



Planning Inspectorate  
Arolygiaeth Gynllunio

## Hearing Transcript

<b>Project:</b>	Morecambe Offshore Windfarm Generation Assets
<b>Hearing:</b>	Issue Specific Hearing 4 (ISH4) – Part 2
<b>Date:</b>	06 February 2025

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## **MOWGA\_ISH4\_6 FEB\_PT2**

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### **FULL TRANSCRIPT (with timecode)**

00:00:05:18 - 00:00:32:16

Uh. Welcome back. Um, before we start, is there anything I could just confirm that the, uh, recording has restarted and that the live streams continue, and I'm getting nods from the back. Thank you. Um, before we move on to the next item, just check if anything. Anything else up for anybody following the break. In which case, just bear with me. I managed to accidentally shut down a copy of the DCO, so I need to reopen.

00:00:34:05 - 00:01:08:15

Okay. All right, so we go in down to schedule six. The draft deemed marine licence. Um, if you could, if the applicant, as with previous, uh, items, could summarize the changes that have occurred since issue one and update us on negotiations with other parties, and then we can go through the various points that in particular the MMO have raised, um, as, as we go.

00:01:08:17 - 00:01:23:21

And um, some of them would have been questions for the MMO had they been here, but they're not. So we'll just have to work on, as we did earlier on this week with Natural England, and we'll be dropping them a letter fairly shortly thereafter. So anyway, the applicant please.

00:01:24:13 - 00:02:01:17

Yes. Catherine Nolan on behalf of the applicant. So changes that have been made to the draft Dean marine licence since issue specific hearing one the more substantive ones. Um, again, we have the updated parameter for the OSP height that's been added to table four. Uh, to align with the the project description. Chapter paragraph two, uh maintenance was amended to ensure that replenishment and replacement of cable and scour protection is included within maintenance activities, and that is both to align with the project description chapter.

00:02:01:19 - 00:02:40:02

And it was specifically in response to a request made by Natural England. Paragraph six coloring of structures, which we will, I think, come back to um, we made changes to that to to make that more precise. Although noted that Trinity House have requested we revert and there are separate discussions, and the applicant is taking away an action from Tuesday to ensure that the conditions, suitably precise, while still reflecting the parameters of the assessment. Uh, changes were made to paragraphs 15 and 16 on construction monitoring and post-construction monitoring.

00:02:40:04 - 00:03:20:20

These were relatively minor amendments to make sure that the suitable the correct control document was referred to. So I think, for example, it was um, there were references to the TMP when it should have been the the I PMP Paragraph 18, on completion of construction, was amended at the request of Trinity House, and that was to provide greater clarity as to the construction details that will be provided on completion. And then the final substantive change that was made in between the hearings was the inclusion of paragraph 21, which is on the deployment of new cable protection.

00:03:20:22 - 00:03:53:15

Now, this was added at the request of Natural England. And what it it effectively ensures that any new cable or scour protection can only be deployed up to ten years after operation has commenced. And that's also subject to the overarching caps on the volume to cable and scour that's earlier in the DML. And but it then allows for replenishment or maintenance at any time. So it's designed to capture new cable or scour protection.

00:03:53:27 - 00:04:11:21

And those are the substantive changes that have been made. Obviously, there are numerous points that have been raised, um, as part of the responses to the examining authorities question. So, uh, in your hands, but I suspect we'll likely probably go back to the beginning and maybe work through if that's the best approach.

00:04:11:24 - 00:04:21:21

That's what that was. That was my idea. I thought that's probably the easiest to deal with it. So I'm just getting up there, getting up the various wordings and go from there.

00:04:24:17 - 00:04:48:10

Okay. Okay. Right. Um, obviously going through going through condition two, um, the MMO have requested additional elements to deal with reporting of maintenance. Um, had it been here, I'd have asked the MMO why this was necessary. Uh, but notwithstanding that, can the applicant, uh, can ask the applicant for its response to this request, please?

00:04:48:21 - 00:05:00:16

Catherine Nolan, on behalf of the applicant, yes. The applicant has has no issue with these amendments in principle, and we'll pick these up in deadline for again. There might be minor tweaks to fit it in, but no issue in principle.

00:05:01:01 - 00:05:20:22

I was wondering whether there might be a, uh, overlap or an a disjointed or melding together with condition 15 as well, which deals with construction monitoring whether those two might be put together.

00:05:22:03 - 00:05:53:11

Catherine Nolan, on behalf of the applicant. Yes. The applicant had also thought that there was perhaps some overlap with condition four, which is just generally on on notifications more broadly. So I think there is an exercise just to see how the amendments to condition two sit in with conditions for and conditions 15 in particular. And it might be that it's best suited in one of those as opposed to

condition two. But the applicant is committed to put the principle behind that wording into the deemed marine license.

00:05:53:13 - 00:05:54:20

That's fine. Super. Thank you.

00:05:57:29 - 00:06:06:08

Uh, Kathryn Nolan, on behalf of the applicant, I should say it's condition 16. It's more post post construction because it's dealing with maintenance rather than construction.

00:06:06:20 - 00:06:42:26

Fine. Um, um, um, in going through, um, the conditions, asking for comments. But before coming to we looking at the draft statement of Common Ground with the MCA. Uh, we noted there were ongoing discussions between the applicant and the MCA on 12 of the conditions. Um, given we haven't got the MCA here today. I was wasn't going to go through them. Um, but could you give us update? Are they going to, as we go through them, are they you're going to come into these as well?

00:06:43:24 - 00:06:55:16

Kathryn Nolan, on behalf of the applicant. Um, we have picked up the various changes that the MCA have made to the DCO. And so those, I think, as a whole have will all be incorporated in at deadline for.

00:06:56:09 - 00:07:27:24

Thank you. Just just making sure we've got the more rather than just big don't appreciate there's more than one. Um the next one which I've got was the reference. We had a couple which you referred to a couple of minutes ago about the Trinity House and the painting of the lower structure. Um, we've covered that, so we don't need to. We can move on through that one quite quickly. Um, into condition seven, which is the chemicals, drilling and debris.

00:07:29:02 - 00:08:01:06

Um, you you'll have seen the memos requesting seven conditions. Seven one relating to chemicals and substances taken into the marine environment, as amended. Um, this not only seeks to amend the condition, but also puts an additional approval mechanism in. Um, I was I would have been asking the MMO to explain the reasoning for their condition and particularly, um. Whether there could be an approved list, which is essentially a deemed list, which you don't need to have approved frequently and often.

00:08:01:16 - 00:08:37:17

And secondly, why it would require ten weeks to approve something. Um, I have I don't know what a reasonable it ten weeks might be very reasonable. It might not be. Um, I won't be asking. I would be asking them for, um, their reasoning for that. Um, and there's also a I'll ask the applicant for comments on that in a minute. Um, there's also a question as to unless there's a phrase, unless otherwise agreed in writing, which the courts have said is not generally appropriate for this sort of thing.

00:08:37:20 - 00:08:47:03

So again, we'd be asking them for that. Um, do you have any comments on, on the on what the MMO have suggested.

00:08:47:23 - 00:09:21:25

Kathryn Nolan on on behalf of the applicant. Yet the applicant is considering this and we have had discussions with the MMO generally. We're anticipating the MMO has um, I don't want to say promise, but has has endeavoured to commit to a meeting before deadline for and this is one of the points to discuss with them. I think in principle the applicant is broadly happy with some of the the points being driven behind this condition, although it is noted that the other projects going through examination in the Irish Sea have not amended this condition and have not had similar feedbacks to the change there.

00:09:21:27 - 00:09:30:28

So there is just an exercise to ensure alignment. And as she, as the panel has noted, understanding a bit better from the MMO as to why this is considered necessary.

00:09:31:21 - 00:09:47:01

Yeah, if you're having this discussion, they'll see you'll see the letter when it comes out anyway. But we will be asking them why. Hey, it's why it's necessary. Full stop. And secondly, Um. Why ten weeks? Um.

00:09:49:06 - 00:10:06:26

The, um, that also applies, uh, seeking to amend condition uh, 710 on dropped objects and again asked for reasoning and when that might be provided because again, that's another clear query that we have from them.

00:10:09:01 - 00:10:26:01

Uh, on um, condition eight, which is the force majeure issue. Um, they've requested to be deleted, did not normally feature in a marine license. Um,

00:10:27:25 - 00:10:58:04

there was a there's also what I'm hoping is a typographical type cross, uh, type. There's a whole load of references to, uh, in the Moz D3 submission on um, page 69 of uh 030 uh 35 to a condition 19 in schedules three and four, which I have a funny feeling is an error. Um, but I would love to know. Um,

00:11:00:04 - 00:11:00:28

you know why?

00:11:02:16 - 00:11:35:27

Because obviously, that's what I've got in front of me, and it's not necessarily what I'm expecting. So again, if again, I'll be we will be raising that with, um, the MMO. Um, but just to make the point that, um, in general, in this in our order, schedule three and four have got absolutely nothing to do with the MMO. So, um, yeah. Um, uh, um, obviously they're saying they would like the force majeure, um, requirement removed.

00:11:36:13 - 00:11:45:03

Um, I think I've got your reasoning why you want it rain to maintained. But is there anything else you want to add on that point at the moment?

00:11:45:27 - 00:11:59:18

Kathryn Nolan, on behalf of the applicant. No. Nothing else. Further, the applicant's position remains as it set out previously. Um, again, we'll try to continue discussions to see if we can resolve. But I think this is just a fundamental drafting disagreement with the MMO.

00:12:02:02 - 00:12:26:14

Um, right then in relation to condition nine, um, firstly, is the issue of Mitro citing um Trinity House and the MTA at the D3 submission suggests a 55 meter limit of variation for micro siting. I understand that your content for micro, citing whether the 55m is what you're content with, um, would be if you could confirm.

00:12:26:28 - 00:12:35:08

Yes. Kathryn Nolan, on behalf of Gavin, on behalf of the applicant. Yes. Um, we are happy with the 55m. And so that will be added in at deadline for.

00:12:36:12 - 00:12:41:27

Um, and there's also the question as to whether it should apply, as well to nature conservation as well as archaeology, which is

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again.

00:12:44:16 - 00:13:17:09

Catherine Nolan, on behalf of the applicant. Yes, that's another um, amendment that we are going to make at deadline for. And it's expected that that will actually resolve, um, one of the red points happily from Natural England to allow that to go green. I think there is some discussion as to the appropriate wording, whether that is specifically defined to annex one reef or if it is a different, uh, definition post-Brexit. And that is something that we are discussing with Natural England and following the approach that is taking being taken on the emerging Morgan and Mono projects.

00:13:17:21 - 00:13:57:09

Thank you. Um, in 91C, both the MMO and Natural England have asked for six months rather than four months. Um, as I understand it, the applicant feels that some four months is appropriate. We can accept at six for others. Um, had we MMO and or Natural England been here, we would have been asking both bodies to justify the six month period. Well, obviously we followed up in writing, but notwithstanding that, do you have any comments on on those areas where you are content at six as opposed to those where you think that's too long?

00:13:57:23 - 00:14:23:00

Catherine Nolan, on behalf of the applicant, yes, we have sent, um, a list to Natural England and the MMO suggesting some where we think six months could be it could be changed to six months from four months. And we're awaiting comments from, from the parties on that. I should say, if we're

working through condition nine one, I have a point on the design plan and just the design statement. Generally, if you'd like me to touch on that.

00:14:23:16 - 00:14:24:07

Could you remind me?

00:14:24:24 - 00:15:10:18

So that's that condition 91A, which is um, yes. So we obviously have had discussions at issue specific hearing one, and there have been points in the responses to questions. And just generally, um, the panel has questioned the some of the design principle commitments and how those are secured within the DCO and what the applicant is envisioning it will do. Is this 9.1 A will be amended so that the design plan, when it is submitted, must be in accordance with, uh, the definition is still being worked out, whether it's the design statement, whether it's principles set out in the application, but that is intended to be how the design commitments will be secured in the design plan.

00:15:11:08 - 00:15:16:06

That will refer to a one of the documents that the schedules at the at the end.

00:15:16:08 - 00:15:16:27

Exactly.

00:15:20:01 - 00:15:26:21

Um, 91D is the next one. I've got um,

00:15:28:09 - 00:15:41:10

um, that deals with the offshore construction method statement dealing with foundation Installation methodology, however, does not explicitly reference noise, and we were wondering whether it should be included within that condition.

00:15:49:22 - 00:16:29:06

Kathryn Nolan on behalf of the applicant. So first of all, there will be a change made to nine 1d, which will be to incorporate the outline offshore construction method statement. The applicant's position is that this this condition is part of the condition shouldn't specifically refer to noise as noise is specifically governed um through the draft uh, triple MP and then also the underwater sound management strategy. Um, again, there might be there will be an exercise of ensuring that the outline construction method statement cross refers to any of the appropriate other outline documents as as appropriate, so it would be secured in that method.

00:16:29:08 - 00:16:35:11

But we don't consider that there needs to be an outright mention of noise within nine 1d.

00:16:35:13 - 00:16:39:26

As long as you can get to it through through through a series, which wouldn't.

00:16:39:28 - 00:16:42:29

Exactly. Method statement exactly, sir.

00:16:45:29 - 00:17:18:21

Um. Um. Nine. One. The memos indicate it wishes to be notified if drilling fluids, cement or cement additives are to be used. I was going to ask the, um, MMO whether they draft the as currently proposed was acceptable because it has been changed, and obviously I just haven't got the Moz confirmation whether they are content with the money or not. So, um, that that's really just for the record and no, to be a question for them.

00:17:20:05 - 00:17:22:04

Um, 91K.

00:17:26:26 - 00:17:43:05

Um, it's been suggested that consultation with Fish industry should be included prior to the approval of the Fishing phases. Liaison coexistence plan the LCP. Um. Can I ask the applicant whether that should be the case, and if so, how would it be secured?

00:17:44:17 - 00:18:11:06

Kathryn Nolan, on behalf of the applicant, I think the applicant feels that the front piece of nine one is sufficient. That provides for the submission and approval by the MMO. It then lists kind of specified bodies, but it is ultimately the discretion of the MMO who they wish to consult with. Um, we would also say that it's included within the FLC itself, that there will be consultation within part of that.

00:18:12:00 - 00:18:29:07

Had nine, one had. By the way, if you have the word in consultation with the if the word included or includes was in there. So it was a non-exhaustive list because it has my reading of that. That's a closed list, not an open one.

00:18:33:20 - 00:19:04:01

Kathryn Nolan, on behalf of the applicant. Yes, we can take that away. I think you're correct that that could be read as as a closed list of saying it's only in consultation with the relevant SCB, Trinity House and the MCA and no other parties. And so we can, um, amend that slightly. So it's it's clear that that's not an exhaustive list, that it is the most discretion to decide if they wish to bring in more consultees. That is obviously in practice. That is what they will do anyway, regardless of what's in this condition.

00:19:04:03 - 00:19:05:18

But we can certainly track that through.

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I think if you if you made that it was an open list rather than a closed, I think this that would probably avoid that problem.

00:19:12:05 - 00:19:38:00

Okay. Uh, I'm working my way down now to condition 13, um, which has got the unless otherwise agreed in writing with the MMO memo codicil in it, um, which obviously you'll be aware of the High Court cases that decried such provisions. Um, so but I was going to get.



00:19:40:06 - 00:19:40:21

I've got.

00:19:49:19 - 00:19:51:21

I'm sure I'm sure this about.

00:19:54:22 - 00:19:55:20

This has come out.

00:20:03:27 - 00:20:05:06

Because I've got the wrong one.

00:20:10:28 - 00:20:18:27

It's for us in force. Right? It's, uh, 14. It's 14. 14. Three. My apologies. That's. Yeah.

00:20:21:27 - 00:20:53:17

That's otherwise agreed in the memo. And that's in 14, three and 14 four. So just make note to self for writing the memo. We might as well get this. Get it right. Thank you. My phone. Um, then we can condition 15. The MMO said they were going. Yeah. Wishes construction monitoring the memo response. And they will be an update in due course. Uh, two things. Firstly, if the additions are made to condition two, how much is voluntary, which we've had the discussion out already.

00:20:53:22 - 00:21:18:03

And secondly, is the information as if it when resolved the in due course doesn't really help us. Again those are questions for the memo. But we were going to work on that. Um, we get to condition 18. Um, in one e there is a reference to export cable routes, which surely we shouldn't have.

00:21:19:00 - 00:21:29:22

Catherine Nolan, on behalf of the applicant. Yes, that that will need to be corrected. There is also the other point, which is adding the definition of the datum that is used there. But yes, that would be that.

00:21:29:27 - 00:21:35:13

I had that already. Yes it was. When I was looking at this again, I suddenly thought, hang on. Where do they go? Where do they export?

00:21:35:15 - 00:21:38:05

Well. Well spotted, well spotted sir. So we'll take that out.

00:21:39:18 - 00:21:41:15

Um,

00:21:43:05 - 00:21:53:28

and then finally we have the marine noise registered registry on this. Uh, the applicant will have seen the revised drafting from the MMO. I don't know whether you had any comments on it at this stage.

00:21:54:25 - 00:22:27:29

Catherine Nolan, on behalf of the applicant. Yes. There are a few comments just on, um, comments received from the MMO and Natural England on the noise conditions generally. Um, on this specific condition. I think, uh, the applicant is reviewing the Mo's revised wording to see what changes can be accepted. So for instance, the wording that the MMO has provided refers to unexploded ordnance, which isn't part of this application. So there is just a simple kind of consistency check to make sure it does apply.

00:22:28:13 - 00:23:04:12

Um, and that it is appropriate and relevant to the development in question. Um, I think broadly, the principles behind the changes looked in general terms to be acceptable. So it is just that, that exercise. Um, there are perhaps separate comments to touch on as we get to this condition and condition 20, which is the point, um, raised by Natural England and others that there should be a standalone reference to noise abatement in these conditions. Um, the applicant will respond to this in more detail at deadline four.

00:23:04:14 - 00:23:32:28

But ultimately, our position is that that isn't necessary in these conditions. Um, that is going to be incorporated in the underlying documents. So for instance, the underwater sound management strategy, the Marine Mammal Mitigation protocol, and the conditions obviously have to satisfy the the test for a condition and be precise. And so it's not appropriate to duplicate it in many places if that's not the correct position for it.

00:23:35:04 - 00:23:41:28

Um, I think it's unlikely, but does anybody else have any comments on anything in the deemed marine license?

00:23:46:24 - 00:24:16:06

So we now go on to the without prejudice compensation measures that the applicant can be there. Uh, move on to the without prejudice compensation matters. Um, again, we'll ask you to make, um, interesting to, uh, to hear your summarize the changes since, um, issue one, an update on negotiations with other interested parties and third parties.

00:24:18:06 - 00:24:31:05

And obviously then I have a few few points thereafter, some drafting and a short discussion over the government's recent announcements, announcement on strategic compensation measures, and if and how that something might come out of that.

00:24:32:17 - 00:25:02:21

Kathryn Nolan, on behalf of the applicant. Yes. So changes made to this schedule seven, um, between issue specific hearing one and to date, the applicant has incorporated the the suggested strategic compensation wording that Natural England had provided into the schedule. So that is ultimately the vast majority of the changes. Now, that wording that had been provided by Natural England was specifically in the context of benthic strategic compensation.

00:25:02:23 - 00:25:47:24

So there was a bit of an exercise in and obviously applying it appropriately to the receptors in question. Uh, specifically, the changes that have been made include a new paragraph two, which builds in a long stop date by which the applicant has to advise the Secretary of State of whether it will provide or whether it intends to use strategic compensation or project alone measures. And then paragraph four provides for a mechanism for the applicant to agree the ratio or value of contribution with the body that administers that strategic compensation measure, and that has to be in consultation with the Snbs and also the the steering group.

00:25:47:26 - 00:26:19:13

I won't say the full abbreviation for it, but the steering group that's that's set up and then that must then be approved by the Secretary of State as per paragraph five. And then it must thereafter be permitted, um, or committed to and carried out under paragraph six. Um, the applicant is aware that Natural England, in its risks and issues log at deadline three, has moved this item from an amber to a green, suggesting they are. They are happy broadly with this wording and they consider the issue resolved.

00:26:19:26 - 00:26:51:18

I know, um, the panel discussed the new guidance. Um, so the applicant is is aware of of the new guidance that was issued on the 29th of January on strategic compensation funds and specifically touched on the marine recovery funds. We had removed the definition of the marine recovery funds and had a more generic definition, added the Strategic Compensation Fund. I think there is a point for us to take away as to whether, based on the government's announcements, whether we now need to reinsert that definition or not. Um, and we will take that away.

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But I think the principle is still there, and it might just be we do a bit of we incorporate that into this strategic compensation fund definition or not.

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But it's always so there's different difficulty in that. You can't.

00:27:06:19 - 00:27:38:09

Um, you can only see only a certain amount of future proof things. Yeah. I'm not suggesting one should, but if you ever got to the end, you might. It got to the end. And something that those future announcements ended up being an obvious solution. The only way forward might be to make an application for a change to the DCO, simply because you can't do it within the draft that you've come up with, because things have moved on and there is only so much future proofing you can manage.

00:27:39:22 - 00:27:47:19

Um, there are a couple of things. Um, obviously.

00:27:52:25 - 00:28:24:27

Um, the eye on paragraphs three and four. You made the point about the laser backed gull compensation steering group being incorporated within those two. Um, that and three and four. Um, and I was wondering why, Given the strategic body. Why do you have if doing. If right we're going

for the we're going. We're not doing essentially the the local scheme which I mean could we be could be could be dynasty.

00:28:25:12 - 00:28:38:27

That's sort of a slightly different ish. We're not doing the bespoke scheme much better term. We're just going for a generic for a wide generic one. Why does the strategic why does the lbw SCG need to be included?

00:29:01:03 - 00:29:35:15

Catherine Nolan, on behalf of the applicant, I think it's it's first of all because there there could be scenarios where there might be overcompensation and it's not clear how that would necessarily fully be allocated between a strategic compensation and the local one. And I think it's there are also scenarios where you could have both. You could be doing kind of both a contribution to strategic compensation and also local measures as well. And so I think it's felt that having both the SNC and the steering group as part of those discussions ensures that a holistic approach is taken when it comes, when decisions come to be taken.

00:29:35:23 - 00:29:52:22

Okay. That that that that that explains. Thank you. Um, and in for two. Um, there's a reference to a worst case scenario. And I was wondering which would be reasonable. Worst case scenario. Because to meet wardens.

00:29:55:12 - 00:29:58:18

Kathryn Nolan, on behalf of the applicant. Yes, we can make that change.

00:30:08:08 - 00:30:28:26

I'm also wondering why, if there are contributions for any decommissioning. You know, it does seem slightly odd that you have to pay pay to take away something that you've put in when the whole point is particularly on, particularly on the nature reserve, the Nature Marine and Recovery Fund, that is going to be continuing for

00:30:30:12 - 00:30:33:26

hope out of the government's announcements indefinitely.

00:30:38:25 - 00:31:03:23

Kathryn Nolan, on behalf of the applicant, I think we can take that one away and consider that again, comes from the standard wording that Natural England provides. So it might be something we pick up in discussions with them as to how they envision that. I suspect some of that is linked to some measures where there is more of a decommissioning element to the strategic compensation, if it's actual measures as opposed to a contribution, a kind of funds paid.

00:31:05:18 - 00:31:07:12

Um.

00:31:15:28 - 00:31:21:21

Um. Oliver got up with that? I guess it's probably, in this instance, thinking about some of the strategic measures, such as the kittiwake.

00:31:22:01 - 00:31:36:24

Um, housing on the East Coast. So if at the end of the the lifetime of those, they need to be removed. Obviously the, the, um, need to ensure that the developers that have contributed to the funding to the, um, operation of it and then also going to contribute to the, to the funding of the removal of those structures.

00:31:50:08 - 00:31:51:28

Um.

00:31:55:09 - 00:32:14:24

There's in, in, in paragraph eight, um, there's a reference to an implementation timetable for the relevant compensation measure, but there's nothing about its maintenance for the life of the proposed development. I was wondering whether that should be so included. It's a sort of a converse of the decommissioning.

00:32:18:15 - 00:32:24:05

Kathryn Nolan, on behalf of the applicant, just so I understand, the question, is the question here that the

00:32:26:00 - 00:32:34:08

the timetable approved as part of the the outline simply doesn't contain that commitment because there is a.

00:32:34:18 - 00:32:35:03

Somewhere.

00:32:35:16 - 00:33:06:27

There is a um there are further paragraphs. So for example, in paragraph 12, the amended 12 where it talks about how measures must be maintained for the operational lifetime. Um, but I think we can perhaps take that away to make that clearer. And I think there's also something in on the strategic compensation about the those must be in place for the lifetime of the development. But I think we'll take that away to make that clearer. If it's considered that there's still some ambiguity there.

00:33:08:01 - 00:33:18:16

Um, I think this one's on what we've got here. I'm assuming there's going to be a the equivalent of a schedule 80 amount will not be that number for the road throughout the day, which would be very similar but different.

00:33:19:13 - 00:33:42:29

Katherine Nolan, on behalf of the applicant. Yes. Um, at deadline for the applicant will be adding in the red throated driver compensation schedule presented on a without prejudice basis. Uh, the applicant was going to inquire if the preference was to have that as another part to this schedule. Um, thinking a scenario where that perhaps assists

00:33:44:18 - 00:33:58:12

in renumbering or similar, if it's just parts, given that they're all presented on a without prejudice basis. But we will defer to the panel if, if the preference is for it to be in a schedule eight, we can do that or we can do parts one and parts two.

00:33:58:23 - 00:33:59:19

What I think we

00:34:03:23 - 00:34:35:25

What I'm thinking is that they. Because it's without prejudice. Should we conclude that either or both are not needed? We want and we might. We we may. We want to be able to remove them easily in their, you know, essentially we take out this little bit very straightforwardly, and there's no accidental and unintended consequences of removing one or other of them. Uh, that so we'd prefer it. It's not really us to tread on those other than with that.

00:34:35:27 - 00:34:40:11

So it's very easy to take them apart so they're not integrated one with the other, I think.

00:34:40:13 - 00:34:40:28

Yes.

00:34:41:00 - 00:34:41:17

I think making.

00:34:41:19 - 00:35:21:13

Catherine Orlin on behalf of the applicant, I think, um, speaking from a practical experience of the person who will have to run this through validation software and similar, I think it would perhaps be easiest if we had it as a part two of schedule seven, because that ensures that there is no consequential schedule eight becoming schedule nine and changing. So I think that's probably what we'll do at deadline four. If, on reflection, the view is that you would prefer it to be a separate schedule, we can obviously pick that up at deadline six, but we will be following the a similar structure to the compensation part.

00:35:21:18 - 00:35:33:12

It will obviously be tailored to the measures that are being proposed. It will include strategic compensation as well. And the other point I would just add is that because it is a different

00:35:35:00 - 00:35:52:04

type of effects, that it doesn't need to be in place as early as the lesser black back goal measures. So there will be some differences between the time scales of it. And but that will just reflect the nature of of the species and the nature of the the effect.

00:35:52:16 - 00:35:55:06

Yes. No, absolutely. I'll get that. It's.

00:35:58:26 - 00:36:32:04

Yeah. Robert Johnson for the applicant. Um, this might be a good opportunity, if I may, just to return to a question that was raised on day one. Um, the panel and specifically Mr. Rigby, raised the point that red throated diver compensation was not yet secured or questioning along those lines. And I jumped straight to the question of the extent to which there was certainty over the land for those measures. And it was pointed out to me by my colleagues that the question may have been aimed at the fact that it's just not yet in the DCO.

00:36:32:12 - 00:37:01:23

And in fact, I was, uh, adding two and two and getting 16. Um, but just for, for for clarity, it'd be helpful to understand what was the question aimed at the absence of the schedule to the DCO, or was it about landowners? Because obviously, if it's about landowners and the concern is that we haven't done enough with landowners, then that's, uh, that there's is a time horizon to fixing that and obviously a cost associated with that. So for clarity, it would be very sort of would be helpful to, to understand.

00:37:02:18 - 00:37:25:18

I think part of the problem of answering that question is until we see the drafting of of the the form for the red coated diver compensation measures, it makes it difficult to say which way we'd want that. You know, for the lesser back back gull, we, we've seen where the, um.

00:37:27:24 - 00:38:01:23

Uh, we, we know that where the, the effectively two options are. So we and we've got those there's it's been worked out that bit further. Um, what I think you on I think it was me. Mr. Anderson on Tuesday did also say that the drafting had been used in previous CEOs, where essentially. And you said that that, Um, without having to land. Landowners secure, landowners secured in the sense of through league agreements.

00:38:02:28 - 00:38:39:04

Um, could you provide us with some examples of that? Uh, if we put that as an action point from today. Um, I'm sure it's just a, it's and it's both the DCO, but also insofar as you're able, the backstory behind it in documents that get get that gets the provision. Um, in those, in those rather than just saying, here's the provision in the DCO so we can compare and compare where those what position they were in at that point in time.

00:38:40:06 - 00:39:11:09

Yep. No, that that's Robin Hutchison for the applicant. That's that's all clear. What I'm taking is that the question wasn't raised as a pointed criticism of the landowner position explanation is that it's more of a general question as to how the measures as a whole compensation package will be secured. And um, in terms of it's absolutely right that looking at the specific drafting won't tell you the answer, but it's a bit of the backstory here.

00:39:18:21 - 00:39:41:02

No, it's just making sure that we know it'll work. That's the point. And unless they by providing us with the backstories from previous consented schemes, then we could know that they were. The point

was made on Tuesday that its previous DCMS had been in that position before. So we just we're looking to see those precedents and the backstories rather than just the DCS.

00:39:45:26 - 00:39:51:00

So the point is being made that we believe we may be the furthest forward, actually, of previous CEOs.

00:39:51:02 - 00:40:00:25

So you may well be which case that's wonderful. But we just you could do we could do with noting that, um, okay. Uh.

00:40:05:00 - 00:40:50:16

Um, yeah. Obviously we're we had a discussion on Tuesday about, uh, the, the written ministerial statements, plural. Um, and, um, I was wondering, you we essentially had the discussion how that might find itself into the DCO if, if you are able. Um, obviously, we had they been here, would have asked Natural England for its response to anything you've said, but difficult. Um, what? I think it would be useful if you are able in the conversations with Natural England, if you're having conversations, is that the discussion or the conversation about the strategic compensation Schemes were able to find it either.

00:40:51:06 - 00:41:09:23

Find their way. Yeah, I'd normally say can we get a statement of common ground? But obviously Natural England aren't producing a statement of common ground. Um, either make its way into the principal areas of disagreement statement or or if you could persuade Natural England for a joint statement on that one point, I think that might be useful.

00:41:10:02 - 00:41:34:14

Catherine Nolan, on behalf of the applicant. Yes, we can certainly take that away. Um, to try and have some discussions with Natural England on that point. Um, certainly I think the applicant's position is that the the announcements two weeks ago support the approach taken to kind of building in flex for strategic compensation. So it's quite a positive sign from government.

00:41:35:18 - 00:42:06:10

Um, and finally this will probably essentially is the last point on the development consent order. Um, this is one thing I always say to everybody is there inevitably there will be a small number of typographic errors. carers. That's not a criticism of anybody. There will be. We're all human. Um, my general suggestion is just you give it to somebody who hasn't even looked and looked at ever before and asked them to crawl through it. I know it's a pain for them, and it'll take you a couple of days, but I have seen a few very minor typos still left in it. Um, and it would just.

00:42:06:21 - 00:42:13:15

And first, if it's not you reading it, you'll read what you want to see, not what's there. We've all done it.

00:42:14:11 - 00:42:22:09

Kathryn Nolan, on behalf of the applicant. Yes, I will take that away. And I will endeavour to have someone who is not American to make sure I haven't left any.



00:42:22:15 - 00:42:23:00

That's not.

00:42:23:02 - 00:42:33:11

The point. That's similar. But yes, we will. We will take that away. Um, and likewise, if any other parties around the room notice anything, please do let me know what needs to be corrected.

00:42:33:25 - 00:42:39:05

At least you try to make it as collaborative an effort as possible so that because

00:42:40:28 - 00:42:45:17

we've all seen correction orders post decision and some of the

00:42:47:02 - 00:43:26:21

some of them are the Secretary of State's own making. Some of them weren't making. But there are plenty which was still there in the original at the last version of the DCI submitted, and nobody spotted it thereafter until after it had actually turned into legislation. And then, of course has to be corrected, which is a pest. Okay. Thank you. Okay. Finally, other consents and agreements. Um, obviously the last mission. You didn't intend to have any asylum agreements, but we have there have been indications that maybe, uh, in signed agreements, racing to be interested from Harbour Energy, Spanish energy sources and Stena uh as a way of dealing with their concerns.

00:43:26:25 - 00:43:37:02

And I was just wondering if you could run through where we were on those positions and whether or not they might therefore take protective provisions or not.

00:43:40:06 - 00:44:00:12

Come down. So, uh, Robin Hutchison for the applicant. And if we just step through them. Um, I think we've aired the position with Spirit and Harbor and the position on protective provisions and the side agreement. So unless there's, uh, perhaps a pause and see if there's any commentary from the spirit team.

00:44:02:26 - 00:44:07:24

They're shaking their heads, which is always good because people people on the live stream won't be able to see you shaking your head.

00:44:09:02 - 00:44:15:12

James Gibson for spirit energy. No, we will pick that up, obviously, as part of discussions next week with with the applicant.

00:44:17:00 - 00:44:53:28

A verbal handshake. Um, so, um, sterner, I believe also we've, um, uh, I think aired the position. Clearly, protective provisions will be in D4 with the expectation that there may be a side agreement containing some of the technical or some of the financial elements, um, or state IPS. Um, I think I was

hopefully clear in my, um, summation yesterday that we don't anticipate offering anything and that that will be a decision for recommendation.

00:44:54:22 - 00:45:00:24

Um, and then perhaps I'll hand over to Miss Nolan on the the aviation stakeholders.

00:45:01:23 - 00:45:32:20

Kathryn Nolan, on behalf of the applicant. Yes. So as we've discussed, I think with all of the aviation stakeholders, the anticipation is there is no need for protective provisions. Uh, there are ongoing discussions to ensure that the DCO requirements are suitable for their purposes. There is also no expectation that there will be commercial side agreements at this stage, but there will be very detailed mitigation agreements secured under those requirements and entered into in due course.

00:45:33:06 - 00:45:49:19

And a similar position slightly different on the cable operators, which is that those are secured within S. Nothing further is considered necessary at this stage, and there will be crossing proximity agreements that are entered into at a at a much later date post consent.

00:45:53:19 - 00:46:12:16

Does anybody else want to make any comments on those? Shaking his heads. So that brings us to item nine. Other matters and action points. Uh, action points. If my colleagues hopefully have been I think there were a couple. Have you have you scribbling them down?

00:46:15:07 - 00:46:21:04

There was. There was one. I seem to recall. I just remember it was. I didn't note it down. I should have.

00:46:24:07 - 00:46:27:27

I have to go back now. I have to go back through my, my script for today.

00:46:27:29 - 00:46:44:14

Kathryn Nolan, on behalf of the applicant, we had some around the transfer benefit point, I think, on the, uh, point in section 113 Three of MCA. A 2009. So I think there will just be a probably incorporate that into a response.

00:46:44:16 - 00:46:48:08

Yes. Yeah. Yeah. Yes. Yes. I'm on three.

00:46:48:21 - 00:46:53:05

And I'm also being advised it's the the detailed point around the air navigation order and.

00:46:53:07 - 00:47:01:29

What those are the two things. Yes. Yeah. So put them into bear. If you could bear with me a second.

00:47:03:17 - 00:47:05:27

Uh.

00:47:15:01 - 00:47:23:26

Right. Those are those. Lovely. Thank you very much. Um, hopefully. And they should be for d4, because then or then the submissions for D4, because they're of themselves.

00:47:23:28 - 00:47:31:26

Not very Katherine Nolan on behalf of that, but yes, I think we we envisioned these as being responses to material at D3. So would be D4 in any of it.

00:47:32:03 - 00:47:34:00

Super lovely. So in which case.

00:47:36:04 - 00:47:37:28

Um.

00:47:41:08 - 00:47:50:28

So thank you. Thank you very much. Um, in terms of other matters, we don't have anything else we want to raise. Um, so just the opportunity for anybody else want to raise anything else today?

00:47:53:04 - 00:48:27:18

Silence is golden at this point in time. Um, so thank you very much. That includes all the actions, uh, that we have. Um, completes our business today. Uh, thank everybody for their contributions and participation over today and over the week. Uh, your sponsors have been very useful. Um, we have further hearings tabled for the week commencing the 31st of March. However, we will confirm whether we need those hearings nearer the time. It'll it certainly won't be this side of of deadline for, um.

00:48:27:20 - 00:48:59:08

We'll have to see what comes in that deadline for before we can make a decision which which is the 18th of February. So 13th. It's going to be at least towards the end of February. Well, we'll have to analyze the submissions rather than just. It's the 19th. Therefore we can make a decision. Um, and can I just remind the parties, um, that the the deadline six, which is the 15th of April, um, is the final deadline for submission of information to ourselves.

00:48:59:18 - 00:49:30:15

Um, we invite the applicant and interest to submit summaries and signposting documents. These are extremely helpful to ourselves and should set a concise record of the parties position at this prior to the close of the examination. Um, specifically, what we really want is where there are outstanding areas of disagreement. We don't need you to repeat what anything you've already said. It's just your position has already been stated somewhere else. It's then just a cross-reference to those submissions to just aid us in reporting and finding interest to get to them.

00:49:32:03 - 00:50:12:12

Um, I'd like to say to say a big thank you to everyone who's joined us today for all our hearings during the course of this week. Um, I think very helpful. Um, I'll also say a big thank you to our case team colleagues sitting at the back and to the AV company who are sitting at the back on the other side. It's

obviously a big job setting this all up and taking it down thereafter. So thank and for making sure the live stream runs the whole time. Can I just say thank you very much to you? Um, the there's the digital recording and the I transcript of this hearing will be added to the project page of the National Planning Infrastructure Planning Inspectorate, National Infrastructure website, as soon as possible.

00:50:12:19 - 00:50:28:13

After the clearing closed the hearing and will obviously publish a list of the action points. Um, the time is now 1230 and this issue specific hearing the Morecambe Offshore wind project generation assets is now closed. Thank you everybody for your help. Thank you.