own experience.

818

00:42:00.945 --> 00:42:05.125  
And it's that composite picture that has formed our NRA

819

00:42:05.745 --> 00:42:09.525  
and the judgments about it as to the ability

820

00:42:09.865 --> 00:42:14.285  
to operate the proposed development indeed, safely,

821

00:42:15.275 --> 00:42:19.485  
subject to a, a raft of controls, which sit in addition

822

00:42:19.505 --> 00:42:20.765  
to the NRA itself.

823

00:42:21.465 --> 00:42:24.245

Now, I'm not, I, again, subject to what you say,

824

00:42:24.245 --> 00:42:25.685

I'm not going to go into the detail of that,

825

00:42:25.685 --> 00:42:26.765

but that is critical.

826

00:42:27.785 --> 00:42:32.205

The, the, of course, you've got some differences

827

00:42:32.345 --> 00:42:33.765

of view being expressed

828

00:42:33.765 --> 00:42:36.925

and expressed, entrenched in terms, uh,

829

00:42:37.065 --> 00:42:40.365

and that is explained also in the document

830

00:42:40.365 --> 00:42:43.285

and response about striving for consensus,

831

00:42:43.285 --> 00:42:44.765

but recognizing will not be achieved.

832

00:42:45.585 --> 00:42:50.045

But ultimately, um, the NRA document follows

833

00:42:50.685 --> 00:42:52.165

a specific methodology.

834

00:42:53.465 --> 00:42:57.045

And although you've got differences on view about

835

00:42:57.045 --> 00:43:01.085

tolerability in ALP, you don't have differences of view as

836

00:43:01.085 --> 00:43:03.525

to the identification of the relevant risks.

837

00:43:07.675 --> 00:43:11.485

What you have is differences of view from a, as I said,

838

00:43:12.085 --> 00:43:13.645

considerable bodies of experience,

839

00:43:14.195 --> 00:43:17.125

that those risks can be appropriately managed.

840

00:43:18.585 --> 00:43:22.485

And, uh, it is, I would say unfortunate,

841

00:43:23.105 --> 00:43:26.485

but that whilst IOT

842

00:43:26.545 --> 00:43:30.685

and DFDS don't, for example, agree with the views

843

00:43:30.705 --> 00:43:34.565

of the harbor master, having looked at both the NRA

844

00:43:34.565 --> 00:43:36.365

and being involved in the NRA process

845

00:43:36.545 --> 00:43:40.325

and the simulations, that those are indeed operations

846

00:43:40.395 --> 00:43:43.285

that can take place safely with the measures

847

00:43:43.285 --> 00:43:44.645

that, that are in place.

848

00:43:45.065 --> 00:43:48.445

And if necessary, any additional measures

849

00:43:48.445 --> 00:43:51.365

that the Har Harbor master can impose at any time

850

00:43:53.155 --> 00:43:56.485  
that that's become the focus of this.

851

00:43:57.345 --> 00:43:58.885  
And I say Ad Hom,

852

00:43:58.985 --> 00:44:02.525  
but it's add, it's to the, to the, um, criticisms

853

00:44:02.525 --> 00:44:04.085  
of the authors of the NRA

854

00:44:04.085 --> 00:44:08.125  
who are discharging their responsibilities diligently,

855

00:44:09.245 --> 00:44:10.405  
recognizing differences of view.

856

00:44:11.205 --> 00:44:13.605  
I would just say my, my point, uh, uh,

857

00:44:13.945 --> 00:44:15.325  
in introducing this was

858

00:44:15.325 --> 00:44:17.725  
that you were seemed offended at the characterization

859

00:44:17.725 --> 00:44:19.445  
of the way that you presented things.

860

00:44:19.715 --> 00:44:21.645  
Well, that, so if that was right, yes,

861

00:44:21.715 --> 00:44:24.205  
certainly I was said I was being cagey about it.

862

00:44:24.205 --> 00:44:27.285  
And yes, I, I won't get into ad ho response,

863

00:44:27.305 --> 00:44:28.445



but I, it's distraught,

864

00:44:28.445 --> 00:44:30.125

It wasn't a criticism of you,

865

00:44:30.865 --> 00:44:32.485

But there, there, there is an important

866

00:44:32.585 --> 00:44:33.765

bigger picture here.

867

00:44:34.295 --> 00:44:36.445

Leave aside the personalities and the,

868

00:44:36.505 --> 00:44:38.885

and the individuals there, there is a much

869

00:44:39.555 --> 00:44:41.165

more important bigger picture here.

870

00:44:42.065 --> 00:44:44.045

The navigational risk assessment,

871

00:44:45.445 --> 00:44:48.205

recognizing not everyone's going to agree on these things,

872

00:44:48.385 --> 00:44:51.125

as is always the case, recognizing

873

00:44:51.125 --> 00:44:53.645

that one takes into account the differences of view.

874

00:44:53.665 --> 00:44:56.125

And you've already indicated you want to be sure that

875

00:44:56.145 --> 00:44:57.965

that's, uh, been done

876

00:44:58.265 --> 00:45:01.565

or how it's done will result

877

00:45:02.665 --> 00:45:05.405

in many cases with ultimate different judgments.

878

00:45:06.745 --> 00:45:09.045

But within that difference of judgment,

879

00:45:09.495 --> 00:45:11.165

there is an overarching point,

880

00:45:11.165 --> 00:45:15.245

which is a point I was making about safety, that the

881

00:45:15.795 --> 00:45:18.405

statutory Harbor authority is required

882

00:45:18.405 --> 00:45:22.605

to operate this harbor safely as a whole for all traffic,

883

00:45:22.865 --> 00:45:25.965

not just simply one operator over another.

884

00:45:27.425 --> 00:45:29.925

The harbor mass required to operate it safely

885

00:45:30.105 --> 00:45:31.565

and apply such controls

886

00:45:31.625 --> 00:45:33.965

as are necessary at any particular time,

887

00:45:34.325 --> 00:45:35.885

bearing wind, tide, et cetera.

888

00:45:36.785 --> 00:45:39.885

And to make assessments of the interrelationship of

889

00:45:39.885 --> 00:45:43.645

that infrastructure in a responsible way, uh,

890

00:45:44.885 --> 00:45:46.445

recognizing the issues of safety.

891

00:45:47.305 --> 00:45:51.365

And so you, you'll, you'll have to reflect on the,

892

00:45:51.745 --> 00:45:54.605

the different nras, of course, and the differences.

893

00:45:54.855 --> 00:45:58.965

There, there, there are many examples that we've identified

894

00:45:59.505 --> 00:46:02.725

of problems we see in the other nras,

895

00:46:02.725 --> 00:46:04.485

not just simply stakeholder engagement,

896

00:46:04.485 --> 00:46:07.405

but indeed the calculation of what they say is tolerable

897

00:46:07.405 --> 00:46:08.405

and tolerable, et cetera.

898

00:46:08.745 --> 00:46:09.845

But leave all that aside

899

00:46:09.965 --> 00:46:11.525

'cause I haven't got time to go through it all.

900

00:46:11.545 --> 00:46:13.445

Now, uh, the, the,

901

00:46:13.705 --> 00:46:16.565

the overall points about some criticism

902

00:46:17.865 --> 00:46:19.405

in the NRA process

903

00:46:19.545 --> 00:46:22.605

and then the independence of those other authorities

904

00:46:23.185 --> 00:46:25.805  
in my submission is completely misplaced

905

00:46:25.985 --> 00:46:27.045  
for this simple reason.

906

00:46:27.785 --> 00:46:31.685  
The applicant as the operator of this port

907

00:46:31.785 --> 00:46:33.965  
and indeed many other ports around the country,

908

00:46:35.305 --> 00:46:38.805  
is entirely vested in the principle of its safe operation.

909

00:46:38.805 --> 00:46:41.525  
It has absolutely nothing to gain

910

00:46:42.235 --> 00:46:45.085  
from anything other than operating the port in an

911

00:46:45.685 --> 00:46:46.685  
entirely safe fashion.

912

00:46:47.785 --> 00:46:49.685  
The harbor master in this port

913

00:46:50.225 --> 00:46:52.205  
and harbor masters across the country

914

00:46:52.595 --> 00:46:56.445  
with similar relationships with a port similarly,

915

00:46:56.945 --> 00:46:59.525  
are entirely vested in, in safety.

916

00:46:59.595 --> 00:47:02.405  
There's no possible reason why the,

917

00:47:02.465 --> 00:47:05.165

the hard master would approach his exercise

918

00:47:05.425 --> 00:47:08.965

of assessing safety in anything other than the way

919

00:47:08.965 --> 00:47:11.205

of ensuring safe operations occur.

920

00:47:12.265 --> 00:47:17.165

The so-called lack of independence criticism is not only one

921

00:47:17.165 --> 00:47:21.165

that could be made across ports throughout the country, uh,

922

00:47:21.165 --> 00:47:22.925

and for that reason, not a good one,

923

00:47:23.305 --> 00:47:26.005

but just lacks that basic appreciation

924

00:47:26.475 --> 00:47:29.125

that it's all very well saying, well, yes, they're

925

00:47:29.645 --> 00:47:31.725

historically grown up in that way,

926

00:47:32.505 --> 00:47:34.965

but they've acceptably grown up in that way

927

00:47:34.965 --> 00:47:37.605

because they are taking their responsibilities

928

00:47:37.945 --> 00:47:40.725

as they're required to under law responsibly.

929

00:47:41.195 --> 00:47:45.525

They can be challenged if they made a decision such as Mr.

930

00:47:45.875 --> 00:47:49.725

ER's idea that somehow the applicant might say it's

931

00:47:49.725 --> 00:47:53.765

acceptable for IOT's facilities to be impacted in a way,

932

00:47:53.875 --> 00:47:55.445

well, that's not what we've done,

933

00:47:55.705 --> 00:47:58.085

but if we did do that, we'd be susceptible

934

00:47:58.145 --> 00:48:01.765

to normal public law principles, as would the Harbor master.

935

00:48:02.235 --> 00:48:06.885

None of this is pertinent to what you have before you

936

00:48:07.705 --> 00:48:11.325

and for the actuary estate, which is a careful examination,

937

00:48:11.625 --> 00:48:15.285

yes, differences, but ultimately judgments

938

00:48:15.285 --> 00:48:18.765

that are vested in an appropriate authority,

939

00:48:19.135 --> 00:48:23.085

which has nothing other than at heart, an obligation

940

00:48:23.585 --> 00:48:27.285

and incentive and a duty under the statutory scheme

941

00:48:27.345 --> 00:48:29.645

to operate them in, in a safe fashion.

942

00:48:30.345 --> 00:48:32.725

So we can come onto the detail,

943

00:48:32.825 --> 00:48:35.725

and I'm no doubt we are, I made that general point as to

944

00:48:35.745 --> 00:48:38.445

how, how appropriate it is to, to go into that detail.

945

00:48:38.545 --> 00:48:40.445

We have covered everything.

946

00:48:40.665 --> 00:48:44.445

I'm certainly anxious for you to examine anything you want

947

00:48:44.465 --> 00:48:46.005

to, to look at at the detail.

948

00:48:46.705 --> 00:48:50.725

Uh, but I, without responding to each criticism,

949

00:48:51.795 --> 00:48:54.085

it's important to set that in this context

950

00:48:54.465 --> 00:48:56.845

and in my submission, all

951

00:48:56.845 --> 00:48:59.485

of these criticisms have just lost sight of

952

00:48:59.485 --> 00:49:01.125

that basic principle.

953

00:49:01.555 --> 00:49:04.925

This is an organization like the Harbor Master

954

00:49:05.475 --> 00:49:09.005

that has safety at its core, and it would not promote

955

00:49:09.065 --> 00:49:10.525

and would not operate a

956

00:49:11.205 --> 00:49:13.525

facility without it being done safely.

957

00:49:13.785 --> 00:49:16.885

It has no reason whatsoever to do that.

958

00:49:19.255 --> 00:49:21.245

Thank you. I, I would, uh,

959

00:49:21.345 --> 00:49:25.525

before drawing this to a close for a a, a break for lunch,

960

00:49:26.925 --> 00:49:30.845

I would like to observe that I started this session by, uh,

961

00:49:31.265 --> 00:49:33.765

noting that there's been a lot

962

00:49:33.765 --> 00:49:35.405

of very good evidence from all parties

963

00:49:35.705 --> 00:49:36.845

that's been presented,

964

00:49:37.065 --> 00:49:40.285

and we are doing our very best to have due regard

965

00:49:40.305 --> 00:49:41.445

to all parts of that.

966

00:49:41.545 --> 00:49:46.085

So, effectively, your, uh,

967

00:49:46.225 --> 00:49:51.005

points just made have been well heard already

968

00:49:51.005 --> 00:49:53.405

through the written evidence that's been provided.

969

00:49:53.795 --> 00:49:58.525

However, there, um, has been sufficient, uh,

970

00:49:58.915 --> 00:50:02.925

concern raised about the process of getting from

971

00:50:03.545 --> 00:50:08.325



the early stages of the NRA for the proposed development

972

00:50:09.185 --> 00:50:13.885

to a, uh, a declaration of acceptability based on

973

00:50:14.395 --> 00:50:18.765

unclear set of risk controls at the has board in December.

974

00:50:19.625 --> 00:50:22.845

Um, there have been personnel changes, uh, that, uh,

975

00:50:22.955 --> 00:50:24.245

have, uh, taken place.

976

00:50:24.705 --> 00:50:28.605

And that's what we are, we are using this hearing to, to,

977

00:50:28.785 --> 00:50:30.845

uh, to, to dig away at.

978

00:50:31.585 --> 00:50:34.805

We will be coming back at item two D.

979

00:50:35.265 --> 00:50:36.325

And so this is a heads up.

980

00:50:36.435 --> 00:50:39.485

It's, uh, I'm not even sure at the pace we're going

981

00:50:39.485 --> 00:50:41.125

that we're gonna be able to get there by the end

982

00:50:41.125 --> 00:50:43.485

of this afternoon, but if necessary, it'll be tomorrow.

983

00:50:45.305 --> 00:50:47.845

Um, which is, uh,

984

00:50:47.995 --> 00:50:50.565

effectively we have been conducting a process

985

00:50:50.665 --> 00:50:52.965  
of risk assessment through these hearings,

986

00:50:53.055 --> 00:50:54.525  
which is not really

987

00:50:54.635 --> 00:50:57.005  
what an examining authority should be doing,

988

00:50:57.225 --> 00:50:58.645  
but we are testing

989

00:50:58.825 --> 00:51:03.525  
and supplementing, um, the, uh, NRA that was, was,

990

00:51:03.585 --> 00:51:05.205  
was done prior to the application.

991

00:51:06.635 --> 00:51:08.085  
What we want to know is,

992

00:51:08.665 --> 00:51:11.365  
as we have heard already in evidence,

993

00:51:11.585 --> 00:51:15.045  
the navigation risk assessment is essentially a,

994

00:51:16.025 --> 00:51:18.645  
if not continuous process, but an iterative process.

995

00:51:19.745 --> 00:51:23.485  
And, uh, we want to know at item two D

996

00:51:24.875 --> 00:51:27.605  
what will be done with the evidence that has been gathered

997

00:51:27.905 --> 00:51:32.885  
and, uh, uh, um, sifted through this examination

998

00:51:33.625 --> 00:51:37.325

in making the proposed development even

999

00:51:37.395 --> 00:51:38.565

more potentially safe.

1000

00:51:38.785 --> 00:51:41.805

And that's, we, we won't do that Now.

1001

00:51:42.125 --> 00:51:44.605

I want to do that after we've looked at the simulation work

1002

00:51:44.665 --> 00:51:48.165

that's, uh, most pertinent to, uh,

1003

00:51:48.225 --> 00:51:49.845

the next stage of today's hearing.

1004

00:51:51.225 --> 00:51:52.605

So I, I know that, sir.

1005

00:51:52.985 --> 00:51:55.605

So I think that, um,

1006

00:51:58.025 --> 00:52:01.525

how long are we going to take for lunch break or not?

1007

00:52:06.985 --> 00:52:08.885

Uh, just a quick canvas round.

1008

00:52:08.885 --> 00:52:12.805

The room would be people be, uh, content with, uh,

1009

00:52:12.805 --> 00:52:15.805

55 minutes for a lunch break, or is that cutting it short?

1010

00:52:15.955 --> 00:52:18.565

That would bring us back here at two o'clock.

1011

00:52:18.945 --> 00:52:22.165

Should we, should we extend that slightly to two 15?

1012

00:52:22.655 --> 00:52:26.325

Quick heads up, everybody happy

1013

00:52:26.345 --> 00:52:28.205

to come back at two o'clock?

1014

00:52:28.465 --> 00:52:30.125

Yes. Two o'clock. It is. Thank you.