SHEPHERD+ WEDDERBURN

OUR REF [redacted]
YOUR REF
14 November 2025

National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Sir, Madam

Five Estuaries Offshore Windfarm Project (the "Project")
Application Ref: EN010115
East Anglia TWO Limited's Response to the Secretary of State's Invitation to Comment

We refer to the above and confirm we are instructed by East Anglia TWO Limited ("**EA2**"). This submission is in response to the Secretary of State's invitation to comment dated 15 October 2025.

This response relates to the submission by Five Estuaries Offshore Wind Farm Ltd ("**the Applicant**") titled "10.80 Wake Effects – Combined Responses to Secretary of State Letters" dated September 2025 ("**the Wake Effects Submission**"). We have already commented on the Applicant's submission titled "10.78 Wake Effects Assessment" in our submission dated 5 September 2025 as part of our response to the Secretary of State's consultation letter dated 21 August 2025 as EA2 had prior sight of the Wake Effects Assessment.

1. Inaccuracies

1.1 The Applicant has a number of inaccurate statements relating to EA2 in their Wake Effects Submission. The Applicant stated multiple times that EA2 has not achieved a Financial Investment Decision ("**FID**"), nor that it has commenced construction of the East Anglia TWO Offshore Windfarm[1]. It also went on to say that *"there is no certainty that the EA2L offshore wind farm will be constructed"*[2]. EA2 announced FID was achieved in October 2024 for the East Anglia TWO Offshore Windfarm, which was closely followed by several contract award announcements. A large number of EA2's requirements have already been discharged and onshore construction commenced in July 2025, with the project's web page expressly stating that construction has begun in the first sentence[3]. All of this is in the public domain, most of which on the projects' websites, and is easy to find, or would have been provided by EA2 if asked.

1.2 Within paragraph (4) of the Applicant's proposed restriction wording in their Wake Effects Submission, the Applicant requires SPR to provide written details to the Applicant and Secretary of State of the

[1] Paragraphs 2.2.3 and 3.2.9

[2] Paragraph 2.7.14

[3] East Anglia offshore wind farm TWO - Iberdrola

number of turbines and the manufacturer and specification of the turbines within 14 days of the date of the Development Consent Order ("**DCO**"). Again, this information is already within the public domain. EA2 announced in November 2024[4] that Siemens Gamesa will supply 64 of its SG 14-236 DD* offshore wind turbines which have a rotor diameter of 236m. EA2 offered to share data and information with the Applicant during the Examination (REP4-073) but the Applicant refused to engage on the topic.

1.3 The Applicant has criticised EA2 for not engaging on the topic of wake effects prior to the DCO application and EA2's conduct during the Project's Examination when the Applicant itself acknowledged in its Wake Effects Submission that it did not conduct a wake assessment and did not engage with EA2 on the topic once it was raised by EA2[5]. As has been evidenced in this and previous Examinations the industry's understanding of the extent of wake effects has emerged recently. EA2 has complied with all requests from the Examining Authority and has sought to assist them in carrying out their role in providing a report to the Secretary of State which covered all of the policy matters that it required to do so. The Applicant did not attempt, not even on a without prejudice basis, to seek to agree or engage on any wake effect matters during the Examination. Even following the Examination, there has been very little engagement from the Applicant on the topic with no engagement or collaboration sought with EA2 before preparing their own wake assessment.

1.4 The Applicant fails to acknowledge that the Project is now significantly larger than that which the leasing round provided for. The original leasing capacity for the Project was 727MW. The Crown Estate's record of HRA published earlier this year indicates a 48% increase in capacity up to 1080MW. Therefore, irrespective of what the Applicant may say about the position of EA2's knowledge of the Project during the Examination of the East Anglia TWO Offshore Windfarm (October 2020 – July 2021), the reality of the situation is it was unknown at the time that the Project would be developed at this scale. The increase in capacity means an increase of the number and/or size of turbines which results in an increase of wake effects.

2. Policy

2.1 The Applicant mentions capacity factors in their Wake Effects Submission[6], this is not the issue in hand. The issue is the impact of the Project on the consented East Anglia TWO Offshore Windfarm which will generate less energy as a consequence of the Project. The Applicant is trying to deny that wake loss is an issue despite it already being determined and identified through other development consent decisions made by the Secretary of State.

2.2 The Applicant is also trying to state that because East Anglia TWO Offshore Windfarm is not operational, it should not be considered[7]. EN-3 states at paragraph 2.8.197:

"[w]here a potential offshore wind farm is proposed close to existing operational offshore infrastructure, or has the potential to affect activities for which a licence has been issued by government, the applicant should undertake an assessment of the potential effects of the proposed development on such existing or permitted infrastructure or activities."

The attempt by the Applicant to say that EA2 is not caught by or included in this is a bizarre interpretation. The language in this paragraph is straightforward and what is meant by "licence" in its broadest sense includes consent. The use of *"existing or permitted infrastructure"* clearly envisages these precise circumstances. The interpretation put forward by the Applicant is unconvincing and wholly inconsistent with the Secretary of State's interpretation and application of policy in terms of the recent Morgan and Mona decisions.

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4 ScottishPower seals £1bn offshore wind turbine deal with Siemens Gamesa - scottishpowerrenewables.com

5 Paragraph 2.2.6.

6 Paragraph 2.3.4.

7 Section 2.2.

2.3 Under EN-3 it is clear that consented schemes are also brought within the ambit of the policy position and the Applicant's attempt to argue the opposite requires quite extraordinary construction.

2.4 The Applicant also mentioned that they respected the 5km buffer distance set by The Crown Estate for the relevant leasing round. That was back in 2017 and before the increase in capacity mentioned at paragraph 1.4 above. Although the Secretary of State has rejected this argument in the recent Mona and Morgan decisions and as noted in our previous submissions, The Crown Estate's buffer does not preclude the need for an assessment where it is likely that an effect will occur, it is notable that The Crown Estate for Round 4 in its preliminary technical advice has pushed out this buffer to 7.5km.

2.5 EA2's wake effects assessment (REP6-079) did not use a worst case scenario layout for the Project but as currently drafted, the draft DCO would allow the Applicant to site turbines right on the edge of the Project's boundary which is only 5.5km from EA2's boundary and closest turbine.

3. Requirement

3.1 The Project is in exactly the same position as Mona and in the circumstances a requirement seeking to minimise its wake effects should be put in place.

3.2 However, Mona's wake mitigation requirement was not fully tested during the examination process with windfarm developers and was produced at the last minute by the applicant. EA2 has concerns about the drafting of that requirement, parts of which the Applicant has included in its proposed requirement wording (see paragraph 3.3 below). Whereas, the draft wake mitigation requirement produced by the joint parties in the Morecambe Offshore Windfarm Generation Assets project (see Appendix 2 of our 5 September 2025 submission) allows parties to work together to produce the best possible wake assessment and provide the data required in order to do this. Therefore, EA2 continues to submit that it should be imposed here as per Appendix 1 of our 5 September 2025 submission with the project specific amendments.

3.3 For a requirement to be valid, it has to be precise. Within paragraph (2) of the Applicant's proposed requirement wording it states:

"whilst maximising the capacity and energy output of the authorised development within the identified technical, environmental and other constraints of the authorised development."

This is meant to be a discharge requirement but at the same time there is not an answer to what the *"identified technical, environmental and other constraints"* are. It therefore lacks certainty on how this would be implemented to the extent that it raises questions as to the validity of the requirement.

3.4 The Applicant has added wording onto the end of paragraph (2) of the Applicant's proposed requirement wording in their Wake Effects Submission stating:

"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".

Greater Gabbard and Galloper are both consortia owned windfarms, in which RWE Renewables is a partner. It is interesting that the Applicant, who is also owned by a consortia led by RWE Renewables, has suggested that the impacts on existing schemes that they have a financial interest in should be taken into account in terms of the reasonableness of the steps proposed under the wake effect plan. The Applicant should provide to the Secretary of State information on the extent to which there is already a commercial agreement between the Applicant and the respective owners of the Greater Gabbard and Galloper windfarms relating to compensation for wake effects. If there are such provisions already in place then it would be wholly unreasonable for the Secretary of State to be taking into account the effects on them relative to the effects on EA2. Given the Applicant's submissions on this point the Secretary of State should seek clarification from the Applicant on the nature of these relationships. The existing projects have not made representations seeking protection from a wake effect requirement.

This suggests that the matter has been dealt with privately beyond the DCO process. The Applicant has raised the matter and they should provide the Secretary of State with the complete picture. If the matter has been dealt with privately beyond the DCO process then, coupled with the lack of certainty referred to in paragraph 3.3 above, there is a real risk that an inconsistent approach is being applied in a manner which is disadvantageous to windfarms with whom the Applicant has purposefully chosen not to engage with. This demonstrates why there needs to be complete candour in the material that is submitted to the Secretary of State in the context of the discharge. This would be achieved through the adoption of the draft Morecambe requirement.

3.5 Within paragraph (4) of the Applicant's proposed requirement wording, along with the turbine details noted in paragraph 1.2 above, the Applicant has also proposed that EA2 should provide the power curve data to the Applicant and Secretary of State within 14 days of the DCO being made. As is standard across the industry, the specific power curves of the turbines are commercially confidential and can only be produced on the basis of there being appropriate data protection in place and available. It is our view that for collaboration on a wake assessment to be effective both organisations must have equal involvement in scoping the assessment, be in control of the assumptions being made for their project and have equal visibility of the results. This inevitably involves the sharing of commercially sensitive information either with each other (so each developer can undertake their own assessment and compare their results) or with an agreed third party (to undertake the assessment of behalf of both developers). EA2 are happy to seek to facilitate the required approvals for confidential disclosure of data for either of these two possible processes noting it requires approval from contractors who own some of this data also. An appropriately worded requirement would facilitate this process.

3.6 Paragraph (7) of the Applicant's proposed restriction wording also reads that if not all of the EA2 turbines have been installed by the Applicant's FID then the Applicant does not have to comply with the wake effects plan. Whereas their comment on this wording states *"[t]his 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"*[8]. Although we strongly disagree that this wording is required in the first instance, if the Secretary of State is minded to include such wording, we would ask that it is amended so that at least one full turbine is to be erected, as opposed to all 64 of EA2's turbines. It should also be noted that FID is a private process and therefore could not competently be the timing mechanism.

Yours faithfully

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For and on behalf of Shepherd and Wedderburn LLP

[8] Paragraph 2.7.14.