



Planning Inspectorate
Arolygiaeth Gynllunio

Hearing Transcript

Project:	Morecambe Offshore Windfarm Generation Assests
Hearing:	Issue Specific Hearing 2 (ISH2) – Part 2
Date:	04 February 2025

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FULL TRANSCRIPT (with timecode)

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Thank you, everybody. Um, this hearing is resumed. Uh, Mr. Rigby. Thank you, Mr. Jackson.

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So, moving on to the third bullet point. Um, agenda item four, which is

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seasonal restriction on piling.

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Uh, at paragraph 2.14 of its written representation, responding to pre examination submissions, PD submissions. The memo said that it's currently seeking a seasonal restriction on piling activity, and they maintain the position in deadline to comments on the applicant's comments on relevant representations at rep 2035 at points RR oh 4758.

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And what we seek to understand is the need for a timing restriction, its extents and preferred DCO or DML wording.

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And we had

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written question XQ1 BM 24 to the MMO on mitigation of timing of works.

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And I think it's just worth.

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Saying the MMO has indicated that whilst an underwater sound management strategy, which was submitted at deadline two, has been provided, a condition limiting piling during the cod spawning period is still necessary and will supply updated wording in due course. Um, so were the MMO here, I would ask them to confirm when the revised wording will be available. And I'm very much hoping that will be. Deadline for.

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And it was put to the MMO, and thanks to the applicant for noticing the error in SSC one, which incorrectly showed a response required from the applicant and for bringing this to our attention.

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The MMO had previously indicated in its deadline two submissions at 2035 that although an underwater sound management strategy had been provided, the condition is still necessary and it will apply the updated wording. So we want them to confirm what that revised wording is. And perhaps again, if you're having discussions with them before then and that's something you can hopefully. The more we can agree on that deadline for to be honest the better.

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And if you can, progress matters between now and putting your submission in, that will be very helpful, I think to us.

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Yes, it would be very useful if, you know, you'll be having discussions directly with the MMO, which we're not, because they're not here. Um, so therefore, if you are able to impress upon them the need to make sure that we do have responses that differ. Um, I would say it's likely that we'll be right off. We'll have the action points from the hearing today, but we'd like to be writing a rule 17 letter to those who we need the equivalent of action points from. Had they been here, they will and they will probably almost certainly be in the in that particular list as well. But if there's anything you have at this point in time, is there, for example, discussions you have had since the D three submission that with the MMO, for example, which give you give you greater insight than what we have, that would be beneficial.

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Robin Hutchison for the applicant, it might be helpful at this point given we're discussing, um, spawning, And periods of secession and the piling strategy and noise, just to sort of summarize our understanding and position on noise abatement and seasonal restrictions. Um, so essentially we're obviously on agenda item four. So we're on and we're talking fish, not marine mammals. So, uh, the, um, noise abatement potential and seasonal restrictions are covered in the underwater underwater sound management strategy, which is provided in outline.

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And again, um, part of the point I made at the first session this morning. It is a two step approach. So there will be an outline setting the kind of parameters for what the final um, approved plan will need to contain, which will then be approved in due course. Once the the detail of the project is known and the bodies in consultation will be the same parties that are I'm interested in this topic. So, um, as it currently stands, we have an outline under water management strategy, which does reference the potential for a seasonal restriction.

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We have subsequently had, um, a number of pieces of policy and guidance on the 21st of January, which the examining authority has drawn our attention to at the foot of the agenda. Now, those, um,

pieces of guidance collectively reinforce the, um, uh, government and SNB policy intent towards the need for, um, noise abatement.

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Essentially they have they have upped the game on the need for noise abatement, which, uh, which the applicant, um, recognises. Now, the heading policy document also explains that there is more detail to come. In particular, matters such as the actual noise limits where the threshold lies. Because the applicant's um development consent order is drafted on the basis of a Rochdale envelope with assessments based on a theoretical realistic, the theoretical worst case combination of piling and hammer energy, which in reality, as with any worst case, is unlikely to arise.

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And it may well be that at that upper end of the worst case, um, uh, you know, noise abatement is necessary. And if it wasn't committed to, then in the context of fish, a seasonal restriction would be needed. Now, we do not know exactly where that line is drawn at present, and that that information, I think, will be coming forward following research programmes over the next year or so. So as it stands, the way we are proposing to address this in the draft DCO is to make clear in the underwater sound management strategy that it will be based on and reflect the existing guidance that we do know about and referencing the work programmes that are identified in the policy document.

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So essentially, we are setting the tram lines for the future approval of the underwater sound management strategy.

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Which will secure noise abatement, seasonal restriction or neither as appropriate, depending on the final project design and whether it's at the upper end of the noise, um, potential parameters or the lower end where none of those measures are appropriate. And also, once we know where that line sits in the middle, because at the minute, yes, we might be able to commit today that our absolute worst case would following the guidance. And I'm looking at my expert colleagues who are nodding. So at the upper end of the parameters.

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It would be appropriate for noise abatement or a spawning seasonal restriction. What we don't yet know is where that line sits. That's going to be a matter settled, hopefully in a work program that is in

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progress. Certainly according to the policy note. Or if that work program wasn't far enough, it would be a matter for discussion over the approval of that detailed plan in due course, which is a sort of fairly long winded way of explaining that we think we've got it about right at the minute in that we have a DCO condition requiring that an underwater sound management strategy is approved based on the outline, and we don't try and go further today and commit to detail in a DCO requirement or the marine licence condition, because that detail, you know, for example, a noise threshold isn't yet available.

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It's going to be a matter for

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the future policy and to be agreed in the settled underwater sound management strategy. Post consent.

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Can I just confirm you did indicate that in certain scenarios, a seasonal strategy, a seasonal pause might be necessary. If if you if you're a I'm getting nods. So I could just confirm that in order for the case is rather because at the moment there's sort of it's sort of it might be, it might not be. But you're saying if it is necessary, you will put it. Can I put it like that.

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On behalf of the applicant? If it is necessary, we would commit to it. I would say that, um, in a context where we're developing the detail of the measures that are, um, available to us in the underwater sound management strategy, in the context where, um, it arises that noise abatement measures were necessary and were committed to. Um. I would suggest that the, um, the likelihood of a seasonal restriction being. Appropriate would be greatly reduced.

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Robin Hutchison for the applicant. Just to to add some color to that. I think the position is that at the outermost edge of our worst case scenario of our Rochdale envelope, we are in agreement, particularly in light of the new guidance that noise abatement would be required. The the challenge in being more prescriptive in a DCO requirement or DML condition now is that it's a sliding scale and where the point at which you move from it being required to it being disproportionate isn't yet known.

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That's got to be post consent, because the work hasn't been completed yet, as the policy note tells us.

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So the issue with, uh, applying the seasonal restriction is really not being entirely certain at what point you'd need to do this, just seeking to understand. It looks like the MMO saying we want a seasonal restriction, and I would like to ensure the MMO if they are listening in. Please ensure that your updates includes robust reasoning, explaining why and at what times this is necessary.

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In what circumstances. Because they've said they're reviewing the point and they're going to respond at deadline for. So it would be useful for us to understand where they're coming from and what the issue is from your point of view, so that we can understand where the common ground is. And what I'm getting from what you're saying is that there are instances where it will be necessary, and there are instances where it might be.

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And there are probably instances where there's not going to be a problem, and you've just got to work out with your feeding back into the construction method statement, perhaps, as well. What you're doing, when and where will dictate. And presumably you're going to want to select noise abatement

that actually works. Um, that's another issue. But for the moment, I'm, I'm guessing that we're just trying to get some consensus on do you need it? And if so, when.

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You on behalf of the applicant, I think that's a that's a fair assessment of where we're at. Um, I would just like to, um, make you aware of how we will be approaching the conversation on this with the MMO, uh, going forward. Um, if we look at the Moz draft, um, DCO condition, um, where they leave the timings of the seasonal restriction. Open for further discussion. Um, we would be looking to discuss with the MMO, um, a seasonal restriction that targets the peak of cod spawning rather than the entire corresponding period.

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So that would be running from February to the end of March, 15th of February to the end of March, rather than January to April inclusive.

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Yeah, because that's the other issue, isn't it? Haven't following from what we've said is what is the season? So that's where monitoring presumably.

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We'd be looking to target the the peak spawning season.

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And obviously in relation to the DCO and DML wording we can cover that on Thursday. I'm looking at Mr. Jackson. Yes. That's.

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Yes.

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And there's.

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There's some definite wording which.

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We shouldn't be in a condition which there's wording they've got at the moment. So we'll worry about that on Thursday.

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Uh, Robin Hutchinson for the, for the applicant just just to pick up on the point, uh, the panel is made on where the common ground is. Um, and I do not think that this is a case where there is, um, necessarily a mismatch of, um, expectations. I think it's we're dealing with essentially an information gap at the minute, because if the work program to identify things like noise limits hasn't yet been completed, the memo, if they were here, wouldn't be able to identify a hard line in the middle of our

Rochdale envelope where on the one side sits seasonal restrictions, noise abatement and on the other sits nothing.

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So I think it is there's probably, I would anticipate, common ground on the fact that there is this element of uncertainty. For example, if we selected gravity bases as a foundation type, then piling is not some activity that would be carried out at all. So that would completely change the noise profile and and Not engaged seasonal restrictions or noise abatement at all. That is something that is. The applicant is absolutely entitled and potentially may do under the Rochdale envelope.

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And of course, just developing reports about what is seasonal. It's probably going to vary by year. So information you've currently got perhaps will help you to get a handle on how it might vary to make sure that you don't actually miss the any of the peaks, for instance.

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Exactly. And I think, I mean, um, as the panel has indicated, this is a topic for for Thursday as well on the detail of how, uh, DML conditions or DCO requirements are drafted. But in terms of the the principle of the issue, that sort of, um, information, that additional detail, uh, which would inform the, uh, precision of what is actually proportionate in terms of noise abatement and a seasonal restriction, etc.

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is a is a post consent matter. You know that. That's why we think that it's appropriate to, um, retain the position that the underwater sound management strategy is needed, but settle the detail of that for approval by MMO and consultation at a later date. Because trying to cover off every scenario within the Rochdale envelope against a backdrop of not actually knowing where the thresholds are because they are still in development. Yeah, feels like that set of facts, that factual matrix doesn't give us the certainty to have a precisely drafted conditional requirement at this stage.

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And there's absolutely nothing wrong. And it's it's completely standard and appropriate to have this two step process or set the outline of the tramlines and settle the detail once the detailed design is known.

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Yeah. And just wanted to make sure that you've got in your monitoring plan and also perhaps in your construction methods statements. Protocols for dealing with

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the situation where you might find that there is some variation in when the season is and you need to adjust things to make sure you catch the peak.

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Um, if it occurs at a time when you're not expecting it, and it's a bit of a bit of a call at one, but trying to get yourself in a position where you won't have a season that's longer than it needs to be, but it'll be long enough to make sure that you capture the problem. The problem? Times spawning season.

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On behalf of the applicant, the, um. The timing of the cod spawning season in in the Irish Sea is based on, uh, interannual um, surveys of um, eggs and larvae presents. Um, uh, and uh currently doesn't vary too much into annually. Um, although there is some variation, the key for us will be making sure that we have encompassed and feel comfortable that we've encompassed the peak. Uh, if we were to set out where we think that seasonal restriction may lie, um, and, um, yeah, we would we would definitely look at that in conversations with the MMO.

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Thank you.

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Do my panel colleagues have anything they want to say on this item? Are we close?

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Thank you very much. So we're moving on to fourth bullet points on agenda item four, which sort of feeds into item five a bit, but we're starting off with it having been raised in relation to.

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Marine mammals as well as fish and shellfish. So it kind of rolls over the agenda. Catherine Nolan.

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On behalf of the applicant, is it okay if we bring in then our marine mammals, if we're kind of transitioning from item four into item five, I know.

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There will be some.

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Yeah. So we'll just bring in another member of the bench who can speak to marine mammals. Thank you.

00:18:45:21 - 00:18:54:07

So you can you can go around the corner for today because we haven't got a prop because of the lack of bodies in the room. If you want to go around the around the corner on the table today, it's just a problem.

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Plenty of room. You just continue around. Yeah. Wrap around.

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So really now we're on to UXO. So it straddles a couple of parts of the environmental statement. But we wanted to try and get it as one topic. So it's relevant to marine mammals as well as fish and shellfish. So it'll roll over into agenda item five. And we really seek to understand three things. Firstly, the state of knowledge of the absence or presence and the UX risk.

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And secondly, how representative your UX assessment is the likely clearance activity needed. And thirdly, how these two things have informed your statement that there is no need to assess a heavier charge weight and the intention to apply for a separate licence post consent, sort of those two issues. So firstly, I'd just like to note, as highlighted on the agenda papers.

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Again, the written ministerial statement made on the 29th of January 2025 Five. By Minister for Water and Flooding Emma Hardie MP. And in particular the reference to UX. So noting the slightly humorous misprint of ordnance at bullet point two and to invite views from the applicant and other parties on any change in approach which you might think might be necessary in relation to the proposed developments.

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In view of this statement.

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Robin Hutchison for the applicant. And before I hand over to my technically minded colleagues, I think it's perhaps just worth setting the context. And I appreciate we did this at issue one, but just from the applicant's perspective, it's important in our minds that the application before the panel doesn't include consent for clearance of UXO. Um, instead, that's being, um, held over, uh, for future licence applications, um, if needed.

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So, uh, to an extent, the, the assessment in the s of this topic and the inclusion of, uh, of, of UXO in the outline EMP, the marine mammal mitigation plan, marine mammal monitoring plan is uh, is is essentially, uh, the applicant going, um, I think, in our view, quite a long way towards demonstrating that this isn't an unknown issue on the horizon, but an issue that's quite well understood.

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And so that there there isn't any reason to believe there would be an impediment in a future licence application being secured. Um, instead, it's our it's our known. Known which the applicant is confident can be resolved through future marine licenses. In terms of the new JNC guidance on UX or clearance again on of last week two weeks ago. Yes, we reviewed that as directed before the application, and I think that is supportive of the approach of a separate UX license.

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And it also makes reference to the need potentially for an EPs licence if residual risks remain. So there's that that two step approach. And the applicant will of course expect to be judged in terms of our UX o license application on the policy and guidance context as it now stands. So we would expect, when we apply for UX or marine licenses, to have to comply with the best practice as set out

in that policy that we that we're now aware of, to be fair, and the team have made us aware throughout our pre-application process to expect this guidance.

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So it's not it's not a bolt out the blue. It was something we were expecting to have to do anyway. And um.

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So to be to get Rumsfeld in about it, it's a known unknown. It's not like it's an unknown unknown. So, you know, there's a problem and you don't see any reason why it should be of a degree that would cause any undue concern.

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Robin Hutchison for the applicant. Um, yes. At the risk of stretching the analogy too far, um, we might even classify it as a no. Known because we know that we need the marine license and we know what will be required of us in order to secure a marine license and, if necessary, the European Protected Species license as well for the clearance of UXO. I guess what's unknown is what might be out there in that.

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That's the thing, isn't it? Yeah, it's it's what you might find, um, when you get there. So.

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Richard West, on behalf of the applicant, if I can pick that point up, um, we have done a number of surveys of the site already. Um, and well, as we've responded to in previous question, um, we did a desk study initially of the, uh, array area to look at historic use of the site, as the panel will be aware. Um, there were there was an issue with the training area on the. Yes. Yep. Training area. Yeah. Um, since we have done that desk study, we've done a number of targeted surveys.

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And in those surveys and for geophysical and geotechnical purposes, we have found no UXO so far whatsoever. Um, and that was across a fair range of the sites already. Um, we will be following those surveys up once we have detailed design. And, um, that detailed design work will further identify targets, which we would then be applying for a marine licence to investigate. Yes, because there's excavation work involved in that.

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Um, we are mindful of the the situation at Moray West where a large number of unexpected UXO were found. And as we've explained to the panel already, and that campaign was able to be carried out despite significantly more UXO being found within a comfortable time period to start construction for the project. Um, we based on the initial investigations that we have done, we are comfortable that the UXO risk across the site will be able to be managed through a marine licence, separate marine licence application that would be initially informed by that investigation, survey work.

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And thank you. And presumably further on down the line into detailed design, you've got micro sighting tolerance as well. Perhaps that will assist you. Uh, and, um, obviating the need to set things off.

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Kathryn Nolan, on behalf of the applicant, yes, we've had discussions about microsites. I know at issue specific hearing one. Um, and we'll come back to that on Thursday. But, um, yes, there were comments from the MCA and Trinity House and others in response to the examining authority's questions about building in a bit more of a micro siting threshold. So the applicant is intending to put that into the draft DCO at deadline for to allow that, um, slight threshold, that slight tolerance, should it be required. But as Mr.

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West was saying, indications across the site are looking as though there is not the number of unexploded ordnance that there may be were thought to be from baseline studies.

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Because obviously, from the ecological viewpoint we're on today, the less sort of crazy Harry Muppet style Stuff that there is. And assuming, of course, that you're going to be going. Where possible for the low impact rather than the high impact. But if it's obviously possible to avoid it, then that's also the good, isn't it really? So, uh.

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Richard West, on behalf of the applicant, I think we're encouraged by the results from Moray West with the low water campaign that they carried out on their site. Um, I think it's fair to say prior to that work, there was uncertainty about the effectiveness of low water and also the guidance itself. The new guidance itself recognizes that there are exceptional instances where high order, um, UXO clearance may be required. And that reflects.

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The fact that low water isn't always 100% successful, and that there there may be instances where high order would be required. The project's mitigation hierarchy is to initially avoid and then look at relocation of UXO and then low order campaign as a first instance. We note from the new guidance that low order attempts need to be carried out prior to any application for a high order. Yeah. Um, UXO clearance. And that's something we would be taking on board along with Aspi.

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Yeah.

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And that.

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Would.

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Be something presumably come to light later down the line as to when you have proper look at exactly what's there. That's right. Yeah. Thank you.

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Robin Hutchison for the applicant. Just a minor point. Um, um, Mr. West has, um, referenced, uh, Murray West, uh, which is, as the the panel may be aware, from general knowledge, uh, an offshore wind farm in the Moray Firth. Um, we haven't submitted before. Uh, the examination details of the of the UXO clearance campaign by Murray West. I think Mr. West is, um, referencing, uh, that as part of his professional expertise and knowledge, a sort of background.

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And hopefully the panel will appreciate he's giving his professional expertise and view on our proposed approach. Drawing on his experience. And we wouldn't propose to submit additional documents setting out what happened in the Murray West campaign, unless that's useful. But we feel perhaps the panel has enough documents at this stage without requiring additional information that we don't consider to be sort of pertinent.

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Thank you. Just thinking about the low and high order clearance.

00:30:01:04 - 00:30:14:04

What is it that affects whether low water clearance works or not? But it's successful. I presume it's something that you'll come to later, because you need much more detail about what you've got to clear. But I just wondered if you could tell us.

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Richard West, on behalf of the applicant. Um, it's largely previously, uh, the distinction between using a high order clearance and a low order clearance would depend upon how intact the case of the shell is. Yeah, obviously, all of this ordnance has been under water for upwards of 75 years. Um, metal in the marine environment decays. And there was uncertainty in recent years about how effective a low water clearance would be to a broken shell case, effectively.

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Uh, there are also issues with dispersal of the explosive material, which can cause issues with heavy lift vessels, particularly. Um, this is an area of,

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of practice that is evolving very rapidly. And. The new guidance reflects that there are a number of different low order techniques now available to developers to use. Um, those are under constant review and the effectiveness of those is being tested now, really in the field work that's actually been being done to clear these. So this is an area of expanding knowledge. And the efficacy of these methods is being continually honed and approved through the, um, the number of campaigns that have been carried out since.

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So, um, I think Moray West, which we did summarize actually in our in our update to the technical note, um, for the panel, uh, was it was the first example of where degraded cases of degraded shell cases were able to be cleared using low water technique. That, of course, gives developers a bit more comfort in the low order clearance method that it would. It has the potential to lead to the certificates as low as reasonably practical, reducing the risk for subsequent construction activities in those locations that um.

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For example, the issue with the explosive material being jettisoned from the case, that that is less of a concern. Now to developers mindful of the recent experiences with other windfarms.

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Thank you. It is presumably the nature and the condition of the explosive itself is presumably also a factor. If it's been sat there for thick end of 80 years, it may have decomposed or changed into something else or whatever.

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Uh, Rich West, on behalf of the applicant. Yes, that's absolutely correct. Um, and we are guided by UX, some very experienced UX experts. We would certainly be contracting UXO experts who have the knowledge that I don't have about the effectiveness of the potential effectiveness of low water clearance on specific targets that we may identify through the investigation campaign. Yeah.

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And presumably that's again, that's something that goes in the construction method statement somewhere along the line in the outline about how you deal with that.

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Richard West, on behalf of the applicant, this would be separate to the DCO process in the marine licenses for the in any required marine license for UX clearance. Sure.

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I was just wondering whether there be any indication in the CMS that that is what you'd be doing later so that we've got it. We've got at this stage, the way, the the way you're the way you're going to do that.

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Robin Hutchison for the applicant, I think we would feel that would be a level of detail to granular for, for this DCO application.

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I was only just thinking that there would be a reference somewhere to things that will need to be done, but will be done later, so that we know at this stage that they're going to be done later.

00:33:57:29 - 00:34:04:14

It's contained in the in the MP in relation to UXO. I think that we can we can direct the panel to that.

00:34:04:17 - 00:34:05:28

That's the thing. Yeah. Thank you.

00:34:09:02 - 00:34:42:15

Sarah Reed for the applicant. So I was just going to come in on on your points two and three and if, if that was okay, um, just in terms of the assessment that we did and how representative that was, um, in terms of the charge rates and the assessment that we, that we did, I think you'll have seen from, um, the latest submissions from other parties who identified that they were comfortable with the assessments that we that we provided within the application, noting that, um, so clearance isn't part of isn't part of the DCO.

00:34:42:17 - 00:34:54:00

So hopefully there's, there's comfort there in terms of Mo's Natural England's and Jack's position in that we provided a representative assessment at this stage. That's that's sufficient.

00:34:54:08 - 00:34:55:20

Yeah. Thank you.

00:35:00:29 - 00:35:01:15

The.

00:35:03:24 - 00:35:04:12

Had.

00:35:06:16 - 00:35:43:02

Natural England and the MMO been presence. We would have asked them for their views. So to MMO and Natural England, please ensure that you present your views on this to us at no later than a deadline for. Thank you. So I next seek views on any change in approach that might be necessary. In view of the newly published JNC guidelines and the 21st of January publication of the new Defra guidance.

00:35:44:07 - 00:36:13:12

Um, I realised that, um, in view of discussions we've had already, you may already have addressed some of these points, but, um, they may be similar, but uh, it would be interesting, particularly the Defra guidance. Paragraph At 1.2. On benthic species mitigation, uh, where category A clearance is preferred or measures to curb underwater noise.

00:36:16:01 - 00:36:48:02

Richard West, on behalf of the applicant. Uh, the measures that we are proposing to incorporate the new guidance, uh, will be an update to the MP and an update to the underwater sound management scheme that we will be submitting for deadline for. Um, they will make specific reference to the new guidance. And as the panel as as Mr. Rigby has already mentioned. We have been mindful of the changes coming through.

00:36:48:09 - 00:37:06:03

We have been preparing for these for a number of months and or a number of even longer, perhaps. Um, so we will ensure that the new guidance is reflected in the documents to be certified and carried forward into any potential UXO clearance works.

00:37:07:21 - 00:37:26:23

Thank you. And just while we're mentioning those two documents, presumably they will be designed to work in tandem, or will one of them be the lead documents and the other one not? Or would they be designed presumably to be in sync so that people know where they are?

00:37:27:06 - 00:38:03:19

Richard West on behalf of the applicant. The two documents certainly do speak to each other. Um, the purposes of the documents are different. The underwater sound management strategy is primarily aimed at mitigating for any potential impacts on spawning fish, which the Marine Mammal Mitigation Protocol by its very name is focused on marine mammals. The purpose is in terms of mitigation of underwater noise are similar the drivers to mitigate that are slightly different depending on fish or marine mammals.

00:38:05:06 - 00:38:11:01

Thank you. The two documents will speak to each other and certainly outline similar mitigation.

00:38:12:01 - 00:38:12:19

Thank you.

00:38:13:16 - 00:38:16:12

Can I just confirm your hope to get those in for deadline for.

00:38:17:27 - 00:38:20:06

Richard West on behalf of the applicant? Yes. That's correct.

00:38:20:13 - 00:38:21:16

Thank you. Thanks.

00:38:22:23 - 00:39:38:09

Hannah Sweeney, on behalf of the applicant. Good morning. Um, I'm an environmental consultant for marine mammals. Um, my pronoun is miss. Um, I just wanted to say regarding the underwater Sam management strategy. Um, it's more of a framework to work through. Any updates to the project post consent. So taking into account changes in hammer energy, if we're using gravity bases, all the kind of, uh, design envelope updates that have previously been discussed this morning and they measures that are then included in the strategy would be carried through to see what kind of impact ranges we are now looking at for the project's final design, and that would then outline what kind of mitigation would required to be in place for fish specified under that plan, and then for marine mammals, which would be incorporated into the MP um and the measures presented in the new guidance, um do state primary measures, which would be things like the hammer energy being used, different types of bases or secondary measures, which is the use of some kind of noise reduction through a blue hammer or, um, a bubble curtain through noise abatement systems, um, that would be outlined and agreed in the strategy and then implemented through the MP.

00:39:38:23 - 00:39:41:21

So just a clarification on the function of those two plans.

00:39:43:21 - 00:39:44:06

Thank you.

00:39:44:17 - 00:39:47:23

Robin Hutchison for the applicant. And. Oh.

00:39:49:12 - 00:39:54:15

Yes. Sorry. There's someone else wanting to speak there. Sorry.

00:39:54:17 - 00:40:34:26

I think that's just a microphone interference. Robin Hutchison for the applicant. I was just going to say that that perhaps takes us neatly, full circle to the starting point of our introductory remarks on this, this agenda item that the the detail of exactly which, um, noise abatement measures or um, or, um, low noise techniques are appropriate, if any, depending on, um, what, which um parameters are finally selected from that Rochdale envelope will be a matter for the, uh, the the post consent plans to be approved by the MMO once that detail is settled.

00:40:34:28 - 00:40:38:18

So I think that takes us perhaps nicely back to to where we started.

00:40:39:02 - 00:41:17:16

Yeah. Thank you again. Um, to the MMO and Natural England. If they had been in attendance, we'd have asked for their views. And so now I would say that the MMO and Natural England Please ensure you present your views to us at deadline for, um. I note that the use of infrared in low visibility conditions is cited as a thing in the guidance that's been published. So if MMO and Natural England have particular views on particular techniques, then it would be useful to hear what those are do.

00:41:17:18 - 00:41:35:12

Of course. Note that these documents are chiefly aimed at marine licences and not discos, but we're just seeking to understand what's going to come later so that we can ensure that you've at least got some mention of it in the outline plans you're putting before us.

00:41:38:12 - 00:41:54:14

One last thing. Uh, I was just going to ask the applicant to what extent your assessment follows the structure of the new Defra guidance. Are you already pretty much there. Or is it?

00:41:56:00 - 00:42:00:06

Whereabouts? Where are you with that? To what extent do you follow their guidance? Oliver garden.

00:42:00:08 - 00:42:02:00

Path applicant. Um, yes.

00:42:02:05 - 00:42:02:20

We more.

00:42:02:22 - 00:42:05:01

Or less followed it because the different guidance is actually just an.

00:42:05:03 - 00:42:05:18

Update.

00:42:05:20 - 00:42:06:05

Of.

00:42:06:07 - 00:42:21:13

An interim set of guidance, which was published in 2001. So broadly, we followed the previous guidance. And as the new guidance is just an update of that, we're confident that we've followed it already. But obviously we can confirm that in the updates. But essentially, yes,

00:42:23:00 - 00:42:30:02

the changes that have been made, uh, will be reflected, but they don't differ wildly from what was previously published in 2001.

00:42:31:06 - 00:42:36:21

Um, just to come in. Katherine Nolan on the applicant, it's 2021. Sorry, 2021.

00:42:36:26 - 00:42:41:03

That's right. Yeah. 21. Sorry. Yeah, yeah, yeah. What's not that old? No.

00:42:44:07 - 00:42:44:23

Thanks.

00:42:48:17 - 00:42:51:01

I just wanted to have a look at

00:42:52:29 - 00:43:20:14

responses to our questions 28 and 20:09 p.m., 28 and 29. Um, trying to get a handle on perhaps going over some ground we've already been over, but the degree to which assessment is needed now are we? Note your point that safety certificates are time limited, uh, so that you want to be doing things later because you do them all in one go?

00:43:22:09 - 00:43:23:29

Um, we noted.

00:43:31:02 - 00:43:43:18

The some, possibly some anomalies, and they'll require clarification, but we're I'm assuming that that's going to be something that you know about, but that you will deal with as part of a license application.

00:43:50:12 - 00:44:00:13

Because you've got you've you've, you've, you've you've identified 55 unknown magnetic anomalies. But the site is an armament training area.

00:44:00:15 - 00:44:37:03

So Richard West, on behalf of the applicant, um, that the number of anomalies that we have identified so far are not atypical of a marine site. Um, I think going back to the Murray West example, which I keep talking about, um, I think they had over 200 initial anomalies that they needed investigating and ended up with 80 something UXO to clear. Um, the anomalies that we have found initially be investigated in that, um, in the UX investigation campaign would be separately licensed outside of the DCO.

00:44:37:18 - 00:44:55:14

And yeah, from initial results that we've received from some of these surveys, that's not an unusual number of anomalies to find based on experience. Most of these, the majority of these are likely to be pieces of abandoned fishing gear or other material.

00:44:55:16 - 00:44:59:27

It could just be general metal objects. It means a bit like someone going around within that sector. Yeah.

00:44:59:29 - 00:45:02:28

Yes, particularly in the Irish Sea, which is a busy shipping area.

00:45:03:00 - 00:45:07:21

So it's it's in it's in the normal area of what you'd expect. That's correct.

00:45:07:23 - 00:45:26:03

Rob not just for the applicant to take it back to what we consider is important for the panel in in your report. Um, it's something that's well understood. It's within the normal range. And it's no indication that there would be any impediment to successful marine licensing of these activities in the future. To the extent they're required.

00:45:26:24 - 00:45:39:29

Yeah. Because we're just just trying to get a handle on how representative of the likely clearance activity your assessment is. So you're not in for any surprises later down the line.

00:45:40:01 - 00:45:41:17

We're not too worried about that.

00:45:41:23 - 00:46:13:14

No Oliver gone above that. But just to answer your first question, obviously, the UXO survey, the, the, um, work that was done previously, there was a time limit on those. That's standard. You know, the

contractor that does that work can only guarantee them for a certain period of time, because they obviously can't guarantee that there hasn't been changes to the marine environment since that survey was done. So that's why you say, you know, you get a certificate that says your area is clear, but it only has a time limit on it, which is fairly standard, which is obviously why as part of the marine licence application, the first stage of that would be to go and survey the site to reconfirm.

00:46:13:16 - 00:46:30:09

But as has been indicated, we don't expect that that will show any difference from what we've previously collected. It's just the nature of the, um, the companies that do that work, they can't guarantee having done work in 2024, that it's going to be the same in 2027. You have to pay for them to go and do it again. And that's fairly standard as Mr. Hutchinson has said.

00:46:32:26 - 00:46:33:15

Thank you.

00:46:36:22 - 00:47:04:00

Just thinking about the SSC one BM 29, we note your response in clarifying the issue. But does the amendment of the 590 meter figure to 985m have any bearing on the assessed significance of effects, including cumulative effects?

00:47:08:04 - 00:47:39:04

Apology on behalf of the applicant. Um, the change of 592 um 985 um doesn't alter our findings in terms of impacts on on fish and shellfish receptors. Um, in the context of um, populations in the, in the wider Irish Sea, um, and in the context of the likely number of high order detonations, um, that would occur, um, that that is not viewed by us as a, as a significant change. And so our, our findings remain the same.

00:47:50:08 - 00:48:00:06

So it may. So it may make a difference. But you don't view it as significance or a difference that would change any assessment you've already made.

00:48:00:21 - 00:48:17:07

On behalf of the applicant. At the level of the receptors, the fish and shellfish receptors, um, their populations within the Irish Sea, um, no, we don't view that change, um, as, um, sufficient to, um, change the significance that we set out in the EEZ originally.

00:48:18:06 - 00:48:25:06

And perhaps you can make that clear, the reasoning for that in your submissions after this hearing. Yeah.

00:48:26:02 - 00:48:28:24

Thank you. On behalf of the applicant. Yes, we can we can set that up.

00:48:29:11 - 00:48:29:26

Thanks.

00:48:32:26 - 00:48:35:24

Do my panel colleagues have any comments? So much to make.

00:48:37:17 - 00:48:41:25

So let's roll through into.

00:48:43:28 - 00:48:51:16

Agenda item five. So agenda item five. The first part

00:48:53:05 - 00:49:13:12

to further our understanding of how UXO impacts have been evaluated and assessed. At this stage, I think we've done quite a lot of that already. Um, particularly, uh, the post consent issues and the reason your reasoning for doing things later on.

00:49:16:22 - 00:49:50:22

But just got 1 or 2 things I want to ask in relation to the applicants. Marine mammal technical note one where you're revising chapter 11 Relating to Underwater Noise, published at revised at D3, and you're expanding on responses provided following written representations from Natural Resources Wales concerning cumulative and in combination effects in relation to Welsh designated sites and mobile species.

00:49:51:24 - 00:49:54:13

And I wondered.

00:49:58:03 - 00:50:07:07

What your main conclusions are and how they result, how they differ as a result of the changes. And.

00:50:09:27 - 00:50:18:23

Presumably the relevant environmental statement chapters will be revised to take account of your technical notes. Is that the case?

00:50:21:27 - 00:50:57:03

Anna Sweeney, on behalf of the applicant? Um, yes. The notes made within um responses to the written reps from Natural Resources Wales and Natural England and the technical note will be updated into the chapter, hopefully a Deadline for potentially at deadline five. Um. We are discussing with Natural Resource Wales our responses to their questions prior to deadline for to get a level of agreement on our findings with the updated assessment. Um, prior to any further submission of updates to the chapter to make sure we are aligned.

00:50:57:26 - 00:51:33:09

Um, the conclusions themselves have not changed overall. Um, with the concerns raised in some of the written representatives regarding the use of noise abatement systems and the new policy and guidance that has been issued. Um, the applicant has taken the stance, as previously discussed, if we are operating at the very top end of our Rochdale envelope, um, with the maximum strike rate and hammer energy that a noise abatement system would be required to ensure efficient mitigation for TTS and disturbance.

00:51:33:29 - 00:51:38:15

Um, and that conclusion will be updated through the chapter as well.

00:51:40:26 - 00:51:47:06

So are you hoping to get something at deadline for on this?

00:51:51:08 - 00:52:23:12

And as we, on behalf of the applicant, um, to ensure that the cross updates from the chapter and all the supporting appendices and all supporting plans such as the Underwater Sound Management Strategy and Triple MP are done efficiently and correctly with updates and agreements from NRU. Um, we are hoping that that would be able to be done by deadline for. But there is the potential it may slip to deadline five um, depending on what kind of discussion that we have with Natural Resource Wales.

00:52:23:24 - 00:52:27:16

Um, and if they're happy with what has currently been submitted at deadline three.

00:52:27:26 - 00:52:49:14

Um, what will assist us is a response that's as full as you can make it at deadline for, even if you have to signpost us in that to issues which you haven't been able to resolve yet, that will help us a great deal as as we're getting a fair way through the examination period now. So thank you.

00:52:57:04 - 00:53:28:27

Secondly, we know that a marine mammal UXO assessment has been provided as an appendix to the environmental statement, chapter 11, which says that a separate consent will be sought for uq's activities and that findings of information only. We've discussed the rationale behind that post consent, but it occurs to us that the new differ approaches may have a bearing on the assessments.

00:53:29:14 - 00:53:36:08

Um, is there anything further you want to put to us about how that might affect your assessments.

00:53:39:17 - 00:54:06:06

Um. Anna, sweetie, on behalf of the applicant. The approach to the assessment won't alter at all. The emphasis of the mitigation and the hierarchy of clearance will be adjusted within the licence application. And the sporting triple MP and the draft Triple MP, which will be submitted alongside the DCO application. Um, but the assessment approach and expected findings are not expected to change at this time.

00:54:07:17 - 00:54:24:24

Thank you. Again, we're, uh, nurturing and in attendance. We would ask it to clarify its position. And I'm assuming that Natural England, if it wishes, will make submissions at deadline for also.

00:54:27:06 - 00:55:25:01

Robin Hutchison for the applicant. While we're touching on the point of the the new guidance and policy in the context of marine mammals. And the applicant, as I think has been identified, would clarify that our position on the appropriateness of our proposed approach to post consent approval, as

we have explained in relation to Fish, applies equally in relation to marine mammals. But just for the record, and also, while we're on the specific topic of the way in which guidance and policy might influence what we had intended to do, and I think we were quite reassured with, um, 1 or 2 of the statements in the Defra policy statement about our proposed approach to securing the mitigation, in particular, um, under next steps and the heading of reducing noise from offshore wind.

00:55:25:13 - 00:56:03:29

Paragraph 1234567 down. Um, might be helpful if there was some referencing here, but, um, anyway, uh, begins, um, applicants can propose the use of any noise reduction method, primary, secretary, secondary or a combination of methods. And that's been explained by McSweeney, um, in their marine license application and or their post consent requirement, discharge request. And we feel that that neatly captures what we are intending for. Um, so marine licence application for matters that are sought to be authorized in the DCO post consent requirement.

00:56:04:01 - 00:56:05:00

Discharge request.

00:56:08:15 - 00:56:14:22

Thanks. Um, I'm just thinking about now.

00:56:18:03 - 00:56:22:21

Again, views hopefully are going to be sought from MMO.

00:56:25:20 - 00:56:51:26

Um, What's your. The rules stipulate that underwater explosions and construction should be achieved through low noise methods. But. So there's a presumption to low noise methods. But I think from what we've heard, that would be like saying that's something you would be looking to achieve anyway if you can. Is that right?

00:56:52:04 - 00:57:06:06

Richard Quest, on behalf of the applicant. Yes. That's correct. And this is outlined in our MP. That low noise would be our preference for any other clearance activities that we may need to undertake.

00:57:07:04 - 00:57:40:15

Thank you again to Natural England and the MMO. Um, the memos summary deadline three says that the MMO notes that a Defra policy paper has been published in relation to underwater noise, which Natural England or the MMO will provide into to examination. So my only comment there for those bodies is if they could confirm which of them would provide that information, and that presumably would be a deadline for.

00:57:41:07 - 00:57:43:02

Again, it's not immediately obvious.

00:57:46:25 - 00:58:16:24

Katherine Nolan, on behalf of the applicant, I think our understanding is that those are just the policy documents that have been announced by the relevant minister. Um, I think if it assists, the applicant

could of course, lodge those at deadline for because they are just documents that are available on the government website. Um, if that and then if the MMO or Natural England for some reason consider its different documentation, then they can of course come in at deadline for to to say that.

00:58:17:24 - 00:58:23:26

We think it's we think it is but we don't know it is. It's that's the reason we're asking the question of the organisations.

00:58:26:07 - 00:58:58:29

Oliver got on that plane just to assist you. Um, paragraph 37 of the LMP is the one that sets out our mitigation hierarchy, um, which clearly identifies, um, low order clearance as a preference above high order. Um, but just to give additional comfort, there are additional steps prior to that which we would include, um, for example, avoiding UXO where we can, um, microsites around UXO if possible. Um, and then if the Up.so is structurally sound, actually removing it, um, to somewhere else within the site, and only then would the lower order clearance be considered.

00:58:59:03 - 00:59:07:09

Um, so that's paragraph 37 of the of the draft triple EMP, which sets out very clearly the, um, preference for the different mitigation measures.

00:59:09:01 - 00:59:36:19

Just thank you. Just finally, I think probably on this point is there are various, um, published papers that we've been referring to. And if you can. When you're making submissions, make it clear which one you're referring to. And, um, for what reason that you refer to it. Um, just excuse me a minute.

00:59:45:03 - 01:00:15:17

It's one of the questions as to whether we or everybody knows they're there. It's just they're not, I think probably not, because I think in the same way that the NPS is, are a document that everybody knows is an essential part of the document. Yeah. The general rule is government publications. You don't have to actually incorporate. So as long as long as it's quite clear what you're referring to. That's the problem is when you get, as we did a couple of weeks, last couple of weeks, the flurry of government announcements, there can occasionally be

01:00:17:07 - 01:00:25:13

misunderstandings as to which document you're actually referring to. Um, which means that something goes awry. It's more that issue rather than.

01:00:26:13 - 01:00:58:21

Yeah. Kathryn Nolan, on behalf of the applicant, I think we can certainly, um, as part of the summary coming after this hearing, we can just set out, I think, probably a maybe a timeline of what we understood to have happened on the 21st of January, the 29th of January and the documents referred to. Um, and we'll just kind of hyperlink to the government website of where those are. So we'll just set out our understanding of what was publicized when, and then we'll go into the conclusions we've discussed today of how it doesn't affect our assessments, but we will set out that background at the outset.

01:00:59:27 - 01:01:27:06

Because there's been a fair flurry of things. And it's the extent to which a statement is policy, really, because obviously, as Mr. Jackson has said, if it's an NPS, it's obviously a policy and that's it. But yes, if you can do that, that'll that'll be very helpful because it's just unpicking which which is which, and to what extent the state of knowledge influences your.

01:01:29:09 - 01:01:40:22

Intention to apply post consent for certain things, and the extent to which any of these papers and announcements affects your decision to do that.

01:01:42:15 - 01:01:44:06

That's what we're seeking to understand.

01:01:44:21 - 01:02:21:22

Yeah. Robin Hutchinson for the applicant that that's understood. Um, I mean, the crux of it, from our perspective is that the this collection of documentation makes clear that the SNC, BS, Natural and Natural GNC are, um, looking to, um, a lower the threshold at which noise abatement is actually required. That that's the crux of it. So there is a firmer policy push, and we expect that to be reflected in all their submissions on the documents that we have on licenses we subsequently submit.

01:02:21:24 - 01:03:03:10

So in order to secure their support, we will need to go further than perhaps guidance had previously expressly said in terms of those techniques. But it's exactly as we had anticipated. So the project is is teed up ready for that. But that's the kind of crux of it. So it's it is, as has correctly been pointed out, still still guidance. You know, this isn't regulation. It's not formally adopted NPS policy. So it is of a, um, less formal status, but equally it is appropriate to reference it in the outline documents because we will need to pay close attention to it in the, the, the um, detailed plans which will be provided later.

01:03:05:10 - 01:03:14:21

Realizations, court of appeal decisions in the last week, which were on this very point about preparations for the Town and Country Planning Act, but it was on a similar point that you've just made.

01:03:17:03 - 01:03:48:24

Anything else my panel colleagues want to say at this point? No thank you. So we'll just move on to the second part of agenda item five about thresholds for behavioral disturbance. Again, there's the written ministerial statement of the 29th of January, and in particular the reference to consulting on an offshore wind piling noise limits at bullet point three of the written ministerial statements.

01:03:52:03 - 01:04:09:09

And I wondered if you want to make any submissions at this point on how that's been addressed. You may well already have it in your sights. I'm just trying to seek a handle on where we are with this.

01:04:12:12 - 01:04:43:15

Hannah Sweeney, on behalf of the applicant and the potential noise limit that is being proposed by NBC's um has not yet been confirmed. There's a pilot study that's due to start in spring this year and

run through to 2026, and potentially a little bit later, depending on the number of projects that take part. Uh, a noise limit level has been proposed and was discussed in June last year, um, at their update meeting.

01:04:43:29 - 01:05:29:02

Uh, that's the limit that they're going trying to verify through these pilot studies. Um, the actual implication of a noise limit is not expected to take place until between 2026 and 2028. Um, measures have out been outlined that they expect will be needed to meet those measures. And I have discussed these, um, with the applicant, um, and the engineering team, what that might require from the project. Um, in regards to changes in hammer profile to the use of noise abatement, um, and what they may have to consider in their design envelope, their procurement timelines to be able to achieve that.

01:05:29:18 - 01:06:14:07

Um, and discussion would be ongoing post concern with the regulators to make sure we're up to date with any new information that's coming from these pilot studies and, and any updates that they would be expecting on the implementation of the threshold and what that might mean for the project itself. Um, the measures are incorporated or can be incorporated once they're refined through the underwater sound management strategy and implemented through the LMP, uh, post consent, which again, would have to be agreed with the MMO and through consultation, um, and they would be used to secure the methods for an EPs licence, which would also have to be issued before we could go into polling.

01:06:15:22 - 01:06:30:13

So some of these, um, these things are actually some way down the line. So you're just trying to track what's actually going to play out on that as time goes into next year, for instance.

01:06:30:27 - 01:07:01:16

Anna Sweeney, on behalf of the applicant, yes, their studies into the threshold limit and what might be used in UK waters, um, has been under discussion and been in research for the last couple of years. Um paper was published last year, um, on behalf of Defra outlining the initial findings. Um which is now going into the the pilot project stage. Um, it's slightly different than our counterparts in Europe because it considers more species in UK waters than than they have to look at. It's predominantly harbour porpoise.

01:07:01:22 - 01:07:18:00

So there are some variations from what contractors would be used to in wider Europe, um, such as Germany or the Netherlands. Uh, so we're waiting on the final implementation of what that level actually is, before projects can confirm what requirements they would need in place to obtain it.

01:07:20:05 - 01:07:20:21

Thank you.

01:07:21:20 - 01:07:53:23

Robin Hutchison for the applicant. Yes, it might assist the panel if we direct you to the, um, paragraphs of the death or policy statement, which make this clear. So it's the it's the the death of policy paper reducing marine noise of 21st January. And it's under the heading Next steps subheading

reducing noise from offshore wind. And subparagraph three there starts. The UK government intends to consult on an offshore wind piling noise limit.

01:07:54:08 - 01:08:30:24

And then the pilot program that Mrs. Sweeney refers to is discussed in the next, the next paragraphs. And it is very much these statements which are driving our proposed approach to not attempt to settle on a precise limit, as at today's date, on when particular techniques are not required because the work is ongoing. I mean, importantly, it's to be consulted upon. So it really would be pre-judging things to try and settle that that today, which is why we were sort of confident to to recommend to the panel the approach we've taken.

01:08:31:28 - 01:08:32:15

Thank you.

01:08:35:25 - 01:08:52:16

Again, if uh, Mo and any were here, we would ask them for their views also. And we very much hope that they will present these to us at deadline for, uh, along with all the other things that we're discussing.

01:08:54:22 - 01:09:06:25

We note your draft outline, marine mammal mitigation protocol. Uh, deadline two obviously covers UXO and piling and that the MMO

01:09:08:14 - 01:09:42:01

In its summary deadline, says it is reviewing this and will provide comments as soon as possible. So to the MMO, we'd like to know when as soon as possible is. And we're hoping it's deadline for. And we would have also asked them if there were any emerging findings that might assist us. So I'm not sure where your discussions are with them on that topic and whether there's anything you want to say it, as it were, in response, had they made any submissions on that topic?

01:09:43:24 - 01:09:57:28

Richard West for the applicant. We haven't had any further conversations with the MMO regarding the new guidance yet, but we will certainly add it to the agenda for the next meeting.

01:09:58:21 - 01:09:59:09

Thank you.

01:10:00:03 - 01:10:36:27

Robin Hutchinson for the applicant. We do appreciate the challenge of requesting information from essential. Who who aren't present. Um, I mean, the applicant is, um, you know, respectful of their workload and so isn't commenting on, um, you know, resource allocation, um, in any way. But just to try and, um, help the panel through the, the, um, the situation we find ourselves in, I mean, the applicant's approach is to support, uh, its proposed strategies by reference to publicly available guidance and documents.

01:10:37:05 - 01:11:09:22

So we're trying to demonstrate that there is wider policy support. And we are in line with, um, guidance and policy such as it is, even if the specific regulators aren't able to confirm that. Hopefully the evidence is before the panel that what we are proposing is supported by policy, by policy generally and absent comments, um, that we've misunderstood things or our approach isn't appropriate. The applicant's position would be there. You know, there's no evidence before the panel that we haven't got it right.

01:11:10:00 - 01:11:11:15

No news is good news. Maybe.

01:11:17:05 - 01:11:48:15

Thanks. Um, I'm moving on to look at the draft underwater sound management strategy, which we've already discussed in some ways. Um, where the natural resources whales early on comments in prior, they disagreed that there were no thresholds for behavioral disturbance. And you've suggested that there's no standard, but some of the thresholds that they suggest you have applied.

01:11:51:05 - 01:11:58:16

They natural resources whales made a submission at deadline 3309 for

01:12:00:06 - 01:12:20:10

suggesting the use of 160dB SPL, RMS level B harassment threshold. Um, and I was wanting to know if that threshold were to be applied. How would that change the conclusions of your disturbance assessment?

01:12:21:07 - 01:12:52:28

Robin Hutchison for the applicant. And, um, I want attempt to navigate the complexities of of TTS and disturbance. I'll hand over to my, my colleague, Miss Sweeney, but just. Yes. Yes, quite. Um, just for context, our understanding is that the comments are about the assessment methodology and there's a range of different ways in which it can be assessed, but do not affect the outcomes and conclusions of that assessment. So it's about the the workings, not the answer.

01:12:53:09 - 01:13:09:17

Yeah. And I think there is agreement on the answer. It's just one of the potential ways of working out what that answer is. So it is quite a tricky techie subject, but I think in terms of what's before the panel, the, the answer in terms of the level of significance in the outcome of the assessment. Yes, because it's unaffected.

01:13:09:21 - 01:13:15:04

The lack of agreement, as I understand it, is on how you it's methodology, how you do your workings, how.

01:13:15:06 - 01:13:20:28

You reach the answer rather than what the answer is, which I think is an important point. But at this point I'll hand over to Miss Sweeney.

01:13:22:20 - 01:14:10:04

Anna Sweeney, on behalf of the applicant. Um, yes. Uh, Natural Resource Wales, um, are not happy about the fact that we represented potential disturbance based on a temporary threshold shift RTS from our underwater noise modelling, and they have presented a number of other options, the majority of which we did include within our assessments, um, that could be used in preference to using the RTS, uh, thresholds that were presented. And one of those was the 160 DB, um SPL level um, or the level B harassment threshold from um the an FMS guidance um as they say in their own paper.

01:14:10:06 - 01:14:44:25

Sinclair. Um there are pluses and minuses to all the techniques that can be used for assessments for disturbance. Um, there are certain limitations to each of these types of analysis that, that you're undertaking. Um, and through our review of using a level B harassment, it was the one we considered as the least substantial, um, which why it wasn't presented within our assessment, but we did use the dose response curves, which they themselves heavily recommend.

01:14:45:06 - 01:15:13:24

Um, the population modeling and literature based reviews and the effective disturbance ranges recommended by Natural England and the JNC to get an overall picture. And the worst case of all those different types of assessment was carried through, which is why we don't feel that it actually would affect our significance of effect, because we've carried through the worst case into our conclusions. Out of all the methods that we've considered.

01:15:15:25 - 01:15:17:18

Thank you. That's great.

01:15:18:09 - 01:15:25:14

So lots of different ways of working it out. Yeah. We've looked at the worst way of working it out. Drawing our conclusions on that basis.

01:15:27:01 - 01:15:54:15

Mhm. Because we note, um that again um MMO are likely to discuss this and provide updates later. So we're looking forward to see what comes out there. But obviously the more that you're able to do between you before deadline for the better. Really. Um.

01:16:00:14 - 01:16:02:20

Your response to Mo.

01:16:06:08 - 01:16:37:17

Um, earlier on where we're talking about there's no agreed thresholds for behavioral responses. Uh, you you say that RTS is relevant. Temporary threshold shift is relevant to UXO clearance, but the 26 kilometer of active deterrence radius doesn't apply. And that the final Marine Mammal mitigation protocol for UXO clearance would be submitted post consents.

01:16:38:14 - 01:16:51:03

Um, so I think that's another thing where I think the MMO are discussing that presumably with you or with with other parties as to whether that's to what degree that's the case.

01:16:54:20 - 01:17:28:17

Anna sweetie, on behalf of the applicant, um, this would be the approach for the assessment to support the marine licence application for UXO. Um, and we are always welcome to discuss that approach with the MMO, whether that's during this process or post consent. Once the application for the UXO clearance marine licence is underway, um, the applicant in our assessment didn't apply the 26 kilometre EDR to all other species. We only applied it to harbour porpoise, which is the species it was designated for and designed for.

01:17:28:23 - 01:17:40:04

It was seen as over precautionary for um dolphins, whales and seals. Um, and that is the approach that we would need to discuss further with the MMO at the time of the marine licence application.

01:17:40:25 - 01:17:42:24

Um.

01:17:47:17 - 01:18:18:25

Because the obviously the MMO maintains that they say it will be a suitable Precautionary options. So I suppose it's a case of later on when you're applying for the licence. That may be something that you'll need to try and resolve before you get that far. Even if you can't resolve it at this stage and you've given you've given reasons why, obviously. So you'll presumably continue to argue those as necessary. Um.

01:18:19:13 - 01:18:23:27

Natural England's risk in issues logs

01:18:25:15 - 01:18:51:05

say that RTS is insufficiently precautionary, but they've graded as a no further comment. Um, so I'm taking it that between you and them, that matter is effectively resolved or as far as it reasonably can be. Is that a correct assessment of the position? Because Natural England are not here. So

01:18:52:27 - 01:18:54:10

See your understanding of that?

01:18:54:22 - 01:19:20:20

Yes. I think because we did present a suite of different measures to assess disturbance, that they just acknowledged that in future they would prefer us not to use or present TTS in that manner because there were more appropriate measures, and that we have carried through the other measures that they would recommend into the assessment. And that's why it's it's been great at this time, because the conversation has been had regarding the inclusion in the assessment itself.

01:19:21:11 - 01:19:22:02

Thank you.

01:19:23:29 - 01:19:59:19

You're the applicant's marine mammal. Technical note while we note this, updates the marine mammal assessment in chapter 11 of the environmental statement in respect of underwater underwater noise.

Um, so just a general observation question about updates on this and other updates. Are these updates correct? Or will they have to change again because it changes to the Morgan and Moana projects? For instance, other benthic issues and other issues.

01:19:59:21 - 01:20:12:02

There are general changes that are being made on other projects. So I wondered if the updates will need a change to the changes it were, or whether you're in sync with those other projects.

01:20:13:01 - 01:20:16:18

Anna Sweeney on behalf of the applicant, um, I can't comment for.

01:20:16:20 - 01:20:18:10

Sorry. Can you speak a bit louder?

01:20:18:24 - 01:20:52:27

Anna Sweeney, on behalf of the applicant, I can't comment for other chapters, um, specifically, but for marine mammals. Um, we carried through numbers, um, of animals potentially disturbed for the cumulative effects assessment that was undertaken. Um, they were actually brought through from their pier. Um, and the numbers generally were higher than were presented within their er. So we feel that a conservative approach has been taken that higher numbers have been included in the assessment that are currently being presented.

01:20:53:01 - 01:21:03:18

So we don't feel at this point, unless requested, that there would need to be any further updates to our assessment calculations, then we've already undertaken within the technical notes.

01:21:04:26 - 01:21:39:26

Fine, because if we from our viewpoint, if there are further changes to be made, it's going to help us greatly. If all the updates happen at once and preferably at deadline for um, and I would say definitely our deadline for for HRA issues, because that's linked in to the timetable for the release being published, which is not long after that. Again, if MMO and Natural England were here,

01:21:41:25 - 01:21:53:15

we would want to, um, have their observations and in the absence of an agreed method and following a review of the deadline, three responses

01:21:55:09 - 01:22:01:27

to those bodies. It seems unclear what else you should be doing. Um, perhaps you may want to offer some

01:22:03:23 - 01:22:18:09

observations on on on that statement. Um, from my viewpoint, it seems like it's not obvious what you need to do if you need to do something. What that is, and perhaps that'll come out at the next deadline in more detail.

01:22:21:19 - 01:22:58:07

Uh, Robin Hutchison for the applicant. Um, we are aware that it's not going to be possible to keep everybody happy all the time on everything. Uh, the applicant is also mindful that, um, we need to be, um, as far as possible, um, demonstrating to the panel how a matter is, has been appropriately assessed, appropriate mitigation identified and secured in the DCO, and in a way that gives confidence that these matters are appropriately addressed.

01:22:58:18 - 01:23:32:05

It might be the case that every preference stated, especially when we are not hearing necessarily the reasons for it, but every preference that's been expressed in documentation. We can't update everything to take account of everything that has been stated in response to a written questions. And and it's not appropriate that we do so because we're not looking necessarily to, um, achieve a council of perfection whereby every issue is closed out.

01:23:32:27 - 01:24:04:04

What we're looking to do is present a robust, um, application that appropriately takes account of guidance, identifies all the significant effects or adverse effects. Identifies mitigation. And locks it down in precise requirements and conditions, and puts consent plans as necessary. So we are taking a judgment call on some of the responses which which we may need to leave as um as, as as not addressed.

01:24:04:22 - 01:24:18:08

Um, uh, in the, the, the, the, at the end of examination. But we'll give clear reasons as to anything that is unaddressed as to why we feel that that's the appropriate balance for this particular application.

01:24:19:02 - 01:24:25:14

Mhm. Thank you. Do my colleagues have any observations.

01:24:28:02 - 01:24:42:27

We just thinking as to when we were going to give this down 5 to 1 when we were going to stop for lunch. Um, it's whether we've been chatting about um, it's whether we do finish off item five, which I think take us a little bit after, after 1:00 or we put we stop now.

01:24:44:23 - 01:24:47:11

If everybody's happy to finish, we'll do item five and then stop.

01:24:47:15 - 01:24:51:15

And then I don't have a lot more to cover. No.

01:24:52:09 - 01:24:56:27

There's not a lot more. It's just. Yeah, there's. It'll take us a few minutes past one. Inevitably.

01:25:00:24 - 01:25:15:12

Thank you, Mr. Jackson. So we'll carry on with item five. Um, the next bit being relating to cumulative effects in relation to gas storage, CCS and other offshore wind projects.

01:25:17:17 - 01:25:18:15

And.

01:25:20:27 - 01:25:36:20

Gas storage and CCS projects were screened out due to uncertain timelines. Your report on interrelationships with other infrastructure projects provides some information, but I've got three brief questions. Really.

01:25:38:27 - 01:25:55:07

Firstly, Consequently, due to the lack of information about gas and CCS projects, for instance status of consenting licenses and decommissioning dates, do you have confidence that the cumulative effects have been properly assessed?

01:25:56:28 - 01:25:58:09

Secondly.

01:26:00:25 - 01:26:22:19

Does this lack of information also apply to other windfarm projects? And then really? Thirdly, is this therefore an underestimate of cumulative effects rather than a worst case approach? And now we're further down the line. Can you actually make assumptions which you perhaps couldn't have made earlier?

01:26:26:26 - 01:26:50:19

Thank you, Robin Hutchison, for the for the applicant. Um, the, the applicant starting point is that in preparing the interrelationships report and the approach to the US and get it's all us. Actually, I think we've used the terminology gas storage. Um, as a as an umbrella to.

01:26:51:20 - 01:26:57:02

See carbon capture is is a gas storage. It's just CO2 rather. MH four.

01:26:57:23 - 01:27:27:23

Mhm. 100%. Yes. We were thinking the same thing, although I'm not sure I have such a handle on the chemical compositions as the examining authority, but um, uh, the, the applicant's position is that um, having, you know, we've given thought to, uh, the potential for interactions and, you know, we are absent, um, materials on many of these projects. So Morecambe net zero.

01:27:27:25 - 01:28:10:21

We're not at the stage of having a EIA scoping. Even so, it falls off the bottom of the, uh, tier three in terms of the planning Inspectorate's It's cumulative guidance on projects to consider. Um, but not notwithstanding that we've we've given thought to, uh, and perhaps my colleague miss Reed will come in and, uh, explain this from a technical perspective, but we've given some thought to the potential for interaction between the nature of these projects, which are obviously largely, you know, pipeline construction and deep geological storage, perhaps some, um, limited piling should new platforms be required.

01:28:10:25 - 01:28:31:26

But we've given some sort of practical thought to what are the likely implications of these types of projects to make sure that we're not, you know, missing something obvious and exposing ourselves to a question from the panel of this nature where we didn't have a sensible answer. So we have given some some thought to it, and perhaps I can hand over to Dr. Misery to to elaborate.

01:28:33:23 - 01:29:10:00

Sarah Reed for the applicant. So yeah, you're correct in that in the application we screened out all, um, carbon capture gas storage projects. Um, I think yeah. As as Robin said, we have been through since application has been submitted and looked at the status of, um, potential projects within the CEA screening area. So that does include the Morecambe Net Zero project, which there is no indication that there would be an overlap, an overlap there.

01:29:10:07 - 01:29:29:24

We've also looked at the submissions for the high net project to the to the south of the south of the array site. Um, there is more information there in terms of their marine licence application involving piling for for eight piles as as Robin highlighted

01:29:31:21 - 01:30:07:14

the noise. Yeah. It's a short that duration of activities and the activities that are within that license doesn't give us any reason to think that our cumulative assessment isn't isn't still robust. There's still no indication that there would be an overlap in any of those time scales. And our CEA for marine mammals incorporates a large number of activities across the board that could be conducting at the same time as the project. And we also assess the conducted at the same time with the project piling, which is our worst case noise impact.

01:30:07:16 - 01:30:33:05

So I think in looking at what, what could be happening around us and the number of projects and activities that we've included in our CEA already, we don't feel as though the assessment results would be would be any different or could be updated. And it's for those projects coming along after us that would have the information to further along the cumulative assessments.

01:30:37:08 - 01:30:41:04

To answer the question directly, we feel the cumulative assessment is robust.

01:30:42:03 - 01:31:04:16

Obviously, we're going to have a bit of a discussion about this tomorrow in a different context. So there might be something that kind of comes out of that. But you just need to be aware of and if necessary, come back, revisit. But if, if if we get something unexpected tomorrow then as far as you're concerned then we'll have we'll have we'll, we'll try to remember to collectively to remember to mention it for a later submission.

01:31:05:10 - 01:31:41:25

Olive garden on behalf of the applicant. Um, entirely correct. And of course, there is another discussion around coordination between ourselves and the Morecambe net zero and other projects which it also feeds into this. Um, so you know where where there is simultaneous marine operations, for example, a number of those parties have already indicated, um, their desire to enter into

agreements with themselves to ensure that certain activities aren't happening at the same time for health and safety reasons. So that can be picked up tomorrow. But again, all that builds into our conclusion, which is that our assessment as it's been done, is robust because it's considered all of the projects that we know that are going to be happening.

01:31:41:27 - 01:31:51:27

And it's in fact, if anything, over precautionary because we've assumed that all of the offshore wind farms are going to be doing all of their noisy activities at the same time as us, which in reality is a very highly unlikely situation.

01:31:53:04 - 01:31:53:21

Sarah Reed.

01:31:55:06 - 01:31:56:02

Ladies first.

01:31:56:04 - 01:32:33:24

Sarah Reed for the applicant. I would also just add that in our deadline three submission and for the updated version of the Marine Mammal technical note, and it does link in to some comments on the cumulative assessment from Natural Resource Wales in looking at oil and gas decommissioning and other wind farm projects. Decommissioning. So we have added some information as far as we've got available to us. In looking at the, I guess, the level of noise Always associated with those activities and provided more information.

01:32:33:26 - 01:32:38:24

And that hasn't altered our overall conclusions in our CEA. When looking at

01:32:40:23 - 01:32:59:07

oil and gas and other offshore wind farm projects, decommissioning activities as well. Again, these are activities that we don't have certainty of timescales and overlap with our our construction, but we have provided more information to provide that comfort on the robustness of our CEA.

01:33:01:05 - 01:33:35:18

It's Robin Hutchison for the applicant. It's a point that applies here and perhaps more generally, um, Mr. Gardner's point that, um, the worst case for the cumulative assessment has assumed all the wind farms in the area all piling all at once, for example, which is extremely precautionary. And I think what that does do is it gives us confidence that the, the margin for error, um, A in terms of adding in small changes to new projects that might arise will not affect the overall outcome.

01:33:35:20 - 01:34:08:23

You know, we're talking about we have a very large cumulative assumed worst case already. So details about, you know, exact numbers of piles or perhaps an additional platform that maybe wasn't factored in would be within the margin for error at the edges of that cumulative assessment and wouldn't require so maybe new information, but the kind of precaution and scale of that cumulative envelope that's already been assessed, I think, will give us all quite a lot of confidence that, um, it would need to be a fairly substantial new piece of information to have any bearing on that.

01:34:08:25 - 01:34:27:19

So we can be confident that small changes don't require wholesale updates to documents, and would just be within the margin of error in that cumulative assessment already. We should perhaps just keep that in mind when considering future changes that would need to be a whopper in order to require that cumulative assessment to be undermined and updated.

01:34:28:17 - 01:34:29:16

Yeah. Thank you.

01:34:33:27 - 01:35:08:29

Do my fellow colleagues have any further comments here? No. Just to wrap up, item five. This is just the last bullet point, really just is, um, sort of a wrap up item in relation to guidelines and best practice, which we've spoken about quite a bit. Um, in relation to the various statements, policy papers and various other things, guidances that have come out. Um, there's draft SNC guidance I think is on the, on the, on the list for um, appearing at some point.

01:35:09:22 - 01:35:21:21

Um, and offshore wind environmental standards that sort of all those, those, those um, those things.

01:35:23:06 - 01:35:45:00

And it's the case it's a bit like the projects you've been talking about. The timescales are not certain, but um, just really to wrap up. Do you think that any new guidance or best practice that we currently know about will affect the findings of any assessments, or the scope and adequacy of any mitigation that you currently propose?

01:35:48:28 - 01:36:19:08

Robin Hutchison for the applicant, um, speaking on behalf of all the team, when I can confidently say no, um, we think that the the two stage approach to many of our mitigation solutions, where the the detail of the plan is, is approved in due course, allows for the development of best practice to continue in parallel. So we think that, um, the guidance that we're aware of doesn't undermine or change any of our conclusions or require anything new.

01:36:19:22 - 01:36:33:03

And similarly, the approach to conditions and requirements that we've proposed in many cases allows for the final detail of the project to reflect best practice. As it stands at the time when we're ready to put a spade in the ground.

01:36:35:28 - 01:36:46:12

Yes, and that will apply particularly with your licence application later, I suppose. So it's something that you've got to be mindful of anyways that the things may may change.

01:36:46:25 - 01:36:49:07

But for UXO. Exactly right I agree.

01:36:50:04 - 01:37:17:10

And uh, again, um, Mo mentions that it needs further information regarding standardisation and monitoring and adhering to best practice. That's something we discussed earlier. And again, um, I'd hope that the MMO will provide us with an answer as to what further information they require and why they require it. Um, so, um.

01:37:17:12 - 01:37:32:01

And also, if I may, why they require it now and it isn't a point of detail on standardization of monitoring that is best dealt with in the approval of the final monitoring plan, rather than at this early outline stage.

01:37:32:13 - 01:37:33:00

Mhm.

01:37:33:02 - 01:37:40:02

Yeah. Because obviously we understand the wider picture. They want to get things standardized. But it's to what to what extent you can

01:37:41:22 - 01:37:47:27

help them with that. I suppose depending on the timescales they've got and what it is they, they propose.

01:37:50:00 - 01:37:54:16

Do my colleagues have anything they want to ask about this item?

01:37:57:04 - 01:38:16:07

No. I think so. That being the case, I think this is a good time to have a break for lunch. Um, it's now eight minutes past. Um, are people happy to come back at 2:05? Just a little less than an hour. So just to get that bit. So we'll adjourn now until, uh, 1405. I'll see you then.