FIVE ESTUARIES OFFSHORE WIND FARM

10.80 WAKE EFFECTS – COMBINED RESPONSES TO SECRETARY OF STATE LETTERS

Application Reference:	EN010115
Document Number:	10.80
Revision:	A
Pursuant to:	Decision Period
Eco-Doc Number:	006309034-01
Date:	September 2025

In preparation of this document Five Estuaries Offshore Wind Farm Limited has made reasonable efforts to ensure that the content is accurate, up to date and complete for purpose.

Revision	Date	Status/Reason for Issue	Originator	Checked	Approved
A	Sept 2025	Decision Period	VE OWFL	VE OWFL	VE OWFL

CONTENTS

1. Introduction 5
   1.1 Background 5
2. Policy 6
   2.2 Assessment 6
   2.3 Mitigation 7
   2.4 Lack of available mitigation 9
   2.5 Applicable policy 10
   2.6 Imposition of any requirement and the EN-1 tests 11
   2.7 Comments on SoS draft 12
3. Conclusion 18
   3.2 Comments on SPR letter of 7 August 2025 18

1. INTRODUCTION

1.1 BACKGROUND

1.1.1 Following the completion of the examination of Five Estuaries Offshore Wind Farm Limited's ('The Applicant') application for development consent for the Five Estuaries Offshore Wind Farm project on 17 March 2025, the Examining Authority (ExA) submitted a Report and Recommendation to the Secretary of State (SoS) on 17 June 2025.

1.1.2 On 11 July 2025, the SoS requested additional information from specific parties. Relevant documents were submitted at two deadlines – the 25 July 2025 (Part 1) and 8 August 2025 (Part 2).

1.1.3 The Part 1 responses were published on the Planning Inspectorate website on 30 July 2025 and the Part 2 responses were published on 13 August 2025.

1.1.4 One of the documents published on the Planning Inspectorate website with the Part 1 responses was a letter from Scottish Power Renewables (SPR) dated 7 August 2025 on the subject of wake effects. The SPR letter was sent unsolicited as the first SoS consultation letter did not raise questions on the matter of wake effects.

1.1.5 On 14 August 2025, the SoS invited all interested parties (IPs) to comment on the responses received. The deadline for comments is 13 September 2025.

1.1.6 Further to this, on 21 August 2025 the SoS issued an additional letter requesting further information from specific parties on various matters including wake effects. The deadline for this information request is 5 September 2025.

1.1.7 The Applicant has decided to separate out its response to the SoS's wake effects question and its response to the unsolicited SPR letter into this document. The Applicant has brought forward its response to the SPR letter from the nominal deadline of 13 September and included it in this response as it seems appropriate to deal with the same topic in the same submission.

1.1.8 This submission considers the SoS's request for without prejudice comments on a draft wake effects requirement. In doing so, it addresses the draft requirement put forward by SPR. Finally, it responds to certain wider points made in the SPR letter.

2. POLICY

2.1.1 The SoS has asked for the Applicant and IPs to comment on a draft requirement relating to wake effects, with the following paragraph by way of a pre-amble to that request:

> "*The Secretary of State notes the positions of the Applicant and IPs, in particular EA2L, in relation to wake effects. The Secretary of State also notes the policy in 2.8.197 and 2.8.200 of NPS EN-3, as well as the specific policy on wake effects set out in the draft NPS EN-3 which was consulted on between 24 April 2025 and 29 May 2025. Those policies suggest that an assessment be carried out, that steps be taken to minimise impacts and that an applicant shows they have made reasonable efforts to work collaboratively with those who may be impacted.*"

2.1.2 The Applicant notes that this paragraph is identical to that in the equivalent SoS letters to the Applicants in Mona, which invited the Applicant in that case to submit drafting for a wake effects requirement. (The only differences relate to the relative timing of the NPS consultation i.e. whether it was current or has ended.)

2.1.3 The Applicant's case on policy is summarised in its Closing Statement on Wake [REP8A-038]. The Applicant is concerned that the SoS has not recognised the fundamental differences between the Mona case and Five Estuaries. In that case (and with Awel y Môr) each affected wind farm was operational and had been for many years. There was certainty as to their layout, design and operation. In this case, the East Anglia TWO (EA2) project is not operational, is still in its development phase and may never be built.

2.1.4 The Applicant wishes to highlight the below points set out in sections 2.2 to 2.7.

2.2 ASSESSMENT

2.2.1 The Applicant is concerned that the SoS policy summary just cited, overlooks the fact that the policies in EN-3 relating to 'other offshore infrastructure and activities' draw a consistent distinction between (a) existing offshore infrastructure (see, for example, paragraph 2.8.197 itself) and (b) activities for which a licence has been issued.

2.2.2 It is clear from paragraph 2.8.44, which introduces the whole topic of other offshore infrastructure and activities in EN-3 that 'infrastructure' refers to hard existing infrastructure and 'activities' mean mobile activities.

2.2.3 The policies which apply can only be those relating to existing infrastructure. EA2 is not existing infrastructure – it remains a proposal. It has not achieved a Financial Investment Decision and has not commenced construction.

2.2.4 Even if the policies did apply, there was no reason for the Applicant to conduct a wake assessment, given that (a) it had already mitigated for wake effects in its site selection and revised site boundary (b) there was no reason to believe that further mitigation should be considered (c) EA2 is not "close" to Five Estuaries and (d) EA2 raised no concern about wake effects during the statutory consultation, or the entire pre-application period despite being aware of Five Estuaries since May 2018.

2.2.5 Further, as the SoS is aware, there has been no established practice of conducting wake assessments as part of offshore wind farm application, there are no precedents and there is no guidance on how they should be prepared and the conclusions calibrated in a policy context.

2.2.6 It was perfectly reasonable for the Applicant not to have conducted a wake assessment and not to have engaged with EA2 on this topic, given the lack of any concern being raised. This is entirely normal consenting practice.

2.2.7 The Applicant is concerned that a retrospective standard may be unfairly applied to the Applicant which flies in the face of the relevant history and normal consenting practice.

2.2.8 In policy terms it is important to highlight, that where the 'other' project is not constructed there is the potential for a joint approach to addressing a given effect, to explore mutually beneficial solutions. In this case EA2 has known of Five Estuaries since May 2018. Prior to the submission of the DCO application in March 2024 EA2 made no effort to engage with Five Estuaries on the topic of wake effects. This did not take place because for projects outside the relevant The Crown Estate (TCE) buffer there has been no policy requirement to do so and no custom and practice of doing so. If a retrospective standard is going to be applied to Five Estuaries in relation to 'collaboration', then it should also be applied to EA2.

2.3 MITIGATION

2.3.1 The SoS policy summary misses out a crucial step. Where an effect is assessed, there is then consideration of whether mitigation is justified in the light of the scale and nature of the effect. If not, then the process ends. In this case it is plain that further mitigation is not justified.

2.3.2 First, as already noted, because mitigation has already been applied by the Applicant. This has been delivered by respecting the 5km buffer distance set by TCE for the Extension leasing round, which was set with wake and other factors in mind. In addition, the Applicant moved the northern boundary of the project further away from EA2 under its Preliminary Environmental Impact Report proposals, which will have reduced wake effects.

2.3.3 Second, the residual effect after this mitigation is minimal and does not warrant consideration of further mitigation. EA2 itself assessed the potential impact on EA2 potential yield as -1.3% of potential yield. That is an extremely low level of impact. The Applicant has conducted its own assessment since the close of the Examination (prompted by the SoS letter to Mona of 12 May 2025), which shows this value as varying between -0.75 to -1.16%. (This assessment has been shared by the Applicant with SPR, which has stated that the information used by EA2 is not correct, though not detailing the discrepancies. The Applicant is confident that any differences will not make a material difference to its conclusions, which – as already noted – are broadly similar to SPR's own assessment.)

2.3.4 In terms of contextualising this level of effect, the Applicant refers to DESNZ DUKES 6.3 Tables published 31 July 2025. These show that the average Load Factor of the wind farms reported on as 36.8% with a range from 29.7% to 45.1%. This is in comparison to the predicted Capacity Factor (CF) for EA2 of 47.3% [REP7-117] provided by EA2. This difference arises from operational factors applicable to all offshore wind farms. This impact is an order of magnitude greater than the assessed theoretical gross impact of Five Estuaries on EA2.

2.3.5 Another contextualising factor, is that this level of wake effect is very substantially within the natural variation of the wind resource.

2.3.6 Third, the Applicant submits it is obvious from EA2's conduct that it does not, in fact, have a substantive concern about wake effects. This is entirely consistent with the low level of impact. If it was really concerned and considered there were reasonable steps it could ask the Applicant to consider, it has had years to approach Five Estuaries to discuss the matter and has not done so. It did not raise wake effects during the statutory consultation for the DCO application. Its Relevant Representation used three words: "wake loss assumptions". It first raised the issue substantively in its Written Representation. It did not attend the ISH6 (Examination library reference EV10-001) specifically on wake effects or any hearings on DCO drafting. It did not put forward drafting for a wake effects requirement during the Examination to allow it to be considered properly in the appropriate forum – and left this to (in its own words) a point at which the decision was "imminent".

2.3.7 EA2's concern expressed after over five years of silence during the project development of Five Estuaries is wholly unconvincing. EA2 had the opportunity to model the effects from Five Estuaries, using realistic worst case assumptions, throughout the period since the project was announced by The Crown Estate in May 2018. EA2 will have taken its predictions of those effects into account when preparing and submitting its CfD bid in Auction Round 6 in April 2024, which was successful in September 2024.

2.3.8 Fourth, as a matter of consistency and fairness, it cannot be right that that the Applicant be held to a different standard than that which EA2 was held to under exactly the same policy wording. EA2 did not carry out a wake assessment as part of its application or at all. EA2 did not approach Greater Gabbard and Galloper as operational projects which would be affected, to discuss wake effects. EA2 did not take steps to "minimise" its wake effects on those projects. The Applicant raised this double standard a number of times in its Examination submissions and EA2 studiously refrained from responding to its obvious force. The Applicant's assessment shows that the effect of EA2 on the operational Greater Gabbard and Galloper projects is -0.57% and -1.02% of potential yield respectively.

2.3.9 Fifth, as already noted, because it must be the case that where both projects are not yet constructed, if there is a new policy expectation that further mitigation be considered (beyond TCE buffer distances) then that has to be consideration in both directions. This raises the question – what is EA2's impact on other projects and what could EA2 do to reduce its effects? Using the same models the Applicant has estimated the impact of EA2 on Five Estuaries. This assessment shows that the reciprocal impact is between -0.7% to -1.25% of potential yield. This demonstrates that the "Net Impact" between the two proposed non-operational wind farms is negligible at -0.04% to +0.09% (negative value indicates the impact of Five Estuaries on EA2 is slightly greater than the reciprocal, positive value shows the impact of EA2 on Five Estuaries is slightly greater than the reciprocal).

2.3.10 Finally, requiring consideration of further mitigation begs the question of how seeking to reduce effects on EA2 should be balanced against resultant effects on other offshore wind farms, particularly Galloper, Greater Gabbard as the closest to Five Estuaries. The Applicant would expect the SoS to want to consider the cumulative position, which in turn creates complexity in the analysis (projects at different distances and points of the compass) and policy judgment as to what design steps (if any) can be regarded as reasonable. This was one of the reasons why the ExA in Mona did not consider a requirement would meet the tests in EN-3. It is a powerful reason not to impose a wake effects requirement.

2.4 LACK OF AVAILABLE MITIGATION

2.4.1 Even if further consideration of mitigation were justified, which the Applicant rejects for the reasons just given, the Applicant submits that there are no further reasonable mitigation steps available (see [REP7-087] and [REP8-038]).

2.4.2 This is an important point. The Applicant needs design certainty for its own project. The project is working to a demanding timetable. There is a myriad of workstreams which need to come together to maintain progress. It would be wholly unreasonable to have a post-consent process hanging over the project, which prevents the Applicant from completing its usual design and procurement processes and engagement with the Maritime and Coastguard Agency regarding final layout for navigation and safety purposes.

2.4.3 The drafting the SoS has put forward implies, by requiring a 'wake effects plan' to be submitted that there are substantive and credible reasonable steps available. This is not the case. The only 'mitigation' steps available would necessarily involve a reduction in the capacity and/or output of Five Estuaries. This would fly in the face of government policy under EN-3 to maximise capacity and to meet government renewable energy targets. It also raises the cumulative issue referred to in paragraph 2.3.10 above.

2.4.4 The Applicant's project should not be required to prove this point in the post-consent phase, particularly where there is no statutory time frame for the discharge of requirements by the SoS. The commercial impact of this uncertainty, in design and programme terms, would be serious.

2.5 APPLICABLE POLICY

2.5.1 The Applicant notes that the SoS has referred to the NPS consultation in April/May 2025, but does not clearly acknowledge the following points.

2.5.2 The policies are in draft and were the subject of a consultation, the outcome of which has not yet been published. The relevant chronology is as follows:

- **17 March 2025** - Close of Five Estuaries examination
- **24 April 2025** - publication of updated draft NPSs including new text on wake effects
- **24 April 2025 to 29 May 2025** – consultation on updated draft NPSs
- **12 May 2025** – Secretary of State request to applicant for Mona DCO for without prejudice drafting regarding wake effects
- **19 June 2025** - Secretary of State request to applicant for Morgan DCO for without prejudice drafting regarding wake effects
- **4 July 2025** – Secretary of State decision on Mona application made.

2.5.3 Importantly the draft policies include transitional provisions which specify that the updated policies will only have effect for applications accepted for examination after the final publication of the updated NPSs, which is yet to occur, albeit that they are potentially capable of being important and relevant considerations in the decision-making process.

2.5.4 It would therefore be premature and unreasonable to try to apply the draft policies in the Five Estuaries decision as though they represent the final form of those policies. It is expected that further clarification or guidance on this matter may be provided in the final version of the policies, including as to what is meant by reasonable steps to minimise wake effects (a key issue at play here). In any event, the updated policies will not have effect for the purposes of the Five Estuaries application.

2.5.5 The Five Estuaries application should be determined under the 2024 version of the policies and the Applicant maintains its argument that there remain fundamental questions of interpretation of the meaning of the policies in the 2024 version on other offshore infrastructure.

2.5.6 The Applicant welcomes, in the general terms, the SoS's intention to provide specific policy for future applications on wake effects as it is clearly needed.

2.5.7 The Applicant agrees with the ExA in Mona that there has been a lack of clarity as to policy in relation to wake effects, when it said in its report:

*"5.3.98. In arriving at these conclusions, the ExA observes that **in the absence of a settled evidence base, clear policy direction, methodological guidance and data***

***sharing mechanism, the question of wake effects is a particularly complex one for applicants and other IPs to navigate**. Noting that the Government's Clean Power 2030 Action Plan identifies this as an area requiring attention, the ExA considers that strategic action would assist in improving understanding of the potential effects and de-risking individual OWF applications in the future*." (Emphasis added.)

2.5.8 The Applicant hopes that the final wording of revised EN-3 gives real clarity for future applications, if the SoS continues with his current intent of requiring wake effects to be considered within the planning system. The Applicant's over-arching preference, however, would be for the SoS to restore the previously understood position that wake effects were resolved outside the planning system through TCE's seabed licensing process.

2.6 IMPOSITION OF ANY REQUIREMENT AND THE EN-1 TESTS

2.6.1 The Applicant's headline position remains as set out in its Closing Statement [REP8A-038] as regards the question of a requirement. Namely that the Applicant has already applied substantial design mitigation and there is no justification for the imposition of a requirement for it to consider further design mitigation as explained at paragraphs 3.24.21 to 3.24.27 of its Closing Statement, reproduced below:

3.24.23 EA2 Limited has argued that a requirement similar to that in Awel y Môr should be imposed. The Applicant does not believe that such a DCO requirement is either justified or workable, and would fail the tests set out in paragraph 4.1.16 of EN-1 that a requirement must be necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects.

3.24.24 That lack of policy in relation to wake loss and guidance as to how it might be assessed and taken into account is also of relevance to the drafting and benefit of a DCO requirement which might seek to control design parameters (similar to that included in the Awel y Môr DCO) in order to address EA2's concern.

3.24.25 It is completely unclear how any requirement would work in the absence of guidance that sets out what constitutes an effect which merits attempts at mitigation, or what change against a baseline assumed mitigation might need to deliver against the impact any mitigation would have on the new generation delivered by Five Estuaries.

3.24.26 There is considerable doubt as to how such a requirement would be discharged and how it could be enforced by the Secretary of State, thereby failing two of the relevant tests. The Applicant has explained in [REP7-087] and [REP8-038] that, in any event, the theoretical mitigation options available would reduce the overall AEP in aggregate. In other words that any mitigation imposed would have a significantly more detrimental impact on the energy generation from Five Estuaries than any benefit that may be accrued by EA2, leading to an overall net reduction in AEP. Such a requirement is unnecessary to make the development acceptable in planning terms, and wholly unreasonable. The unreasonableness of such a requirement is reinforced by the unfairness of such a harmful requirement being imposed on Five Estuaries, when no such requirement was imposed on EA2.

2.6.2 There is a fundamental difference between a scenario where a new project like Five Estuaries can consider an existing constructed and operational project and one where the other project may be proposed but:

(a) is of uncertain precise form i.e. it is a design envelope rather than a specific design i.e. from the perspective of a third party, it starts as a design envelope and evolves towards a final design, at the control of the developer

(b) whatever stage a design has reached (which may or may not be in the public domain and is usually confidential for an extended period) it may change its design as it goes through the development process (e.g. as a result of changes in the supply chain and equipment availability, additional considerations only revealed late in the design and construction program, or project ownership);

(c) may be substantially delayed by a repeated delay to secure a CfD, or delayed even if a CfD has been achieved (e.g. through cost escalations and other general market conditions as in the case of Hornsea 4).

2.7 COMMENTS ON SOS DRAFT

2.7.1 The Applicant is only proposing changes to the draft put forward by the SoS because it has been asked to and with great reluctance on a without prejudice basis. As noted, the Applicant believes that any requirement seeking to impose further design or operational mitigation measures by way of a requirement would fail the EN-1 tests, including the drafting changes which the Applicant proposes below.

2.7.2 It is particularly inappropriate in the context of a complex geography of operational and emerging projects, which is commented on further below

2.7.3 The Applicant is aware that the draft requirement put forward by the SoS for comment is based on that included in the Mona DCO. The Applicant in Mona did not consider a requirement was justified and provided the drafting, from scratch, as a result of a request by the SoS to provide without prejudice wording, which Orsted then commented on in a minor respect. That wording was then included in the DCO. The Applicant also notes that in relation to the Morecambe application, the SoS issued a letter on 21 August 2025, inviting the Morecambe applicant to put forward a wake effects requirement drafting from scratch on a without prejudice basis i.e. without providing a draft for comment. The wording in the Mona DCO is substantially different to the wording imposed in the Awel y Mor DCO, which was not the subject of consultation by the SoS.

2.7.4 The reason for making these points is to highlight the ad hoc way in which this type of requirement is being approached, in the absence of any kind of track record or guidance. Whilst the Applicant is fundamentally opposed to the imposition of a requirement, if the SoS does so, it asks that the Mona drafting is not given undue status and the various changes highlighted below are considered on their merits, not least because of the very different facts.

2.7.5 The Applicant's key drivers for the changes proposed below are:

- There must be a mechanism which avoids the imposition of a wake effects plan, on the basis that no plan meeting the criteria is available
- The test of reasonableness must relate to energy output and project capacity otherwise it destroys the whole purpose of the requirement
- If a requirement is imposed, then that means it is a public law matter, which must be decided by the SoS
- Time is of the essence. This requirement will create a novel and major uncertainty for the project, which cuts across the normal development process and must be resolved promptly. There must be comfort that the SoS will make a timely decision
- The Applicant cannot be in any way procedurally at the mercy of EA2 Limited, which is a commercial rival.

- The Applicant has shown its proposed changes and interpolated comments below. A full clean draft of the amended requirement is provided at the end.

Wake effects

—(1) No part of any wind turbine generator may be erected as part of the authorised development until either—

(a) A suitable wake effects plan ~~(including cumulative impacts on nearby wind farms)~~ has been submitted to and approved by the Secretary of State;

2.7.6 Comment: the objective of this requirement has to be clear. To have any chance of being coherent and workable, the principal analysis must only relate to the effect of Five Estuaries on the EA2 proposed project. Hence the removal of "(including cumulative impacts on nearby wind farms)". The Applicant, however, agrees that when considering whether steps to benefit EA2 are reasonable, some regard should also be had to the resultant effects on the nearest operational projects, Greater Gabbard and Galloper. Accordingly, the Applicant has proposed wording in paragraph (2) to require information regarding those resultant effects in the supporting information forming part of any wake effects plan, and for that to be taken into account by the Secretary of State. The complexities of this dimension reinforce the Applicant's principal position that the requirement should not be imposed at all.

(b) The undertaker has submitted a statement in writing to the Secretary of State explaining why it considers that no wake effects plan can satisfy the criterion in paragraph (2) and the Secretary of State has confirmed in writing his acceptance of that conclusion;

2.7.7 Comment: the Applicant is one of the most experienced developers in the UK and has one of the leading wind resource technical teams. It has been at the forefront of research into wake effects for many years, for example leading the GLoBE project on global blockage effects. In the Applicant's considered view, further to submissions made in the Examination [REP 7-087] and [REP8-038] there are no steps which will meet the criterion specified in paragraph (2). It is essential that there is acknowledgement of this outcome on the face of any requirement.

~~(b) The undertaker has provided evidence to the Secretary of~~

~~*State that alternative mitigation for wake effects has been agreed with the EA2L offshore wind farm.*~~

2.7.8 Comment: if a requirement is imposed it means that the SoS considers there is sufficient public law justification to do so. The discharge of the requirement should then be a matter solely for the SoS in the usual way. The inclusion of this paragraph would imply that this is not a public law matter and it should be removed.

(2) ~~The~~ Any wake effects plan provided in accordance with paragraph (1)(a) must include details of the further reasonable steps that have been taken and/or are proposed to be taken by the undertaker to minimise wake effects on the EA2L offshore wind farm whilst maximising the capacity and energy output of the authorised development within the identified technical, environmental and other constraints of the authorised development. The supporting information forming part of any wake effect plan must provide an estimate of the effects of that plan on the operational Greater Gabbard and Galloper wind farms, compared to the situation where the plan was not implemented, which must be taken into account by the Secretary of State when considering the reasonableness of the steps proposed.

2.7.9 Comment: it is essential that this test, which is at the heart of this requirement, acknowledges that steps under consideration may be in the future and not in the past. Otherwise, it would create paralysis for the project if a plan can only be approved in relation to steps which have already happened. It is also essential that the test relates to energy output and project capacity. This is because to maximize the amount of energy produced the project needs to maximize the number of turbines and ensures that they are operating as efficiently as possible. The consideration of any proposed steps has to take account the wider technical, environmental and other constraints of the project – the consideration of wake effects cannot be allowed to over-ride these other factors. This would have very serious implications for the project. The requirement that these constraints must be 'identified' means that the undertaker will have to explain the relevant constraints which have been taken into account in any submission under paragraph (1)(a) or (1)(b). The word "further" has been added to acknowledge the mitigation steps which have already been taken by the Applicant.

(3) The undertaker must consult East Anglia Two Limited on any proposed submission under paragraph 1(a) or 1(b) providing 30 days for written comments and must provide full details of that consultation in its submission to the Secretary of State.

2.7.10 Comment: this is intended to allow the SoS to make a decision on what is submitted in the knowledge of EA2 Limited's position. This provides the basis for paragraph 8 on the timing of the decision.

(4) This requirement [x] shall have no effect and be deemed to be fully discharged unless within 14 days of the date this Order is made East Anglia Two Limited has provided written details to the undertaker and the Secretary of State of the number of turbines, the layout of the turbines, the manufacturer and specification of the turbines and the power curve of the turbines which are proposed to be constructed to comprise the EA2L offshore wind farm.

2.7.11 Comment: the Applicant has to be certain which design of the EA2L offshore wind farm it is considering. It cannot be a moving target, otherwise the requirement cannot be discharged in a timely manner. It is essential that the Applicant has this information as soon as possible.

(5) In discharging this requirement [x], the undertaker is not required to use any information regarding the EA2L offshore wind farm save for that provided by East Anglia Two Limited in compliance with paragraph (4).

2.7.12 Comment: this makes sure that this information cannot change and cause delay.

(6) Any approved wake effects plan must be implemented by the undertaker as approved.

2.7.13 Comment: this is needed for enforceability.

(7) If one or more wind turbine generator forming part of the EA2L offshore wind farm has not been lawfully installed at the time the undertaker has made its final investment decision to contractually commit to fully construct the authorised development then the undertaker is not obliged to comply with the approved wake effects plan. This paragraph shall only take effect when the undertaker has provided written evidence to the Secretary of State that its terms have been satisfied and the Secretary of State has provided written confirmation of this.

2.7.14 Comment: the Applicant has already highlighted that there is no certainty that the EA2L offshore wind farm will be constructed. If it is delayed such that the construction of Five Estuaries overtakes East Anglia Two Limited, there must come a point where the undertaker should not have to comply with the wake effects plan. This paragraph is based on the assumption that if at least one full wind turbine has been erected then the project will be built out in full. If this has taken place before Five Estuaries has reached its final investment decision then the wake effects plan will remain in force. In practice, there are long lead in times for construction and FID and the undertaker will be able to see the direction of travel well before FID is actually reached and be able to take that into account.

(8) If the Secretary of State fails to notify the undertaker of his decision within 60 days of receiving the undertaker's wake effects plan under paragraph 1(a) or its statement under paragraph 1(b), the Secretary of State is deemed to have approved the wake effects plan or provided the requested confirmation as the case may be.

2.7.15 Comment: it is essential that this requirement is discharged in a timely matter as it goes to the heart of the project and delay would have major knock on consequences across the project and the programme.

(9) Where paragraph (1)(a) applies the design plan submitted to the licencing authority under condition 12 (1)(a) of schedule 10 of this Order must be in accordance with any approved wake effects plan.

2.7.16 Comment: the cross references have been corrected.

(10) For the purposes of this requirement—
"EA2L offshore wind farm" means the proposed offshore wind farm authorised under the East Anglia TWO Offshore Wind Farm Order 2022

"East Anglia Two Limited" means East Anglia Two Limited (company number 11121842) whose registered office is at 3rd Floor, 1 Tudor Street, London, EC4Y 0AH and includes any successor to the ownership of the EA2L offshore wind farm.

2.7.17 Comment: for clarity and enforceability.

2.7.18 A clean version of the revised requirement is set out below:

Wake effects

—(1) No part of any wind turbine generator may be erected as part of the authorised development until either—

(a) A suitable wake effects plan has been submitted to and approved by the Secretary of State; or

(b) The undertaker has submitted a statement in writing to the Secretary of State explaining why it considers that no wake effects plan can satisfy the criterion in paragraph (2) and the Secretary of State has confirmed in writing his acceptance of that conclusion;

(2) Any wake effects plan provided in accordance with paragraph (1)(a) must include details of the further reasonable steps that have been taken and/or are proposed to be taken by the undertaker to minimise wake effects on the EA2L offshore wind farm whilst maximising the capacity and energy output of the authorised development within the identified technical, environmental and other constraints of the authorised development. The supporting information forming part of any wake effect plan must provide an estimate of the effects of that plan on the operational Greater Gabbard and Galloper wind farms, compared to the situation where the plan was not implemented, which must be taken into account by the Secretary of State when considering the reasonableness of the steps proposed.

(3) The undertaker must consult East Anglia Two Limited on any proposed submission under paragraph 1(a) or 1(b) providing 30 days for written comments and must provide full details of that consultation in its submission to the Secretary of State.

(4) This requirement [x] shall have no effect and be deemed to be fully discharged unless within 14 days of the date this Order is made East Anglia Two Limited has provided written details to the undertaker and the Secretary of State of the number of turbines, the layout of the turbines, the manufacturer and specification of the turbines and the power curve of the turbines which are proposed to be constructed to comprise the EA2L offshore wind farm.

(5) In discharging this requirement [x], the undertaker is not required to use any information regarding the EA2L offshore wind farm save for that provided by East Anglia Two Limited in compliance with paragraph (4).

(6) Any approved wake effects plan must be implemented by the undertaker as approved.

(7) If one or more wind turbine generator forming part of the EA2L offshore wind farm has not been lawfully installed at the time the undertaker has made its final investment decision to contractually commit to fully construct the authorised development then the undertaker is not obliged to comply with the approved wake effects plan. This paragraph shall only take effect when the undertaker has provided written evidence to the Secretary of State that its terms have been satisfied and the Secretary of State has provided written confirmation of this.

(8) If the Secretary of State fails to notify the undertaker of his decision within 60 days of receiving the undertaker's wake effects plan under paragraph 1(a) or its statement under paragraph 1(b), the Secretary of State is deemed to have approved the wake effects plan or provided the requested confirmation as the case may be.

(9) Where paragraph (1)(a) applies the design plan submitted to the licencing authority under condition 12(1)(a) of schedule 10 of this Order must be in accordance with any approved wake effects plan.

(10) For the purposes of this requirement—
"EA2L offshore wind farm" means the proposed offshore wind farm authorised under the East Anglia TWO Offshore Wind Farm Order 2022
"East Anglia Two Limited" means East Anglia Two Limited (company number 11121842) whose registered office is at 3rd Floor, 1 Tudor Street, London, EC4Y 0AH and includes any successor to the ownership of the EA2L offshore wind farm.

2.7.19 The drafting put forward by SPR has been taken into account by the Applicant in relation to the additional provisions included for consultation. Other aspects of the SPR drafting are rejected for reasons which are apparent from the commentary above. The Applicant, in particular, completely rejects the key change which SPR seeks, which is to contemplate a reduction in the capacity of Five Estuaries. This completely contradicts the government's policy goals for renewable energy and the express provisions of paragraph 2.8.25 of EN-3 to maximise capacity of new projects. SPR's language begs the question of what would amount to a "significant reduction" in the capacity of Five Estuaries. No reduction is acceptable and the Mona drafting was correct in providing for the maximisation of capacity.

3. CONCLUSION

3.1.1 The Applicant strongly requests that the SoS does not impose any wake effects requirement on the Project on the facts of this case, which are fundamentally different to Mona and Awel y Mor. It would fail the tests in EN-1 for the reasons explained and would create a risk of real delay to the Project, whilst its discharge was being resolved. It would create an obvious injustice in the treatment of Five Estuaries, compared to EA2, when applying exactly the same policy wording.

3.1.2 Such a conclusion would be in line with the advice in paragraph 2.8.342 of EN-3, namely:

"Where a proposed offshore wind farm potentially affects other offshore infrastructure or activity, a pragmatic approach should be employed by the Secretary of State."

3.1.3 Each case must be considered on its own facts. In the case of Mona, the ExA recommended in paragraph 5.3.88 of its report that "*the additional uncertainty, complexity and wider scope of the issues raised [in Mona, compared to Awel y Mor] bring into question the reasonableness and enforceability of a parallel requirement on the [Mona] DCO*". It concluded that a requirement was not an appropriate remedy and that this approach accorded with the advice to be pragmatic in paragraph 2.8.342 of EN-3.

3.1.4 The Applicant submits that this analysis applies even more strongly to the current Application and that, whilst the SoS did not accept the ExA's recommendation in Mona, declining to impose a requirement is the appropriate conclusion on the facts of this case.

3.2 COMMENTS ON SPR LETTER OF 7 AUGUST 2025

3.2.1 The Applicant makes the following points regarding the SPR letter of 7 August 2025. The Applicant has already commented on the draft requirement put forward by SPR.

3.2.2 The Applicant completely rejects the assertion by SPR that the Applicant did not engage in a meaningful way with SPR or the Examining Authority in relation to wake effects. SPR first raised the topic in its Relevant Representation [RR-022], which simply notes "wake loss assumptions" as a headline topic. It was not until its Written Representation that it made any substantive points. It did not raise wake effects in response to the statutory consultation or otherwise during the extensive pre-application period.

3.2.3 The Applicant made substantial representations on the topic (including detailed technical representations), responded to all relevant ExQs, responded to EA2's submissions, spoke at ISH6 and made detailed closing submissions.

3.2.4 In the course of those submissions, the Applicant highlighted that EA2 was seeking to hold the Applicant to a standard which it signally failed to apply to its own development. In particular, the Applicant highlighted that EA2 will have wake effects on the operational Greater Gabbard and Galloper wind farms. EA2 did not seek to engage with those wind farms in relation to wake effects and there is no evidence that the EA2 design has sought to reduce wake effects on those projects. It is notable that EA2 has studiously avoided commenting on this.

3.2.5 In addition, there is no evidence that EA2 has sought to reduce wake effects on the proposed Five Estuaries scheme, whilst knowing of it since May 2018.

3.2.6 The Applicant would highlight again its submissions regarding the reciprocal impact of EA2 on Five Estuaries in [REP8-038] and its observation that the magnitude and range of impacts (on an order of magnitude approximation) are the same as that predicted by the EA2 wake effects assessment (putting aside the various methodological points the Applicant has made on that assessment). These are confirmed by the wake assessment which the Applicant has submitted, which is referenced in paragraph 2.3.3 above [Reference EN010115]

3.2.7 As SPR is well aware, the applicability and interpretation of EN-3 as between offshore wind farm projects has been contested across multiple recent DCO Examinations. The SoS' interpretation is clarified by the Mona decision (which, importantly, post-dated the end of the Five Estuaries examination), but there are still a range of important unresolved points of interpretation. This includes the situation – as here – where neither project is constructed. It is plain that the facts of the Five Estuaries application are materially different from those of Mona and Awel y Mor.

3.2.8 EA2 say that 'during the course of the examination' they recommended that the examining authority include a wake effects requirement in the DCO. In fact this was raised for the first time at deadline 7 of the Examination (3 March 2025, shortly before the close of the examination on 17 March 2025) (examination library reference REP7-116). No further particulars of the proposed requirement were offered despite there being ample opportunity to EA2 to do so at that stage or at any earlier time in the Examination.

3.2.9 EA2 has sought in its letter to characterise its project as the 'waked project' in contrast to Five Estuaries as 'the party proposing the new project'. EA2 is not an operational project – it has not even achieved its Financial Investment Decision or commenced construction. It is therefore not correct for EA2 to describe itself as the 'waked project' in this way.

3.2.10 The Applicant's conduct has been entirely reasonable in the circumstances.

FIVE ESTUARIES
OFFSHORE WIND FARM

PHONE 0333 880 5306
EMAIL fiveestuaries@rwe.com
WEBSITE www.fiveestuaries.co.uk
ADDRESS Five Estuaries Offshore Wind Farm Ltd
Windmill Hill Business Park
Whitehill Way, Swindon, SN5 6PB
COMPANY NO Registered in England and Wales
company number 12292474