For the attention of John Wheadon
Head of Energy Infrastructure Planning Delivery
Department of Energy Security & Net Zero
3-8 Whitehall Place
London
SW1A 2AW

C282-EQ-Z-GA-00042
03 February 2026

Dear Sirs,

Subject: Outer Dowsing Offshore Wind EN010130 – Wake Effects on Equinor IPs Infrastructure

1 INTRODUCTION

1.1 This submission is made on behalf of Sheringham Shoal and Dudgeon Extensions ProjCo Limited (SSDEPL) (formerly Scira Extension Limited), Sheringham Shoal and Dudgeon Extensions HoldCo Limited (SSDEHL) (formerly Dudgeon Extension Limited), Dudgeon Offshore Wind Limited (DOWL), and Scira Offshore Energy Limited (SOEL) (together "the Equinor IPs") in relation to application reference EN01030 Outer Dowsing Offshore Wind ("the Application") submitted by GT R4 Limited ("the Applicant").

1.2 Whilst the Equinor IPs acknowledge that this submission has not been solicited by the Secretary of State, they feel that there are a number of matters in the Applicant's January 2026 Submissions on Wake Effects [C9-005] which it had not previously raised, and on which the Equinor IPs feel their response is important and relevant to the Secretary of State's decision.

1.3 The Equinor IPs therefore respectfully request that the Secretary of State considers these submissions prior to reaching his decision.

2 SUMMARY

2.1 The Equinor IPs are of the view that the Applicant's latest submission is based upon an overly restrictive and incorrect interpretation of paragraph 2.8.347 of National Policy Statement EN-3 (2024). If the Secretary of State adopts a similar interpretation, then the Equinor IPs consider that he risks committing a legal error in reaching his decision.

2.2 On a correct interpretation, and in consideration of the evidence previously submitted by the Equinor IPs, the Applicant's project will cause significant economic loss which is likely to affect the future viability of the Equinor IPs' assets such that paragraph 2.8.347 is engaged. On that analysis, and applying the Applicant's own submission, there is a public interest in mitigating such an effect.

2.3 The Applicant has been unable to point to any steps it has taken to consider this impact and to formulate its proposals to mitigate its effect as required by EN-3. Nor has it explained how it would

propose to do so at the detailed design stage. Simply undertaking an assessment, as the Applicant has done to understand the effect, does not constitute mitigation.

2.4 The Applicant continues to misrepresent the Equinor IPs' position as being that the effect is not capable of further mitigation at all. The Equinor IPs' clear position during the Examination [REP6-143], and in its subsequent submissions to the Secretary of State, is that mitigation is unlikely to be able to eliminate the effect in its entirety[1], but that it is capable of reduction at the detailed design stage. The Equinor IPs note that the Applicant has not submitted any explanation as to why further mitigation is not possible.

2.5 Accordingly, the Equinor IPs' position remains that mitigation is possible at detailed design, and that it is preferable for that mitigation to be secured through protective provisions[2] and in the circumstances of this case for that mitigation to include the potential for compensation to be considered by an expert third party outside of the planning process. If the Secretary of State's preference is for a requirement, then the Equinor IPs' proposed requirement[3] remains preferable to that put forward by the Applicant.

3 CORRECT INTERPRETATION OF POLICY

3.1 It is vital that the decision of the Secretary of State is founded upon the correct interpretation of policy. Following *Tesco Stores Ltd v Dundee City Council [2012] PTSR 983* it is established law that the correct interpretation of policy is a legal matter for the Courts. Should the Secretary of State fail to interpret policy correctly then he will risk falling into legal error.

3.2 The Applicant's latest submission focuses on the interpretation of paragraph 2.8.347 of EN-3 (2024). For ease of reference, this is set out in full below (our emphasis):

> *Where a proposed development is **likely to affect the future viability** or safety of an existing or approved/licensed offshore infrastructure or activity, the Secretary of State should give these adverse effects substantial weight in its decision-making.*

3.3 The Applicant's position on the interpretation of "*likely to affect the future viability*" is set out in paragraphs 5c, 18, and 20 of its submission which cross-refers to paragraph 20 of its Counsel's Opinion. It states that this means "unlikely to remain viable" which it recognises is a "high bar".

3.4 This is wrong, and as the Orsted IPs have already noted, effectively requires the Secretary of State to conclude that projects will become unviable in order for the policy to be engaged. The Applicant's interpretation changes the emphasis of paragraph 2.8.347 from one of protection for the affected party to one where the element of doubt falls in favour of the Applicant. That approach ignores the element of uncertainty and precaution inherent within paragraph 2.8.347 which it demands should fall in favour of the affected party in considering whether it is engaged.

3.5 The shortcoming of the Applicant's approach is highlighted when considering the second element of paragraph 2.8.347 relating to safety. There can be no logical argument that paragraph 2.8.347 sets a different standard for safety, compared to future viability. Applying the Applicant's interpretation, paragraph 2.8.347 would only be engaged at the point where other infrastructure/activity is "unlikely to remain safe". According to the Applicant's argument, a similar "high bar" would apply, and it is only when an activity can be proven to become unsafe that mitigation would be justified. The Equinor IPs' own experience indicates that the Secretary of State treats safety issues as being of the highest importance and that mitigation is routinely sought, agreed to and secured in order to avoid the *possibility* of safety risks occurring and thereby to avoid paragraph 2.8.347 being engaged.

3.6 The Equinor IPs therefore maintain that their approach as explained at paragraph 41 of their Wake Effects Position Statement [REP6-143] is the correct lawful interpretation. It would be incorrect to

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1 The aligns with EN-3 (2025) paragraph 2.8.233.

2 See Equinor IPs submission C1-009.

3 See Equinor IPs submission c5-007 Appendix 3.

adopt a Habitats Regulations style approach of requiring a conclusion to be proven beyond reasonable doubt. Rather a more balanced approach should be taken that asks whether, due to the significant economic losses suffered by the Equinor IPs in the absence of mitigation, there is a realistic prospect that the future viability of the Equinor IPs' interests will be affected. The Equinor IPs' previous submissions set out why this will be the case.

3.7 It is therefore not necessary for the Equinor IPs to demonstrate the precise point at which their assets will become unviable in order for paragraph 2.8.347 to be engaged as the Applicant suggests (see paragraph 21 of its submission). The Equinor IPs simply need to evidence that there is a realistic prospect that they will make a different and adverse decision on the continued operation of their existing assets and/or in relation to the construction and operation of their consented assets as a result of the effects arising from the Outer Dowsing project, than they would have done in its absence and in the absence of mitigation and compensation being secured. It is noted that this interpretation is aligned with that set out in the Applicant's submission at paragraph 18 (a) where it indicated the correct interpretation should be "likely to impact future financial decision making". However, the Applicant subsequently demurs from that approach in the rest of its submission and its Counsel's Opinion.

3.8 It was the uncertainty inherent in likelihood to which the opinion of Richard Turney KC referred (see paragraph 25). It is only through the securing of mitigation and compensation that the Secretary of State can conclude that there will not be a likely effect on the future viability of the Equinor IPs assets.

4 WHETHER THE IMPACT IS A MATTER OF PUBLIC INTEREST

4.1 The Applicant's submissions seek to argue that the impact suffered by the Equinor IPs is purely a matter of private interest and not one of public interest with which the planning system is concerned. It is the Applicant's desire to bring its case within this principle which drives its erroneous interpretation of policy and means that it fails to properly acknowledge the public interest impact which its proposals are likely to cause, and which paragraph 2.8.347 serves to protect.

4.2 The UK is reliant upon the continued operation and future deployment of offshore wind in order to meet its net zero ambitions and to deliver on the aims of the Clean Power 2030 Action Plan. It is these ambitions and aims which represent the public interest need case underpinning EN-3. It is therefore equally a matter of public interest to consider whether the impact of new projects might adversely affect the continued operation of existing projects or the deployment of consented projects effectively withdrawing the entire capacity of those projects from the market earlier than would otherwise be the case.

4.3 The Equinor IPs emphasise that on any reasonable analysis of policy, its existing and consented projects should be considered to comprise "critical national priority" infrastructure, and the Secretary of State should consider them accordingly when reaching a view on the public interest of their continued operation and deployment.

4.4 If, as the Equinor IPs submit, the consequence of the development of Outer Dowsing is that it will likely contribute to the earlier decommissioning of the Sheringham Shoal and Dudgeon offshore wind farms, or potentially prevent the deployment of the Sheringham Shoal Extension Project and the Dudgeon Extension Project then the loss of that capacity is a matter of public interest to which the Secretary of State should properly have regard.

4.5 This is acknowledged by the Applicant's Counsel's Opinion which states at paragraph 23:

> *The public interest consideration that is engaged in those circumstances is the ongoing generation of renewable energy by the affected offshore windfarm. If that activity becomes unviable and therefore ceases, the public interest benefits associated with the generation of renewable energy will no longer be realised.*

4.6 The Equinor IP's position is that the loss of circa £164 million creates a realistic prospect that its future financial decision making in relation to the projects will be affected, and that the result of that decision making triggers a public interest test which justifies mitigation.

4.7 This likelihood is a matter primarily for judgment of the Equinor IPs as acknowledged by EN-3 itself in stating:

> *2.8.28 Available wind resource is critical to the economics of a proposed offshore wind farm.*
>
> *2.8.30 Collection of this data is not obligatory as the suitability of the wind speed across the site and economics of the scheme are a matter for the technical and commercial judgement of the wind farm applicant not the Secretary of State.*

4.8 Notwithstanding this, the Equinor IPs maintain their view that it is appropriate for compensation to be secured in any event for the reasons set out in paragraph 31 of the opinion of Richard Turney KC.

5 WHETHER THE APPLICANT HAS MITIGATED THE EFFECTS OF ITS PROJECT, WHETHER FURTHER MITIGATION IS POSSIBLE AND WHETHER IT IS REASONABLE FOR IT TO BE IMPOSED VIA THE DCO

5.1 The Applicant continues to misrepresent the Equinor IPs' position on mitigation that was before the ExA. In paragraph 30 of its submission, it again refers to the Equinor IPs' Deadline 5 submission [REP5-167] to adopt a position that wake effects are not capable of being mitigated. This either ignores or deliberately chooses not to engage with the position set out in paragraphs 39 and 45(i) of the Equinor IP's Wake Effects Position Statement [REP6-143] which reflected its submissions at ISH8 [REP6-123] that the final wake effect could only be determined following detailed design of the Outer Dowsing project. This has not been disputed by the Applicant, and so it remains the case that the Equinor IPs consider that would be feasible for the Applicant to partially reduce the effect through physical mitigation measures, such as increased buffer distances, layout modifications and active turbine controls such as wake steering.

5.2 The Applicant attempts to characterise the Equinor IP's position in this way because:

(a) absent agreement from the Equinor IPs that the impact cannot be mitigated further, it cannot demonstrate that it has complied with the requirement at paragraph 2.8.345 of EN-3 (2024) that (our emphasis):

> *As such, the Secretary of State should be satisfied that **the** site selection and **site design of a proposed offshore wind farm and offshore transmission has been made with a view to avoiding or minimising disruption or economic loss** or any adverse effect on safety to other offshore industries. Applicants will be required to demonstrate that risks to safety will be reduced to as low as reasonably practicable.*

(b) absent agreement from the Equinor IPs that the impact cannot be mitigated further, it cannot otherwise demonstrate compliance with the important and relevant consideration at paragraph 2.8.232 of EN-3 (2025) and the expectation that:

> *Applicants should demonstrate that they have made reasonable endeavours to mitigate the impact of wake effects on other offshore wind generating stations.*

(c) absent agreement from the Equinor IPs that the impact cannot be mitigated further, it cannot argue alignment with the Secretary of State's recent decision in Five Estuaries that the Applicant in that case could not reasonably reduce the losses caused to the East Anglia Two project further in support of its submission against the inclusion of provisions in the Order to secure such mitigation.

5.3 At no stage throughout the examination, nor in its latest submission has the Applicant been able to indicate how, in formulating its proposals, it has had regard to wake effects and sought to mitigate the resultant economic loss and consequent effects on viability. As is clear from numerous

references in its submission[4], the Applicant undertook an assessment of effects on a precautionary basis in the event that its original interpretation of EN-3 was incorrect and then decided based upon the results that no mitigation was necessary.

5.4 As a result, the Applicant cannot demonstrate that it has complied with the expectations of consultation, assessment, and consequent scheme refinement as required by EN-3. It is for these reasons that the Applicant finds itself in a similar position to the Applicants in the Mona, Morgan and Morecombe applications and why measures should be included on the face of the DCO to ensure that the requirements of EN-3 are adhered to.

6 PROTECTIVE PROVISIONS

6.1 Policy guidance is clear that parties need to work collaboratively and put in place mitigation to address wake effects. The Equinor IPs maintain that this is best achieved through protective provisions.

6.2 The Equinor IPs disagree that protective provisions are subject to same legal and policy tests as requirements and note that they are considered separately in PINS guidance.

6.3 The protective provisions are not a mechanism to impose "regulation through the DCO" (Applicant's submission para 40). The practical effect of the protective provisions is to establish a relationship between the Equinor IPs and the Applicant that puts in place a framework for engagement and resolution of disputes, encouraging both parties to cooperate and work collaboratively to establish mitigation, and commission a third party to undertake assessment of any disputes. This collaborative approach is endorsed by EN-3 (2025) at paragraphs 2.8.173 and 2.8.316, and has not been followed to date by the Applicant in formulating its proposals.

6.4 The Equinor IPs do not agree with the position taken by the Applicant that the effect of the protective provisions is simply to "pay significant financial compensation to [a] commercial rival" to cover private economic loss. The protective provisions provide a mechanism for determining whether the Applicant has sought to minimise the economic loss through detailed design and/or to otherwise pay compensation in default of doing so or to overcome any residual public interest impact on the future viability of the Equinor IPs assets as referred to above.

6.5 The Applicant states that to include protective provisions in the DCO would be a misuse of the planning process. The Equinor IPs disagree – the concept and operation of the framework included in protective provisions is (i) to uphold the core principle of the planning process which is to bring forward development, balanced properly with affected parties; and (ii) if the interests of the development and the affected party are conflicted in spite of the framework interface set out in the protective provisions, that conflict is removed from the planning process to a dispute resolution process.

6.6 Turning to the points made in paragraph 32 of the Counsel's Opinion and para 42 of the Applicant's Submission, neither appear to consider paragraph 2.8.233 EN-3 (2025) in the correct context. That paragraph follows from a statement which clearly sets out an expectation that applicants should demonstrate that they have made reasonable endeavours to mitigate wake effects on other offshore wind farms. It is followed by the consideration that developers may opt to take such approaches outside of the planning process. As set out above, simply carrying out a wake loss assessment does not constitute a reasonable step to mitigate the impacts that are established in that assessment, rather it simply establishes the fact that there is an impact. The effect of the protective provisions is to mitigate that impact which in the Equinor IP's submission will cause it significant economic loss and will likely affect the future viability of its assets, and enables that impact to be mitigated outside of the planning process. Therefore, the protective provisions reflect the policy imperative of paragraphs 2.8.233 and 2.8.314 of EN-3 and enable the Secretary of State to conclude that future viability will not be affected.

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[4] E.g. Para 61 *The Applicant reiterates that the conclusions of the Wood Thilsted Report demonstrate that the wake effects from the Project are very small (being at most 0.89%) and therefore there is no need for mitigation or compensation.*

7 THE AMENDED REQUIREMENT

7.1 Should the Secretary of State determine that a requirement is necessary, the Equinor IPs remain of the view that their proposed form of requirement should be preferred over that of the Applicant for the reasons stated in its December submission. At paragraph 66 of its submission, the Applicant seeks to downplay the relevance of the Morecambe requirement as it had been agreed between the Morecambe applicant and the Orsted IPs. There is no merit in this point as the Secretary of State will still need to have been satisfied that it met the relevant tests for a valid requirement in incorporating it within the made Morecambe DCO.

7.2 The Equinor IP's remaining comments focus on the response of the Applicant to their suggested form of requirement where issues remain outstanding. However, they do not consider that any further amendments to their proposed requirement are justified:

Paragraph 1(b)

7.3 This is to preserve the ability for the Applicant to enter into a compensation agreement outside of the planning process as potentially envisaged by EN-3 (2025) paragraph 2.8.233 and in doing so avoid the need to comply with the remainder of the requirement. It does not of itself impose a requirement for compensation.

Paragraph 2(a)

7.4 As noted above the Equinor IPs' position is that the Applicant is unable to demonstrate that it has sought to minimise economic loss due to wake effect in the formulation of its proposals and that further mitigation to reduce such losses is possible at detailed design stage. Limb (a) addresses this point and enables the discharging authority to determine if the Applicant has done so in its final design.

Paragraph 2 – deletion of "reasonable"

7.5 The Equinor IPs remain of the view that their approach is correct as set out in paragraph 8.8.4 of its December submission. Absent details of other measures, considered by the Applicant but discounted, the discharging authority is unable to consider whether reasonable endeavours have been employed by the Applicant to mitigate the impact.

Paragraph 2(b) – operational mitigation

7.6 The Equinor IP's do not understand the difficulty with needing to consider operational mitigation which does not materially reduce the capacity of the Applicant's project.

Paragraph 2(b) – the balancing exercise

7.7 The Applicant is simply wrong when it interprets "maximising capacity" in paragraph 2.8.2 of EN-3 as equating to generating output. The preceding paragraph of EN-3 makes it clear that paragraph 2.8.2 is referring to installed nameplate capacity when the policy is read in context:

> *The ambition is to deploy up to 50GW of offshore wind capacity (including up to 5GW floating wind) by 2030, with an expectation that there will be a need for substantially more installed offshore capacity beyond this to achieve net zero carbon emissions by 2050.*

7.8 The Equinor IPs therefore reject the Applicant's proposed definition of "capacity" as not being supported by policy. Furthermore, the Equinor IPs sees no difficulty in its use of the words "without materially reducing the capacity". Materiality is a planning judgement with which decision makers and discharging authorities will be entirely familiar, for example in determining whether amendments are material or not. It will be for the decision maker to determine whether a mitigation proposal would materially reduce the installed capacity of the project.

7.9 As paragraph 2.8.2 of EN-3 notes:

> *To meet its objectives government considers that all offshore wind developments are likely to need to maximise their capacity within the technological, environmental, and other constraints of the development.*

One such constraint is the wake effects caused to other offshore wind farms which lead to economic loss likely to affect their future viability. The Applicant has yet to take that into account.

Paragraph 2(f) – monitoring

7.10 The Equinor IPs' form of requirement stated, "*details of any necessary monitoring of the wake effect mitigation measures*". If monitoring is not necessary, then it will not be imposed. However if operational mitigation formed part of the approved wake effects plan, then it is entirely reasonable that they would be monitored to ensure that they are working effectively as anticipated.

Paragraph 2(d)(i)

7.11 The Equinor IPs fail to understand the difficulty with requiring the Applicant to consult. It simply puts the Applicant and the Equinor IPs in the same position had the Applicant consulted them on mitigation in formulating its proposals in accordance with EN-3.

Paragraph 2(b) – reference to compensation

7.12 The reference in the proposed requirement that a wake effects plan may include compensation is to provide the Applicant with flexibility as to how it brings forward its mitigation proposals in the plan, it does not of itself obligate compensation. For example, the Applicant may choose to pursue a design that does not minimise economic loss whilst not materially reduce the capacity of its project. In those circumstances, it may consider it appropriate to include compensation as part of its plan.

Paragraph 2(c) - details of the impact on the reduction of capacity

7.13 The Equinor IPs consider that this is necessary to enable the discharging authority to consider whether any steps would materially reduce the capacity of the Applicant's project such that they should not be consider as part of any approved plan.

8 CONCLUSION

8.1 Accordingly, the Equinor IPs' position remains that the incorporation of their form of protective provisions is justified in policy terms, or alternatively should Secretary of State be minded to impose a requirement in lieu of protective provisions that their form of requirement should be preferred to that of the Applicant.

Yours faithfully,

[redacted]

Sarah Chandler, Head of Consenting
Equinor New Energy Limited