

## Ørsted IPs' – Response to Rfl

### Introduction

This submission is made on behalf of Hornsea 1 Limited, the collective of Breesea Limited, Soundmark Wind Limited, Sonningmay Limited and Optimus Wind Limited (together, the “**Hornsea 2 Companies**”), Orsted Hornsea Project Three (UK) Limited, Orsted Hornsea Project Four Limited, Lincs Wind Farm Limited, Westermost Rough Limited and Race Bank Wind Farm Limited (together or in any combination, the “**Ørsted IPs**”). The Ørsted IPs note that only Hornsea 1 Limited, the Hornsea 2 Companies and Orsted Hornsea Project Three (UK) Limited continue to hold objections to the Dogger Bank South Offshore Wind Farm Project (the “**DBS Project**”) relating to wake loss.

The Ørsted IPs note that the Secretary of State has issued a Request for Information dated 5 February 2026 (the “**Rfl**”). The Rfl, at paragraph 4, invites all Interested Parties to comment on the recent post-examination documents submitted in respect of the DBS Project.

The Ørsted IPs have reviewed the most recent submissions from the Applicants and, whilst the Ørsted IPs do not consider it would be helpful to the Secretary of State for the Ørsted IPs to repeat (at length) their various submissions made throughout the examination, it is necessary for the Ørsted IPs to respond to certain matters in the Applicants' Response to the Secretary of State's Request for Information on Wake Effects [**C2-005**] (the “**Applicants' Wake Effects Document**”). This submission, therefore, contains the Ørsted IPs' responses in relation to these matters, though the Ørsted IPs note that their overall position remains as stated in their recent submission, most notably in the Ørsted IPs' Closing Statement [**REP8-062**], the Ørsted IPs' Deadline 9 Submission [**REP9-034**], the Ørsted IPs' Response to the First Rfl [**C1-019**] and the Ørsted IPs' response to the Second Rfl [**C2-007**].

Further, the Ørsted IPs' also wish to take this opportunity to address recent decisions made by the Secretary of State in relation to other Development Consent Orders (“**DCOs**”) for offshore wind farms, and their pertinence to the DBS Project.

### Protective Provisions and DCO Requirement

From the outset, the Ørsted IPs wish to reiterate that the protective provisions submitted by the Ørsted IPs in their Deadline 6 Submission [**REP6-085**]<sup>1</sup> represent a fair, proportionate, and policy-compliant solution to inter-project wake loss impacts – therefore, these protective provisions remain the Ørsted IPs' strong preference for inclusion in the DCO for the DBS Project. The Ørsted IPs have set out their justification for these protective provisions on numerous occasions, namely in the documents referenced above, and therefore do not propose to do so again in this submission.

Notwithstanding and without prejudice to this position, the Ørsted IPs wish to draw attention to Appendix 1 of the Ørsted IPs' Response to the First Rfl [**C1-019**], which contains the Ørsted IPs' preferred drafting for a DCO requirement. This has been provided in the event that the Secretary of State deems a DCO requirement to be the appropriate solution to the still-unresolved issue of wake loss in relation to the DBS Project. Full justification for the drafting proposed by the Ørsted IPs is provided across pages 4-7 of [**C1-019**].

### Recent Decisions – Outer Dowsing and Five Estuaries

#### Outer Dowsing

On 10 February 2026, the Secretary of State granted consent for the Outer Dowsing Offshore Wind Farm Order 2026 (the “**Outer Dowsing DCO**”). At Requirement 34 of Part 3 of Schedule 1

<sup>1</sup> The terms ‘Wake Loss Mitigation Scheme’ and ‘Wake Loss Agreement’ are used in this submission – these terms have the same meaning as defined in the protective provisions submitted by the Ørsted IPs in [**REP6-085**].

to the Outer Dowsing DCO, the Secretary of State included protection for, amongst others, the Ørsted IPs' assets that held objections to the Outer Dowsing DCO relating to wake loss (namely Hornsea 1 Limited, the Hornsea 2 Companies and Race Bank Wind Farm Limited).

There are numerous similarities between the objections held by the Ørsted IPs to the Outer Dowsing DCO and the DBS Project. Principally, the arguments put forward by the relevant Ørsted IPs throughout the two examinations were extremely similar in relation to policy, precedent and the need and justification (i.e. level of impact) for protection of affected assets on the face of the DCO. Indeed, two of the affected Ørsted IPs' assets are the same across both projects – the Hornsea One Offshore Wind Farm and the Hornsea Two Offshore Wind Farm. Across the four Ørsted projects impacted by the Outer Dowsing DCO and the DBS Project, the modelled Annual Energy Production losses, and the associated overall financial impacts, are within the same order of magnitude.

Therefore, the Secretary of State's decision to include a DCO requirement relating to wake loss, which provides protection for the affected Ørsted IPs' assets on the face of the Outer Dowsing DCO, represents a clear precedent for a minimum level of justified protection that should be applied to the DBS Project.

Further, the Secretary of State's decision for the Outer Dowsing DCO aligns with the precedent set in the decisions for the Mona Offshore Wind Farm Order 2025 ("**Mona DCO**") and the Morecambe Offshore Windfarm Generation Assets Order 2025 ("**Morecambe DCO**"). The protection of the Ørsted West Coast IPs<sup>2</sup> by requirements on the face of the Mona DCO and the Morecambe DCO represent clear examples of protective precedent that has been followed by the Secretary of State in the Outer Dowsing DCO, and therefore a consistent approach should be followed in relation to the DBS Project. This precedent and position is further supported by the wake loss requirement included on the face of the Awel y Môr Offshore Wind Farm Order 2023 (the "**AyM DCO**"), at Requirement 25 of Schedule 2. In addition, the Ørsted IPs note that it is highly likely that, had the Ørsted West Coast IPs not withdrawn their objection to the Morgan Offshore Wind Project Generation Assets Order 2025 (the "**Morgan DCO**") – which occurred after a commercial agreement was reached between the Ørsted West Coast IPs and the undertaker – then the Morgan DCO would also have included a wake loss requirement on its face. Indeed, this assumption is supported by the Applicants' wording at footnote 3 of page 8 of the Applicants' Wake Effects Document, which states that "*the Secretary of State had invited drafting for a requirement, but none was imposed because the wake effects objection was withdrawn following agreement being reached*" (emphasis added).

### Five Estuaries

Before the Outer Dowsing DCO was granted, the Secretary of State also granted consent for the Five Estuaries Offshore Wind Farm Order 2025 (the "**Five Estuaries DCO**"). This became (and remains) the first DCO (for which wake loss matters were debated during examination and for which protection for wake impacts was sought by affected assets) to not include any protection (in the form of a DCO requirement or protective provisions) for assets that sought protection throughout the entire process, i.e. until a decision on those DCOs was made by the Secretary of State<sup>3</sup>. Given the discussion regarding precedent above, the Ørsted IPs consider the Five Estuaries decision to be an anomaly amongst recent DCO decisions in the offshore wind industry.

The absence of protection in relation to wake impacts on the face of the Five Estuaries DCO does not justify the absence of protection for the Ørsted IPs' assets from the significant impacts imposed by the DBS Project. One only has to look at the assets of the Ørsted West Coast IPs (which are protected by requirements on the face of the Mona DCO and the Morecambe DCO)

---

<sup>2</sup> The Ørsted West Coast IPs are a group of six owners of offshore windfarms on the West Coast of the UK, within the East Irish Sea, comprised of Barrow Offshore Wind Limited, Burbo Extension Ltd, Walney Extension Limited, Morecambe Wind Limited, Walney (UK) Offshore Windfarms Limited and Ørsted Burbo (UK).

<sup>3</sup> The Ørsted IPs have included this caveat because their objections to the Morgan Offshore Wind Project Generation Assets Order 2025 were withdrawn before that DCO was granted, after an agreement between the undertaker and the Ørsted IPs was reached.

and, indeed, some of these Ørsted IPs' assets (the Race Bank Offshore Wind Farm, the Hornsea One Offshore Wind Farm, and the Hornsea Two Offshore Wind Farm) which are now protected by a requirement on the face of the Outer Dowsing DCO, as examples of protective precedent that should be followed. If the DCO for the DBS Project was granted without any protection on its face for the Ørsted IPs that continue to hold objections in relation to wake loss, that outcome would be unacceptable to the Ørsted IPs – indeed, the Ørsted IPs consider it would be unreasonable and irrational for the Secretary of State to reach such a decision, i.e. following the anomalous decision for the Five Estuaries DCO instead of the well-precedented decisions for the Outer Dowsing DCO, the Mona DCO, the Morecambe DCO and the AyM DCO (plus analysis regarding the Morgan DCO, as detailed above).

### **The Applicants' Wake Effects Document**

Whilst the Ørsted IPs consider that they have consistently responded to the points made by the Applicants in the Applicants' Wake Effects Document, and therefore do not consider that it would assist the Secretary of State to repeat their submissions at length, the Ørsted IPs nonetheless wish to respond to certain matters raised by the Applicants. The Ørsted IPs therefore do so below, on a topic-by-topic basis.

In summary, and as set out in detail below, the Ørsted IPs consider that the Applicants' Wake Effects Document:

- attempts to justify their preferred wording for a DCO requirement in relation to wake loss, despite the fact that their wording serves no practical purpose;
- openly argues that waked offshore wind farms must suffer the entirely unmitigated wake impacts that will be introduced by the DBS Project, with no reference to sharing the pain of co-existence; and
- seeks to misrepresent, and reverse-engineer, standard site selection and refinement processes as reasonable measures to mitigate wake impacts, despite the document offering zero concessions from the Applicants in this regard.

### **Financial Compensation**

At paragraph 8(i) of the Applicants' Wake Effects document, the Applicants assert that the term "*alternative mitigation*" in the requirement for the Mona DCO is not intended to refer to financial compensation between the parties. The Ørsted IPs have made their position clear in previous submissions regarding the applicability of, and justification for, financial compensation (including in the context of the National Policy Statement for Renewable Energy Infrastructure ("**NPS EN-3**") as a potential form of protection in relation to wake effects, and there is no reason that such a meaning cannot be inferred as an option from the wording of the requirement (which, the Ørsted IPs also note, is now further precedented in the Outer Dowsing DCO). Indeed, an interpretation of the wording of these requirements that permits the undertaker to provide financial compensation is not contrary to paragraph 2.8.233 of the new NPS EN-3, which simply states that "*there is no expectation 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*" (emphasis added). Stating, as the new NPS EN-3 does, that compensation is not a "*necessary*" means, is not the same as ruling out compensation as a potential outcome. If the Secretary of State's intention had been to do this, the wording could have readily and clearly done so.

Indeed, in the Decision Letter for the Outer Dowsing DCO, the Secretary of State refers directly to compensation in relation to the mitigation hierarchy and wake effects by stating at paragraph 4.83 that "*the Secretary of State also highlights those parts of 2024 NPS EN3 paragraph 2.1.8 which strongly encourage early application of the mitigation hierarchy and requires applicants to show how they have demonstrated how any likely significant negative effects have been avoided,*

*reduced, mitigated or compensated for following the mitigation hierarchy” and at paragraph 4.88 that “the Secretary of State acknowledges the requirements to avoid, reduce, mitigate or compensate for wake effects of the 2024 (paragraphs 2.8.213 to 2.8.217) or 2025 (paragraphs 2.8.186 to 2.8.190) NPSs”.*

Further, the Ørsted IPs refer to paragraph 21 of the legal opinion from Richard Turney KC (the “**KC Opinion**”) appended to the recent submission from 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 (the “**Projcos**”) [C1-022], which states that “*it is not the case that proposed paragraph 2.8.233 of draft EN-3<sup>4</sup> should be read as precluding mitigation of economic loss through compensation*”. Also, the Ørsted IPs note (as they have done repeatedly) that the extant NPS EN-3 (with which the application for the DBS Project must be determined in accordance) does not rule out financial compensation as a potential option.

At paragraph 21, the Applicants state that “*Projcos and Ørsted have argued that mitigation should principally involve financial compensation and for payment of 100% of any reduction in income attributable to wake effects*” (emphasis added). The Ørsted IPs have not argued for payment of 100% of any reduction in income – the protective provisions proposed by the Ørsted IPs leave it entirely at the undertaker’s discretion to choose its preferred split between physical mitigation measures and a commercial outcome (one example of which would be financial compensation). It is entirely reasonable for the Ørsted IPs to seek provisions that keep them whole through whatever means are preferred by the undertaker.

At paragraph 23, the Applicants refer to the new NPS EN-3 in the context of inter-project compensation arrangements not being a necessary means of mitigation “*within the planning process*”. In the same vein, the Applicants state at paragraph 40(i) that “*there is no expectation that inter-project compensation is required to mitigate wake effects*”. The Ørsted IPs note that this is not the correct framing of the new NPS EN-3, which states that there is no expectation “*that compensation arrangements are a necessary means*” – there is a difference between an expectation of compensation being required (as the Applicants’ wrongly assert) and the intended points of the new NPS EN-3 that inter-project compensation arrangements may not be a necessary means to mitigate wake effects (but they remain an option, given that the new NPS EN-3 states that developers may take such approaches outside of the planning process). Indeed, in the same paragraph, the Applicants refer to such matters being “*outside of the planning process*” – the Ørsted IPs note that, if a commercial accommodation is secured between the parties in accordance with (for example) paragraph 1(b) of the requirement on the face of the Outer Dowsing DCO, or paragraph 3 of the protective provisions proposed for the DBS Project by the Ørsted IPs, then such an outcome is, in effect, secured outside of the planning process, inasmuch as the Secretary of State would not have visibility over the terms or nature of that bilateral agreement (and will simply be informed that ‘alternative mitigation’ has been agreed, in the case of the requirement wording, or that a ‘Wake Loss Agreement’ has been entered into, in the case of the protective provisions).

At paragraph 25, the Applicants state that “*there are no further such mitigation measures which could reasonably be expected to be pursued by the Applicants*”, having argued at paragraphs 22 and 23 that financial compensation should also not be pursued. The Applicants are, therefore, openly arguing that waked offshore wind farms must suffer the entirely unmitigated wake impacts that will be introduced by the DBS Project, with no reference to sharing the pain of co-existence. This position is entirely unreasonable and to adopt it would be inconsistent with recent protective precedent that has been seen in consented offshore wind farm DCOs.

At paragraph 26, the Applicants incorrectly assert that “*Ørsted have focussed their attention throughout on financial compensation rather than design or operational mitigations*”. The Ørsted IPs note that they are, in reality, ambivalent on whether they are kept whole through physical mitigation or made whole through a commercial outcome. This also rebuts the Applicants’

---

<sup>4</sup> N.B. At the time the KC Opinion was procured, the new NPS EN-3 was in draft form and not designated. The wording analysed remains the same post-designation with regard to this paragraph.

implication at paragraph 27(viii) that the Ørsted IPs are only interested in discussing financial compensation.

At paragraph 32, the Applicants refer to “*meaningful mitigation measures, which were reasonable...being identified and applied through a requirement*” not being a realistic prospect. The Ørsted IPs fail to see why an outcome secured via a commercial agreement, as “*alternative mitigation*” under paragraphs 1(b) and 2(b) of the Ørsted IPs’ preferred drafting for a DCO requirement (see Appendix 1 of **[C1-019]**) would, in this case, not be both meaningful and reasonable, for the reasons set out previously.

Financial compensation is openly discussed during, and secured through, DCO planning processes. For example, in the Decision Letter for the Outer Dowsing DCO, the Secretary of State refers directly to financial compensation being paid for fishers (in effect, for loss of revenue) – indeed, the footnote on page 25 refers to the FLOWW ‘Best Practice Guidance for Offshore Renewables Developments: Recommendations for Fisheries Disruption Settlements and Community Funds’. Further, the Decision Letter for the Outer Dowsing DCO goes on to state that “*a draft confidential side agreement has also been substantially agreed in principle by the parties*”, in relation to the interaction between Outer Dowsing and Perenco. It can therefore be assumed that a commercial agreement was reached, potentially based on financial compensation, which permitted Perenco to withdraw its objection to the Outer Dowsing DCO. In addition, paragraph 7 of the protective provisions for the benefit of Perenco included in the Morecambe DCO provides a direct means by which Perenco can recover costs, by stating that “*the undertaker must reimburse the licensee for any additional costs*”. It can be read from this wording that Perenco can, under the protective provisions, recover lost revenue from the undertaker if this was incurred. In the context of protective provisions, one only has to refer to the protective provisions for the benefit of Network Rail Infrastructure Limited that the Applicants have included in their own DCO for the DBS Project as another example of indemnification for loss of revenue.

The Ørsted IPs do not consider it necessary to repeat the contents of the well-founded and legally-sound KC Opinion, but note the Applicants’ suggestion at paragraph 40(ii) that the ‘Supplementary guidance for renewable energy infrastructure (EN-3): Offshore wind wake effects’ (the “**Supplementary Guidance**”) provides a contrary position to the KC Opinion in relation to compensation. Whilst the Supplementary Guidance states that “*the planning system will not adjudicate on matters of compensation for wake loss*”, it also states in the same section that “*disputes around compensation for wake effects are regarded to be a commercial matter to be managed between disputing developers*”. The Applicants have not engaged with this “*matter to be managed*” and have instead argued that compensation for wake effects is not a commercial matter that should be managed between disputing developers, thereby ignoring this key text that the Secretary of State has deliberately chosen to include in his Supplementary Guidance.

At paragraph 40(iii), the Applicants state that “*it is a trite position that the planning system does not exist to protect purely private interests*”. The Ørsted IPs note that protective provisions are regularly included in DCOs to protect private / commercial interests and, in some cases, make provision for those commercial interests to be indemnified for loss associated with the project being consented.

At paragraph 44, the Applicants quote a previous submission whereby they state that “[*t]here is...in the SoS’s policy ‘no expectation’ that ‘inter-project compensation arrangements are a necessary means to mitigate the impact of wake effects’ (see draft EN-3 at para 2.8.233). The reasons for this being Government policy is clear, namely that ‘inter-project compensation arrangements’ are outside of the planning system*”. The Ørsted IPs note that, even if inter-project compensation arrangements are outside of the planning process, it is clear that the Secretary of State wishes to highlight these arrangements as an option for undertakers to have – indeed, this ‘release valve’, or alternative option, makes sense, given that undertakers may prefer to not be hamstrung via requirements that limit mitigation options to physical means alone. The Applicants seem to be arguing that the reason for the Secretary of State stating that inter-project compensation arrangements are not a necessary means to mitigate wake effects is *because* these arrangements lie outside of the planning process, the logic of which appears to be an

attempt to attribute causation where there is none. The Ørsted IPs also refer to their responses above, regarding paragraph 23 of the Applicants' Wake Effects Document, in this regard.

#### Distinguishing DCOs and Prioritisation of DBS Project

At paragraph 6 of the Applicants' Wake Effects Document, the Applicants assert that "*the circumstances of this Application do not warrant the imposition of provision for wake at all in the DCO*". The Ørsted IPs note that the Applicants have not specifically provided rationale for distinguishing the DBS Project from the offshore wind farms that have been granted with wake loss requirements on the face of their DCOs.

In relation to paragraph 16, the Ørsted IPs note that the Applicants' position is invalidated by the fact that the objecting parties in relation to the Mona and Morecambe DCO applications did not propose protective provisions, and therefore the Secretary of State was not required to consider the possibility of using protective provisions instead of a DCO requirement.

At paragraph 31, the Applicants state that "*if a requirement relating to wake effect is imposed it will create uncertainty (in terms of timing and outcome) for the project in securing its discharge, which will not assist delivery*". The Ørsted IPs do not consider this to be a sufficient reason to not include a requirement which protects waked assets (as failure to include sufficient protection is a significantly more important consideration than a degree of uncertainty for the Applicants), and again refer to the recent precedents of the Outer Dowsing DCO, the Mona DCO, the Morecambe DCO and the AyM DCO (plus analysis regarding the Morgan DCO, as detailed above). All suspensive DCO requirements impose some degree of uncertainty around timing and outcome, but this is not a sufficient reason to avoid imposing these requirements in relation to a wide range of impacts (including on other sea-users) – it is simply the nature of such post-consent requirements, as the necessary detail and input is not available to address the matters to which they relate prior to consent being granted. The Ørsted IPs also note, if the Applicants remain concerned by this uncertainty, that the protective provisions proposed by the Ørsted IPs provide a far greater deal of control – over both timings and outcomes – to the Applicants.

#### Mitigation

##### *General Matters*

The Applicants suggest, in paragraph 8(ii) of the Applicants' Wake Effects Document, that any DCO requirement should be in the form proposed by the Applicants in the Applicants' Response to the First RfI [C1-016]. What the Applicants fail to acknowledge is that, in reality, the wording of their proposed requirement serves no purpose – it states that the wake effects plan must include "*details of reasonable steps that have been taken or are proposed to be taken by the undertaker to minimise wake effects on the relevant offshore wind farm(s) whilst maximising the capacity and energy output of the authorised development*", but there are no steps (reasonable or otherwise) that can minimise wake whilst simultaneously maximising capacity and output. The Applicants are aware of this reality, and it would be entirely unreasonable for any requirement on the face of a DCO to require reasonable steps to be taken if it is known from the outset that no such steps are available. As stated above, the wording proposed by the Applicants for the DCO requirement is entirely impractical. The Applicants' drafting renders a requirement that is impossible for the Secretary of State to meaningfully discharge, as it necessitates the simultaneous prioritisation of wake mitigation and the maximisation of capacity/generation, which are inherently opposite and therefore impossible to address in tandem. This would, therefore, provide the Ørsted IPs with no meaningful protection for their assets.

Further, the Ørsted IPs note that the wording they have proposed (at Appendix 1 of [C1-019]) is much more closely aligned to the wording that the Secretary of State included at Requirement 34 of the now-consented Outer Dowsing DCO, which provides additional precedent for their position (alongside the requirements found in the Mona DCO and the Morecambe DCO). The Ørsted IPs wish to note the following points in relation to the requirement in the Outer Dowsing DCO, should the Secretary of State be minded to include similar wording in the DCO for the DBS Project:

- The Ørsted IPs would propose an amendment to paragraph 3(b) of the requirement in the Outer Dowsing DCO to clarify that the obligation to provide the undertaker with “*all information in their possession reasonably requested by the undertaker in respect of such details and parameters for the relevant offshore wind farm(s)*” is exclusive of commercially sensitive information and that the information required to be provided is only that which is reasonably necessary for the specific purposes of producing the wake effects plan;
- The Ørsted IPs would propose an amendment to paragraph 1(c) of the requirement in the Outer Dowsing DCO to replace “*are considered*” with “*are mitigated*”, for the reasons set out on page 5 of **[C1-019]**; and
- The Ørsted IPs would propose an amendment to paragraph 2(b) of the requirement in the Outer Dowsing DCO to delete the word “*reasonable*”, for the reasons set out on pages 6-7 of **[C1-019]**.

Another inaccuracy in the Applicants’ Wake Effects document is found in Table 4-1 on page 13. The Applicants state, in relation to the Mona DCO, that “*the wording of the requirement, as imposed, was to all intents and purposes agreed by the parties*”. This is incorrect – the Ørsted West Coast IPs stated, at section 3.2 of their final submission<sup>5</sup>, that “*The Ørsted IPs note the draft requirement proposed by the Applicant at section 1.2.3.3 of its response to the RfI. The Ørsted IPs do not consider this requirement adequately covers the level of mitigation required*”. A similar assertion is made by the Applicants at paragraph 19 on page 10, which is, again, incorrect.

At paragraph 20, the Applicants assert that “*there has been a fundamental disagreement between the Applicants and the Projcos and Ørsted as to the nature of mitigation*”. The Ørsted IPs consider this to be a mischaracterisation of the position, as the Applicants have not agreed to implement any form of mitigation whatsoever (see above comments re. the meaningless nature of their proposed requirement drafting).

Paragraph 24 contains a statement from the Applicants that they “*have actively and fully considered all other categories of mitigation (that is to say potential design and operational mitigations)*”. The Ørsted IPs entirely refute this claim, and do so in detail in relation to their analysis of Appendix A of the Applicants’ Wake Effects Document below.

At paragraph 27(ii), the Applicants state that they “*carried out a wake assessment on the most affected project (DBA) which was reported in the original Environmental Statement [APP-130]*”. What the Applicants fail to acknowledge is that this was a very light-touch assessment of wake impacts, with conclusions limited to the following (with no quantification put forward): “*Wind farms located in close proximity have the potential to reduce the efficiency of the neighbouring project through wake losses, potentially reducing the Annual Energy Production (AEP) for each project (Nygaard and Hansen, 2016). Due to the close proximity of the Projects to the Dogger Bank A wind farm (8km at its’ closest point), the potential AEP loss for Dogger Bank A was modelled. This modelling determined that, in the worst case scenario, the overall AEP loss for Dogger Bank A would be negligible compared to the wind resource available*”. If modelling was undertaken to reach this conclusion, it was not put forward in the Environmental Statement. Further, the Applicants then attempted to retract this light-touch and entirely inadequate ‘assessment’ from consideration during the examination.

The Applicants go on to state, at paragraph 27(iii), that they “*submitted that wake assessment [AS-179] into the Examination, when pressed to do so by the Examining Authority*”. It should also be noted that this came late in the process and constituted an internal assessment only, rather than anything verified by an independent third party.

Further, at paragraph 27(v), the Applicants assert that they “*have made detailed submissions as to the nature, effectiveness and availability (or otherwise) of such mitigation options*”. The Ørsted IPs respond in detail to points regarding mitigation in relation to Appendix A of the Applicants’

<sup>5</sup> [EN010137-002284-Shepherd and Wedderburn LLP on behalf of Orsted IPs - 12 June 2025.pdf](#)

Wake Effects Document below, but note at the outset (as submitted previously) that the Applicants' submissions in this regard have been vague, unfounded and not backed up by any site-specific modelling.

The Applicants refer, at paragraph 27(vi), to "*the normal tests for mitigation imposed by way of requirement*". The Ørsted IPs invite the Applicants to provide any examples, in the UK's history of offshore wind farms, where impacts (i.e. loss of revenue) of several £100m have been permitted to go entirely unmitigated.

At paragraph 29, the Applicants once again refer to the wording of the new NPS EN-3 stating that "*there is no expectation that wake effects can be wholly removed between developments*". The Ørsted IPs agree that it would be unworkable to attempt to physically remove all wake effects from the UK offshore wind sector. However, it is entirely manageable, and reasonable, to mitigate the consequence of residual wake effects that remain further to any physical mitigation that an undertaker opts to implement, as provided for in the respective limbs of the DCO requirement and protective provisions put forward by the Ørsted IPs. Likewise, it is not workable to entirely remove a number of the physical effects that offshore wind farms impose on other sea-users (for example, the increased steaming / journey times (and therefore fuel use) imposed on ferry operators by the presence of wind turbine generators, and limitations to the periods of helicopter access that are available to the operators of offshore oil and gas platforms due to the physical presence of wind turbine generators) – where this is the case, it is on the record that commercial arrangements have been a mechanism that enables impacted stakeholders to withdraw objections held against offshore wind farm DCO applications.

Also in paragraph 29, the Applicants refer to "*the need for pragmatism in accordance with paragraph 2.8.342 of EN-3 2024*". As stated above, the Applicants are openly arguing that waked offshore wind farms must suffer the entirely unmitigated wake impacts that will be introduced by the DBS Project – this is an entirely unreasonable position that cannot be considered to fall within "*the need for pragmatism*".

At paragraph 34, the Applicants "*submit that they have acted in accordance with all the relevant expectations of [the new NPS EN-3]*". The Ørsted IPs note that paragraph 2.8.232 of the new NPS EN-3 requires applicants to "*demonstrate that they have made reasonable endeavours to mitigate the impact of wake effects on other offshore wind generating stations*". The Applicants have simply made a case that (other than adhering to The Crown Estate's lease buffer distance) no physical mitigation measures are reasonable. This does not constitute "*reasonable endeavours to mitigate the impact of wake effects*". In the Decision Letter for the Outer Dowsing DCO, the Secretary of State notes that it "*is not satisfied that the Applicant has made a reasonable attempt at mitigating the wake effects that have been identified and has included a requirement in the DCO to ensure that the Applicant must work to minimise impacts on other wind farms*" – the same conclusion can clearly be inferred for the DBS Project, as the Applicants are openly proposing that there should, in fact, be zero minimisation of the wake impacts, including via the wording of the Applicants' proposed DCO requirement (per criticism detailed above in relation to paragraph 8(i)). The Ørsted IPs can therefore infer that the Applicants consider that the only reasonable mitigation is the implementation of The Crown Estate's 7.5km buffer, but the Ørsted IPs are unclear as to why the Applicants' consider this to be the point at which no mitigation is required. Further, the Supplementary Guidance states, at paragraph 1.4, that "*disputes around compensation for wake effects are regarded to be a commercial matter to be managed between disputing developers*", confirming that commercial arrangements (including compensation) are a valid means of addressing economic loss incurred as a result of wake effects.

#### *Appendix A of the Applicants' Wake Effects Document*

The Ørsted IPs have numerous rebuttals to make in relation to Appendix A of the Applicants' Wake Effects Document (the "**Appendix**"), which comprises the 'DBS Design Evolution Considering the Impact of Inter-Farm Wake Effects'. The Ørsted IPs address these points in turn below.

In essence, the Applicants seem to be arguing that developers of offshore wind farms should be free to site and design their projects in a way that only considers wake-related modifications that are beneficial to their projects. Wake-related modifications that are beneficial to neighbouring projects, but suboptimal for the DBS Project should, according to the Applicants, not be considered. Any assertion that the steps set out in the Appendix amount to reasonable endeavours to mitigate and/or minimise wake effects is false. The Ørsted IPs now address specific points of the Appendix in turn.

At paragraph 2 of the Appendix, the Applicants state that “*historically wind farms have not considered wake during EIA or the DCO process*”. This statement is false – for example, the Ørsted IPs refer to the examinations of applications for the Walney Extension Offshore Wind Farm Order 2014, the Hornsea Two Offshore Wind Farm Order 2016 and the Burbo Bank Extension Offshore Wind Farm Order 2014 as examples of projects that considered wake impacts during the EIA and DCO processes.

At paragraph 3 of the Appendix, the Applicants state that the Appendix “*fulfils the requirement of 2.8.232 and 2.8.233*” of NPS EN-3. It appears to be the Applicants’ argument that their obligation to make reasonable endeavours to mitigate the impact of wake effects is met by simply demonstrating a generic argument regarding a net loss of generation – i.e. it is the Applicants’ view that once they have established that any mitigation would result in such a loss, they are under no further obligation to offer, or commit to, any physical mitigation whatsoever. If that is the case, it must be the Applicants’ view that the wording of their proposed requirement for inclusion in the DCO solely amounts to a commitment to further develop the net-loss-of-generation argument post-consent, in order to secure discharge of that requirement. This is not acceptable to the Ørsted IPs.

At paragraph 4 of the Appendix, the Applicants refer to their supposed consideration of remaining options for mitigation, and state that they showed these to be “*predominantly unfeasible*”. The Ørsted IPs have rebutted this consideration in **[REP6-085]** and the Applicants have not responded to these criticisms.

In the first bullet point at paragraph 6 of the Appendix, the Applicants state that one of the “*general rules of wind farm design*” is that “*the design driver that maximises the yield of one wind farm will also maximise the yield of the other wind farm in order to minimise the two-way wake interaction*”. The Ørsted IPs consider this, and the wider content of the Appendix, to be a disingenuous characterisation. The future presence of the DBS Project will not “*maximise the yield of*” neighbouring offshore wind farms; rather, it is a question of minimising or avoiding wake impacts through mitigation. Like all offshore wind farm developers, the Applicants have taken various steps to optimise the siting, design, and layout of the DBS Project. Some of these steps will have been taken by the Applicants to optimise the business case of the DBS Project, while other steps will have been accepted as concessions necessary to mitigate impacts on natural-environment and human-environment stakeholders in order to secure a DCO (*despite* their detrimental impact on the business case of the DBS Project). It is abundantly clear from the Applicants’ dismissive EIA finding of ‘negligible’ wake impact (put forward in **[APP-130]**), and from the position set out and maintained by the Applicants throughout the examination and since, that no wake-related concessions whatsoever have been made, or are proposed. The positioning set out in the Appendix is a wilful attempt to conflate ‘steps taken to improve the business case of the DBS Project’, and ‘steps taken to secure consent’, with ‘reasonable endeavours to mitigate the impact of wake effects on other offshore wind generating stations’.

To incentivise the optimal (or ‘wake-friendly’) development of UK waters, UK policy must compel wind farm developers to price-in the full cost of wake impacts during the leasing and consenting stages. This ‘true’ cost of wakes must include both the revenue reduction that will be imposed upon a proposed project (as a result of the wake effects generated by existing offshore wind farms), and the revenue losses that will be imposed upon those existing offshore wind farms (by the proposed project). Fortunately, this system-wide optimisation can be readily secured simply by establishing a ‘polluter-pays’ principle for wakes. As a matter of course, developers price-in the wake-related revenue reduction that will be imposed upon their project by existing projects;

however, if developers understand that DCOs granted for new projects will require them to mitigate the wake effects that their proposed project will impose (upon offshore wind farms leased through previous Leasing Rounds), then the full, or ‘true’, cost of wakes will incentivise greater system-wide optimisation in relation to site selection, design and layouts.

At paragraph 10 of the Appendix, the Applicants refer to their commitment, during the EIA stage, “to undertake consultations with other developers and to assess ‘interference’ with other wind farms”. The Ørsted IPs are pleased that the Applicants have undertaken detailed studies of external wake effects, but have not seen any evidence of such consultations, analysis or considerations. It appears from the Appendix that this process has been done in a manner which solely serves to minimise the wake effects experienced by the DBS Project and without any regard to the effects caused by the DBS Project. Similarly, at paragraph 11, the Applicants state that “considerations of the impact of RWE’s Round 4 projects on existing wind farms began prior to Round 4 bidding and have continued throughout the design process”. The Ørsted IPs cannot see any evidence of a single modification to the DBS Project, resulting from this supposed consideration, that was not implemented to either optimise the business case of the DBS Project, or to appease (non-wake-impacted) stakeholders.

At paragraph 15 of the Appendix, the Applicants seek to emphasise that “an increased buffer (from 5km to 7.5km)...will have led to a significant reduction of the wake impact of DBS on DBA, the closest wind farm”. However, the Ørsted IPs note that all Leasing Round 4 (“LR4”) project sites were required to adhere to the same 7.5km buffer, yet the Secretary of State has still deemed it appropriate to impose wake requirements in the Mona DCO, the Morecambe DCO and the Outer Dowsing DCO. Therefore, it can be fairly concluded that the Secretary of State does not see adherence to the 7.5km buffer as adequate mitigation alone.

At paragraph 16 of the Appendix, the Applicants refer to “restrictions on bidding areas, farm shape, energy density, etc”. The Ørsted IPs note that there remains plenty of freedom in the designing of a final offshore wind farm; and, if the Applicants wished to reduce wake effects on existing projects, this may have been achieved by, for example, opting to site their lease bid area(s) for the DBS Project further to the east, within the wider Dogger Bank Bidding Area 1. As stated above, the Applicants have only considered wake effects to the extent that they are imposed upon the DBS Project by existing offshore wind farms, rather than vice-versa. If the Applicants had fully considered wake-related revenue impacts (i.e. those ‘imposed by’ and those ‘imposed upon’ the DBS Project) at the site selection stage, then the DBS Project may have been more optimally located in this regard.

At paragraph 17 of the Appendix, the Applicants state that the design drivers resulting from the price-based LR4 bidding process “focus strongly on maximising the value of proposed projects”. The Ørsted IPs note that these design drivers fail to incentivise the minimisation of wakes on surrounding offshore wind farms, despite the fact that lower overall wake effects will help to keep electricity prices lower for UK consumers.

At paragraph 27 of the Appendix, the Applicants list the alternative configurations that they considered. The Ørsted IPs are unclear why siting towards the eastern edge of the wider Dogger Bank Bidding Area 1 is not considered in this list, as this would have presumably been one of the most wake-optimised positions to consider. Also, the reference at paragraph 27(e) from the Applicants regarding “the impact of decisions taken by DBS since being awarded a Round 4 lease, in mitigating wake impacts upon neighbouring projects through refinement of the Array Area”, is disingenuous – as stated above, these decisions were presumably implemented purely because they optimised the DBS Project, rather than in any way to reduce impacts on nearby offshore wind farms (any reductions were, therefore, entirely incidental). The Ørsted IPs also note that the pertinent question, in relation to the alternatives in paragraph 27 and shown in Plate 4-2a-e, is not whether the Applicants have rejected designs of the DBS Project that carry higher external wake effects; rather, what is relevant is whether there are any other designs which minimise these effects.

At paragraph 29 of the Appendix, the Applicants allege that “*the more distant projects (such as the Hornsea projects...) are only marginally impacted by DBS*”. The Ørsted IPs note that it is not simply enough for the Applicants to state this; rather, they should provide the analysis and provide the Ørsted IPs and the Secretary of State with the opportunity to review that analysis regarding the “*marginal*” claim. Similarly, at paragraphs 31 and 32, the Applicants refer to “*postulated alternatives*” that are “*realistic*”. In the Ørsted IPs’ view, these alternatives are hand-picked by the Applicants and represent only five different scenarios (whereas, in reality, the Ørsted IPs would expect a project such as the DBS Project to have hundreds of configurations assessed) containing no results – the Ørsted IPs and the Secretary of State are, therefore, expected to simply believe the word of the Applicants.

At paragraph 33(a)(ii) of the Appendix, the Applicants assert that the “*removal of the west and south-west of DBSW...significantly mitigates wake interactions, particularly with regards DBB*”. The Ørsted IPs are confused by the mixed messaging put forward by the Applicants in this regard – if the Applicants are asserting that such reduction was a motivating factor that was quantified and weighed up against other alternatives, the Ørsted IPs consider this contradictory to the Applicants’ previous dismissal (during the EIA process) of all wake impacts on surrounding offshore wind farms from the DBS Project as non-significant. Similarly, at paragraph 40, the Applicants make reference to the DBS Project which “*balances the requirements to mitigate wake on the Dogger Bank projects against the competing requirement to mitigate wake on the more distant (and less impacted) Hornsea projects*”. Having spent the examination of the DBS Project arguing that there is no mitigation of the wake impacts on existing offshore wind farms as a result of the DBS Project that can be justified, the Ørsted IPs are surprised to learn that the Applicants are now suggesting that they have already carefully balanced the “*requirements*” to mitigate wake on the DBS Project against wake on the Ørsted IPs’ assets as part of the design process to date, having concluded in the EIA for the DBS Project that there were no significant wake impacts on neighbouring offshore wind farms.

At paragraph 38 of the Appendix, the Applicants state that “*striving to reduce the wake impact of neighbours on DBS has necessitated reducing the wake impact of DBS on neighbours*”. The Ørsted IPs do not consider that this optimisation of the DBS Project by the Applicants, which has incidental benefits for neighbouring offshore wind farms, can be dressed up as adequate mitigation. The Ørsted IPs refer to their submissions above on this matter.

The Ørsted IPs also wish to rebut several points made by the Applicants in paragraph 41 of the Appendix, as follows:

- The Applicants state that the DBS Project “*has been made with reduction of wake impact as one of the designing factors*”. This reduction refers only to the wake impacts experienced by the DBS Project itself, rather than to any such reduction experienced by existing offshore wind farms;
- The Applicants state that the bid area for the DBS Project was chosen balancing a range of design drivers including “*wake interaction*”. For the reasons set out above, the Ørsted IPs consider that this should more accurately read “*wake impact on the DBS Project*”;
- The Applicants argue that their decisions show “*that the mitigation which DBS has already implemented has reduced wake impacts upon these nearest projects*”. If the Applicants had serious intent to mitigate appropriately, they could have explored alternative layouts and operational measures and presented the results of these analyses. It is entirely inappropriate for the Applicants to argue that a series of modifications, which give rise to incidental benefits (in comparison to worse potential outcomes) on neighbouring offshore wind farms, mean that no genuine mitigation is to be offered.
- This conclusion also applies to the Applicants’ assertion at paragraph 43 that “*DBS East and DBS West have made reasonable endeavours to minimise wake impact on existing wind farms*” – in the view of the Ørsted IPs, accidentally reducing wake impacts compared

to a theoretical worst-case design does not constitute reasonable endeavours to minimise these wake impacts. The Applicants should have assessed whether there are alternative designs which mitigate the wake impacts whilst maintaining a reasonable design for the DBS Project.

Lastly, in paragraph 49 of the Appendix, the Applicants highlight an extract of paragraph 1.3 of the Supplementary Guidance, which states as follows:

*“This section encourages developers to have made ‘reasonable endeavours’ to mitigate the impact of wake effects. In practice, this means developers do not have to take every possible course of action to mitigate the impact of wake effects but should demonstrate reasonable efforts at mitigation”.*

In relation to the wording of developers not having to “*take every possible course of action to mitigate the impact of wake effects*”, the Ørsted IPs note that apart from adhering to the mandatory 7.5km buffer imposed by The Crown Estate, and undertaking some theoretical, paper-based (and often-flawed) modelling/analysis, the Applicants have not proposed or committed to any course of action that would lead to actual mitigation for the wake impacts of the DBS Project on the Ørsted IPs’ assets. As seen in the recent decisions for the Mona DCO, Morecambe DCO and Outer Dowsing DCO, when this similar approach has been taken by other developers, the Secretary of State has deemed it necessary to impose wake requirements on the face of those DCOs. Indeed, the Applicants are required to “*demonstrate reasonable efforts at mitigation*” (which they have not, for the reasons set out in detail by the Ørsted IPs above).

#### Projcos’ Submissions on Protective Provisions

At paragraph 35 of the Applicants’ Wake Effects Document, the Applicants make several points in relation to the Projcos’ submissions regarding protective provisions, to which the Ørsted IPs wish to respond. Firstly, at paragraph 35(i), the Applicants challenge the assertion that protective provisions provide a greater level of certainty than a DCO requirement. The Ørsted IPs wish to reiterate that this is most certainly the case – the proposed protective provisions clarify how the Applicants can manage wake mitigation, and it is only via protective provisions becoming the norm that future CfD applicants can gain certainty that future wake effects on their projects will be mitigated (and that their CfD bid prices do not need to be uplifted to account for these inevitable future wake impacts).

At paragraph 35(ii)(b), the Applicants state that they do not understand the Projcos’ assertion that “*it would be contrary to good planning for a matter that has been subject to Secretary of State consideration to be appealed to an individual Planning Inspector*”. The point here is that the planning system (specifically the DCO process) sees decisions made by Planning Inspectors presented to the Secretary of State; therefore, the process of appealing a decision made by the Secretary of State to such a Planning Inspector is counter-intuitive.

At paragraph 35(ii)(c), the Applicants state that “*there would be very considerable difficulties in instructing an expert to resolve any dispute, for example as to whether all ‘reasonable’ steps to mitigate wake effects have been taken*”. The Ørsted IPs note that the proposed protective provisions do not require the expert to determine whether “*all ‘reasonable’ steps to mitigate wake effects have been taken*” – rather, they simply require that, in the event that an independent expert needs to be appointed, s/he will approve or determine a Wake Loss Mitigation Scheme that comprises: (a) the mechanism for quantifying the financial loss caused to each relevant project as a consequence of the wake loss identified in the Wake Loss Assessment; (b) the financial loss per annum caused to each relevant project; and (c) the payment mechanism and timescales for mitigating such financial loss.

Further, in the same paragraph, the Applicants refer to wake effects as an emerging process, subject to considerable levels of uncertainty, and in respect of which it is not possible yet to establish exact figures for impacts, and it may never be able to. The Ørsted IPs note that agreements relating to wake loss are both entirely achievable and commonplace – projects that

share a common border typically have no choice but to agree an accommodation. As the understanding of far-field wake impacts has improved, agreements relating to wake loss have become necessary between offshore wind farms that are separated by greater distances – for example, agreements have been reached between the Ørsted IPs and both the undertakers for the Mona DCO and the Morgan DCO.

At paragraph 35(ii)(e), the Applicants refer to the imposition of a protective provision in relation to wake effects being “*unprecedented*”. The Ørsted IPs acknowledge that this is unprecedented in relation to offshore wind farm developers and wake effects, but note that the general principle underpinning these protective provisions is well-established more widely (including with regard to other sea-users).

At paragraph 35(iv), the Applicants seek to rebut the idea that a DCO requirement could include an obligation for payment of compensation. The Ørsted IPs refer to their responses above, regarding paragraph 32 of the Applicants’ Wake Effects Document, in this regard.

#### Industry Impact

At paragraph 27(i) of the Applicants’ Wake Effects Document, the Applicants assert that they have taken an approach which considers “*the need for any project to be competitive in the Contract for Difference auction process*”. The Ørsted IPs note that, if LR4 projects (including the DBS Project) are permitted to set a precedent whereby wake effects on offshore wind farms remain fully unmitigated (as the Applicants are proposing), then future CfD bid prices submitted by developers into upcoming CfD auctions will have to be uplifted by an estimated amount that accounts for those future unmitigated wake losses (that any project will inevitably incur as the UK progresses with its build-out of offshore wind from c. 16W installed today to c. 100GW installed by 2050). Because The Crown Estate’s seabed leasing process only provides a loose indication of the potential location of offshore wind farms that may be leased through the next Leasing Round, and no indication for subsequent Leasing Rounds, it is not possible for developers to make accurate estimates of future wake losses – therefore, the bid-price uplift will either be too high (i.e. negatively impacting UK billpayers) or too low (i.e. negatively impacting the winner of the CfD). In contrast to this, it is entirely possible for the developer of a project that is competing for a CfD to accurately model the wake effect that the project will impose upon existing projects (i.e. on projects leased through preceding Leasing Rounds). In this scenario, the associated uplifts can be accurately estimated and included in CfD bid prices (which is beneficial for consumers and for CfD winners alike).

At paragraph 48, the Applicants seek to rely on a quote from the Decision Letter for the Mona DCO which states that “*while the capacity of some projects may be reduced, cumulatively there is a greater capacity of clean electricity generation with the proposed development*”. The Ørsted IPs note that the debate here does not pertain to the capacity and/or generation of waked or waking projects being reduced, nor to the reduction in the national benefit that is provided by green electrons feeding into the UK grid (though it is important to consider the loss of such green electrons that would be associated with likely effects on future viability and the associated potential for earlier-than-otherwise decommissioning, per previous submissions from the Ørsted IPs on this matter) – rather, the question is about how best to manage the inevitable wake losses that will continue to be seen across UK waters as the UK progresses with its build-out of offshore wind to 2050. None of the arguments presented in the DCO processes to date will remove the wake effects. As argued by the Ørsted IPs previously, the UK can either: (a) adopt an accurate and efficient mitigation framework, whereby projects compensate previously-leased projects; or (b) adopt an inaccurate and inefficient framework whereby projects are forced to incur unknowable, unmitigated and uncompensated future wake losses. In either scenario, wake effects (and the concomitant reduction in the benefit to the UK of green electrons, despite the urgent need for them) will remain – therefore, clearly, the option presented in (a) is preferable.

At paragraph 50(i), the Applicants state that the financial impact from the DBS Project on waked assets is “*an entirely normal risk which any offshore wind farm in UK waters has to accept*”. The Ørsted IPs consider this to be a mischaracterisation – for more than a decade, developers have

not simply accepted known multi-million pound wake losses. For many years, agreements have been entered into as a preferred and workable alternative to the outcome suggested by the Applicants. The detail of these agreements has typically been kept confidential between parties, but the existence of such agreements is on the public record (for example, in the context of the Walney Extension Offshore Wind Farm Order 2014, the Morgan DCO and the Mona DCO).

At paragraph 50(ix), the Applicants state that “*the fact that new investors have acquired a stake in affected projects with the full knowledge of the wake effects from DBS is clearly inconsistent with the claim that the viability of those projects is at risk*”, and points to a recent acquisition in relation to the Hornsea Three Offshore Wind Farm as an example. The Ørsted IPs note, however, that this accusation assumes that incoming investors will have assumed that wakes from the DBS Project will remain unmitigated, which is an unreasonable assumption in light of the recent precedent seen in consented offshore wind farm DCOs (the AyM DCO, the Mona DCO, the Morecambe DCO and the Outer Dowsing DCO being examples) to protect waked assets. It is, therefore, entirely possible that incoming investors (including the highlighted example at Ørsted) bought into the projects with the express assumption that such projects would be granted protection by the planning system, with those precedents providing reassurance. To fail to offer such protection in relation to the DBS Project would, therefore, erode the returns that the new investors can expect for those projects, and would thus damage their confidence in the offshore wind industry.

#### Viability

At paragraph 50(iv) of the Applicants’ Wake Effects Document, the Applicants state that “*it is simply not credible for Projcos or Ørsted to claim that any reduced income gives rise to a viability concern*”. The Ørsted IPs are not suggesting that “*any*” reduced income gives rise to viability concerns; rather, as set out at page 4 of [REP8-062] and pages 2-3 of [REP9-034], it is the *scale* of the wake loss impacts imposed by the DBS Project which affect the economic viability of the Hornsea One Offshore Wind Farm, the Hornsea Two Offshore Wind Farm, and the Hornsea Three Offshore Wind Farm, more specifically, once market support for these assets falls away and the assets’ revenue streams become fully merchant in tandem with the increasing operational expenditure associated with the ageing of these assets, i.e. as the financial case for these assets likely becomes more constrained. The significance of the scale of reduced income is shown in the Financial Impact Assessment at Appendix 1 to the Ørsted IPs’ Deadline 7 Submission [REP7-157].

The impact on the Ørsted IPs’ assets is demonstrably significant – losses at the scale identified represent a material risk to the future viability of the projects. Despite the fact that other factors will affect the future viability of the Ørsted IPs’ assets, the policy under NPS EN-3 is nevertheless engaged, given that the Ørsted IPs have demonstrated that, if left entirely unmitigated, the full wake effect of the DBS Project is likely to affect the future viability of the Ørsted IPs’ assets.

Further, it is also the case that the cumulative wake loss incurred as a result of both the DBS Project and the Outer Dowsing DCO (i.e. 1.3% and 1.4% for the Hornsea One Offshore Wind Farm and the Hornsea Two Offshore Wind Farm respectively) will influence lifetime extension decisions to an even greater degree.

Further, the Applicants state in the same paragraph that “*in practice, there are a multitude of such factors [i.e. which might have an adverse financial impact on a project] (including allowing, for example, for unplanned major maintenance and equipment replacements), which will be analysed at each stage of project operation and in relation to key project decisions*”. The Ørsted IPs note that, indeed, there are many factors that will together drive the decision on when to decommission. A loss of revenue (caused by the wake impacts of the DBS Project) is one of several factors that will drive the decommissioning dates of the affected Ørsted IPs’ assets. The loss of revenue is not expected to immediately, and in isolation, result in the decommissioning of the Ørsted IPs’ assets (and this is not the bar set by NPS EN-3); however, once the CfDs for the Ørsted IPs’ assets expire, and as the projects become increasingly marginal over time, that loss of revenue will affect the future viability of the Ørsted IPs’ assets.

At paragraph 50(vi), the Applicants state that “*any potential impact on financial viability amounts to simple assertion*”. The Ørsted IPs note that this is assertion by necessity – the profit margin figures required to demonstrate the stated outcome are commercially sensitive, as the Applicants are well aware, and cannot be made public.

### **Conclusion**

Notwithstanding the Ørsted IPs’ ongoing position that the protective provisions submitted by the Ørsted IPs in their Deadline 6 Submission [REP6-085] represent a fair, proportionate, and policy-compliant solution to inter-project wake loss impacts, and therefore remain the Ørsted IPs’ strong preference for inclusion in the DCO for the DBS Project, the Ørsted IPs note the recent decision of the Secretary of State in granting the Outer Dowsing DCO, in which a wake loss requirement was included as the necessary protection on the face of the DCO.

The decision made in the Outer Dowsing DCO represents a continuing of the well-established precedent of protecting wake-affected assets on the face of offshore wind farm DCOs, as also shown in the Mona DCO, the Morecambe DCO and the Awel y Mor DCO. If the DCO for the DBS Project was granted without any protection on its face for the Ørsted IPs that continue to hold objections in relation to wake loss, that outcome would be unacceptable to the Ørsted IPs – indeed, the Ørsted IPs consider it would be unreasonable and irrational for the Secretary of State to reach such a decision.

Lastly, the Appendix comprises an attempt from the Applicants to present the process described within the Appendix as reasonable endeavours to mitigate and/or minimise wake effects of the DBS Project on nearby offshore wind farms. The Ørsted IPs are firmly of the view that this is not the case, for the reasons set out above.

The Ørsted IPs note, as has consistently been the case during and after the examination of the DBS Project, that they are aligned with the overarching position taken and principles adopted by the Projcos in their submission to this RfI.