

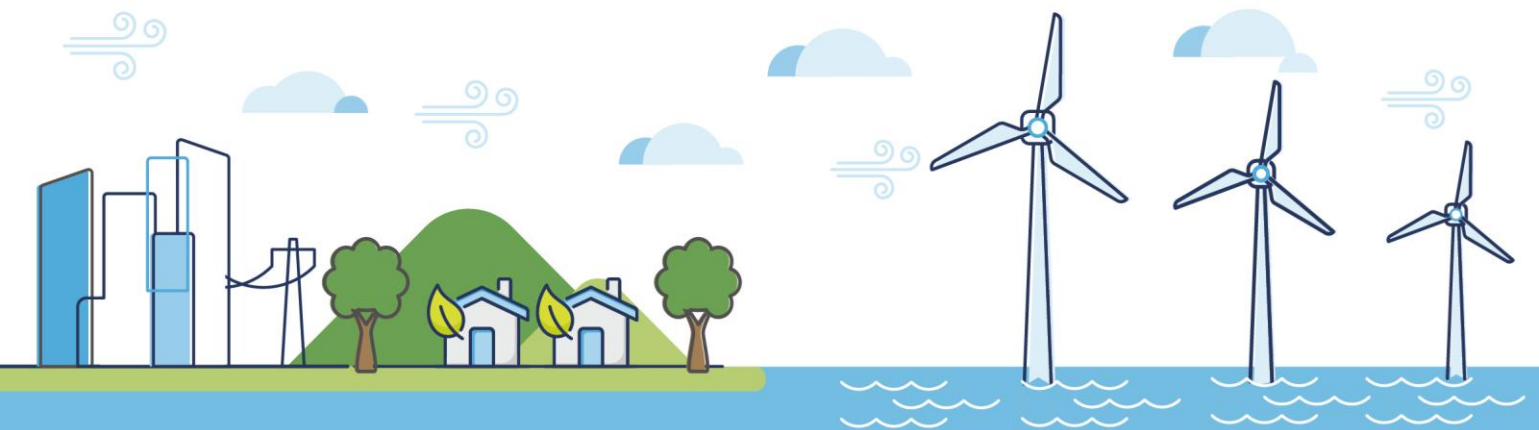
Morecambe Offshore Windfarm: Generation Assets Examination Documents

Volume 9

The Applicant's Remaining Comments on Deadline 5 Submissions by Interested Parties and Comments on responses to ExQ2s

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Glossary of Acronyms

AfL	Agreement for Lease
BML	Bodorgan Marine Limited
DCO	Development Consent Order
ExA	Examining Authority
FLCP	Fisheries Liaison and Co-existence Plan
IPMP	In Principle Monitoring Plan
IPs	Interested Parties
MMO	Marine Management Organisation
MNEF	Marine Navigation Engagement Forum
NPS	National Policy Statement
NRW	Natural Resources Wales
OSP	Offshore substation platform
OWF	Offshore Windfarm
PINS	Planning Inspectorate
TCE	The Crown Estate
UK	United Kingdom
VTMP	Vessel Traffic Management
WTG	Wind turbine generator

Glossary of Terms

Agreement for Lease (AfL)	Agreements under which seabed rights are awarded following the completion of The Crown Estate tender process.
Applicant	Morecambe Offshore Windfarm Ltd.
Application	This refers to the Applicant's application for a Development Consent Order (DCO). An application consists of a series of documents and plans which are published on the Planning Inspectorate's (PINS) website.
Generation Assets (the Project)	Generation assets associated with the Morecambe Offshore Windfarm. This is infrastructure in connection with electricity production, namely the fixed foundation wind turbine generators (WTGs), inter-array cables, offshore substation platform (s) (OSP(s)) and possible platform link cables to connect OSP(s).
The Planning Inspectorate	The agency responsible for operating the planning process for Nationally Significant Infrastructure Projects.
Windfarm site	The area within which the WTGs, inter-array cables, OSP(s) and platform link cables would be present.

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1 Introduction

1. This document presents the Applicant's remaining comments on Deadline 5 submissions by Interested Parties (IPs) and comments on responses to Examining Authority's (ExA) second written questions (ExQ2) that were not previously addressed at Deadline 5A within the Applicant's Comments on Deadline 5 Submissions by Interested Parties and Comments on responses to ExQ2s (REP5a-060). These include the following:
 - Ørsted Interested Parties (IPs) (REP5-092 and REP5-093)
 - Bodorgan Marine Limited (BML) (REP5-088).

2 Ørsted IPs (REP5-092 and REP5-093)

2. The Applicant's comments on Deadline 4 submissions by IPs are provided in the following sections.

2.1 Comments on submission received at Deadline 4 (REP5-092)

Table 2.1 The Applicant's response to Ørsted IPs – Comments on any other submissions received at Deadline 4

ID	Comment	Applicant's response, if required
Response to Greenhouse Gas Assessment Technical Note [REP4-062]		
REP5-092-01	<p>The Ørsted IPs acknowledge the Applicant has undertaken an analysis to update its assessment of the overall GHG emissions savings which will arise from the Project, in light of the loss of renewable energy generation from the Ørsted IPs' developments that is predicted as a result of wake effects.</p> <p>However, the Ørsted IPs do not consider this assessment provides an accurate assessment of the worst-case scenario of the Project for the reasons outlined below. In order to properly understand the consequences of the Project and the importance of implementing effective mitigation, a realistic worst-case scenario should be assessed.</p>	See response to comment ID REP5-092-02.
REP5-092-02	<p>First, the assessment does not consider the cumulative effects of the Project with the Mona and Morgan developments. As outlined below, and in the Ørsted IPs' responses to the second written questions of the examining authority, the cumulative effects of these three developments will have a significant and material impact on the energy generation and viability of the Ørsted IPs' assets. It is not appropriate to treat these developments,</p>	<p>The Applicant has not assessed the cumulative wake effects. Cumulative effect assessments and those including wider cluster wake effects are subject to a high uncertainty and a large number of variables many of which are not known at this time. Further, theoretical fluid dynamic models cannot be verified with real data and this continues to be a challenge in the development and verification of these assessments. Turbulent flow computation is mathematically very complex and therefore due to the uncertainties</p>

ID	Comment	Applicant's response, if required
	<p>which are in close proximity to one another and being consented concurrently, in isolation.</p>	<p>and simplification in assumptions made; large error bounds and caveats are tied to any analysis. The Applicant does not recognise value in this exercise.</p> <p>As described in paragraph 52 of the Greenhouse Gas Assessment Technical Note [REP4-062], the Wake Effects assessment on GHG emissions focused on the Morecambe Project only, as the Applicant has greater assurance of the data used to calculate emissions arising from, and avoided by the Project, compared to Mona and Morgan. Any cumulative assessment of Wake Effects on GHG emissions would need to account for the potential for avoided emissions from the Mona and Morgan projects. Therefore, the outcomes of the assessment would show a greater beneficial effect if a cumulative assessment was undertaken.</p>
<p>REP5-092-03</p>	<p>Additionally, the Applicant's assessment includes a scenario in which the Ørsted IPs' assets continue to operate for 35 years which it describes as a "conservative scenario". The Ørsted IPs do not consider the assessment includes a realistic conservative scenario, as it does not include an assessment of the loss of avoided emissions where the Ørsted IPs' assets are decommissioned early as a result of their assets becoming uneconomic due to the financial consequences of the cumulative wake losses.</p>	<p>The Applicant updated its assessments to include the scenario in which the Ørsted IPs' assets continue to operate for 35 years, which concluded that there would not be a noticeable difference in the Applicant's original conclusions, which were based on the estimated earliest decommissioning dates publicly available.</p> <p>The Applicant maintains that the scenario used is a realistic conservative scenario given that operational decisions for existing projects depend on multiple commercial and technical considerations beyond wake effects alone, including maintenance costs, market conditions, and regulatory frameworks. Therefore, while wake impact is potentially a consideration, it is not the sole determinant of financial viability.</p> <p>The Applicant does not consider there to be any certainty that the Ørsted IPs' assets will be extended in the manner – or for the duration – that the Ørsted IPs assert (let alone that the existence of</p>

ID	Comment	Applicant's response, if required
		the Project would directly cause impacts such that no lifetime extensions were pursued). It would therefore not be appropriate or proportionate to do such an assessment.
REP5-092-04	As explained in detail in their responses to ExQ2 and below, there is a real risk that as the assets become fully merchant, the financial consequences of the wake effects could result in the assets no longer being economically viable. That being the case, a realistic conservative scenario would be the total loss of renewable generation from the assets from the assets' earliest decommissioning dates for a period of 10 years.	As noted in REP5-092-03 above, the Applicant does not recognise this as a credible scenario.
REP5-092-05	The Ørsted IPs note that in one of the scenarios assessed (displayed in table 4.5) there "would not be avoided emissions associated with the Morecambe Project". Again, the Applicant describes this as a conservative scenario. For the reasons outlined above, the Ørsted IPs do not agree.	The Applicant again states that an assessment on cumulative effects has too much uncertainty to provide meaningful result. Other windfarms may not be built or may have different turbines / numbers of turbines to the assumptions used in the analysis. The Applicant cannot base analysis on unknowns that may or may not become reality.
REP5-092-06	In light of the above, the Applicant's conclusion that "...any loss of generation at the Ørsted IPs operational wind farm projects is far outweighed by the annual quantity of generation by the Morecambe Project" is unfounded.	The Applicant refers to its statement at REP5-092-03 above that meaningful assessment here cannot be done.
Applicant's comments on deadline 3 submissions [REP4-058]		
REP5-092-07	The Ørsted IPs wish to respond to a small number of comments made by the Applicant in response to their	The Applicant notes this comment and has responded accordingly.

ID	Comment	Applicant's response, if required
	deadline 3 submissions, regarding wake effects, ecology and shipping and navigation.	
Wake effects		
REP5-092-08	The Applicant's comments on the Ørsted IPs deadline 3 submission regarding wake effects are noted. The Ørsted IPs maintain their position regarding the policy requirement for the Applicant to assess and mitigate the wake effects of the Project on their assets, as set out in previous submissions.	The Applicant maintains its position regarding wake loss as set out in the Applicant's Comments on Deadline 4 Submissions by Interested Parties (REP5-060). The Applicant's final position is summarised in its Summary and Signposting Document (Document Reference 9.69) submitted at Deadline 6.
REP5-092-09	<p>The Ørsted IPs wish to respond to one point in particular that the Applicant has made in relation to wake effects. The Applicant has stated that it does not agree that the Project would have a material impact on the Ørsted IPs assets. The Applicant has noted that any impact on the assets "remains uncertain and is subject to various factors beyond the scope of the Project alone."</p> <p>The Ørsted IPs have produced a financial note accompanying their response to the second written questions of the examining authority ("Financial Note"), outlining the predicted financial consequences of the wake effects of the Project (both alone and cumulatively with the Mona and Morgan developments).</p> <p>Of particular importance in terms of decision making in respect of the assets, is the impact to the profitability when the asset become fully merchant. As explained in the Financial Note, as market support for the assets fall away (between 15 and 20 years following commencement of operation of the assets), they are likely to become significantly more vulnerable to market volatility. At this point in particular, there is a very real risk that the predicted wake losses, left unmitigated, could</p>	<p>The Applicant would note that the merchant period (after a contract for difference or renewables obligation certificate has ended and all capital loans are repaid) is by nature a period of lower revenues and for some years also lower operational costs. This is part of the asset management of aging assets.</p> <p>Narrowing economic margins, and impacts to a financial bottom line are risks that any business owner or operator must navigate. The Applicant does not consider that the Financial Note justifies that the (very small) wake effects would be the cause, or likely to be the cause, of any change in viability of any existing wind farm. If such a change in viability were to occur the submission of the Ørsted IPs suggests that the cause would be the falling away of the existing market support.</p> <p>Reference is made to paragraph 2.8.347 of NPS EN-3:</p> <p>"2.8.347 Where a proposed development is likely to affect the future viability or safety of an existing or approved/licensed offshore infrastructure or activity, the Secretary of State should give these adverse effects substantial weight in its decision-making." (emphasis added).</p>

ID	Comment	Applicant's response, if required
	result in the operation of the assets becoming economically unviable. As outlined in the Ørsted IPs' response to ISH3 action point 23 [REP4-077] (the "Asset Lifetime Note"), this would occur significantly prior to the end of the assets' operational lifetimes.	
REP5-092-10	While it is acknowledged that other factors will be relevant to decisions regarding the long-term lifetimes of their assets, the Ørsted IPs consider the predicted financial consequences of the Project's wake effects are clearly significant. In their view, these consequences will be of material importance in decision-making regarding the assets.	The Applicant's position is that life extension decisions for existing projects depend on multiple commercial and technical considerations beyond wake effects alone, including maintenance costs, market conditions, and regulatory frameworks. Therefore, while wake impact could potentially be a consideration, the Ørsted IPs have not demonstrated that wake impacts from the wind farm are likely to actually be a causal factor in the determination of financial viability of any existing wind farm.
REP5-092-11	Given the consenting position is that the operational consents are not subject to time limits and none of the consents/licences contain a requirement to decommission at a certain date, and given the assets are (from an engineering perspective) capable of continuing to operate, it would be irrational to disregard the effects of the Project beyond the initial anticipated lifetime of the Ørsted IPs' assets. This is particularly pertinent in light of the clear policy directive in the NPSEN3 and North West Marine Plan for coexistence and the UK Government's and The Crown Estate's recent statements recognising the importance of extending the lifetimes of existing assets.	The Applicant maintains, as set out in previous submissions and as set out in its response to ExQ2 (REP5-070) submitted at Deadline 5 (specifically question 20012), that the Ørsted IPs are premature in suggesting that their projects should be taken as extended based on their statements to this (and other) Examinations. Given that it is agreed by all there are at least some additional consents required for an extension (e.g. new maintenance marine licences), the Applicant remains of the view that it has taken an appropriate approach by basing the Application on the published Environmental Statements for the Ørsted IPs' projects.
REP5-092-012	The Ørsted IPs' note this position is also relevant to the Applicant's comments on the Ørsted IPs responses to	The Applicant notes this comment.

ID	Comment	Applicant's response, if required
	questions 1OOI1 and 1GEN1 of the first written questions of the examining authority [REP4-060].	
Ecology		
REP5-092-013	<p>In response to the concerns raised by the Ørsted IPs regarding the exclusion of Barrow Offshore Windfarm ("Barrow") from the Applicant's cumulative and in-combination effects assessments, the Applicant has maintained there is no need to include Barrow in its cumulative or incombination effects assessment, because of the Marine Management Organisation's view that works required post 2030 would need to be authorised by new marine licences.</p> <p>As outlined in the Ørsted IPs' response to ISH3 action point 23 [REP4-077] (the "Asset Lifetime Note"), no expiry date applies to the Barrow's operational consent (a section 36 consent). Any application for new/to vary existing marine licences would apply to discrete maintenance activities only. The Ørsted IPs do not consider it is appropriate to exclude Barrow from the Project's effects assessments when its existence beyond 2030 is legally authorised and highly likely?. It is noted that both the Mona and Morgan developments have now incorporated Barrow into the effects assessments for those applications.</p> <p>The information which is publicly available in respect of Barrow is that there is no requirement for it to be decommissioned. Ørsted has already taken steps to review the consenting position in respect of the asset (as evidenced by the letter from BEIS provided at [REP3-110]). The Ørsted IPs have stated on numerous occasions in this examination and the examinations for the Morgan and Mona developments there is a real</p>	<p>The Applicant has screened out Barrow Offshore Windfarm (OWF) from the cumulative assessment as this project is scheduled to be decommissioned by 2030, and therefore there would be no overlap between the operation of the Project and Barrow.</p> <p>In its advice to the Applicant regarding the 'gap-filling' of historic projects, Natural England stated (RR-061) that <i>'It is of note that some OWFs screened into the assessments may be nearing end-of-life with limited (or no) overlap with the proposed project. It would be appropriate to consider timelines and determine if any of these sites can be screened out.'</i> The Applicant therefore considers it appropriate and logical to exclude Barrow from its cumulative and in-combination estimates.</p> <p>It is acknowledged that the extensions to existing operational projects could lead to overlap, and that Natural England and Natural Resources Wales (NRW(A)) have recommended that assessments should include projects nearing their end of life. However, as stated by NRW(A) in their Deadline 5 submission (REP5a-069) it is not considered that their inclusion materially affects the in combination assessment or conclusion and Natural England acknowledges the small impact of these projects. Therefore, the Applicant considers that sufficient data has been collected to accurately describe the baseline environment in order to undertake the cumulative assessment.</p> <p>The Applicant considers that the assessment is precautionary as it includes a wide number of projects that do not have an operational life over the full duration of the Project and there is no ability within assessments to account for such projects and their reduced effects over time. It is considered that the conclusions of the assessments would not be altered by the inclusion of Barrow (a position</p>

ID	Comment	Applicant's response, if required
	<p>likelihood that the assets (including Barrow) will continue to operate beyond the initially anticipated lifetimes.</p> <p>In response to the Applicant's comments at [REP3-108-09] the Ørsted IPs recognise and have no comments in respect of the compensatory measures proposed for red throated divers as set out in the updated draft DCO submitted at deadline 4. The Ørsted IPs may provide further comments on this matter if the Applicant's approach to the compensatory measures change.</p>	<p>supported by NE and NRW(A) in their Deadline 5 and 5A submissions (REP5-084 and REP5a-069) and there remains uncertainty of the expected extension and licensing process required.</p> <p>The Applicant notes it is not for the Ørsted IPs to determine the approach to ornithological assessment. Instead, it is the responsibility and function of Natural England (and NRW(A)) to provide advice to the ExA on this matter.</p>
Shipping and Navigation		
REP5-092-014	<p>In response to the Applicant's comments at [REP3-108-10], the Ørsted IPs do not consider the Applicant's commitment to continue the Marine Navigation Engagement Forum ("MNEF") postconsent resolves their concerns regarding the lack of certainty and specificity of engagement which will be provided through this forum (as set out in their deadline 3 submission [REP3-108]).</p> <p>Therefore, the Ørsted IPs reiterate their request for a formal commitment to ensuring they have the opportunity to review the Vessel Traffic Management Plan ("VTMP") pre-submission to the Marine Management Organisation pre-construction in the interests of navigational safety within the vicinity of the Ørsted IPs assets, as a named consultee in the VTMP.</p> <p>It is noted that the personnel who ultimately will be involved in consenting during the construction of the Project may be different to those responsible for consenting during the Project's development application. Therefore, there is a risk that, if consultation with the Ørsted IPs on the matters they are concerned with is not explicitly required, it will not be undertaken.</p>	<p>The Applicant has secured the production of a Vessel Traffic Management (VTMP) in line with the Outline VTMP (REP5a-031) in the draft DCO (Document Reference 3.1) (Schedule 6 Condition 9(1)(j)). Engagement with existing operators on the VTMP would be undertaken, as appropriate, with approval required from the Marine Management Organisation (MMO), Trinity House and the Maritime Coastguard Agency (MCA).</p> <p>The Applicant has committed within the Outline VTMP (REP5a-031) to maintaining the Marine Navigation Engagement Forum (MNEF) post-consent and for a minimum of five years into the operational and maintenance phase of the Project. It is noted that similar commitments are made by the Mona Offshore Wind Project and Morgan Offshore Wind Project Generation Assets in their Outline VTMP. And the Applicant has confirmed through the VTMP that the MNEF is an open forum which will be inclusive for any additional stakeholders who may wish to attend it at any point in the future.</p> <p>The Applicant anticipates that the frequency of MNEF meetings will be agreed with the group at the first meeting post-consent when the Applicant has a better understanding of the pre-construction programme and programme for preparation of key pre-commencement documents including the VTMP. Therefore, the Ørsted IPs, through their membership of the MNEF, will have an</p>

ID	Comment	Applicant's response, if required
		<p>opportunity to review the VTMP and to discuss issues related to navigational safety with the Applicant.</p> <p>The Applicant maintains that it is the function of the MMO to determine which organisations are consulted in relation to the VTMP. Accordingly, Schedule 6 Condition 9(12) was reworded at Deadline 4 to clarify that the list of bodies that the MMO can consult with in relation to the approval of pre-construction plans and documentation is not exhaustive.</p>

2.2 Response to ExQ2

Table 2.2 The Applicant's response to Orsted IPs Response to ExQ2

Ref	Question to	Question	Orsted Response	Applicant's Response
200I2	The applicant, Ørsted IPs, MMO, NE	<p>Effect on nearby OWFs</p> <p>The Ørsted IPs ([REP4-077], paragraph 1.22) consider that any need to obtain or vary an existing marine licence is considered business-as-usual and would not impact on decision making regarding extending the lifetime of the assets. Having regard to the recent C G Fry & Son Limited vs Secretary of State for Housing, Communities and Local Government [2024] EWCA Civ 730 judgment,</p>	<p>The case referred to ("CG Fry") is not on point. The marine licensing process is not a multi-stage consenting process. CG Fry related to an application to discharge conditions in a multi-stage housing development, for which outline planning permission had been obtained and for which appropriate assessment had never been carried out. In the period between outline permission being granted and the application for discharge of conditions being made, Natural England had issued a specific advice note regarding the risk of that type of development to a Ramsar site. The local authority withheld its approval, on the grounds that no appropriate assessment had been carried out of the development. In</p>	<p>The Applicant refers to it's response to EXQ200I1 in the Applicant's Response to ExA's Written Questions 3 (REP5-070) and response to REP5-092-012 above.</p>

Ref	Question to	Question	Orsted Response	Applicant's Response
		could the Ørsted IPs, MMO, NE and the applicant respond to the proposition that any new marine licence would be likely to require a HRA to be carried out. As a result, parties are invited to comment on how certain the ExA/ SoS can be that any such consent/ approval would be forthcoming?	<p>CG Fry, the Court determined that it had been appropriate for the local authority (and on appeal, the planning inspector) to require appropriate assessment be carried out in respect of the whole development, before granting the application to discharge conditions. The principles of this case are not relevant to the determination of marine licence applications for discrete maintenance activities. As outlined in the Ørsted IPs' response to ISH3 action point 23 [REP4-077] (the "Asset Lifetime Note") the operational elements of the assets are authorised by consents under section 36 of the Electricity Act 1989 and development consent orders under the Planning Act 2008.2 None of these consents contain an expiry date nor a requirement to decommission at a particular date. The HRA process relevant to these consents is contained in the Conservation of Habitats and Species Regulations 2017 ("HRA Regulations") and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (in respect of Walney Extension) and is separate to any process relating to new or varied marine licences required for maintenance activities. New marine licences may be subject to the HRA process but that would be limited to the scope of the activities authorised by the marine licence (i.e. maintenance activities). It would not be appropriate for consideration</p>	

Ref	Question to	Question	Orsted Response	Applicant's Response
			<p>of the Project's effects on the Ørsted IPs' assets to be constrained on the grounds that it is possible their assets may be subject to the appropriate assessment process, in respect of limited maintenance activities authorised by marine licences. In particular, no information has been presented which would provide grounds for the Applicant or the examining authority to exclude Barrow Offshore Windfarm ("Barrow") from any consideration of the effects of the Project. The operation of Barrow is authorised by a section 36 consent (which is not time limited). Further, it is noted Barrow is not captured by the review provisions under the HRA Regulations. 3 There is a real likelihood of operational overlap between the developments, which must be properly evaluated. The Ørsted IPs' have provided clear information (in the public domain) which indicates a likelihood that Barrow will continue to operate beyond 2030. The Ørsted IPs' have also outlined a reasonable period for Barrow's incorporation in assessments would be 10 years following the earliest expected decommissioning date. Against that background, failure to include Barrow in the Project's cumulative impact and in-combination effects assessments would be wrong. We invite the examining authority to require the Applicant to produce updated information</p>	

Ref	Question to	Question	Orsted Response	Applicant's Response
			incorporating Barrow into the cumulative and in-combination assessments (which the applicants in the Mona and Morgan examinations have now done).	
20013	Ørsted IPs	<p>Effect on nearby OWFs</p> <p>In its latest submission ([REP4-076], paragraph 2.5) the Ørsted IPs maintain that the predicted wake effects are a commercial consideration that will affect decisions about the lifetime extension of the existing Ørsted projects and therefore their future viability.</p> <p>For the avoidance of doubt, can the Ørsted IPs confirm whether their position is that the potential wake effects identified would affect the financial viability of the existing Ørsted projects up and until their 'earliest possible decommissioning date' or that your concerns are about financial viability relating to future decisions</p>	<p>The Ørsted IPs have provided, at Appendix 1 to this submission, an analysis of the financial consequences ("Financial Note") of the Project's wake effects on their assets. As outlined in the Financial Note, the wake loss caused by the Project will threaten the future viability of the Ørsted IPs' assets at the point the assets become fully merchant (approximately 15-20 years after the assets commenced operations).</p> <p>While the impacts of wake effect on the Ørsted IPs' assets are immediately material, at the point the assets become fully merchant and vulnerable to the energy market volatility, this effect is significantly exacerbated. At this stage, the profitability of the assets becomes highly marginal and the financial consequences of wake loss from the Project alone and cumulative with the Mona and Morgan developments will threaten the continued operation of the assets. This is outlined in detail in the Financial Note. It is noted that the level of unmitigated wake loss will need to be built into decision making regarding the lifetime of the assets at the point the DCO for the Project is granted.</p>	The Applicant notes this response and refers to it's response to comment ID's REP5-092-09 and REP5-092-10.

Ref	Question to	Question	Orsted Response	Applicant's Response
		about lifetime extensions only?		
200I3	Ørsted IPs	<p>Financial viability of existing Ørsted assets</p> <p>In first written question EXQ1.OOI13 the ExA asked the Ørsted IPs to provide evidence to substantiate their position that the proposed development would affect the viability of the existing Ørsted assets. The Ørsted IPs' response [REP3-109] stated that calculating the financial consequences from wake loss is complex and commercially sensitive but that Ørsted would investigate how to submit a robust assessment of the financial impact using public sources for a later submission. No such information has been provided. Can you provide the information requested in order to support your position that the ExA/SoS should give substantial weight to those effects as</p>	<p>The Financial Note provided at Appendix 1 outlines in detail the financial consequences of the wake effects from the Project (both alone and cumulatively with the Mona and Morgan developments) on the Ørsted IPs' assets. As flagged above, the financial consequences are particularly pertinent at the stage each asset becomes fully merchant, and the profitability of the asset therefore becomes significantly more marginal. It is at this point the financial consequences of the Project would threaten the future viability of the assets. The Ørsted IPs consider that the impacts outlined in the Financial Note, specifically the values in Table 1 and Table 2, supports their view that this effect should be given "substantial weight" in decision making. In essence, the Ørsted IPs have calculated the lost revenue from wake effect which, on an undiscounted basis, stands at £68m and £440m for Morecambe alone and for the cumulative impact of Mona, Morgan and Morecambe respectively. For reference, the Orsted IPs have also applied a range of discount rates to the lost revenue which, depending on the rate applied, can reduce the values by more than half.</p>	<p>The Applicant does not recognise these figures as realistic as the analysis is an extrapolation of today's assumptions and is subject to a number of variables as noted above, which may change in a number of difference ways over time, each change with the potential to grossly vary the outcome. The Applicant also refers to its response to comment ID's REP5-092-09 above.</p>

Ref	Question to	Question	Orsted Response	Applicant's Response
		directed by paragraph 2.8.347 of NPS EN-3.		

3 Bodorgan Marine Limited (REP5-088)

3.1 Comments on submission received at Deadline 5

3.1.1 Introduction

3. The Applicant provided a full response to Bodorgan Marine Limited's (BML) Deadline 3 submission (REP3-098) at Deadline 4 (REP4-058). Since this response, BML have submitted a post-hearing submission including written submissions of oral cases (REP4-068) and their responses to EXQ2 within their Deadline 5 submission (REP5-088).
4. The Applicant notes that BML's submissions at Deadline 4 and Deadline 5 largely restate the arguments made in its Deadline 3 submission and that throughout this further submission it directly repeats text submitted in respect of the Morgan and Mona projects (including again incorrectly referencing the Applicant as being the "same Applicant as for the Mona OFW" at page 8, which is not correct).
5. The Applicant would refer to the Applicant's Response to ExA Written Questions 2 (REP5-070) submitted at Deadline 5, specifically question 2CF2 and the associated Appendix providing confirmation from The Crown Estate (TCE) that it has no power to lease the seabed for aquaculture beyond 12nm. The Applicant notes that TCE provided further clarification at Deadline 5a in its response the ExA's Third Written Question 3CF1 (REP5a-075) which confirmed that "underletting for BML's intended purposes is not possible pursuant to the Lease".
6. Considering these above points, the Applicant aims to respond to BML's Deadline 5 submission, whilst signposting where possible to prevent repetition.

3.1.2 Compliance with Policy

7. The Applicant has carried out a detailed policy assessment, contained in its National Policy Statements Accordance Report (REP3-010), which sets out how the Applicant has satisfied the policy tests under NPS EN-1 and EN-3, including the paragraphs cited by BML.
8. The Applicant has worked collaboratively with other identified developers and sea users on co-existence/co-location opportunities as set out in the Report on Interrelationships with Other Infrastructure Projects (Document Reference 9.20) and in compliance with paragraph 2.8.48 of EN-3. The Applicant has made considerable progress with all affected developers and sea users to resolve issues as set out in the Combined Examination Progress Tracker and

Statement of Commonality (Document Reference 8.5) and each respective Statement of Common Ground.

9. In response to ExQ2 2CF1, BML argues that NPS must be considered ‘in the round’, not taken selectively and so should take into account all other relevant requirements/provisions and in the process undertake the widest possible engagement. BML believes that the Applicant has breached the requirement to undertake consultation with the fishing industry, as detailed in in NPS EN-3 Section 2.8, in particular quoting Paragraph 2.8.154 which requires projects to ‘*undertake early consultation with a cross-section of the fishing industry [...] to identify impacts.*’
10. In Section 2.5.3 of the Applicant’s Comments on Deadline 3 submissions (REP4-058) the Applicant demonstrates the broad approach that was undertaken during pre-application, and the efforts that the Applicant took to ensure that sufficient engagement was undertaken with the fishing industry. Further information can also be with the Applicant’s Consultation Report (REP1-002).
11. BML also raises concerns relating to the responsibility of projects to ‘enhance’ related industries as set out by the NPS. Paragraph 2.8.251 states clearly that “*mitigation should be designed to enhance, **where reasonably possible**, any potential medium and long-term positive benefits to the fishing industry, commercial fish stocks and the marine environment*” (emphasis added). As demonstrated in Section 2.5.3 of the Applicant’s Comments on Deadline 3 submissions (REP4-058), the Applicant is dedicated to designing mitigation; however, the Applicant does not consider it reasonable or proportionate (let alone reasonably possible) to assess what the impacts might be and what potential mitigation might be applicable to BML given the lack of definition to their proposals.
12. BML argues that the Applicant has failed to note the legitimacy of aquaculture and that the core UK legislative framework incorporates aquaculture in its scope. The Applicant does consider that aquaculture falls within ‘fishing activities’ in relation to United Kingdom legislation. However, the Applicant does not consider that aquaculture constitutes a commercial fishery or fishing activity for the purposes of National Policy Statement (NPS) EN-3 in relation to this Project. This is because there are no recognised or important aquaculture activities currently taking place (or having taken place historically) within the Order limits or ICE 36E6 nor, insofar as the Applicant is aware, anywhere beyond 12nm. This is detailed further within the Applicant’s Response to ExA’s Written Questions 2 (REP5-070).
13. In relation to compliance with Marine Plan Policies, the Applicant has responded to ExQ2 2CF2 (a) and (b) within the Applicant’s Response to ExA’s Written Questions 2 (REP5-070).

14. In particular, the Applicant would like to highlight that they do not consider that Policy NW-AQ-1 applies in this case, as BML's proposed activities are not situated within a spatially defined strategic area of sustainable aquaculture production. No identified strategic areas are situated beyond 12nm, which reflects the confirmed position from The Crown Estate that there are no rights exercisable by the United Kingdom under international law to lease areas beyond 12nm for aquaculture (see REP5-070 Appendix A and REP5a-075).
15. The Applicant has undertaken an assessment of the Project in accordance with the relevant North West Inshore and North West Offshore Marine Plan, documented in the Marine Plan Policy Review (APP-025), in accordance with EN-1 paragraphs 4.5.8, 4.5.9, 4.5.10 and 4.5.11, EN-3 paragraph 2.8.46 and s104(aa) of the Planning Act 2008.

3.1.3 Securing of Documentation

16. BML has raised concerns that the latest version of the Outline Fisheries Liaison and Co-existence Plan (FLCP) (REP5a-025) and the In Principle Monitoring Plan (IPMP) (Document Reference 6.4) do not appear to be secured within the Schedule of Mitigation (Document Reference 5.5).
17. Both the FLCP and IPMP are secured within the Development Consent Order.
18. Schedule 6, Part 2, Condition 9(1)(k) of the DCO requires that the final FLCP be submitted and approved in accordance with the Outline FLCP submitted during Examination and certified as an Order document. Therefore, the Applicant considers the Outline FLCP and final FLCP to be sufficiently secured. The final FLCP is also listed in the Schedule of Mitigation.
19. The IPMP relates to monitoring, rather than mitigation, and is therefore not secured with the Schedule of Mitigation. However, the IPMP is secured in the DCO, specifically:
20. Schedule 6, Part 2, Condition 9(1)(c) which requires the submission and approval of a monitoring plan which accords with the IPMP
21. Schedule 6, Part 2, Conditions 14-16 of the DCO, which require pre-, during and post-construction monitoring to be in accordance with the approved monitoring plan. For example, Condition 14 states that proposed surveys *"must be in general accordance with the principles set out in the in principle monitoring plan."*
22. Therefore, the Applicant considers that the mechanisms and application of the IPMP is sufficiently secured within the DCO.

3.1.4 The Crown Estate Leasing

23. The Applicant notes that many of BML's comments relate to the approach which The Crown Estate has taken for its fourth leasing round (such as comments requesting the Applicant "sub-let" part of its allocated seabed area to BML "for a peppercorn rent"). At Deadline 5A, The Crown Estate responded to BML's comments (REPa-075), stating the Agreement for Lease between the Applicant and the Crown Estate will only grant rights pursuant to Section 84 of the Energy Act 2004 and, as such, underletting for BML's intended purposes is not possible pursuant to the Lease.
24. The Applicant therefore considers that BML's concerns are not specific to the Project, but are instead issues that would require consideration at a higher, strategic level with relevant industry and government stakeholders to ensure that a holistic, well-rounded position is reached having fully considered views from all stakeholders and interested industries.

4 References

IEMA (2022). Institute of Environmental Management & Assessment (IEMA) Guide: Assessing Greenhouse Gas Emissions and Evaluating their Significance.