

East Anglia THREE  
Offshore Windfarm

East Anglia THREE

# **Schedule of Changes to the Development Consent Order (Version 1 – July 2016)**

Document Reference – Deadline 1/Draft  
DCO/EATHREE DCO Schedule of Changes

Schedule of changes to the draft EATHREE DCO (as at September 2015)

Changes made in Version 1 of DCO	
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Reference	Consultee	When comment made	Comments from consultee	Change made
<b>Articles</b>				
All Article	ExA	Rule 6 Letter & Schedule of Issues	Update drafting to reflect current practice.	<i>The use of "shall" has been removed in favour of "must" or "is" save for instances where context requires the amendment not be made. Other terms referred to in the Rule 6 Letter and Schedule of Issues have also been considered.</i>
			<p><b>"deemed generation assets marine licences"...</b></p> <p>The reference to 'Marine and Coastal Access Act 2009' is to 'the Marine and Coastal Access Act 2009'. However, given that this legislation is already proposed to be defined as "the 2009 Act" in this article, a better response would be to ensure that this and all further references to the 2009 Act in the Order use the proposed defined term.</p>	<i>This amendment has been made.</i>
			<p><b>"East Anglia ONE Order"...</b></p> <p>The definition needs to include a reference to the 2014 made Order as amended by the East Anglia ONE Offshore Wind Farm (Corrections and Amendments) Order 2016 (SI No 447).</p>	<i>Definition amended to refer to the East Anglia ONE Offshore Wind Farm (Corrections and Amendments) Order 2016.</i>
			<p><b>"jointing bay" and "jointing works"</b></p> <p>Is there a need for the inclusion of a definition of "jointing bay" or "jointing works", or of any other technical terms widely employed in the Order and particularly Schedule 1, Part 1 (Authorised Development)?</p>	<p><i>Jointing bay and jointing works are now defined terms.</i></p> <p><i>"jointing bay" means an excavation formed to enable the jointing of high voltage power cables;</i></p> <p><i>"jointing works" means a process by which two or more cables are connected to each other by means of cable joints within a jointing bay;</i></p>

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			<b>"Marine and Coastal Access Act"</b>	<i>Defined term of the 2009 Act now used consistently.</i>
			<b>"pin piles"...</b> What is the intended meaning of the drafting 'for fixity of used in this definition? A clearer definition would be beneficial.	<i>The term "for fixity of" is now replaced with "to secure".</i>
			<b>"statutory undertaker"</b>	<i>Addition of public communications providers to the definition.</i>
			<b>"wind turbine generator" or "WTG"...</b> This definition applies the same meaning to two terms. It is best practice for a single term to be employed.	<i>Double definition now removed, "WTG" deleted.</i>
Article 4	ExA	Rule 6 Letter & Schedule of Issues		<i>Article 4(2) is inserted to confirm that a marine licence is necessary as per other offshore wind farm development consent orders:  (2)The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain a licence under Part 4 of the 2009 Act (marine licensing).</i>
Article 5	LPAs	Post submission discussions	Request for notification.	<i>Article 5 (10) has been amended to include notification being given to the relevant planning authority in relation to transfer of the benefit of the Order.</i>
Article 10			NONE – this Article has been amended by the Applicant after consideration of other made offshore wind farm development consent orders.	<i>Article 10(5) inserted in relation to temporary stopping up of streets to provide deemed consent of the street authority as provided for in the other offshore wind farm development consent orders.</i>
Article 11			NONE – this Article has been amended by the Applicant after consideration of other made offshore wind farm development consent orders.	<i>Article 11(2) inserted in relation to access to works to provide deemed consent of the relevant planning authority as provided for in the other offshore wind farm development consent orders.</i>
Article 12			NONE – this Article has been amended by the Applicant after consideration of other made offshore wind farm development consent orders.	<i>Article 13(9) inserted in relation to discharge of water to provide deemed consent of the relevant body as provided for in the other offshore wind farm development consent orders.</i>
Article 14			NONE – this Article has been amended by the Applicant	<i>Article 14(7) inserted in relation to authority to survey and investigate the</i>

Reference	Consultee	When comment made	Comments from consultee	Change made
			after consideration of other made offshore wind farm development consent orders.	<i>land onshore to provide deemed consent of the highway or street authority as provided for in the other offshore wind farm development consent orders.</i>
Article 22			NONE – this Article has been amended by the Applicant after consideration of other made offshore wind farm development consent orders.	<i>Article 22(1) inserted to include rights to enter on and appropriate air-space as provided for in the other offshore wind farm development consent orders.</i>
Article 31	ExA	Rule 6 Letter & Schedule of Issues	It is necessary to clarify whether powers are sought in relation to all hedgerows within the Order Limits, and if so to identify all hedgerows.	<i>Addition of reference to Schedule 9, Part 1 (removal of hedgerows) and to Part 2.</i>
Article 32			NONE – this follows the decision to undertake a single cable laying operation.	<i>Removal of the outline temporary works reinstatement plan as a Certified Document</i>
Article 34	ExA	Rule 6 Letter & Schedule of Issues		<i>Correction of cross-referencing.</i>
Article 39			NONE – this Article has been amended by the Applicant for the reasons set out in the Schedule of Issues (Applicant's Response), namely that whilst it is considered possible to amend the East Anglia ONE Order, it is not considered necessary to do so in this instance.	<i>Deletion of Article 39, variation to the East Anglia ONE Order</i>
<b>Schedule 1 (Authorised project)</b>				
Work No. 65	LPAs	Post submission discussions	Follows discussions between relevant LPAs and the Applicant in relation to additional landscaping mitigation.	<i>Inclusion of "and landscaping works including planting".</i>
<b>Schedule 1, Part 2 (Requirements)</b>				
Requirement 2	ExA	Rule 6 Letter & Schedule of Issues	<b>Requirement 2</b> References in the ES, the explanatory memorandum and the Order to the height of turbines or their components above sea level do not refer to the same terms. Requirement 2 uses lowest astronomical tide (LAT) and mean high water springs (MHWS) as references for	<i>The use of differing technical terminology reflects the choice of different organisations that the Applicant has interacted with in drafting the requirements.</i>  <i>The use of "WTG" has been deleted in favour of "wind turbine generator".</i>

Reference	Consultee	When comment made	Comments from consultee	Change made
			<p>turbine height, generator shaft or hub height and blade separation from sea level respectively. It sets the maximum hub height at 150.6m above LAT. MHWS is used as the reference point for minimum blade separation from sea level. Article 2(1) defines, and the explanatory memorandum additionally refers to, mean low water springs (MLWS), although this term is not used in the requirement. The explanatory memorandum describes 150.6m from LAT as being equivalent to 150m from MLWS 'as assessed in the ES'. However, the ES describes turbine height above sea level with reference to a third measure – mean sea level (MSL). MSL is not defined in Article 2(1) or employed in this requirement. Nor does the ES show or reference MLWS.</p> <p>Due to the inconsistent use of these terms between these documents, it is not clear that the proposed design parameters accurately reflect and secure the worst case scenario assessed in the ES. The applicant and MMO are invited to comment on the need for amendments to the requirement to ensure that development is delivered within the Rochdale envelope.</p>	
Requirement 3	ExA	Rule 6 Letter & Schedule of Issues	<p>Requirement 3</p> <p>Should requirement 3(1) limit the total number of meteorological masts to two?</p>	This amendment has been made. See the Applicant's Response to the Schedule of Issues.
Requirement 8	ExA	Rule 6 Letter & Schedule of Issues	<p>Requirement 8</p> <p>Should "an" in both requirement 8(1) and 8(2) be changed to "the" because there can only be one accommodation platform?</p>	<i>This has been amended to "any".</i> See the Applicant's Response to the Schedule of Issues.
Requirement 11			NONE – this follows the decision to undertake a single cable laying operation.	<i>Work No. 67 cannot commence until a scheme setting out whether it is to be carried out in a single phase or two phases has been approved by the relevant planning authority.</i>

Reference	Consultee	When comment made	Comments from consultee	Change made
	LPAs	Post submission discussions	Notification of commencement of second onshore phase requested by LPAs.	<i>If Work No. 67 is to be carried out in two onshore phases then 14 days prior notice of onshore commencement for the second phase must be given to the relevant planning authority</i>
Requirement 12	ExA	Rule 6 Letter & Schedule of Issues / in discussion	With reference to requirement 12(8)(a) it should be noted that the EA1 Offshore Wind Farm (Corrections and Amendments) Order 2016 amended the equivalent requirement 10(10)(a) in the made EA1 Order to delete a reference to the 'number, location, scale and appearance' of kiosks to be located in the onshore cable corridor and to replace this with a reference to 'details of the scale and appearance' of the kiosks. Can the applicant please explain the rationale for this change and whether it is sought here? Relevant local planning authorities' views on the need to approve the number and location of kiosks are sought.	<i>Existing ground level now means 54 and not 57 metres above ordnance datum. See the Applicant's Response to the Schedule of Issues. Change has been made in relation to kiosks as per the EA ONE Order. See the Applicant's Response to the Schedule of Issues.</i>
			NONE - Requirement 12(10) amended following the decision to undertake a single cable laying operation.	<i>Requirement 12(10) is amended to confirm that if Work No. 67 is to be carried out in two onshore phases each must comprise no more than one onshore substation and "two circuits and two transition bays" is deleted.</i>
	LPAs	Post submission discussions	Requirement 12(11) and 12(12) requested by LPAs.	<i>Requirement 12(11) is added meaning that the footprint of each jointing bay compound must not exceed 3,740 m2. Requirement 12(12) is added meaning that the total length of the haul road must not exceed 18.05km.</i>
Requirement 14	LPAs	Post submission discussions	Ensure that the landscaping requirement applies to the cable corridor as well as at the substation.	<i>Addition of "no stage of connection works" and deletion of "forming part of Works Nos 64, 68 and/or 69 may commence until for "that stage" a written landscaping management scheme... has been submitted. To 14(2)(l)Maintenance of landscaping, including irrigation arrangements</i>

Reference	Consultee	When comment made	Comments from consultee	Change made
				<i>in relation to Work No. 65 is now added.</i>
21	ExA and Natural England (NE)	Rule 6 Letter & Schedule of Issues / in discussion  Discussed with NE the DCO hearing	The timing restriction does not appear to be secured in the DCO. It may be that requirement 21 will deliver all of the ecological aspects of the OLEMS, including the timing restriction in relation to Brent geese; however, at present it is not clear that this fully secures the restrictions so as to avoid impacts on the geese and the SPA/Ramsar. Comments are invited from the applicant and SNCBs.	<i>New Article 21(3) inserted:  "Construction works between Ferry Road and the River Deben must be carried out in accordance with the embedded mitigation relating to onshore ornithology contained in Table 2 of the outline landscape and ecological management strategy, which must be incorporated into the ecological management plan".</i>
Requirement 30			NONE - This follows the decision to undertake a single cable laying operation, whilst retaining the option to phase the substation works	<i>Addition to Article 30 to provide that if approved by the relevant local planning authority Work No. 65 may be retained between any phasing of construction for Work No. 67.</i>
Requirement 31	ExA	Schedule of Issues	This relates to "cessation of the connection works or work 5B and 7" but the connection works are defined as works 4B-66, which includes works 5B and 7. Can the applicant please explain the difference and propose any necessary revisions to drafting?	<i>The drafting is revised to delete "or of Work No. 5B and Work No. 7,"</i>
Requirement 32	ExA	Schedule of Issues	<b>Missing requirements or plans</b>  Should there be a requirement to provide for the provision of aviation lighting to meet CAA requirements and the maximum illumination provided by this and by other offshore lighting?	<i>The previous requirement 32 (dealing with decommissioning of ducts) has been deleted as this will now be dealt with through the transfer provisions of the East Anglia ONE Order.  A new requirement for aviation lighting has been incorporated:  32(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2009(x) and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the CAA.  (2) The undertaker must notify the Defence Infrastructure Organisation, at least 14 days prior to the commencement of the authorised development, in writing of the following information  (a) the date of the commencement of construction of the authorised development;  (b) the date any wind turbine generators are brought into use;</i>

Reference	Consultee	When comment made	Comments from consultee	Change made
				<p>(c) the maximum height of any construction equipment to be used;</p> <p>(d) the maximum heights of any wind turbine generator, mast and platform to be constructed;</p> <p>(e) the latitude and longitude of each wind turbine generator, mast and platform to be constructed,</p> <p>and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised development.</p>
Requirement 33	ExA	Schedule of Issues		<p>Replacement of wording "confirms in writing that he is satisfied" with "confirms satisfaction in writing"</p>
Requirement 36			<p>NONE - This follows the decision to undertake a single cable laying operation, whilst retaining the option to phase the substation works.</p> <p>The previous article dealing with retention of temporary works between phases of onshore connection works has been deleted, because this will now be limited to the lay down area at the substation.</p> <p>A new article has been inserted to cover matters to be addressed by East Anglia THREE in the event that EA ONE temporary works are retained (under Requirement 28 of the EA ONE Order) and are proposed to be re-used by East Anglia THREE.</p>	<p>Article 36 Reuse of temporary works is now worded as follows:</p> <p>36.—(1) In the event that any temporary works which have been constructed pursuant to the East Anglia ONE Order are proposed to be reused by the undertaker in connection with the authorised project, such reuse may not commence until a scheme which accords with paragraph (2) has been submitted to and approved by the relevant planning authority.</p> <p>(2) The scheme to be submitted for approval under paragraph (1) must include:</p> <p>(a) details of the temporary works to be reused which must accord with the parameters for temporary works contained at requirement 12;</p> <p>(b) a timetable and details for the removal of such part of the temporary works which do not accord with the parameters for temporary works contained at requirement 12;</p> <p>(c) details of any transferee to whom the temporary works have been transferred pursuant to Article 5 of the East Anglia ONE Order; and</p> <p>(d) proposals to notify the relevant planning authority of any subsequent transfers pursuant to Article 5 of the East Anglia ONE Order pending reinstatement of the reused temporary works in accordance with requirement 28 of the East Anglia ONE Order.</p> <p>(3) The scheme must be implemented as approved.</p>



Reference	Consultee	When comment made	Comments from consultee	Change made
General	ExA	Rule 6 Letter & Schedule of Issues	From the commencement of this schedule [3], page numbering in the draft Order appears to be incorrect. The applicant is requested to review and correct the pagination in the remainder of the Order.	<i>Drafting has been reviewed accordingly.</i>
Schedule 5	ExA	Rule 6 Letter & Schedule of Issues	Amend drafting in line with modern conventions.	<i>Drafting has been reviewed accordingly.</i>
Schedule 6	ExA	Schedule of Issues	The paragraph numbering in this schedule appears to be incorrect (it starts at paragraph 37). The applicant is requested to review and correct this.	<i>Drafting has been reviewed accordingly.</i>
Schedule 8	ExA	Rule 6 Letter & Schedule of Issues	Amend drafting in line with modern conventions.	<i>Drafting has been reviewed accordingly.</i>
Schedule 9	ExA	Rule 6 Letter & Schedule of Issues	It is necessary to clarify whether powers are sought in relation to all hedgerows within the Order Limits, and if so to identify all hedgerows.	<i>Insertion of new Part 1 "Removal of Hedgerows"</i>
	Applicant			

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ALL DML	ExA	Rule 6 Letter & Schedule of Issues	<p><b>Definitions</b></p> <p>All of the DMLs refer at paragraphs 6 to 'section 106 of the 2004 Act'. This appears to be a reference to the Energy Act 2004, but this legislation is not defined under Part 1 1(1) in any of the DMLs. If a reference of this nature is to be used, the applicant is required to include a definition of "the 2004 Act" ... in PART 1 1(1) of each DML.</p>	<p><i>Insertion of Energy Act 2004 and defined term "the 2004 Act"</i></p> <p><i>Reference to the "Marine and Coastal Access Act " is amended to "the 2009 Act".</i></p>
	ExA	Rule 6 Letter & Schedule of Issues	Drafting corrections and updates.	<p><i>Replacement of "shall" where not required in line with current drafting practices.</i></p> <p><i>Deletion of "WTG" and replacement with "wind turbine generator"</i></p>

Reference	Consultee	When comment made	Comments from consultee	Change made
Schedule 10 & 11	ExA	Rule 6 Letter & Schedule of Issues	<p>Both Schedules permit the construction of an offshore wind turbine generating station (WTG station) with a capacity of 600mw comprising up to 86 WTGs (half of the amount permitted by the DCO) over the same area as the DCO, i.e. the DML limits are completely overlapping and both generating stations (phase 1 and phase 2) will be able to be constructed anywhere within the area identified in the works plans as Work No. 1. This means that there will need to be co-operation between each of the licence holders.</p> <p>Can the applicant explain how the licences will interact in practice, particularly if they are transferred to different undertakers? For example, how will co-ordination of both generating stations be secured and how will the MMO be made aware of what is being constructed under which licence and who it should enforce against? A co-operation requirement between licence holders and the MMO such as in the made Hornsea 1 DCO or in the EA1 interconnections licences (see condition 20) could be an appropriate way to secure this.</p> <p>Both DMLs authorise the construction of an accommodation platform, up to 2 masts and up to 12 buoys - the total permitted by the DCO. Condition 2(1) states that, within the authorised scheme, the maximum number of accommodation platforms must not exceed one; condition 2(3) limits the masts within the authorised scheme to a total of two; and condition 2(7) limits the total number of buoys within the authorised scheme to 12. However, the "authorised scheme" is defined as "the Work no 1 described in the licence". The work described in the licence is not the same as the work described in the DCO, but is half of Work No. 1 to which the specific licence applies. These conditions therefore do not appear to prevent one accommodation platform / two masts / 12 buoys being built under each DML in breach of the DCO.</p>	<p><i>Drafting amended as noted in the sections below.</i></p>

Reference	Consultee	When comment made	Comments from consultee	Change made
			<p>The DMLs should not authorise activities that are outside of the works permitted by the DCO.</p> <p>The MMO and the applicant are asked to review and comment on this drafting and the applicant is asked to propose amendments to these DMLs.</p>	

Reference	Consultee	When comment made	Comments from consultee	Change made
Schedule 10 & 11 Part 1	ExA	Rule 6 Letter & Schedule of Issues	Part 1 section 1 contains definitions of the generation and interconnection DMLs but no further reference is made to these in either DML. The definition appears to be superfluous.	<i>This change has been made.</i>
Schedule 10 & 11 Part 2	ExA	Rule 6 Letter & Schedule of Issues	As noted above regarding drafting.	<p><i>Condition 2(1) is amended to refer to "wind turbine generator" instead of WTG.</i></p> <p><i>Condition 2(2) is amended so that the total number of accommodation platforms and total number of meteorological masts "and the authorised Scheme in licence 2 (generation) taken together" must not exceed 2.</i></p>

Reference	Consultee	When comment made	Comments from consultee	Change made
				<i>Condition 13(a)(x) insertion of "(in accordance with the recommendations for layout contained in MGN43)"</i>
	Applicant		Correction of reference.	<i>Condition 14(5) correction of reference from MGN371 to MGN43. At Schedule 11, Condition 14(5) insertion of text to align with the same provision in Schedule 10, 14(5).</i>
	NE	Relevant Representation	NE requested that the Applicant include a commitment in the DCO to not place gravity based structures in areas where sandwaves are greater than 5m.	<i>Condition 16, deletion of "not used" and insertion of: No gravity base foundations may be installed in any area of the seabed with mobile sand waves of 5 metres or more, as identified by the swath-bathymetry survey carried out under condition 17(2)(b), unless otherwise agreed in writing by the MMO.</i>
Schedule 12 & 13 Part 1	ExA	Rule 6 Letter & Schedule of Issues	See ExA's first comment in relation to Schedule 10 and 11	<i>Deletion of definition of "deemed generation assets marine licences".</i>
Schedule 12 & 13 Part 2	ExA	Rule 6 Letter and Schedule of Issues	See ExA's first comment in relation to Schedule 10 and 11	<i>Condition 14(5) correction of guidance reference from "MGN 371" to "MGN543"</i>
Schedule 14 & 15 Part 1	ExA	Rule 6 Letter & Schedule of Issues	See ExA's first comment in relation to Schedule 10 and 11	<i>Insertion of new defined term and associated definition for "East Anglia ONE Offshore Wind Farm" and "East Anglia ONE Order".</i>

Reference	Consultee	When comment made	Comments from consultee	Change made
Schedule 14 & 15 Part 2	ExA	Rule 6 Letter & Schedule of Issues	See ExA's first comment in relation to Schedule 10 and 11	<i>Condition 14(5) correction of guidance reference from "MGN 371" to "MGN543"</i>