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DOGGER BANK SOUTH OFFSHORE WIND FARM PROJECTS (DBS PROJECTS)

**RESPONSE TO THE SECRETARY OF STATE'S SECOND CONSULTATION DATED 16
JANUARY 2026**

on behalf of

**DOGGER BANK OFFSHORE WIND FARM PROJECT 1 PROJCO LIMITED, DOGGER
BANK OFFSHORE WIND FARM PROJECT 2 PROJCO LIMITED AND DOGGER BANK
OFFSHORE WIND FARM PROJECT 3 PROJCO LIMITED**

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TABLE OF CONTENTS

1.	Introduction.....	3
2.	Executive Summary	3
3.	Engagement	4
4.	The Status of the 2025 NPS	6
5.	The 2025 NPS: Mitigation	6
6.	The 2025 NPS: Compensation.....	8
7.	Next Steps	10

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SECRETARY OF STATE'S SECOND CONSULTATION

DOGGER BANK OFFSHORE WIND FARM PROJECT 1 PROJCO LIMITED, DOGGER BANK OFFSHORE WIND FARM PROJECT 2 PROJCO LIMITED AND DOGGER BANK OFFSHORE WIND FARM PROJECT 3 PROJCO LIMITED

1. INTRODUCTION

- 1.1 Dogger Bank Offshore Wind Farm Project 1 Projco Limited (**DBA Projco**) is a statutory undertaker for the purposes of the Planning Act 2008. DBA Projco has the benefit of development consent for the Dogger Bank A Offshore Wind Farm (**DBA**) which was granted pursuant to The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 as amended (the **DBA/DBB DCO**).
- 1.2 Dogger Bank Offshore Wind Farm Project 2 Projco Limited (**DBB Projco**) is a statutory undertaker for the purposes of the Planning Act 2008. DBB Projco has the benefit of development consent for the Dogger Bank B Offshore Wind Farm (**DBB**) which was granted pursuant to the DBA/DBB DCO.
- 1.3 Dogger Bank Offshore Wind Farm Project 3 Projco Limited (**DBC Projco**) is a statutory undertaker for the purposes of the Planning Act 2008. DBC Projco has the benefit of development consent for the Dogger Bank C Offshore Wind Farm (**DBC**) which was granted pursuant to The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 as amended (the **DBC DCO**).
- 1.4 DBA, DBB and DBC are due to commence commercial operation between 2025 and 2027 and so will be operational before construction of the Dogger Bank South (**DBS**) Projects commences.
- 1.5 DBA Projco, DBB Projco and DBC Projco (together the **Projco IPs**) submitted a consultation response on 6 December 2025 (the **Projco IPs' First Consultation Response**) in response to the Secretary of State's first consultation letter dated 6 November 2025 (the **First Consultation**).
- 1.6 The Projco IPs are making this submission in response to the Secretary of State's letter dated 16 January 2026 (the **Second Consultation Letter**). The Second Consultation Letter seeks specific comments on the suite of National Policy Statements (**NPS**) designated on 6 January 2025 (the **2025 NPS**) and includes a need to consider the current NPSs (the **2024 NPS**) and the supplementary guidance for renewable energy infrastructure (EN-3): Offshore wind wake effects (the **EN-3 Guidance**) which accompanies the 2025 NPSs.

2. EXECUTIVE SUMMARY

- 2.1 In respect of wake matters, the Projco IPs' position remains as summarised in the Projco IPs' closing statement at Deadline 8 (REP8-059) (the **Projcos' Closing Statement**) and its response to the rule 17 letter submitted at Deadline 9 (REP9-033) (the **Projcos' D9 Response**).
- 2.2 The Second Consultation Letter focusses on engagement. The Projco IPs' position is that there has been insufficient engagement throughout the process by the Applicant, and this has continued in the six months following the close of examination. The Applicant has not met the "*good neighbour approach*" or entered into any "*constructive dialogue*" as endorsed by the EN-3 Guidance, but the Projco IPs remain open to engagement with the Applicant. The Projco IPs' detailed position on engagement is set out at section 3 below.

- 2.3 The Projco IPs' position remains that protective provisions are the way to set out a mechanism to secure mitigation and compensation, as set out in the Projco IPs' First Consultation Response.
- 2.4 In respect of the 2025 NPS, the 2025 NPSs are capable of being an important and relevant consideration for the purposes of section 104(2)(d) of the Planning Act 2008. However, the 2025 NPS does not set the primary policy in respect of wake loss and the primary policy in respect of wake loss remains the 2024 NPS. The Projco IPs' detailed position on policy is set out at section 4 below.
- 2.5 The Projco IPs' position is that the Applicant cannot demonstrate compliance with Para 2.8.232 of the 2025 NPS, and it cannot demonstrate reasonable endeavours to mitigate the impact of the Projects on DBA, DBB or DBC. The Projco IPs' detailed position on Para 2.8.232 of the 2025 NPS is set out at section 5 below.
- 2.6 The Projco IPs' position on Para 2.8.233 of the 2025 NPS is that this makes it clear that compensation is appropriate under the 2024 NPS. As the Applicant cannot be found to have complied with the 2025 NPS and the EN-3 Guidance, the Projco IPs' position is that this is a situation where mitigation including compensation should be secured, and this can be secured through the protective provisions. The Projco IPs' detailed position on Para 2.8.233 of the 2025 NPS is set out at section 5 below.

3. ENGAGEMENT

- 3.1 There has not been any substantive engagement between the Applicant and the Projco IPs following the close of the examination. One meeting was held between the Applicant and the Projco IPs in December 2025, but there has been no substantive engagement following that meeting.

Current Position

- 3.2 In respect of the Secretary of State's request:
- 3.2.1 there are currently no matters that are agreed between the parties;
- 3.2.2 no further engagement is proposed by the Applicant with the Projco IPs, although as set out below the Projco IPs remain open to engagement and have requested further engagement with the Applicant; and
- 3.2.3 no agreement has currently been reached which would allow the Projco IPs to withdraw their objection to the Application.

Current Engagement

- 3.3 Following receipt of the Second Consultation Letter, the Projco IPs have sought to engage further with the Applicants. However, the Projco IPs understand that the Applicant's position is that there is no prospect of the issues relating to wake loss being agreed.
- 3.4 Despite the lack of necessary or adequate engagement from the Applicant (which has been insufficient to reach any such conclusion), the Projco IPs do not share the position that there is no prospect of such resolution.
- 3.5 In respect of the questions raised by the Secretary of State at Section 8 of the Second Consultation Letter:
- 3.5.1 the Projco IPs are open to engagement, and would welcome engagement from the Applicant to enable resolution of the Projco IPs' objections;

- 3.5.2 the Projco IPs do remain open to the consideration of mitigation and compensation measures, and the anticipated next steps from the Projco IPs will be to reiterate their openness to the consideration of such measures to the Applicant;
- 3.5.3 the Projco IPs cannot give an indicative timescale for the continuation or conclusion of discussions save to reiterate that the Projco IPs are open to such discussions. Therefore, the Projco IPs consider that the Secretary of State should require a further update from the Projco IPs and the Applicant before proceeding to determine the Application.
- 3.6 The Projco IPs would welcome further engagement from the Applicant, and consider that this is essential before the Secretary of State’s decision on the Application.
- 3.7 However, in terms of the policy requirement it is the case that further engagement at this stage is too late regardless of the extent of that engagement.
- 3.8 The EN-3 Guidance advises that: “*Applicants of proposed offshore wind farms are encouraged to adopt a good neighbour approach, with constructive dialogue between developers*”. The Applicant has not demonstrated this good neighbour approach in the development of the Projects, during the examination of the Projects or following the close of the examination of the Projects.
- 3.9 This is contrary to a number of other offshore wind farm developments which have been determined or which are pending determination. For example, on the:
- 3.9.1 Mona Offshore Wind Farm, it has been reported that an agreement has been reached between the relevant applicant and the affected parties;
- 3.9.2 Morgan Offshore Wind Farm, it has been reported that an agreement has been reached between the relevant applicant and the affected parties; and
- 3.9.3 Morecambe Offshore Wind Farm, the relevant applicant engaged with the affected parties and submitted an agreed form of requirement to the Secretary of State’s consultation which was subsequently included in the made DCO.
- 3.10 Unlike the engagement undertaken by applicants on Mona, Morgan and Morecambe, the Applicant has not reached agreement with the Projco IPs on the manner in which mitigation is to be secured.
- 3.11 The position was set out by the Applicant in response to the Examining Authority’s first round of written questions submitted at Deadline 3 (REP3-027) in relation to wake loss and in response to IOU1.7, where it stated: “*Accordingly, the Applicants have not worked with the operators of other wind farms to seek to reduce wake effects*”. This is based on an absence of engagement on wake loss by promoters historically, which the Applicant characterised at Para 32 of its Closing Submissions on Wake Effects (REP8-046) as “*the normal approach to pre-application engagement on wake effects between projects which do not have common ownership has been minimal or entirely absent*”, and the Applicant continued to defend this position at Para 91 of its Closing Submissions on Wake Effects (REP8-046) where it stated that: “*The nature of the Applicants engagement regarding wake loss was consistent with accepted industry practice in relation to this issue over many years*”.
- 3.12 It would be perverse of the Secretary of State to introduce a new policy in the 2025 NPS which includes a requirement to use reasonable endeavours to address impacts and is accompanied by guidance which encourages a good neighbour approach and constructive dialogue and then to find anything other than non-compliance with that policy in such circumstances and given the statements highlighted above. It would be particularly perverse given that the new policy was introduced in draft in April 2025 in substantially the same form as designated and that the

Applicant has not complied with its substance and has, in its Closing Submissions on Wake Effects (REP8-046) which were submitted in July 2025, continued to justify its lack of engagement as highlighted in Paragraph 3.11 above.

- 3.13 The Projco IPs have sought to address the lack of engagement through submissions to the examination and the drafting of protective provisions as a means of resolution. The protective provisions that the Projco IPs have prepared are balanced and provide both an equitable and robust basis for the necessary further engagement and a subsequent agreement, and the Applicant has not provided comments on the protective provisions through the examination process.
- 3.14 The Projco IPs' position is that the protective provisions set an appropriate basis for that engagement, and that given the absence of meaningful engagement on a voluntary basis the protective provisions must be included in the DCO.

4. THE STATUS OF THE 2025 NPS

- 4.1 Paragraph 1.6.2 of the 2025 NPS EN-1 makes it clear that the 2024 suite of NPSs should have effect for the determination of this Application, as an application accepted for examination before the final publication of the approved 2025 amendments. Paragraph 1.6.3 of the 2025 NPS EN-1 provides that: *"The 2025 amendments will therefore have effect only in relation to those applications for development consent accepted for examination after the final publication of those amendments"*.
- 4.2 However, Paragraph 1.6.3 of the 2025 NPS EN-1 makes it clear that the 2025 NPSs are *"potentially capable of being important and relevant considerations in the decision-making process"*.
- 4.3 For the purposes of section 104(2)(a) of the Planning Act 2008, the relevant NPSs which have effect and which the Secretary of State must have regard to in making his decision on this project are the 2024 NPSs.
- 4.4 In accordance with the section 104(3) of the Planning Act 2008 the Secretary of State must decide the Application in accordance with the 2024 NPSs.
- 4.5 The Projco IPs' position in respect of the 2024 NPS is set out at Section 4 of the Projcos' Closing Statement (REP8-059).
- 4.6 Therefore, the 2025 NPSs are capable of being an important and relevant consideration for the purposes of section 104(2)(d) of the Planning Act 2008. However, the primary policy in respect of wake loss remains the 2024 NPS.
- 4.7 The Projco IPs' position on the specific policies identified in the Second Consultation Letter is set out below.

5. THE 2025 NPS: MITIGATION

- 5.1 Paragraph 2.8.232 of the 2025 NPS EN-3 provides that: *"Applicants should demonstrate that they have made reasonable endeavours to mitigate the impact of wake effects on other offshore wind generating stations"*.
- 5.2 The EN-3 Guidance provides further guidance on Paragraph 2.8.232. Section 1.3 of the EN-3 Guidance provides that developers: *"should demonstrate reasonable efforts at mitigation, including evidencing their rationale for why they have or have not, on balance, decided to implement mitigations"*.

- 5.3 In this case, the Applicant cannot demonstrate that it has made reasonable endeavours to mitigate the impact of the Projects on DBA, DBB or DBC and so cannot satisfy Paragraph 2.8.232.
- 5.4 The Applicant has not undertaken sufficient work to demonstrate that mitigation in respect of the Project impacts could not be deployed in order to minimise the impacts on DBA, DBB and DBC. The Applicant has relied on studies for hypothetical scenarios or other offshore wind farms instead of undertaking a site-specific assessment (as the Projco IPs outlined in its response at Deadline 7 (REP7-139)). A project specific assessment in respect of the Projects and which considers all of the Projco IP's projects, which remains absent, would have supported a more informed assessment of the mitigation options for DBA, DBB and DBC. This is because the specific conditions of the site (including wind speed, wind direction, turbine technology and other physical parameters) form an important part of the understanding of the mitigation.
- 5.5 The first part of Paragraph 2.8.233 of NPS EN-3 provides that: "*However, there is no expectation that wake effects can be wholly removed between developments*". This is a connected policy to the policy at Paragraph 2.8.232 given the use of the word however.
- 5.6 What Paragraph 2.8.233 does not address is a situation where there is no mitigation (it only provides that there is no expectation that wake effects are wholly removed). Therefore, it is implicit in this policy that there is an expectation that wake effects are addressed (just not necessarily wholly addressed). The Applicant has not proposed to address impacts in part or in whole through mitigation because of its erroneous conclusion that no options do or could exist, has resisted engagement on the protective provisions and continues to resist the inclusion of a requirement.
- 5.7 In a situation where significant impacts have been identified and are not addressed by mitigation, then applying the mitigation hierarchy including compensation remains the appropriate means of addressing those significant impacts. The protective provisions proposed by the Projco IPs provide for mitigation measures to be considered at the detailed design stage and expressly allow for compensation to come forward if no mitigation is available at that point in time. This provides an equitable and robust mechanism to address policy non-compliance and the significant effect to DBA, DBB and DBC.
- 5.8 The policy in the 2025 NPS EN-3 should not be treated as a get out of jail free card for a developer in circumstances of non-compliance with the 2024 NPS (or the requirements of the 2025 NPS).

Decision Making

- 5.9 In terms of decision making on mitigation, this is addressed through Paragraph 2.8.316 of the 2025 NPS EN-3 which provides that: "*Where an applicant has demonstrated that they have made an assessment of inter-array wake and **shown that they have made reasonable efforts to work collaboratively** with those who may potentially be impacted to mitigate impacts, then the existence of a residual wake effect impact is unlikely to carry more than limited weight against a project in the planning process*".
- 5.10 In this case, the Applicant cannot demonstrate that it has:
- 5.10.1 made reasonable efforts to work collaboratively with the Projco IPs prior to submission of the Application, during the examination of the Application or following the close of the examination of the Application; or
 - 5.10.2 demonstrated reasonable endeavours to mitigate the impact of wake effects in DBA, DBB or DBC.

5.11 Paragraph 1.5 of the EN-3 Guidance provides that: *“If developers meet the principles set out within the previous paragraphs wake effects will likely carry lower weight against a project being consented in planning decisions”*. In this case, the Applicant has not met the principles within the preceding paragraphs and policy and so there is no justification in having regard to the 2025 NPS EN-3 for the Secretary of State to place lower impacts on the wake loss effects for DBA, DBB and DBC than the weight prescribed in the 2024 NPS EN-3.

6. THE 2025 NPS: COMPENSATION

6.1 Paragraph 2.8.233 provides that: *“However, there is no expectation that wake effects can be wholly removed between developments, or that inter-project compensation arrangements are a necessary means to mitigate the impact of wake effects, although developers may opt to take such approaches outside of the planning process”*.

6.2 In terms of the final limb of Policy 2.8.233, the Applicant’s position in respect of the protective provisions and requirement demonstrates that it is not opting to take any steps in respect of compensation agreements. With no such process being undertaken outside of the planning process, it is important that this is addressed through the planning process. The Secretary of State cannot assume that compensation will be recovered to address the identified impacts on viability and economic loss.

6.3 The Projco IPs’ position in respect of the current NPS, including in relation to the requirement for compensation in this case, was set out in detail in its submissions to the examination and summarised in the Projcos’ Closing Statement (REP8-059). However, since the 2025 NPS has now been designated, the Projco IPs’ position on this part of the 2025 NPS is set out below.

6.4 An updated draft of NPS EN-3 was issued on 13 November. This accompanied the government’s Consultation Response Planning for New Energy Infrastructure 2025 revisions to National Policy Statements for energy infrastructure (the **Consultation Response**).

6.5 Whilst Paragraph 1.6.2 of the 2025 NPS 2025 EN-3 makes it clear that the 2024 suite of NPSs should have effect for the determination of this Application, the 2025 NPS is a potentially relevant and important consideration which may attract weight in the determination of this Application. As identified above, in this case the Applicant has not satisfied the preceding elements of the policy. In respect of:

6.5.1 Policy 2.8.176 of the 2025 NPS, the Projco IPs’ position is that:

- (a) at the design stage (and until it changed its position at Deadline 4 of the examination), the Applicant did not undertake an assessment of inter-array wake effects in respect of the Projco IPs’ projects;
- (b) the Applicant had not considered wake effects or made reasonable endeavours to address these prior to the commencement of the examination of the Projects, or prior to its change of position at Deadline 4. Even after Deadline 4, the Applicant has not used reasonable endeavours to address wake effects; and
- (c) as demonstrated by the Projco IPs’ response on engagement, the Applicant has not made reasonable endeavours to address this following the close of examination.

6.5.2 Policy 2.8.232 of the 2025 NPS, the Projco IPs’ position is that the Applicant cannot demonstrate that it has made reasonable endeavours to mitigate the impact of the Projects on DBA, DBB or DBC as set out in section 5 above.

- 6.5.3 Policy 2.8.233 of the 2025 NPS, the Projco IPs' position is that because the Applicant cannot: 1) demonstrate compliance with the 2024 NPS (which provides the primary policy framework in respect of wake loss); or 2) demonstrate compliance with the 2025 NPS, in spite of the designated 2025 NPS being in substantially the same form as that issued in April 2025, and given the significance of the impacts on DBA, DBB and DBC and the weight that should be attached to those impacts, compensation is appropriate in this case. If the 2025 NPS applied there would be a particular justification for compensation in cases such as this where the Applicant cannot demonstrate compliance with requirements of the new NPS in the formulation of its proposals.
- 6.5.4 Policy 2.8.316 of the 2025 NPS, the Projco IPs' position is that the Applicant cannot demonstrate that it has made reasonable efforts to work collaboratively with those who may potentially be impacted to mitigate impacts. It did not engage with the Projco IPs prior to or during the examination of the Application or during the recommendation phase. This is made clear in the Guidance which states: "*If developers meet the principles set out within the previous paragraphs wake effects will likely carry lower weight against a project being consented in planning decisions*". Here, the Applicant has not complied with the 2024 NPS, has not met the principles in the 2025 NPS and so the impact on DBA, DBB and DBC cannot carry lower weight pursuant to this policy.
- 6.6 The 2025 NPS does not state that compensation is not appropriate (which it could have done). As set out in the Kings' Counsel Opinion appended to the Projco IPs' First Consultation Response, Paragraph 2.8.233 does not preclude compensation. In its Consultation Response when designating the 2025 NPSs, the government stated that it: "*maintains that wake effects are a commercial matter to be resolved between developers*". This makes it clear that compensation is an entirely valid means of addressing economic loss as a result of wake effects.
- 6.7 In its Consultation Response, the government states in making its amendments to the current national planning policy which applies in respect of wake loss that: "*the planning system is not expected to adjudicate on compensation arrangements for wake effects*". For the reasons set out in the Projco IPs' submissions and summarised in the Projcos' Closing Statement (REP8-056), under the current national policy framework compensation is an appropriate means of addressing the wake loss impacts caused by the Projects to DBA, DBB and DBC.
- 6.8 The Consultation Response and the EN-3 Guidance also make it clear that the purpose of the wording is not to avoid compensation, but is to avoid adjudicating on compensation. The protective provisions address this by providing a clear process which allows for expert determination.
- 6.9 This makes it clear that compensation is appropriate under the 2024 NPS.
- 6.10 This submission also makes it clear that the Applicant cannot be found to have complied with the 2025 NPS or the EN-3 Guidance. Therefore, the Projco IPs' position is that this is a situation where compensation should be secured, and this can be secured through the protective provisions should that process not lead to mitigation at the detailed design stage.
- 6.11 The fact that the government has felt the need to include specific wording in the 2025 NPS stating that there is no expectation that compensation is necessary (always subject to policy compliance) and has specifically addressed this planning policy change in the Consultation Response demonstrates that it is implicit that under the 2024 NPSs compensation can be secured as a relevant measure. There is not the same stated exception from the requirement for compensation and not the same express exclusion of compensation as an expected matter under the current NPS.

On the contrary, and as set out in the Projcos' Closing Statement (REP8-056), the mitigation hierarchy applies and so compensation is the step to be secured where mitigation cannot be secured.

7. NEXT STEPS

- 7.1 The Projco IPs are open to engagement, and would welcome engagement from the Applicant.
- 7.2 The Projco IPs' position is that the Secretary of State cannot lawfully proceed to make the DCO without the inclusion of the protective provisions given the policy framework, lack of compliance with that policy framework by the Applicant, the extent of precedent for wake loss mitigation being addressed through the 2024 NPS and the significance of the impacts of the Projects on DBA, DBB and DBC.
- 7.3 Therefore, the Projco IPs consider that the Secretary of State should require a further update from the Projco IPs and the Applicant before proceeding to determine the Application.

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