



SHEPHERD+ WEDDERBURN

RESPONSE TO REQUEST FOR INFORMATION ON BEHALF OF

(1) BARROW OFFSHORE WIND LIMITED (REF: 20049974) (2) BURBO EXTENSION LTD (REF: 20049975) (3) WALNEY EXTENSION LIMITED (REF: 20049977) (4) MORECAMBE WIND LIMITED (REF: 20049973) (5) WALNEY (UK) OFFSHORE WINDFARMS LIMITED (REF: 20049978) (6) ØRSTED BURBO (UK) LIMITED (REF: 20049976) (THE "ØRSTED IPs")

IN CONNECTION WITH THE Application by Morecambe Offshore Wind Limited for an Order Granting Development Consent for the Morecambe Offshore Wind Farm

1. Introduction

- 1.1 On 21 August 2025, the Secretary of State (“**SoS**”) issued a request for information (“**RFI**”) in respect of the application by Morecambe Offshore Windfarm Limited (the “**Applicant**”) for an Order under the Planning Act 2008 (the “**Act**”) granting Development Consent for the Morecambe Offshore Windfarm Generation Assets (the “**Project**”).
- 1.2 This submission contains the Ørsted IPs (which represent the views of a group of six owners of offshore windfarms on the West Coast of the UK, within the East Irish Sea, as outlined in their relevant representations)¹ response to the request for information. The Ørsted IPs have also taken this opportunity to clarify the position in respect of the operational lifetimes of their assets, in light of comments made by the SoS in the decision for the Mona Offshore Windfarm.

2. Requirement addressing wake effect

- 2.1 The Ørsted IPs and the Applicant have submitted a joint statement in respect of the SoS’ request that the Applicant submit a proposal to secure:
- a. the provision of an assessment (unless the assessment contained in the Wood Thilsted Report commissioned by Ørsted IPs [REP3-112] is agreed by the Applicant (see paragraph 16)); and*
- b. further consideration of means to minimise any assessed impacts, including opportunities to work with impacted windfarms to achieve this.*
- 2.2 As outlined in that statement, the Ørsted IPs and the Applicant have been engaging in respect of enhancements which could be made to the wake effect requirement imposed in the Mona Offshore Windfarm Order 2025 (“**Mona Requirement**”), which could be implemented in any DCO granted for the Project.
- 2.3 The parties have jointly proposed a requirement on wake effect, which they consider is more certain, enforceable, precise and reasonable than the Mona Requirement. The rationale for the changes proposed to the Mona Requirement are explained in the joint memorandum. The Ørsted IPs do not repeat those reasons in this document but reiterate their acceptance of the inclusion of that requirement in any DCO granted for the Project. The Ørsted IPs’ views on this requirement reflect the specific nature of the interests at play in this region and bilateral discussions with the Applicant to date.

3. The operational lifetime of the Ørsted IPs’ assets

- 3.1 The Ørsted IPs also wish to take this opportunity to address an error in the decision-making in respect of the Mona Offshore Wind Farm, which is relevant to the Project.
- 3.2 The SoS, in that decision, stated that:²
- Both Ørsted IP’s projects and the proposed new projects could seek to have their lifetimes extended. However, there is considerable uncertainty about which, if any, would seek such an extension. The Secretary of State therefore accepts that the use of the consented lifetimes for all projects represents a reasonable worst-case scenario. Any lifetime extensions will alter the assessment, but such extensions will not be allowed without a further consent. Any extensions can only increase the assessed avoided emissions overall.*
- 3.3 This description of the lifetime of the Ørsted IPs’ assets is incorrect. The Ørsted IPs consider this is an important point to clarify in the context of this examination, to avoid the error being repeated. The Ørsted IPs have made several submissions outlining the status, in consenting terms, of their assets.³

¹ RR-008, RR-014, RR-056, RR-088, RR-089, RR-093.

² At 4.88 of the decision.

³ In particular, [REP4-077] and [REP-064].

- 3.4 As explained in detail in previous submissions,⁴ none of the operational consents for the Ørsted IPs' assets (section 36 consents and development consent orders) are subject to a time expiry or a requirement to decommission by a particular date. Therefore, none of the assets require a new or varied operational consent to continue operating.
- 3.5 This position has been confirmed by the SoS in respect of the two oldest of the Ørsted IPs assets in particular (Barrow and Burbo Bank Offshore Wind Farms). Ørsted contacted the SoS in November 2021 to clarify whether variations were required to the consents for these assets to continue to operate. In response, the SoS stated that any limitation to the operational lifetime of a consent is "*...a key provision and one would therefore expect to see it set out explicitly on the face of the consent*". This letter was previously provided at examination deadline 3 [REP3-110] and is attached again as **Appendix 1**. The Ørsted IPs have previously provided a Scottish example of a time limited section 36 consent [REP4-077] which demonstrates this principle.
- 3.6 In respect of the assets discussed in the letter, the SoS outlined it had "*...not found anything which would lead him to conclude that the consents for which he is the competent authority require variation or the supply of additional consents, licences or permissions to secure the Secretary of State's approval to enable the continued operation of the wind farms*".
- 3.7 As outlined in Ørsted IPs' deadline 6 submission [REP6-064], the SoS' position as stated in the letter at Appendix 1 is that:
- 3.7.1 any limitation to the operational lifetime of a development is a key provision which would be explicitly stated on the face of a consent;
 - 3.7.2 it is theoretically possible that operational lifetimes of consents may be limited through the ways in which the provisions in the consents interact with the information provided in the application documents;
 - 3.7.3 no such limit has been created by the consents and application documents for the assets discussed in the letter;
 - 3.7.4 therefore, no variation of the existing consents and no new consents or licences are required in respect of the authorisations for which the Secretary of State is the competent authority.
- 3.8 Any finding that the Ørsted IPs' assets would require a further consent to continue operating (as suggested by the SoS in the decision for the Mona Offshore Windfarm) would be wrong in law.
- 3.9 As outlined in previous submissions, the Ørsted IPs accept that some of the assets *may* require further marine licences for maintenance activities. While some of the existing marine licences are subject to expiry dates, these do not go to the core operation/activity undertaken at the assets. It would not be appropriate, therefore, to treat such licences as determining the lifetime of a development. The Ørsted IPs would not operate their assets without the appropriate marine licences, however, whether any new or varied licences are in fact required is a matter which will be considered closer to the time. In any case, a maintenance marine licence would not, in itself, predicate the decision to extend the lifetime of a windfarm.

Shepherd & Wedderburn LLP
01.09.2025

⁴ [REP4-077], [REP3-108], [REP3-109], [REP3-110].

APPENDIX 1



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Date: 17 November 2021

Dear [REDACTED]

Request for BEIS view on lifetime extension

Thank you for your letter of 11 November setting out Ørsted's position in respect of whether the consents for the Gunfleet Sands 1, 2 and 3; Barrow, and; Burbo Bank Offshore Wind Farms require variation in order to continue the operational lifetime of those developments.

The Secretary of State's starting position is that, as a general rule, when he grants consent to a development, he will include the key operational provisions which he wishes to attach to that development on the face of the consent. Any limitation to the operational lifetime of a development would be such a key provision and one would therefore expect to see it set out explicitly on the face of the consent. As an example, the Pen y Cymoedd Onshore Wind Farm which was granted consent under S36 of the Electricity Act 1989 in 2012¹ contained the following condition in the associated planning permission which was deemed to be granted under section 90 of the Town and Country Planning Act 1990:

Duration of Permission

*(4) This planning permission shall authorise the Development to remain on the Site:
(a) for a period of 25 years from the date of the commissioning of the Development, or where the Development is commissioned in phases for a period of 25 years from the date of the commissioning of the last phase of the Development; or
(b) until 31st March 2042,
whichever is the sooner.*

Reason: In the interests of visual amenity and safety.

While it is acknowledged that there are inevitably essential differences between the way in which onshore and offshore consents are dealt with and presented, there is no obvious reason why a similar condition could not have been included in the consents that you are enquiring about had that been the Secretary of State's intention.

I understand that your concern is that it is possible that the consents may have created limitations to the extent of their operational lifetimes through the ways in which the provisions in the consents interact with the information provided in the application documents. While agreeing that this could be possible on the facts of a specific case, having reviewed the information you have provided/referred to, the Secretary of State has not found anything which would lead him to conclude that the consents for which he is the competent authority require variation or the supply of additional consents, licences or permissions to secure the Secretary of State's approval to enable the continued operation of the wind farms. Of course, whether any other consents, licences or permissions which are required for the operation of the wind farms require variation or renewal etc. to allow for the continued operation of the wind farms would be a matter for the organisations which are responsible for those consents.

Yours sincerely,



[Redacted Name]

Head of Energy Infrastructure Planning