

Hearing Transcript

Project:	Five Estuaries Offshore Wind Farm
Hearing:	Issue Specific Hearing 7 (ISH7) - Part 2
Date:	23 January 2025

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FULL TRANSCRIPT (with timecode)

00:00:05:21 - 00:00:18:12

Now, 4:45. So the hearing is resuming. Now like to turn to agenda item 3.2, which is an update with respect to protective provisions.

00:00:20:17 - 00:00:25:16

Um, and this is really both for the applicant and other interested parties.

00:00:29:10 - 00:00:47:26

I think it might be easier for this session if we turn to the interested parties first, and then perhaps get the applicant to respond. Um, and I think I'd like to start with National Highways first, Mister Bloom.

00:00:49:00 - 00:01:22:23

Thank you, sir. So, um, I think we've made some, um, very good progress with the applicant. Sorry, I should have said Jeremy Bloom, National Highways when I started. And yes, we've made some very good progress. Um, uh, in discussions with the applicant on resolving the vast majority of the issues in, uh, between us and the protective provisions. Um, there are a small number of issues still to be resolved, but I am confident that we can close those out.

00:01:23:11 - 00:01:58:24

There's one area, uh, between us which, um, is more significant, which is that National highways. View um and position formal position is that it is seeking and always does seek on any um DCO that the protected provisions are included on the face of the DCO. And, and that is a very important principle for National highways because of the difference between having it enshrined in the DCO and having a side agreement.

00:01:59:02 - 00:02:27:16

We are happy to have a side agreement as well with the applicant that um may disallow particular areas or vary them, but um, we are um, our formal position is that we want to see the protection provisions, including on the face of the DCO, which I understand the applicant is opposed to. Um, other than that, I'm confident that we can close out the issues and agree the content of the protected provisions.

00:03:03:04 - 00:03:18:02

For the applicant then, in respect of National Highways protective provisions and the one significant outstanding area of disagreement. Um, what would the applicant like to say about that?

00:03:31:03 - 00:04:02:11

Uh, well, applicant, um, we're reluctant to, to go into the details in this forum because essentially we think it's commercial points that are between us. Um, and I think that's partly where the disagreement lies, is five estuaries would prefer that the commercial points were in side agreements and national highways would like them to be in the. But, um, I very much welcome Mr. Bloom's statement that we think we can resolve the substance of them, even if we can't resolve the drafting. Because it means when at least when the drafting comes to you. It's not the point that's in dispute.

00:04:02:13 - 00:04:05:11

It's the location. So we are trying to work together on us.

00:04:59:09 - 00:05:23:26

From national Highways perspective. If, um, these protective provisions aren't, um, included on the face of the order. Um, well, as we get to the end of the, um, examination, what's National Highways position likely to be? Are they going to be ineffective in rejecting party because of this matter?

00:05:25:07 - 00:05:43:20

So, um, Jeremy Bloom, National highways. So, um, Sarah Marshall, our senior lawyer, is unable to attend today, and we've we've obviously, um, spoken about it. Um, I would say it's highly likely that National Highways would object on that basis.

00:05:45:25 - 00:06:04:26

Based on on, um, what she communicated to me that National Highways position is generally across all DCS, um, in respect to protective provisions and being included on the face of the order. So I think I need to I need to express the the importance of it to national highways.

00:06:51:02 - 00:07:27:13

So, as the applicant indicated, as things stand at the moment, you're doing everything possible to at least ensure that the formal words in protective or a set of protective provisions are agreed. Um, it's what their status might be in terms of how they're handled. That is potentially the bone of contention, um, which potentially makes life a little easier for the examining authority. At least we know, um, what the what the bone of contention is and how we potentially have to recommend.

00:07:27:28 - 00:07:40:21

And then ultimately, the secretary will have to come to a view, um, as to which side of the fence, um, he would prefer. Let's put it that way.

00:07:42:24 - 00:07:52:10

I'm not sure that there's much more that we can discuss as far as National Highways. Mr.. Is there anything that you wanted to raise?

00:07:52:28 - 00:08:12:24

No, no. I agree with Miss Magee. Um, there are some commercial matters, but I you know, I think we've been working together very constructively. And, um, I think I think we're getting close to resolving those. So it's just this outstanding matter that I think you've summarized the position very well. Thank you.

00:08:16:15 - 00:08:29:13

I mean, just one final question. Do we both sides have a handle on when you might get to a position to have at least agreed the words of the protective provisions?

00:08:31:21 - 00:08:48:20

Uh, well, let me give you for the applicant I am I'm open to hearing anything different from National highways, but my understanding from our last conversation was if we couldn't agree by the next deadline, we would have to think about putting in a joint submission letting you know where the areas of disagreement were and what was agreed and what was not. I think that was the intention at our last meeting.

00:08:50:26 - 00:08:52:07

Mr.. Is that your understanding?

00:08:52:09 - 00:08:53:08

So, yeah.

00:08:54:03 - 00:08:54:26

So there's going to be.

00:08:56:28 - 00:09:01:26

Some updated, uh, junction deadline. Um, six.

00:09:52:16 - 00:09:55:08

Sorry for the pause. I'm just checking my.

00:09:57:12 - 00:10:15:03

Yeah. I was just checking whether there was anything for National Highways. Mr. bloom, if you wish to leave the hearing. Um, because I don't think there's going to be anything else for National Highways. Please feel free to do so. Equally, if you wish to stay online, by all means do so.

00:10:16:04 - 00:10:22:14

Thank you very much, sir. Much appreciated. I shall I shall leave at this point. But thank you for, um, for that item.

00:10:23:12 - 00:10:24:16

Thank you for your assistance.

00:10:24:26 - 00:10:27:16

Thank you.

00:10:30:26 - 00:10:34:27

Alright then, if we can turn to Port of London, please.

00:10:39:21 - 00:11:10:25

Mrs. Vicky Fowler on behalf of the Port of London Authority. Um, so we have reached agreements on the onshore, uh, works protected provisions and they now appear in the draft DCO. So those are the protected provisions that address concerns, um, regarding the impacts on the navigational equipment so that they've been addressed. Um, we hope to get closer on the offshore protective provisions. Um, but we are conscious that we're running out of time. Um, and we may not reach agreement on all of the points.

00:11:10:27 - 00:11:43:16

And, uh, so based on the latest draft that's come across to us, um, I think there's three areas of disagreement. Um, and it may be helpful for, um, you to understand those outstanding points in broad terms. Uh, so our intention would be, um, we've got a meeting in not next week, but the following week. And then we would look to submit, um, effectively our preferred set of protected provisions, including any points that are out that are not in agreement at deadline.

00:11:43:18 - 00:11:44:04

Six.

00:11:54:15 - 00:12:00:18

Are you able, at this stage to just give an indication of those three areas of disagreement?

00:12:02:10 - 00:12:33:01

Vicki Fowler on behalf of the um, Port of London Authority. Uh, sir. Sir, I can I think a lot a lot of the, um, points areas of disagreement come from, um, the PLA approving works and plans, um, involving works outside of its jurisdictional limits. Um, but so there are examples, for example, the London Gateway Harbour impoundment Order, um, which, which includes RPS for the PLA and that provides for approval of offshore works which affect any river, sorry, affect the river.

00:12:33:03 - 00:13:03:12

So the River Thames or any functions of the PLA, whether or not within the PLA limits or not. So there's three areas of disagreement. The first is in relation to approving detailed design for work. Number two see. So that's that's obviously the, um, export uh table. Um, and any other part of the offshore works, uh, forming part of the authorized development, including maintenance and decommissioning, which may affect those deepwater routes.

00:13:04:13 - 00:13:42:27

So, so, so we've discussed parameters and while some parameters are in the DCO. Um, clearly detailed design is not. And the PLA would want to approve, um or endorse the design as that involves advances. Um, you know, so so it can be certain that those depth issues, um, have been addressed and the navigational concerns addressed properly. So, so that's that's the first one. So around, um, approval of detailed design. Um, the second is in relation to approval of the um CIP and the Nipp.

00:13:43:29 - 00:14:24:21

Um, and again, I think the concern is that, you know, those documents are being relied on by the applicant to control and mitigate impacts during construction. Um, and there is concern that without approval of those documents, you know, the largest port in the country is being asked to to be satisfied

on the approval of others. Um, and there is real concern, given the importance of the port. Um, it handling food products, oil products and construction materials. You know, to name a few, that it is imperative that vessels can safely enter and exit that port, and that the port could grow to meet changing requirements in terms of vessel sizes.

00:14:24:24 - 00:14:29:12

So, so that's that's the second point in terms of approval of those documents.

00:14:33:05 - 00:15:09:15

Um. There's also a concern in terms of there doesn't seem to be an approval process for updates to the Nip as well. So. And then the third area is um, is in relation to an indemnity. And we would expect the undertaker to be responsible for the financial cost charges, demands, etc. arising from any failure, um, to adhere to the protective provisions or, you know, any failures in terms of that construction or operation. So the Port of London Authority, um, obviously has has certain statutory obligations.

00:15:10:13 - 00:15:42:09

Um, and effectively it can't insure itself against third party developments. So, you know, the, the so that's normally what um, protected provisions deal with. So they provide those indemnities, um, with the undertaker obviously taking out the necessary insurance. And again, so there's precedent for those indemnity provisions in order such as the London Gateway, Port Harbour and Payment Order. And so we can provide a copy of that. Um, in our in our written submissions. Um, so they're, they're, they're the main points.

00:15:42:11 - 00:16:16:17

There's, there's, um, some, uh, some minor points around remediation. So the idea is that if the cable debts aren't achieved, that there is a process that the undertaker will go through which which may extend to relaying the cable. Um, but what we need to ensure is that remediation process, you know, keeps going until until the cable depths are actually achieved. Um, and but we'll discuss drafting to hopefully, um, address that point so that, that that's the summary of the outstanding points, sir.

00:16:22:00 - 00:16:36:00

Thank you, Mrs. Fowler. Um, did the applicant want to make any response into particularly the areas of concern that Mrs. Fowler's just identified really offshore elements of the protective provisions.

00:16:37:17 - 00:17:10:08

Let me give you that. Sir, I think we've set out our position on approvals and the written submissions. I don't think we have anything to usefully add in terms of the indemnity. We have asked the Port of London to explain what they are seeking indemnity for. We are not in the port. We do not understand what this indemnity is intended to cover, and we need that clarification for them before we can move forward. On that point in terms of remediation. We have put some wording in the draft protected provisions for discussion and we, as I think has already been mentioned several times, are trying to set up a meeting between us to have that discussion.

00:17:10:10 - 00:17:14:19

So, um, I'm not sure how much more I can usefully say on that, sir.

00:17:36:20 - 00:18:14:12

Certainly sounding like there is a need for further discussion, and that the sooner that that's achieved, the better. Um, certainly, Mrs. Fowler, in making submissions at deadline six, if you can, um, include a copy of the London Gateway Empowerment Order and explain why you think, particularly on the insurance indemnity point, why that's applicable. Um, in in this scenario, given that um, works are not actually being undertaken within the port area.

00:18:17:18 - 00:18:49:26

Vicky fellow, on behalf of the Ports Authority. Yes. Yes, sir. We can do that. I mean, I'm happy to, um, I suppose to respond to the point as well today. I mean, the main thing is, as harbour authority, the PLA is responsible for navigational safety, both within its jurisdictional limits but also in respect of the approaches to those limits. Um, you know, and it has, for example, requirements with the Port Marine safety code. And we have included that in various representations. You know, the PLA has to discharge its general and specific statutory duties.

00:18:50:03 - 00:19:01:03

And so we don't know what claims may come, um, if there are breaches of the DCO, um, you know, etc.. Um, and those seaward approaches, um, don't work.

00:19:15:14 - 00:19:35:21

I actually have a question on, on the approach point, which I think I'd like to come to in a little while. Um, rather than, um, asking it now and perhaps losing the thread of my questioning later. Um, I think then perhaps if if we move on to London Gateway.

00:19:38:29 - 00:20:13:02

Thank you sir. I'm Trevor Hutchinson on behalf of London Gateway Port Limited. Um, I think the only area where there isn't an area of dispute with the DCO as drafted at the moment. There are provisions in schedule nine, part seven. Um, for the benefit of London Gateway requiring the document to be um, submitted to London Gateway for approval. And we are happy with that. Um, as documented in the statement of Common Ground with London Gateway, which is rep 5059, there is a suggestion, um, from the applicant that they would like to, uh, no.

00:20:13:05 - 00:20:44:24

Eight for want of a better term, those benefits to the PLA. And clearly there are ongoing discussions about protecting provisions with the PLA, so there wouldn't be a separate set, as I understand the proposal of protected provisions for the benefit of the PLA that sit alongside those for London Gateway Port. They would be in place of those for London Gateway Port. We are not in a position at the moment to accept that. So, um, our stance at the moment is that, um, we, we would wish to see retained the provisions for London Gateway port.

00:20:45:14 - 00:21:25:28

It could be that that starts changes. Um, that would be subject to one of two things that the provisions that agreed for the benefit of the PLA cover certain or require or cover that, um, the PLA considers certain specific matters of interest to London Gateway. Or it could be that there's a side agreement with the PLA that in their approval. But we'd want to make sure that, um, if we are to give up the

protected provisions for London Gateway, that, Um, there would be a requirement, uh, or an allowance for the PLA to consider certain matters, uh, critical to land and gateway.

00:21:26:05 - 00:21:37:28

So I think those discussions are quite critical. We would be happy to be part of those discussions if people feel that's, uh, prudent. But I'll leave that to others. Thank you. Sir.

00:22:11:19 - 00:22:26:21

Any to the applicant on what Mr. Hutchinson has Hutchinsons just said on behalf of London Gateway. Any observations? Could you perhaps, maybe in responding, assist us with the innovation point and why that's being put forward?

00:22:51:23 - 00:22:53:19

Uh, well, let me give you for the applicant.

00:22:56:24 - 00:23:26:22

We are concerned that we would end up in a position of a fundamentally, all the port authorities are asking for approval of a document. We end up with overlapping protective provisions and more parties wanting approval than we could, you know, deal with in a reasonable time and no process for resolving conflicts between them. So we are uncomfortable with the multiple approvals of the same plan that then goes to the MMO as the regulators are. I'm not sure that there's anything much we can add to that position at this time.

00:23:49:07 - 00:24:20:22

Thank you, Miss Piggy. I do actually have a question relating to conflicts. Uh, through the, uh, the consenting mechanism that could arise if there were multiple parties. I think we'll come to that hopefully in a few minutes, because it certainly appeared to the examining authority that there is potentially, um, a difficult situation if there were multiple parties trying to agree things, uh, particularly if things started to go in different directions.

00:24:23:28 - 00:24:36:18

Uh, Mr. Hutchinson, was there anything else that you wanted to say on London gateways before I, um, potentially start asking some questions about protective provisions?

00:24:37:18 - 00:24:42:12

Um, Trevor Hutchinson, on behalf of London Gateway Port Limited. No, sir. That was all we wish to say. Thank you. Okay.

00:24:42:14 - 00:24:42:29

I think

00:24:44:13 - 00:24:54:17

I'm going to ask for the the applicant to update on other protective provisions. And then I've got a series of questions. Not too many people will be pleased to hear.

00:24:57:04 - 00:25:03:00

So in terms of other protective provisions, um, can the applicant update where you are currently?

00:25:04:27 - 00:25:06:19

Julian Boswell for the applicant.

00:25:09:16 - 00:25:35:03

So I'll just go through this at a high a high level. Um, so Anglian Water. We are negotiating bespoke protective provisions to ensure access to the Clacton Holland Haven Water Recycling Centre and the underground assets at the proposed Manor Way. Temporary construction compounds are protected during construction and that draft is currently with Anglian.

00:25:38:01 - 00:25:39:13

Affinity water

00:25:41:00 - 00:25:56:19

so affinity five Estuaries and North Falls are negotiating bespoke protective provisions. Draft is currently with affinity and we are awaiting a response.

00:26:01:05 - 00:26:02:07

Cadent gas

00:26:03:23 - 00:26:08:04

again we are negotiating bespoke protective provisions.

00:26:10:19 - 00:26:11:18

Is ongoing.

00:26:13:10 - 00:26:27:07

There are some commercial points under discussion between Cadent, North Falls and the applicant, that the applicant considers the remaining points to be commercial and not substantive.

00:26:33:06 - 00:26:35:12

So the Environment Agency.

00:26:39:18 - 00:26:50:12

The applicant, Affinity Water and North Falls are in discussions on the interaction with Environment Agency assets.

00:26:52:21 - 00:26:56:16

Draft protective provisions have been updated

00:26:58:06 - 00:27:09:01

following a meeting to add monitoring of the sea defence and we are awaiting comments on that draft.

00:27:18:24 - 00:27:28:11

Essex County Council highways. We've updated the to address their comments and the draft is with them.

00:27:36:04 - 00:27:38:27

And Essex in relation to drainage.

00:27:40:22 - 00:27:42:19

The draft is largely agreed.

00:27:44:11 - 00:27:54:07

There are a couple of commercial points remaining under discussion. However, the applicant does not consider them to be irresolvable.

00:28:04:13 - 00:28:18:06

London Gateway National highways. We've talked about national grid gas. We've concluded that there are no relevant assets. So those are coming out.

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

Network rail.

00:28:23:17 - 00:28:29:13

The draft the draft is with them at the moment. And so we are awaiting, awaiting a response.

00:28:32:01 - 00:28:34:29

North falls the PRS are agreed.

00:28:38:13 - 00:28:40:13

ELR we've already talked about.

00:28:42:23 - 00:28:52:28

And National Grid. The draft that went in at deadline five reflects the ongoing position between the parties.

00:29:12:04 - 00:29:21:24

In terms of timescales for agreeing the various outstanding protective provisions. Any indication as to when

00:29:23:12 - 00:29:26:09

some or all will be agreed

00:29:27:29 - 00:29:41:03

or not agreed, but there'll be, um, ineffective final set, presumably, that the applicant puts in that it favours um, and the various parties will then make comment to indicate the bits of concern to themselves.

00:29:48:16 - 00:30:20:03

Um, so I think it's it's different for different entities. Um, I agree that we're getting close to the point where we're going to have to, um, Take a position to allow you to, um, understand the position with a view to some of it being on an agreed to disagree basis. Um, we could it may be better if we put something in the the written summary that says what we think is the sort of best indication.

00:30:20:28 - 00:30:41:24

Um, as things stand at the moment, but obviously everything by definition, we're trying to agree something and sometimes unexpected. When you're confident something is going to get resolved, it doesn't always get across the line in time. Yeah, but we'll also make it clearer, um, at what point we're going to move to an agree to disagree basis.

00:31:01:23 - 00:31:13:28

In your post hearing submissions. I think it would be helpful if you could indicate when you think you've got that position of when you expect you will, in effect, draw the line. Yeah. Before. Yeah. Yeah.

00:31:14:00 - 00:31:26:26

No, we think we've all been here before. And we do understand that, um, you've got a job to do, and that involves being able to take that into account, that scenario into account.

00:31:27:06 - 00:31:58:11

Um, I've certainly dealt with a situation reached fairly recently where, um, it got very difficult towards the back end of an examination as to where we were with the protective provisions. Um, so, yes, it would certainly. I think, as you rightly say, um, there needs to be a cutoff at which point, um, lines are drawn in the sand. Um, if for whatever reason, after that cutoff point, one of the parties then comes forward and says, actually, we think we can agree.

00:31:58:15 - 00:32:08:26

Well, you can always update that. Actually, the position with a party or two might have changed. Um.

00:32:46:27 - 00:32:52:20

I think perhaps the only other outstanding match on protective provisions. These

00:32:54:05 - 00:33:25:12

were the submissions that Sands made at um. Deadline five. Um. Has there been any dialogue with Gulf Fleet? Um, as to whether or not protective provisions might be required or won't be required? Um, it was a little. The submission was quite brief. Uh, we're not entirely clear where their assets are other than they are obviously somewhere.

00:33:26:02 - 00:33:42:03

Um, I presume in the, um, vicinity of the shoreline, perhaps along the track, um, that you're intending to use it as your access to get to the landfall site. But, um.

00:33:44:11 - 00:33:45:26

Mr. Eton might or.

00:33:49:12 - 00:34:21:02

Uh, James, on behalf of the applicant. Um, yes. We've reached out to complete stands. Um, to set up a discussion. Um, we understand they've got, um, uh, they're off from the wind farm cables that go under the, uh, Manor Road access, um, which is where we have the beach TCC at the landfill. Um, so it would just be vehicular access over the top of their cables, so we don't believe would be required. Um, there were vehicles that that go over the top of the mall regularly.

00:34:26:10 - 00:34:29:20

But we are discussing that with them. If you're just sort of closing it out.

00:34:43:22 - 00:34:48:03

Do you have any sort of feel for when those discussions might conclude?

00:34:52:00 - 00:34:55:11

Uh, we're waiting for a response from them for a meeting at the moment.

00:35:04:00 - 00:35:06:05

Happy to provide an update at deadline six if

00:35:07:28 - 00:35:08:13

it's helpful.

00:35:08:15 - 00:35:17:28

Julian Boswell from what's been said, I think it's pretty clear that our position is going to be that no, no PRS are required. So they're going to have to make their case if they think they are.

00:35:52:28 - 00:36:00:06

One of the questions I had for the applicant and the ports we've actually already discussed. So it's addressed.

00:36:04:23 - 00:36:06:20

Two of the questions that have been addressed.

00:36:27:11 - 00:36:45:20

Um, Harwich Haven Authority, um, they are also seeking protective provisions, at least in terms of, um, the submissions that we've seen to this date. Is that still the position or have there been discussions that potentially address Harwich Haven's position.

00:36:49:22 - 00:37:20:06

Daniel rates the applicant, and the latest position, as far as I'm aware, is as set out in the statement of Common Ground with Harwich Haven, um, in that their requests related to protective provisions related to their harbour limits. Um, obviously, we made our position clear in previous hearing that we believe that because we would require a works license for any works undertaken in the harbour limits, um, that they're, uh, their statutory duties are sufficiently protected.

00:37:20:16 - 00:37:38:00

Um, but we haven't had final confirmation from Harwich that they accept that position. Um, although discussions on the the potential for a works license, um, have led to agreement that there's at this time no impediment to us receiving that. Should it come to it?

00:37:48:07 - 00:38:05:00

One thing that I'm not clear on. I'm not sure whether Mr. Harrison can help have or the applicant. Have we actually seen something that shows the full extent of Heritage's, um, jurisdiction relative to the proposed works?

00:38:09:13 - 00:38:18:19

Daniel Bates for the applicant. I believe the jurisdiction is shown on the Admiralty charts that are used as a as a base map for the plans of the applicant submitted.

00:38:33:15 - 00:38:41:02

My recollection is certainly seeing some of the, um, if it would have been produced. They're not entirely clear Clearly.,

00:38:41:04 - 00:38:45:14

yes. If it would assist, sir, we could certainly provide a plan that would. I think it might be.

00:38:45:18 - 00:38:50:01

Yeah. Um, that would assist.

00:38:58:22 - 00:39:06:09

So, yeah, I mean, that that plan just needs to show their jurisdiction relative to your, um, order limits.

00:39:40:25 - 00:39:49:01

Then a question for the Port of London Authority, because I said earlier that I had a question about approaches to Port of London.

00:39:52:04 - 00:40:06:16

Can you clarify precisely the extent of the approaches? And again, this might be something more easily done by actually showing what you consider the approaches to the port are on a plan or map.

00:40:11:09 - 00:40:18:13

Vicki Fowler on behalf of the Port of London Authority. Yes. So we'll, we'll we'll deal with this in um, in writing, if that's okay.

00:40:20:10 - 00:40:21:14

I mean.

00:40:22:07 - 00:40:36:25

Is, is there a way of defining what the approaches are, or is this something that just evolves through time? And it almost comes as a common practice that everybody accepts what the approaches are?

00:40:37:15 - 00:41:00:02

Yeah. And so we don't have a harbourmaster, um, with us, um, attending the hearing today. So obviously I would, would wish to, um, effectively, um, divert the question to them. I think, I think the only thing I would say is in terms of the Port Marine safety code and the guide to good practice on port marine operations. So we're relying on. So section 2.3.1,

00:41:02:01 - 00:41:22:09

um, states that the Organisation Harbour Authority will discharge its general and specific statutory duties in respect of the conservancy of the harbour and its seaward approaches. So I think it's the reference to, to, to seaward that um, that obviously we're focused on here.

00:41:28:27 - 00:42:03:08

And, and obviously so, you know, we have the um, you know, we've got the, the navigational equipment obviously out. I'm out, etc.. You know, the, the, um, the piloting, boarding, etc. so, you know, it's it's all in terms of what happens in terms of the operation of the port. What happens um, in, in this area is, is is important to the Port of London Authority and the Port of London Authority. Um, you know, um, you know, customers vessels using that port.

00:42:10:09 - 00:42:36:03

Yeah. I think the examining authority gets the point, um, that you're keen to, to protect. It's really establishing what those approaches are relative to the proposed development. Um, does the applicant have any observations to make about this approach, his point, or do you want to wait and see what the PLA submit. Including any plan.

00:42:36:26 - 00:43:10:08

Danny Bates for the applicant. Um, we'll certainly respond to, um, what the PLA submitted deadline six. I think, just for a point of clarity. The pilot boarding stations and, uh, locations that refer to, um, those are not under any particular jurisdiction. Um, particularly the the pilot boarding station, which is the one, uh, closest to the export cable corridor, is used by a number of ports in the area. Um, including the PLA, but also Harwich and, uh, and others.

00:43:10:20 - 00:43:16:14

Um, so it's it's not something that can be sort of ascribed to a particular port in my understanding.

00:44:05:16 - 00:44:13:12

With respect to this question, does London Gateway have anything that it wishes to say about approaches to the Port of London?

00:44:15:22 - 00:44:27:03

Um, I'd suspect that we would concur with the view on that, but I will invite Mr. Brooks to say anything if that's not the case. Thank you. Sir. Sorry. Trevor Hutchinson, London Gateway Port limited.

00:44:34:08 - 00:44:35:22

I think you're on mute, Paul.

00:44:39:10 - 00:44:41:09

Sorry. Paul Brooks, DP.

00:44:41:11 - 00:44:43:24

World, London gateway. Nothing further to say from my side.

00:44:46:21 - 00:45:02:16

Thank you. And really, in response to this question, the action is on the Port of London Authority, um, to make some written submissions and include a plan indicating what they consider are the approaches to the Port of London.

00:45:25:19 - 00:45:30:26

Um, turning. to matter. Um.

00:45:33:20 - 00:46:06:09

So starts to, um, stretch into the marine license. Which side of things which Mr. Heron is going to deal with in a little while. But, um, in terms of any approval, um, that would be issued under the um, or by the, the marine management Organization, um, and either the applicant or um, Port London Authority assist in how they actually go about their, their consultations.

00:46:07:13 - 00:46:09:01

Um, um,

00:46:10:26 - 00:46:55:15

the examining authority, because of our backgrounds, we're familiar with planning applications and, um, how consultations are undertaken from that perspective that that often will be a number of statutory bodies and local authority will go out and consult with them. From your understanding, is that kind of what the management, the marine management MMO does? Um, that it has um, in this sort of context, uh, there would be um, a number of consultees, which no doubt would include Port of London Authority, Harwich Haven, London Gateway, um, which they would automatically go to as and when they get something for consideration.

00:46:56:27 - 00:47:04:05

So turning to the applicant is, is that your understanding of how the MMO would conduct the consultation process.

00:47:05:27 - 00:47:25:00

And your rights with the applicant broadly? Yes. Uh, there obviously go out to uh, statutory authorities, uh, that are relevant to the submission. Um, and then for other parties, uh, my understanding is it's up to the mayor's discretion to obviously identify those and consult with those as they see fit.

00:47:37:23 - 00:47:47:07

And I'm question two the PLA. Is that broadly your understanding of how, um, the MMO would conduct any consultation?

00:47:49:18 - 00:48:18:12

Vicky Fowler on behalf of the Port of London Authority. Um, so yes, that is our understanding. But um, but one of the points that we've got on the, um, on schedule 11 is that actually we're not named. So where we've got the various references to, um, notification, consultation, etc., we're not actually names. So so one of the things we would ask is that we are we are included. And that's included in the comments that we've sent to the MMO regarding that, uh, draft licence.

00:48:51:01 - 00:49:02:12

Did the applicant want to make any observations, particularly on that last point about um PLA being included within schedule 11 as a consultee of the MMO?

00:49:09:07 - 00:49:11:01

Daniel Bates for the applicant.

00:49:12:21 - 00:49:40:20

I think it's is, as I've said, it is up to the MMO as to who they consult with. I think one of the issues in this area is that there are many interested parties who, um, we would expect the MMO may want to consult with, um, and to name them all would be excessive and also may run the risk of missing people out. Um, I think this is best left to the MMO to make their own decision on.

00:50:11:26 - 00:50:21:27

Uh, missions in terms of past experience. Have there been instances when PLL Pillow PLA considered. It should have been consulted by MMO but wasn't.

00:50:25:07 - 00:50:34:19

So picky. On behalf of the Port of London Authority. So I think we'd, um. I'd need to take instruction. So, um, I am being advised that the answer is yes. There have been examples.

00:50:40:12 - 00:51:08:18

I mean, this is potentially a matter I think the examining authority might want to explore. Uh, when we issue our, um, suggested changes to the DCO that will then at least give the MMO the opportunity to comment. If if we thought that the PLL should be a consultee, then it can indicate whether or not it it agrees with that position, and if it doesn't, it can explain why it doesn't agree with that position.

00:51:52:24 - 00:52:13:13

But now I'd like to turn to this multiple consenting point. We were touched on a little earlier that if there were a series of protective provisions, all of which included the ability of, um, those parties to agree the, um, the nip.

00:52:15:07 - 00:52:50:03

Um, and for that matter, any of the other um, management documents, but also the MMO are issuing an approval under the marine licence. What happens in a situation potentially where the MMO issues won approval for some matters that it's agreed. Um, but then through the protective provisions, a

slightly different version of the same document might end up being approved because the party who, um, has protective provisions in its favour takes a different route.

00:52:50:05 - 00:52:54:08

So potentially there would there might be conflicts and inconsistencies.

00:52:58:18 - 00:53:07:02

Does the applicant want to start and then we'll I'll then go on to the Port of London Authority and then London Gateway.

00:53:07:25 - 00:53:31:08

Daniel Bates for the applicant. Um, I think this goes to the heart of why we are concerned about having multiple approvers. Um, I'm not sure at this point what the resolution to such a scenario would be. Um, and ultimately, these works are being carried out within the jurisdiction of the MMO, and therefore they're the regulator, the appropriate approving authority.

00:54:00:21 - 00:54:03:12

And under a situation where the MMO,

00:54:05:02 - 00:54:26:25

um, issues a decision In the same way, using the parallel with a local planning authority situation. Um, are there any rights of appeal or challenge to a decision that the MMO issues that a party might disagree with?

00:54:36:05 - 00:54:43:23

I mean, presumably if there isn't a codified appeal mechanism as there is under the Town and Country Planning Act regime?

00:55:00:11 - 00:55:05:17

Sorry, Mrs. Fowler, I'm not sure whether you can see, but there's a little bit of discussion going on, on, on the applicants table at the moment.

00:55:07:28 - 00:55:21:11

Julian Boswell for the applicant. Just so I'm clear, this is the MMO makes a decision pursuant to the Dean marine license, which other third parties are unhappy about? What can they do about it? Yeah, I mean, I would have said that.

00:55:24:22 - 00:55:36:17

My headline reaction is not very much because, um, it's our Dean marine license and therefore whatever appeal right we've got, um, isn't afforded to anybody else.

00:55:36:21 - 00:55:46:22

So potentially, if you follow your line of thought through, the only other recourse might be a judicial review of the decision that the MMO makes.

00:55:50:09 - 00:56:11:29

Yes, that must always be the case that that it's a it's a public law decision. And in theory, um, it's subject to judicial review. Obviously there are limits on that because of course, a J.R. can only go to how the decision is made, not the merits of the decision. And I suspect what they would object to, probably the merits rather than how it was made.

00:56:37:06 - 00:56:40:21

Mrs. Fowler for the Portland Authority.

00:56:41:18 - 00:56:42:03

Thank you.

00:56:42:05 - 00:57:19:05

Fired up. Port of London. Authority. So I wonder if I can, um, cut across this. So, to be clear, what the Port of London Authority are seeking, um, is what has also been given to the London Gateway port is that we would want to approve a document before it's submitted to the MMO, um, under schedule 11 for approval. And I think. And I think the resistance, um, is effectively because the time it's going to take for the MMO to approve. The applicant doesn't feel that they've got the time to go through that, um, consultation of, um, you know, approval process.

00:57:19:16 - 00:57:48:12

So, so that's that's the idea. And so in our deadline two submission, we have noted, um, many other CEOs where there have been multiple party, um, party approvals. But I think, I think it's acknowledged that the, the MMO would have final, final say. But but effectively we're asking for approval of a document, um, you know, site of a document and we say and we effectively ratifying it and saying, yes, we're happy with that before it gets submitted.

00:57:50:04 - 00:58:04:24

And, you know, in terms of the protected provisions, again, I mean, within, um, the, the, the usual protective provisions, you know, there's provisions about acting reasonably, there's provisions for time limits. And ultimately there's there's arbitration. But.

00:58:14:29 - 00:58:52:10

Just hearing your response, I wonder whether actually there's an issue of terminology in there because in fact, potentially what the PLA is saying is it wants to be consulted on, um, a draft version of a document before it ends up being submitted for the actual approval. The, the the subtle, um, distinction in there that it doesn't sound like London Gateway or actually sorry, Port of London are actually saying, um, it approves a document

00:58:54:00 - 00:58:58:05

because it can't because the statutory duty lies with the MMO.

00:59:00:28 - 00:59:13:04

Should involve the applicant. I understood, Mrs. Fowler, to say just now that they were seeking approval of it. So they were therefore having control of what we could submit to the MMO.

00:59:13:16 - 00:59:21:16

Yeah, I think that's probably where the problem is that it's that word approval. Um.

00:59:25:01 - 00:59:57:15

Mrs. Fowler, from the PLA's perspective, if if you were in a position of having a site of a submission and having the ability to comment on it so that potentially the applicant might or the undertaker might review, um, the PLA submissions and might, um, elect to make some changes before it submitted it to the MMO to address whatever concerns there might be.

00:59:59:03 - 01:00:02:27

Would that allay the PLA concern in this process?

01:00:04:05 - 01:00:45:06

Vicki Fowler, on behalf of the Port Authority, said no, no it wouldn't. And I think I don't know if you've got access to the last draft of the draft development consent order that was submitted at deadline five. Forgive me, I haven't got the, um, the the document reference, but on page 115 of the clear of the clean version are the provisions for the London Gateway port. And three says the Undertaker will obtain the approval in writing of London gateway of the draft cable specification and installation plan, insofar as it relates to the specific work, before any application for approval of that plan is submitted to The Undertaker in compliance with condition 13 of the marine licence.

01:00:45:12 - 01:00:56:12

We're just seeking the same drafting and the same, but the same would be true for the Nipp as well. Which which hasn't been given to the London Gateway. Um, sorry. London gateway port.

01:00:59:15 - 01:01:05:09

That's in paragraph three of part seven. Um, of the draft DCO, sir.

01:01:21:19 - 01:01:32:29

And the applicant assist with why a distinction is being drawn between how you're approaching London Gateway versus, um, PLA.

01:01:34:27 - 01:01:36:05

Daniel Bates with the applicant.

01:01:37:22 - 01:01:53:18

The key distinction in these would be the line under part three, referring to within the jurisdiction of London Gateway Harbor Empowerment Order. So my understanding is the Harbour Empowerment Order for London Gateway Extends

01:01:55:07 - 01:02:13:11

through the sunk deep water route and over our export cable corridor. Allowing them to undertake dredging in that area. And therefore it relates specifically to those powers that London Gateway have. Um, as we've already discussed, we are outside of the PLA jurisdiction and therefore it is a different case.

01:02:55:08 - 01:03:14:03

And perhaps then turning to London gateway. Portland is. Is there anything that you might do in, um, under the submission made to you under the protective provision that would be at odds, potentially, with what the PLA might seek to do or wish?

01:03:16:18 - 01:03:50:06

Trevor Hutchinson on behalf of London Gateway Port Limited. Um, so I think what we're seeking to we can understand the applicant's position about multiple approvals and the potential for conflict. Um, we can sympathise with that. Um, we are seeking to ensure that in whomever it may be that approves the CIP. And I and I want to reiterate, we are not seeking approval for the Nip or any of the other documents, just the CIP. But whoever approves the CIP, that they will take matters of concern to us into consideration.

01:03:50:17 - 01:04:29:16

We have no, of course we have that guarantee. If it is us, ourselves under the as the provisions are written or exist at the moment, we wouldn't have that assurance if those provisions are motivated to another party. Now, there's two ways that that can be dealt with. That would be with whomever the party may be proposed to be, that we have a separate side agreement with them, where they undertake to take those matters into consideration when giving that approval, or that the provisions themselves, in the favour of that alternate party, specify certain things that will be taken into consideration and subject to the application of those provisions.

01:04:29:18 - 01:05:07:21

We're perfectly happy to negotiate it. We have made the PLA aware of the provisions that we are looking to, or the matters that we are looking to seek assurance on. Um, and indeed, we have separately furnished a form of agreement, albeit that's, just an initial draft for discussion. What's been suggested is that the better way to deal with it would be through the wording of the provisions with the PLA, and if the PLO and the applicant achieve agreement on a wording for a notated provision that has those matters in it and satisfies London Gateway, then we're happy with that approach.

01:05:07:23 - 01:05:30:22

But but that would be for those two parties to come to that position. If they do, we will approve or accept, not objective if that's the best term to use the novation of the provisions away from London gateway port to to the PLA. And if they don't, our stance will remain that we need the provisions in our favour. And that's really where we are, sir.

01:06:25:08 - 01:06:28:11

Thank you, Mr. Hutchinson. Um,

01:06:30:11 - 01:06:36:10

Mrs. Fowler, um, any observation? And then I think we probably need to draw this. This.

01:06:39:00 - 01:07:12:02

Mrs. Vicky Fowler, on behalf of the Port of London Authority, says. Sorry, I should have. I should have clarified. So in terms of these documents, the PLA are only concerned with the area of interest. So this is the deep water routes. As per the discussion we've been having around where the cable insulation is. So it's so it's that particular area. And as we would say, that's the seaward approaches to

the Port of London. And therefore that is the area that we're concerned about in terms of ensuring that the vessels that need to get to the port can get to the port.

01:07:15:15 - 01:07:35:23

And as we said, we'll come back on, um, the definition of approaches. But but that's so we're not we're not seeking approval in relation to all matters and all works, but anything that affects that area of interest, we would want to have the same, um, ability to approve a draft documents as the as the London Gateway port.

01:07:39:08 - 01:07:51:26

And so I think it was I think it was um, Harris in there in one of the in one of their written representations that made the point. The reality is, we are all going to need to get around the table and, and discuss this, and it will be sort of multi-party discussions.

01:07:56:23 - 01:08:28:09

Because ultimately, it sounds like that from the the port side of things, you're all of a your position is consistent because you all need to ensure a situation where the development does not affect free passage to and from the various ports. So it's unlikely that one of the ports is going to be out on a limb in in this particular scenario, because you you all want to ensure that you can all get the largest possible ships in and out of your various ports.

01:08:35:26 - 01:08:36:28

I mean, I.

01:08:37:00 - 01:08:42:29

I think it this definitely is a matter that perhaps will best be dealt with outside.

01:08:45:24 - 01:09:07:12

Of a hearing. But the sooner the dialogue between the various parties takes place to try and resolve. It does sound like London Gateway. Um, as long as it can be assured that its interests are not prejudiced, then it might be content that PLA takes the lead in the process.

01:09:24:22 - 01:09:34:09

So I think generally are the parties content to go away and try and work out the best way of of dealing with this particular issue.

01:09:36:29 - 01:10:02:27

Daniel. The applicant? Yes. Absolutely, sir. That's the purpose of the meeting in a couple of weeks. Um, I think it's worth reiterating that what is agreed is the result that needs to be achieved in terms of the cable burial, um, across these deep water routes. Um, what we, as the applicant, are saying is we need reasonable controls as to how we achieve that, bearing in mind.

01:10:05:04 - 01:10:08:05

The controls that are already within the marine licence.

01:10:55:17 - 01:10:56:10

Hutchinson.

01:10:59:03 - 01:11:23:12

Thank you sir. Trevor Hutchinson for London Gateway Port Limited. This may be something that I should take up with the applicant and the PLA outside, but just to be clear, we do not currently have an invitation to a meeting in a few weeks or no other meeting before it being mentioned in this hearing today. So, um, if that's to be a part, if that's to be a discussion that involves London Gateway, I need to be myself and Mr. Brooks need to be invited. Thank you sir.

01:11:25:06 - 01:11:28:16

Mr. Bates, is that something that can be facilitated?

01:11:30:02 - 01:11:45:15

Well, it sounds like it potentially Does need to be sorted out sooner rather than later. And that having as many parties that can, can, um, attend, uh, to try and iron out the various issues would assist.

01:11:47:02 - 01:12:08:04

Yes, sir. I think obviously the meeting in a couple of weeks was intended to be a bipartite meeting between ourselves and the PLA on their protective provisions. I think it's worth us, obviously speaking with the PLA and agreeing, if we're happy to extend that bipartite meeting to including London Gateway. Um, but one way or the other, we can if convene.

01:12:09:24 - 01:12:38:27

If novation to from London gateway to PLA might be a way then that would seem that that perhaps is the only way that progress might be achieved because um London Gateway need to know, I think, what PLA and applicant are saying to one another. Um and if if then out of that loop, then it potentially becomes difficult to get some sort of agreement and resolve matters sooner rather than later.

01:12:41:24 - 01:12:48:07

Nothing is certain, said um, subject to the pla um, being happy with it then.

01:12:50:10 - 01:12:57:07

Do you think the, um, PLA would be content to have some sort of tripartite meeting to try and resolve this matter?

01:13:00:07 - 01:13:05:10

You found on behalf of the Port Authority. Um. Uh. Yes, sir. Yeah, we're happy to do that.

01:13:07:28 - 01:13:12:14

And hopefully that's how the parties will be progressing in the not too distant future.

01:13:13:00 - 01:13:14:20

Yes, we'll proceed on that basis, sir.

01:13:37:21 - 01:14:08:18

I mean, that I think brings us to the conclusion of agenda item three two. We were going to ask for an update on position with respect to the marine license, but I think because of where we are time wise, we're not going to ask for that or we're not going to deal with it already. But perhaps, um, if the applicant in its post a deadline of its post hearing submissions can include whatever, perhaps it had as notes. Um, that will give us an update.

01:14:08:24 - 01:14:11:02

Um, in in that regard.

01:14:24:24 - 01:14:40:09

Under item three four we had some queries about tree preservation orders and how things work there. But again, I think we can we can deal with that, um, through written question because we're potentially due to ask some written questions in the not too distant future.

01:14:52:28 - 01:15:10:06

And in respect of the well, this is agenda item 3.5, which is the, um, the addition to schedule 13, the without prejudice elements, um, to deal with raise a bill.

01:15:11:21 - 01:15:13:28

Um, and.

01:15:16:06 - 01:15:21:20

Uh, again, I think we we can pick up any issues that we've got there. Uh, through written questions.

01:15:30:22 - 01:15:35:10

The only point I would ask um, the applicant under.

01:15:38:18 - 01:15:41:10

Agenda item 3.5.

01:15:43:02 - 01:16:21:13

Um, that as we get to the conclusion of the examination and you submit your final version of the, um, draft of consent order, that we have a version that that doesn't include, um, what you've submitted on a without prejudice version and a version that does include the only reason I say that, um, having had to do work on recommended Ecos before having tried to add things and the formatting, um, when you're not used to it, um, can get a bit difficult.

01:16:22:12 - 01:16:54:09

Um, so if the applicant can assist in that regard, that in fact, we've got two versions. We've got your preferred version without and and the supplemental version that so that we if we are going to go down the route of recommending the Secretary of state, um, that those additional, uh, well, the parts are added that we don't foul up in trying to add them because, um, formatting is a bit of an issue there that the, the styles, um, we're not familiar with.

01:16:54:11 - 01:17:00:01

I know there's lots and lots of styles within that template for the impossible.

01:17:00:03 - 01:17:02:06

For the applicant. We hate the two.

01:17:02:21 - 01:17:07:10

Um, I didn't say that. So I wouldn't necessarily disagree with, you

01:17:09:07 - 01:17:09:22

know.

01:17:10:16 - 01:17:35:18

Obviously, um, a point that I'm sure that you're mindful of, but I will just mention because we've got more than one without prejudice scenario. Mario. There's obviously you might be against us on one, but with us on the others and all the rest of it. So I'm assuming what you're asking for is a version that has that assumes that everything has gone against us on the basis that it's easier to take stuff out.

01:17:35:21 - 01:17:39:18

Precisely. Yeah. Okay. Um, I'm sure you have had an.

01:17:39:20 - 01:17:52:18

Instance where we've had to add a schedule, and for those of us not used to dealing with it, it took an inordinate length of time. And I have to say, I was a little bit surprised it actually got through the validation process.

01:17:58:22 - 01:18:08:03

Um, before we draw things to a conclusion, I can see that Mr. Gold, which is, uh, to put or make a point, Mr. Gold.

01:18:18:07 - 01:18:27:18

To give me, Um, just very quickly. Can you forgive my incompetence? Where do I find this without prejudice section?

01:18:29:15 - 01:18:31:04

The,

01:18:33:01 - 01:18:53:08

um. Sorry. The the the. This doesn't affect anything at, um, Orford Ness. This is in respect of, um, other birds, where the applicant is pursuing a different approach to providing mitigation for any effects.

01:18:54:27 - 01:19:05:07

Um, so if they go on this approach, they won't. They won't use awkwardness. Is that right? No. Um. Is that is that a no or. Yes? I'm not quite sure. Sorry.

01:19:05:19 - 01:19:06:16

Yeah. Um, sir.

01:19:06:18 - 01:19:07:16

Would it help if I.

01:19:13:28 - 01:19:15:13

Julian Bosworth, the applicant.

01:19:16:04 - 01:19:16:27

Um.

01:19:16:29 - 01:19:18:06

Thank you.

01:19:18:12 - 01:19:19:11

We're just trying to find this.

01:19:19:13 - 01:19:35:13

Doesn't relate to lesser black black girl. Obviously awkwardness is only about lesser black Batgirl. So this is about other other species. So it doesn't it doesn't. Um, whether or not any of these provisions end up in the DCO doesn't impact the awkwardness situation at all.

01:19:35:27 - 01:19:38:08

The list of black black girls would continue as before.

01:19:39:09 - 01:19:40:11

Yeah. Yeah.

01:19:40:13 - 01:19:45:12

This this is in respect of other bird species where the African is taking a different approach.

01:19:46:05 - 01:19:46:20

Right.

01:19:47:09 - 01:19:48:29

And where would I find that.

01:19:49:15 - 01:19:54:07

In anybody offhand? Remember which document? It was at deadline five.

01:19:54:21 - 01:19:55:11

I'm sorry.

01:19:55:19 - 01:19:58:09

55090.

01:19:59:17 - 01:20:00:24

It's rep. Rep.

01:20:02:00 - 01:20:02:15

Rep. Rep.

01:20:02:17 - 01:20:06:05

Rep. Five. Hyphen 090.

01:20:06:23 - 01:20:10:02

I'm very grateful to you. Thank you very much indeed. And forgive my incompetence.

01:20:13:26 - 01:20:29:15

Well, I forgot the number of the documents. So there are now a large number of documents and we had quite a few at deadline five. And so I think we're all struggling at the moment to to keep up with that number of documents at that submission deadline.

01:20:31:03 - 01:20:32:24

Thank you. Thank you chairman.

01:20:41:17 - 01:21:11:25

I think the only other thing that we need to look at, um, is actions arising. I'm going to suggest a slightly different approach, which we've used or I've certainly used on other cases. If we could seek the applicant's indulgence, if you could submit, um, your the list that you can or have been compiling uh, to Mr. Johansson. Um, we will then check that against what we've got on our list.

01:21:12:09 - 01:21:38:18

Um, I think we're pretty content that the points, particularly for the PLA, we've picked up on, because I think there were a number of matters for them. And then we'll we'll just use the applicants and our own list and issue something as promptly as we possibly can early next week. Um, is that something that the applicant, um, is content to do? There definitely seem to be nods from, um, that side of the room.

01:21:45:23 - 01:21:52:11

Julian Boswell for the applicant. Yes. Uh, we can do that, hopefully during the course of tomorrow. Yeah, that would assist.

01:21:52:13 - 01:22:05:29

Thank you. Um, then I think that really brings us to the conclusion of this hearing. Unless there's anything as ineffective, final, any other matter of business that anyone wants to raise. Looking at applicant first.

01:22:07:15 - 01:22:09:13

No indications? No.

01:22:12:11 - 01:22:17:08

Why? Yep. Uh, firstly, turning to the port authorities. Anything from yourselves?

01:22:19:18 - 01:22:24:01

Not seeing anything, Mr. Gold. Anything from you, or is that a legacy hand?

01:22:31:08 - 01:22:32:14

It's a legacy hand.

01:22:32:24 - 01:22:42:09

Okay. Thank you for clarification, then. That does bring us to the, um, close of this examination again. So this this hearing.

01:22:45:19 - 01:22:47:11

That really did scare people in the,

01:22:49:02 - 01:23:03:29

um, yeah. To the close of this hearing. I'd like to thank everybody for your participation and your forbearance, given that we have gone slightly beyond 6:00. Um, this issue specific hearing seven is therefore closed. Thank you.