

Workgroup Consultation Response Proforma

CMP434: Implementing Connections Reform

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to usc.team@nationalgrideso.com by **5pm on 06 August 2024**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration.

If you have any queries on the content of this consultation, please contact usc.team@nationalgrideso.com

Respondent details	Please enter your details	
Respondent name:	Andy Dekany	
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Phone number:	Click or tap here to enter text.	
Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input type="checkbox"/> Generator <input type="checkbox"/> Industry body <input checked="" type="checkbox"/> Interconnector	<input type="checkbox"/> Storage <input type="checkbox"/> Supplier <input type="checkbox"/> System Operator <input type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input type="checkbox"/> Other

I wish my response to be:

(Please mark the relevant box)

☒ **Non-Confidential** (this will be shared with industry and the Panel for further consideration)

☐ **Confidential** (this will be disclosed to the Authority in full but, unless specified, will not be shared with the Workgroup, Panel or the industry for further consideration)

For reference the Applicable CUSC (non-charging) Objectives are:

- The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;
- Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;
- Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and
- Promoting efficiency in the implementation and administration of the CUSC arrangements.

*The Electricity Regulation referred to in objective (c) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.

Please express your views in the right-hand side of the table below, including your rationale.

Standard Workgroup Consultation questions				
1	Do you believe that the Original Proposal better facilitates the Applicable Objectives?	<p>Mark the Objectives which you believe the Original solution better facilitates:</p> <table border="1"> <tr> <td>Original</td> <td><input type="checkbox"/>A <input type="checkbox"/>B <input type="checkbox"/>C <input type="checkbox"/>D</td> </tr> </table>	Original	<input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D
Original	<input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D			
<p>We do believe that the Original Proposal has the potential to better facilitate the Applicable CUSC Objectives. We do however have substantial reservations about the current position of the Modification as consulted upon. These must be addressed to ensure that the final package of CMP434 and associated Methodologies does meet the criteria to better facilitate the Applicable CUSC objectives.</p> <p>We are also mindful of the recent commissioning by the Secretary of State of advice from the Electricity System Operator on the pathway towards the 2030 ambition, with expert analysis of the location and type of new investment and infrastructure needed to deliver it. This has the potential to affect Connections Reform and we suggest that the further development of CMP434 should account for this work.</p> <p>We agree that the Connections Queue is in clear need of reform and the “first ready, first connected” approach is laudable. However, the approach taken with CMP434 so far tries to treat all technologies the same. We feel that this is a fundamentally incorrect assumption, and that the sole focus on Land Rights at Gate 1 and Gate 2 across all technologies does not reflect the vastly different project development life-cycles of differing technologies. Some technologies will require 10 or more years to develop their project from initial connection application to entering into operation. They are not so-called “zombie projects” but rather they need to be allowed to develop their projects, in many cases aligned with wider transmission reinforcement works, safe in the knowledge that their connection is not going to be arbitrarily removed simply because they have failed to meet a requirement years ahead of when they would normally need to.</p> <p>We feel strongly that the CMP434 process as consulted upon could see certain technologies with low hurdles to securing land proliferate in the connection queue at the expense of others. This may result in a connection queue that will not deliver on a host of wider governmental objectives including net zero targets, security of supply and wider coordination between network build and new sources of energy both onshore and in the seas around Great Britain.</p> <p>We would strongly encourage ESO to take a materially different approach to establishing its “minimum viable product” approach to implementing TMO4+ via</p>				

	<p>CMP 434 and 435. It should focus on delivering technology specific solutions to the queue management approach rather than a “one size fits all approach”.</p> <p>We wish to be as constructive as possible and will raise in the Working Group discussions one or more alternative proposals that seek to follow this philosophy. We provide further details of these alongside and later in our responses to subsequent questions.</p>	
2	<p>Do you support the proposed implementation approach? (see pages 59-61)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
	<p>We have concerns about the proposed implementation approach.</p> <p>CMP434 (alongside CMP435) is one of the most fundamental changes to the connections process since its inception. It is also one of the most complex CUSC modifications raised in many years, one that radically changes the most fundamental aspect of the CUSC – getting a connection to the NETS and one that could mean that multi-million pound investments to genuine projects to deliver net zero could be inadvertently shut down prematurely.</p> <p>The Working Group has spent many hours looking to define the original proposal, but at no stage has any impact assessment been presented about whether any of the elements of the proposal as it currently stand will have the desired impact of addressing the defect.</p> <p>This leaves industry only 8 working days to assess the amendment proposal, digest the complex deliberations of the Working Group, assess impacts on the portfolio of projects they have planned and under development and assess if alternative approaches are likely to better facilitate the applicable CUSC objectives. These 8 working days are also falling across the summer holidays.</p> <p>Should the CUSC amendment then be approved, there may be as little as the minimum 10 Business Days between Ofgem decision and implementation over this period falling between the Christmas and New Year holidays when again many staff across the country will not be in the workplace. The implementation approach seems to be fraught with risk and therefore unsuitable for an amendment of such magnitude.</p> <p>In addition, while the CUSC amendment CMP434 introduces the fundamental procedural elements into the CUSC, the bulk of the critical policy related items are proposed to be contained in separate methodologies including (but not limited to) the Connection Network Design Methodology, the Gate 2 Criteria Methodology, and the Project Designation Methodology. These methodologies are critical to the process proposed by CMP434, yet their content is not yet known. All of these methodologies will need to be developed, assessed, and consulted upon in a very short period of time given the targeted 1 January 2025 implementation date. It is also true that in our view they will be each be complex and highly interactive with</p>	

	one another and that there will be insufficient time in which for industry to properly assist in their development and assessment. We challenge then the pace at which these collective elements are being developed and their proposed implementation.	
3	Do you have any other comments?	
	No additional comments.	
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input checked="" type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section) <input type="checkbox"/> No
<p>As previously highlighted in Workgroup discussions and our earlier comments, we believe that given the extensive scope of this proposal and its significant impact on the entire connection process, the timeline for review and response has been excessively compressed. This has resulted in limited time for affected stakeholders to develop comprehensive alternatives options without gauging impact of these on the overall process. Notwithstanding the above, via our Working Group member, NGV plans to raise one or more alternative proposals prior to the Working Group voting.</p>		

Specific Workgroup Consultation questions

5	<p>Do you agree with the elements of the proposed solution?</p> <p>Element 7 has been de-scoped and Element 10 is proposed to be codified within the STC through modification CM095.</p> <p>Please provide rationale for your answer and any suggestions for improvement to each element?</p>	
	<p>Element 1: Proposed Authority approved methodologies and ESO guidance (see pages 9-10, 55)</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>We agree with the principle that the policy areas proposed to be covered under methodologies and guidance might need a nimbler change governance procedure than that available under CUSC. The proposal in large part mirrors other methodologies (Procurement Guidelines, BSAD, etc) already set out under the ESO licence and so is familiar to industry.</p> <p>The nimbler change governance process needs to be considered against the fact that the policy areas proposed to be held under these methodologies and indeed guidance are an integral part of the proposed new connections process and changes to them could have far reaching implications for multi-million-pound projects. The proposal that only ESO will be able to propose change and at a timetable of its sole choice does raise concerns.</p> <p>In the period after implementation in particular there will be a great deal of learning about the new processes on all sides, and it is imperative that changes can be identified by all parties and delivered quickly where the Authority considers this is appropriate. We would suggest therefore that in the year immediately following any implementation there is an obligation on ESO to engage with industry after around 3 months on changes. If industry suggest changes ESO is not minded to take forward</p>		

that there is a step available for Ofgem to indicate to ESO that such proposals should be formally proposed and consulted upon alongside any that ESO does wish to take forward as part of the licence mandated 28-day consultation process. This process would then be repeated again around 8 months after implementation, confirming two opportunities in the first year for changes to be made but with additional influence for industry.

In subsequent years this obligation could then be an annual obligation, but retaining the safeguard for industry to suggest changes and for Ofgem to indicate those which it believes should be formally consulted upon even where ESO is minded not to progress then.

Turning to the use of “guidance”. While additional “plain English” guidance on any aspect of the CUSC is welcome, we would have concerns if any material aspects of connections policy is contained within “guidance” that could presumably be changed on an ad-hoc basis without requiring any formal consultation or Ofgem direction. Of the suggested “guidance” subjects both the “Significant Modification Application” guidance and “Material Technology Change” guidance are those that might be better suited to be set out as Methodologies rather than guidance.

Element 2: Introducing an annual application window and two formal gates, which are known as Gate 1 and Gate 2 (i.e., the Primary Process) (see pages 11, 35-36)

☐ Yes
☒ No

The consultation states that the purpose of Gate 1 is to support more strategic network planning and facilitate the potential for earlier connection dates being provided at Gate 2. We do not believe that this “Primary Process” will effectively facilitate either aim.

The proposal does not include rationale for the Gate 1 process to be annual, nor explain the ‘Batched Assessment’ process. However, as the Gate 1 Offer will not include detailed Transmission Reinforcement Works or any associated securities or liabilities, this infers that the batched assessment will not be a full analysis of the impact on the transmission system. This is reinforced by the intention to provide an indicative “connection point” (it is not clear if this is a specific substation or a “node”). Fully informed comments are therefore not possible, but it does raise concerns over the validity of the assessment and the resulting Gate 1 Offers.

An annual process (as set out in Annex 4) potentially means a project that misses the annual application window could be forced to wait for up to 19 months for an offer, compared to the rolling current process that provides an offer after 3 months. This would appear to be unreasonable and is indeed unworkable for developers.

Our view is that by aligning the frequency of the Gate 1 and Gate 2 cycles this would shorten the timescales for a developer to receive an offer and assist the developer in progressing their project in a timely manner.

For Offshore projects the ESO propose to use Connection Point and Capacity Reservation powers in Gate 1, which is assumed to require engagement into the Gate 2 processes (CNDM Methodology). We agree with the comment in Element 12

<p>that the design stage of the annual application window should align to Gate 2 (or this may eventually create a timing issue).</p> <p>In our view IC/OHA projects should be given a confirmed Connection Site i.e., specific substation and <u>queue position</u> at Gate 1 since it is not possible to secure land early in this type of project.</p> <p>We feel strongly that the proposed process will see certain technologies with low hurdles to securing land proliferate in the connection queue at the expense of others. This may result in a connection queue that will not deliver on a host of wider governmental objectives including net zero targets, security of supply and wider coordination between network build and new sources of energy both onshore and in the seas around Great Britain.</p>	
<p>Element 3: Clarifying which projects go through the Primary Process (see pages 11-12, 35-36)</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>We note that Offshore Hybrid Assets (OHAs) are proposed to be included within the scope of those that will be subject to the Primary Process. We feel that there are two issues that should be given further consideration ahead of determining final scope.</p> <p>Firstly, the connection arrangements for Offshore Hybrid Assets are under active development by Ofgem with a consultation on the arrangements for Non-Standard Interconnectors (one form of an OHA) expected in September 2024. It may be appropriate to consider how the connections reform process sits alongside those arrangements as part of determining the scope of which projects go through the Primary Process.</p> <p>We also note that CMP434 might bring about an unlevel playing field for GB offshore generators that might be considering connection to shore via OHA, Offshore Transmission (OFTO), or Coordinated Offshore Transmission (HND / HNDFUE / CSNP). The Original proposal suggests that should an offshore generator not be connecting via OFTO or coordinated offshore transmission projects then all aspects of its connection application which are related to transmission infrastructure are out of scope of the Gate 1 or Gate 2 requirements related to land rights. However, should an offshore generator be connecting via an OHA then this is not the case as the OHA developer is tied into Gate 1 and Gate 2 requirements. There has not been consideration of this differing approach and whether it is appropriate in the working group report and is an important aspect that needs further debate.</p>	
<p>Element 4: Significant Modification Applications concept, including the proposed criteria and the proposed level of codification (see pages 12-13, 36-39)</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>
<p>The ESO states that it plans to produce “guidance” relating to Significant Modification Applications (SMAs). This is a cause for concern as these are complex changes (e.g., MW capacity increases) with far reaching implications for the viability of projects being able to progress in a timely manner. We believe that any proposal</p>	

should be developed via consultation with the industry. This would ensure that there is a robust challenge and review of any proposal made by the ESO.

In addition to the statement above, the proposed timescales to fully develop the SMA approach (i.e., to be implemented post Authority decision and for 'Go-Live' 01 Jan 2025) are extremely challenging and run the risk that the implications of the proposed approach are not fully explored. The fact that the SMAs approach has been determined to be beyond the scope of the CMP434 code change reinforces the concern that there has not been the opportunity to fully consider the impacts.

The current proposal states that the treatment of a developer requested change is at "ESO's sole discretion". In our view there must be the ability for a developer to challenge the ESO's decision, with an assigned process and associated timescales.

Categorisation as a SMA is based upon where "ESO reasonably believes" there is an impact on the design, operation, and / or other users of NETS. Clarity is required regarding how ESO would determine this (e.g., via a desktop study, or detailed studies, or another method). It is important that the developer has the right to challenge the ESO's decision and that the ESO is obligated to provide a robust justification to ensure there is transparency in the process for the developer. If not, there is a high potential for an error in judgement which could cause undue delay by the developer having to follow the longer Gate 1 or Gate 2 process timescales (in error) to receive an Offer i.e., waiting for an application window, and the subsequent length of time for ESO to produce an Offer.

It is noted that reference is made to the need to ensure the continued potential for non-significant Modification Applications to follow the existing licenced offer process and timescales (or a year-round secondary process) rather than the TMO4+ Primary Process. Whilst we welcome this option, it is thus doubly important that the categorisation of project changes is fully debated and understood to avoid a change being classed as an SMA when it could have been treated as non-significant.

Element 5: Clarifying any Primary Process differences for customer groups (see pages 13-14, 35-36)

☐ Yes
☒ No

Differences for Offshore Projects - Gate 1 Letter of Authority (LoA)

The proposal re-introduces a 'notional' LoA for Offshore projects that was omitted from CMP427 without fully addressing the reasons for omission of Interconnectors and OHAs (IC/OHAs).

An LoA based upon Crown Estate (TCE) and/or Crown Estate Scotland (CES) 'awareness of project' introduces an unnecessary new dependency for IC/OHA projects upon TCE/CES to acknowledge there being a potential route to a seabed lease. This is prior to the developer undertaking any meaningful analysis. This introduces additional project risk as there has been no commitment from TCE/CES to engage in this process, possibly as there is no meaningful benefit to them at such an early stage. Whilst this part of the proposal is seen as unnecessary, a potential improvement would be a developer led approach to merely include the developer's

'letter of engagement' with TCE/CES as the LoA equivalent. NGV welcome ESO's statement raising a separate CUSC modification at a later date to consider formal integration of the Crown Estate and the Crown Estate Scotland into the Connection Application process.

Differences for Offshore Projects (IC/OHAs) - Gate 1 Offer

It is noted that Connection Point and Capacity Reservation powers (Element 10) will be used to confirm a connection date and connection point. It is also noted that a Longstop will be applied to the Gate 1 Offer (Element 8):

- **Contract** - The underlying intentions of the proposal may be acceptable, but the proposal is not currently explicit in defining the details of the Gate 1 contract offer for IC/OHA's (although Element 6 states that "The Gate 1 offer will contain a fully detailed contract for all relevant Agreements required with the relevant clauses inserted but the Appendices will however not be populated until the Gate 2 offer stage"). The Connection Site, date, and capacity should be provided on a firm basis to the specific IC/OHA project in order to provide:
 - a firm basis for partner discussions / equivalence with EU partner,
 - regulatory process applications / required information to obtain an Interconnector licence,
 - design of the infrastructure to allow for constructability assessments and environmental factors to be considered for both onshore and offshore to have a fixed point of connection to enable siting and routing.
 - justification for significant expenditure on offshore specific activities such as seabed survey, and
 - mitigation for the risk of rejection during the consenting process (if deemed an impediment to the delivery of the scheme).

Where the Transmission Owner's connection design is not available e.g., as above or when a node is allocated, it is not possible to progress IC/OHA projects with any degree of certainty, and delays will have an impact on the ability of the developer to meet the offered completion date. As a result, the Longstop for such offers should only be set when the precise substation location is confirmed, and the developer should be allowed a free Agreement to Vary to adjust the Completion Date (as outlined in Element 8).

- **Longstop** - Please refer to Element 8 regarding concerns on the Longstop date, and the reasons why the current proposal of a 3-year Longstop will be insufficient for IC/OHA projects.

Differences for Offshore Projects (IC/OHAs) - Gate 2 Criteria

It is acknowledged that the proposal is to include these within a methodology that sits outside CMP434. As described above, using Land as the primary focus of these criteria is not appropriate for IC/OHA projects, and this should be considered as a difference when finalising the separate ESO Methodology.

Differences for Offshore Projects (IC/OHAs) – Ongoing Gate 2 Compliance

<p>The proposal does not include any difference in approach for IC/OHAs for this area. In particular, we articulate our concerns regarding red line boundary constraints and forward-facing queue management milestones in Element 11.</p>	
<p>Element 6: Setting out the process and criteria in relation to Application Windows and Gate 1, including introducing an offshore Letter of Authority equivalent as a Gate 1 application window entry requirement for offshore projects (see pages 15-16, 39-40)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>The proposals as set out are dependent upon Transmission Owner engagement in the process. This is explained within the proposal, but it does not appear that the ESO have been able to secure 'approval' from TO's prior to discussing in the workgroup; in order for Industry to accurately assess the viability of the process and criteria, it would have been of benefit to include the specific views of the TO's.</p> <p>The proposal does not include rationale for Gate 1 process to be annual, nor explain the 'Batched Assessment' process. Informed comments are therefore not possible.</p> <p>Annual Process:</p> <p>An annual process (as set out) potentially means a project that misses the annual application window could be forced to wait for up to 19 months for an offer, compared to the rolling current process that provides an offer after 3 months. This would appear to be unreasonable and unworkable for developers.</p> <p>Our view is that by aligning the frequency of the Gate 1 and Gate 2 cycles this would shorten the timescales for a developer to receive an offer and assist the developer in progressing their project in a timely manner.</p> <p>IC/OHA Projects:</p> <p>The proposed annual application window places more emphasis for IC/OHAs projects on Crown Estate and/or Crown Estate Scotland acknowledging 'awareness' promptly, yet there has been no commitment by them to engage.</p> <p>The ESO propose to use Connection Site and Capacity Reservation powers for Offshore projects in Gate 1, which is assumed to require engagement into the Gate 2 processes (CNDM Methodology). We agree with the comment in Element 12 that the design stage of the annual application window should align to Gate 2 (or this may eventually create a timing issue).</p> <p>The proposal states that "The Gate 1 offer will contain a fully detailed contract for all relevant Agreements required with the relevant clauses inserted but the Appendices will however not be populated until the Gate 2 offer stage". The proposal is not currently explicit in defining the details of the Gate 1 contract offer for IC/OHA's, and it should be stressed that the Connection Site, date, and capacity should be provided on a firm basis to the specific IC/OHA project in order to provide:</p> <ul style="list-style-type: none"> • a firm basis for partner discussions / equivalence with EU partner, • regulatory process applications / required information to obtain an Interconnector licence, 	

<ul style="list-style-type: none"> • design of the infrastructure to allow for constructability assessments and environmental factors to be considered for both onshore and offshore to have a fixed point of connection to enable siting and routing. • justification for significant expenditure on offshore specific activities such as seabed survey, and • mitigation for the risk of rejection during the consenting process (if deemed an impediment to the delivery of the scheme). <p>IC/OHA projects should be given a confirmed Connection Site i.e., specific substation and <u>queue position</u> at Gate 1 since it is not possible to secure land early in this type of project. We feel strongly that the proposal will see certain technologies with low hurdles to securing land proliferate in the connection queue at the expense of others. This may result in a connection queue that will not deliver on a host of wider governmental objectives including net zero targets, security of supply and wider coordination between network build and new sources of energy both onshore and in the seas around Great Britain.</p>	
Element 7: Fast Track Disagreement Resolution Process (de scoped from this modification – see pages 16, 58)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>Noting that the ESO plans to continue to develop this and bring forward proposals at a later date, and the existence of the current CUSC disputes process in the interim, we do not object to this element being descoped from CMP434.</p>	
Element 8: Longstop Date for Gate 1 Agreements (see pages 16, 40-41)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>The principle that capacity should not be reserved indefinitely is acknowledged. However, the Longstop date must be set to a date that is reasonable for both the project type and for the specific project. A fixed 3-year Longstop is based upon the incorrect premise that all projects follow a direct linear path to land acquisition.</p> <p>Workgroup discussions have highlighted the problem e.g., a project with a 2030 connection date and a project with a 2040 connection date would have the same time period to get land rights, even if the latter project did not wish to advance. We feel strongly that the process will see certain technologies with low hurdles to securing land proliferate in the connection queue at the expense of others. This may result in a connection queue that will not deliver on a host of wider governmental objectives including net zero targets, security of supply and wider coordination between network build and new sources of energy both onshore and in the seas around Great Britain.</p> <p>Longstop for IC/OHA Projects</p> <p>IC/OHA projects are unlike other electricity generation projects that might seek a connection agreement; using Land Rights as part of the Longstop and Gate 2 criteria is not appropriate for these projects as outlined below:</p> <ul style="list-style-type: none"> • <u>Where a project has a single land requirement for the infrastructure</u>, the selection of their site will likely be developed around the site suitability in terms of planning and location of that land. Their project is therefore defined by the 	

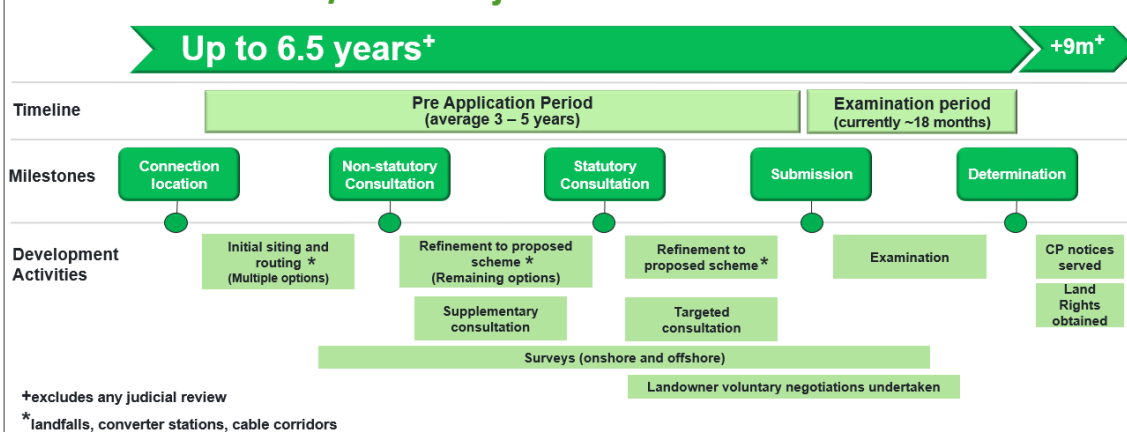
land availability, and the relevant land interest will therefore be pursued at an early stage.

whereas

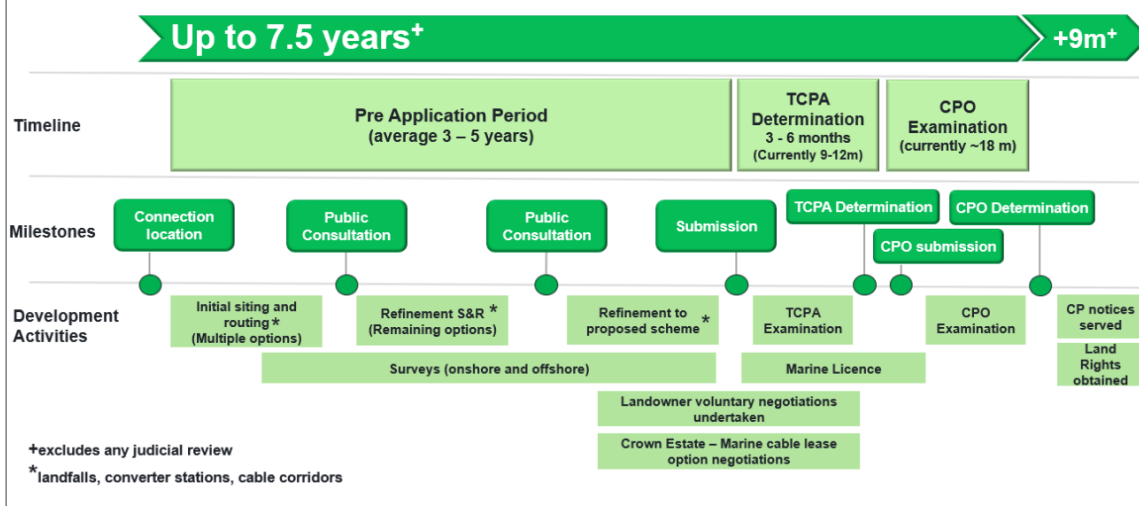
IC/OHA projects are developed based on technical and environmental constraints alongside economic and efficient interconnector licence obligations that are key to influencing the siting and routeing, and whilst land constraints will feed into this process, they are usually low down in the criteria as part of the selection process. Only when the project has been through the development stage will the land requirements be determined to enable negotiations to acquire the land to be progressed.

- Developers seek Interconnector licences for their IC/OHA projects which provide for Compulsory Purchase (CP) powers under the Electricity Act 1989 subject to Secretary of State consent which is achieved through the Development Consent Order (DCO) or Compulsory Purchase Order (CPO) process. By requiring developers to acquire land prior to gaining CP powers, this conflicts and undermines the ability to use and get the benefit of those powers.
- IC/OHA project aspiration is to secure land rights by voluntary agreements; however, it is impossible to acquire all land rights needed by voluntary agreement for long linear projects. This is the reason why IC/OHA projects benefit from the ability to use CP powers. There are many reasons why landowners may not wish to dispose of land rights, so IC/OHA developers run the CPO process in the background to provide leverage for negotiations.
- Securing land rights by voluntary agreement would not normally take place in advance of the statutory consultation as it brings in a potential risk of predetermination (prejudicing the outcome of the consent application resulting in challenge or rejection). Additionally, since it would be in advance of route refinement, projects would need to seek to secure land rights over unnecessarily wide corridors of land. Any land rights secured cannot be included within the scoring of the design development and will likely result in abortive costs (contravening the economic and efficient obligation under a project's Interconnector licence).
- Assuming Land Rights were to be used (as in the proposal), the typical timescale to obtain CP rights for DCO and Town and Country Planning Act (TCPA) approaches is outlined below:

DCO Timelines - IC/OHA Projects



TCPA / CPO Timelines – IC/OHA Projects



As outlined above, **IC/OHA type projects** can therefore reasonably require **up to 7.5 years to receive the powers to acquire the land rights** (up to 6.5 years through voluntary arrangements) and apply for Gate 2. Using the proposed method of calculating Longstop, **this meaning an 8.25-year Longstop** (assuming 9 months for the proposed Gate 2 application process); it is also assumed that the Gate 2 Criteria Evidence will be amended as outlined in our response to Element 13, allowing the ESO Gate 2 process and serving CPO notices etc to be run in parallel.

We recommend considering setting the **Longstop to the backdated Queue Management Milestone M3 (Land Rights) for IC/OHA projects**; this is likely to provide a more appropriate Longstop for each specific IC/OHA project. Further consideration should be given to Queue Management Milestones with respect to ICs and OHAs.

IC/OHA contracts where the Transmission Owner's connection design is not available (Nodes). It is appreciated that Connections Reform and the new CNDM methodology may reduce the likelihood of this situation. However, it is not possible to progress IC/OHA projects with any degree of certainty, and delays will have an impact on the ability of the developer to meet the offered completion date. As a result, the Longstop for such offers should only be set when the precise substation location is confirmed, and the developer should be allowed a free Agreement to Vary to adjust the Completion Date.

Definition

The definition of Longstop is to Gate 2 offer acceptance rather than to the date of the Gate 2 application, which is misleading to applicants since the Gate 2 process timescales are not immediately clear. We suggest that the risk of confusion could be removed by simply defining the Longstop as being "to the date the Gate 2 application is submitted".

Extension

The ESO have proposed an extension of the Longstop can be granted, but the precise criteria will not be codified. We believe that flexibility is an essential part of this radical set of changes, in order to avoid the risk that projects that are genuinely

<p>progressing are not terminated. It is simply not possible to foresee all circumstances, but we believe it is also sensible to define this area more clearly (but not codified).</p>	
<p>Element 9: Project Designation (see pages 17-18, 48-49)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>The proposals for ESO designation are proposed to be contained in a separate methodology and so only high-level details about the process are contained in the consultation. They appear at this stage to be limited to identifying projects that, in the ESO's sole opinion, should be prioritised for as early a connection as possible in any given batch assessment of Gate 1 or Gate 2 applications.</p> <p>This process implies a significantly enhanced dialogue between ESO and developer for such Designated projects as it would clearly be inappropriate to advance such projects connection date in a way that would put them at risk of failure to hit later CMP376 milestones that relate to that accelerated date.</p> <p>We feel that there will always be a need for a pathway for projects with specific characteristics to be able to be treated differently. While the detail of what those project characteristics will be is going to be developed in a separate methodology, we would agree that the concept of a Designation route that allows flexibility in the Gate 1 and Gate 2 processes should be incorporated in CMP434. We would go further and suggest that the flexibility should go both ways and allow for the case-by-case relaxation of the timetable for Gate 2 and subsequent milestones should there be strategically important projects for whom the criteria as stated in the Methodologies does not function correctly.</p>	
<p>Element 10: Connection Point and Capacity Reservation (proposed to not be codified within the CUSC, but is intended to be codified within the STC through modification CM095 – see pages 18-20 and the CM095 Workgroup Consultation, pages 6-10 https://www.nationalgrideso.com/document/322801/download)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>We accept that this is best handled as an STC modification.</p> <p>We have responded to the CM095 Consultation. Whilst the process is stated as being included in Gate 1, we strongly feel that all activity normally undertaken at Gate 2 (including the creation of a TOCO and full assessment using CNDM) must be undertaken to ensure that the information provided within the Gate 1 Offer is as reliable as that within a similar Gate 2 Offer (since the associated IC/OHA project will be dependent upon that information).</p>	
<p>Element 11: Setting out the criteria for demonstrating Gate 2 has been achieved and setting out the obligations imposed once Gate 2 has been achieved (see pages 20-24, 42-46)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Gate 2 Criteria Methodology</p> <p>We agree with the principle that this area might need a nimbler change governance procedure than that available under CUSC. However, the nimbler change governance process needs to be considered against the fact that the policy areas</p>	

proposed to be held under this methodology are an integral part of the proposed new connections process and changes to them could have far reaching implications for multi-million-pound projects. The proposal that only ESO will be able to propose change and at a timetable of its sole choice does raise concerns.

In particular, land-based principles are inappropriate for IC/OHA projects, and this should be mandated through CUSC codification rather than left to be included in the Methodology.

Gate 2 Criteria

The purpose of the Gate 2 process is not clearly identified within the proposal, but its intent appears to be to provide a barrier to projects that have not, or are unable to, proceed promptly and ensure 'readier' projects are in the connections queue. Whilst acknowledging the value of the intent, the proposers sole focus on Land Rights across all technologies does not reflect the vastly different project development life-cycle of differing technologies.

IC/OHA projects are unlike other electricity generation projects that might seek a connection agreement; using Land Rights as part of the Gate 2 criteria (or Longstop) is not appropriate for these projects as outlined below:

- Where a project has a single land requirement for the infrastructure, the selection of their site will likely be developed around the site suitability in terms of planning and location of that land. Their project is therefore defined by the land availability, and the relevant land interest will therefore be pursued at an early stage.

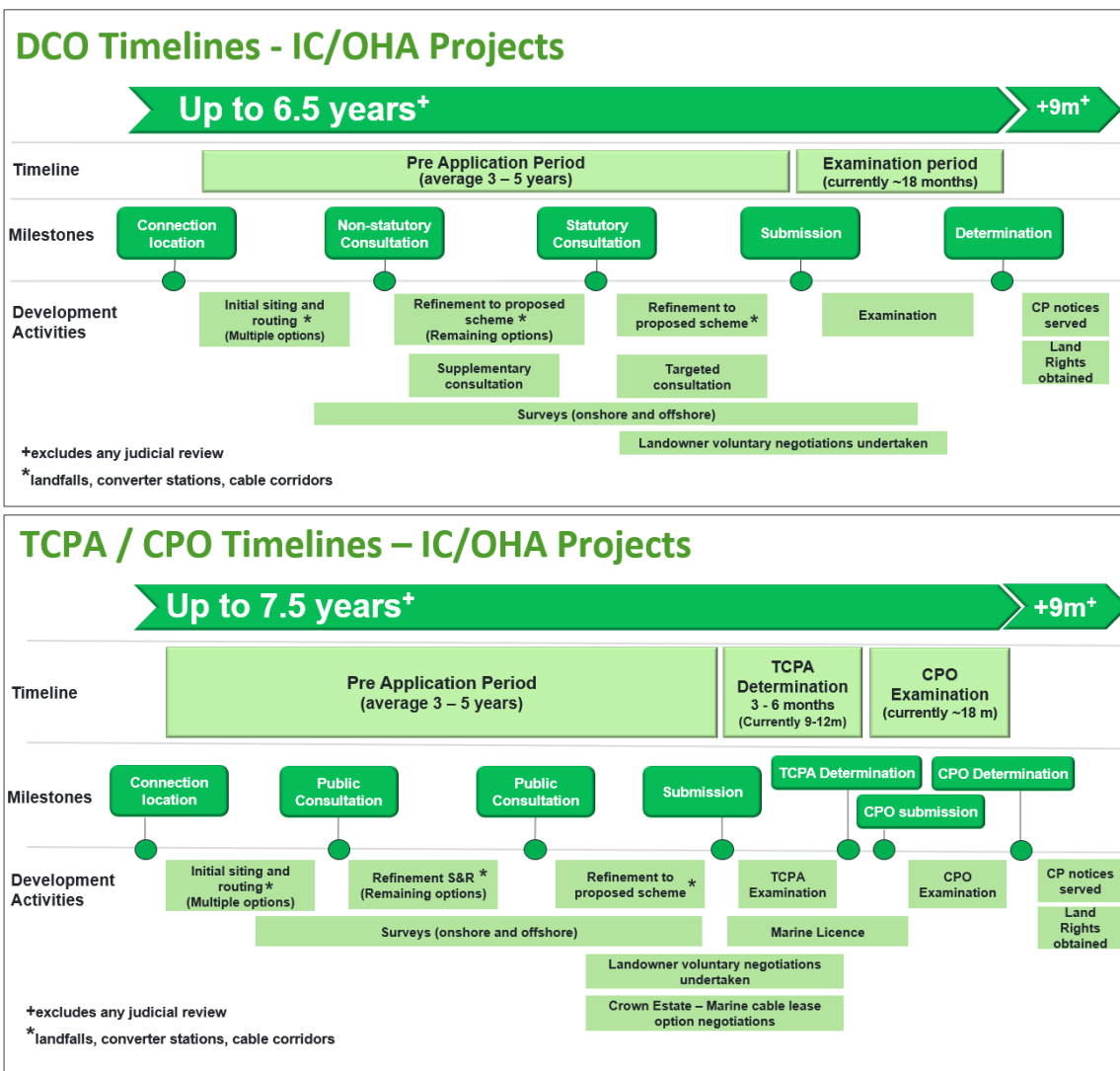
whereas

IC/OHA projects are developed based on technical and environmental constraints alongside economic and efficient interconnector licence obligations that are key to influencing the siting and routeing, and whilst land constraints will feed into this process, they are usually low down in the criteria as part of the selection process. Only when the project has been through the development stage will the land requirements be determined to enable negotiations to acquire the land to be progressed.

- Developers seek Interconnector licences for their IC/OHA projects which provide for Compulsory Purchase (CP) powers under the Electricity Act 1989 subject to Secretary of State consent which is achieved through the Development Consent Order (DCO) or Compulsory Purchase Order (CPO) process. By requiring developers to acquire land prior to gaining CP powers, this conflicts and undermines the ability to use and get the benefit of those powers.
- IC/OHA project aspiration is to secure land rights by voluntary agreements; however, it is impossible to acquire all land rights needed by voluntary agreement for long linear projects. This is the reason why IC/OHA projects benefit from the ability to use CP powers. There are many reasons why landowners may not wish to dispose of land rights, so IC/OHA developers run the CPO process in the background to provide leverage for negotiations.
- Securing land rights by voluntary agreement would not normally take place in advance of the statutory consultation as it brings in a potential risk of predetermination (prejudicing the outcome of the consent application resulting in challenge or rejection). Additionally, since it would be in advance of route

refinement, projects would need to seek to secure land rights over unnecessarily wide corridors of land. Any land rights secured cannot be included within the scoring of the design development and will likely result in abortive costs (contravening the economic and efficient obligation under a project's Interconnector licence).

- Assuming Land Rights were to be used (as in the proposal), the typical timescale to obtain CP rights for DCO and Town and Country Planning Act (TCPA) approaches is outlined below:



As outlined above, **IC/OHA type projects can therefore reasonably require up to 7.5 years to acquire land rights**, meaning that this is not an appropriate tool to use to determine if such a project should be in the connections queue, nor whether it has proceeded promptly.

CP Powers - The consultation specifically makes clear the proposer's intention not to provide any exemption for developers who may need to obtain land via CP powers. Unless changes are introduced, the proposal has the net effect of removing CP powers from those projects that have a legal right to use them, and thus should be reconsidered. We feel strongly that the process will see certain technologies with low hurdles to securing land proliferate in the connection queue at the expense of

others. This may result in a connection queue that will not deliver on a host of wider governmental objectives including net zero targets, security of supply and wider coordination between network build and new sources of energy both onshore and in the seas around Great Britain.

Gate 2 Ongoing Compliance – Forward Facing Queue Management Milestones

Significant developments such as IC/OHA projects have complex programmes spanning a longer timescale. Forward looking QM milestones (Element 11.4) attempt to ensure projects are developed at an efficient pace, yet it is often not possible nor desirable to attempt to condense or accelerate complex projects.

We agree with the Workgroup discussion comment that “the proposed timelines could cause issues with projects with connection dates far into the future due to requiring large scale reinforcement”.

For IC/OHA projects, an efficient pace is achieved through backward facing QM milestones, which provide a far superior method of ensuring these types of project progress to the right timescales.

If forward facing milestones were to be used, there is no consistent link between Gate 2 and Consent Application (which could range from being significantly before, to significantly after); both the DCO and TCPA timelines (above) suggest it could take up to 5 years for the Consent Application from the point of knowing the precise substation location. It is further suggested forward facing milestones for IC/OHA or other complex projects should only be applied if the developer has indicated they wish to be offered an earlier connection date (when applying for Gate 2).

Gate 2 Ongoing Compliance – Red Line Boundary

IC/OHA projects may have obtained land rights and applied for Gate 2 prior to the determination of the Consent Application and thus prior to confirmation of the land covered by CP powers. Adjustments to the red line boundary used in the original Gate 2 application (Element 11.3) are not a project deviation and should be allowed if CP powers have been used. This should be considered as a difference for offshore IC/OHA projects (as detailed in our response to Element 5) when finalising this area (currently proposed to be outside CMP434 within the separate ESO Gate 2 Criteria Methodology).

Element 12: Setting out the general arrangements in relation to Gate 2 (see pages 25-26, 47)

☐ Yes
☒ No

The proposals as set out are dependent upon Transmission Owner engagement in the process. This is explained within the proposal, but it does not appear that the ESO have been able to secure ‘approval’ from TO’s prior to discussing in the workgroup; in order for Industry to accurately assess the viability of the process and criteria, it would have been of benefit to include the specific views of the TO’s.

Our view is that by aligning the frequency of the Gate 1 and Gate 2 cycles this would shorten the timescales for a developer to receive an offer and assist the developer in progressing their project in a timely manner.

Element 13: Gate 2 Criteria Evidence Assessment (see pages 26-27, 47-48)

☐ Yes
☒ No

As we have set out we do not believe that a “one-size fits all” approach using Land Rights for the Gate 2 criteria is appropriate for all projects.

In our responses to Elements, 5, 8 & 11 IC/OHA projects there is risk that Parties that ultimately secure land rights via Compulsory Purchase (CP) rights are unfairly disadvantaged by the requirement. For example, holders of an Interconnector Licence are provided with powers for the compulsory acquisition of land, or interests in land, for the purposes in connection with their undertaking, subject to approval by the Secretary of State by way of a Development Consent Order (DCO) or Compulsory Purchase Order (CPO).

A Gate 2 obligation that forces a developer with CP rights to procure Land Rights within approx. 2 years of accepting a Gate 1 Offer may force them into an impossible position. If they are developing a site that is likely to require compulsory purchase, then there may not be a willing seller from which to secure Land Rights. The short timeframe being proposed also is very insufficient to complete the CP process.

Even if a parcel of land can be procured for the convertor station, a CP process for the remainder of the project (e.g., land cables) may dictate that the convertor station needs to be relocated to a different compulsorily purchased plot. The proposals surrounding red line diagrams would prevent this perfectly valid outcome of a CP process from being implemented, or indeed could invalidate the entire CP process as Land had already been speculatively purchased prior to the consultation process at the heart of a compulsory purchase being completed.

As the Gate 2 process is trying to identify projects for which Land will not be able to be procured, we feel the ability to rely on CP powers should provide evidence that the developer will obtain the land interest at a future point.

We also note a further complication that Offshore projects may have secured Convertor Station Site (CSS) land for their radial connection that will ultimately form part of an accompanying OHA solution. The duplicate red line boundary check should not be used as the sole reason to terminate an Interconnector project provided that the Offshore project and IC/OHA agree on its usage.

Element 14: Gate 2 Offer and Project Site Location Change (see pages 28, 46)

☐ Yes
☒ No

As we have set out, we do not believe that a “one-size fits all” approach using Land Rights for the Gate 2 criteria is appropriate for all projects.

In our responses to Elements, 5, 8 & 11 for IC/OHA projects it has been identified that there is risk that Parties that ultimately secure land rights via a Compulsory Purchase Order (CPO) are unfairly disadvantaged by the requirement and are unable to secure a Gate 2 offer as they cannot evidence acquisition of the required land rights absent the ability to utilise their Compulsory Purchase (CP) powers.

The proposal to permit the developer to change the project site location where the connection point given in the Gate 2 offer differs to that requested by the developer does not assist IC/OHA projects. IC/OHA projects, if obligated to secure land rights in order to achieve a Gate 2 offer, are at high risk of acquiring an incorrect site due to the acquisition occurring prior to the siting and routing of the project being

<p>completed. The Development Consent Order (DCO) or CPO process may complete up to 5.25 years post-acquisition of the site at which point the site location may need to change to reflect the consent.</p> <p>Prior to securing CP powers there will always remain the risk that the landowner of that site does not wish to dispose of the required land voluntarily so an acquisition cannot be progressed in absence of compulsory purchase powers being exercised under DCO / CPO.</p> <p>The proposed requirement to secure land rights in advance of a DCO / CPO determination undermines these statutory processes and puts a project at risk.</p>	
<p>Element 15: Changing the offer and acceptance timescales to align with the Primary Process timescales (e.g. a move away from three months for making licenced offers) (see pages 29, 42-46)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Notwithstanding our comments on the substance of the elements of CMP434 that will impact on licences, we agree that from a procedural perspective to implement the Original Proposal will require Licence Modifications across the ESO and most probably also the TO licence.</p> <p>This is further implementation work that will need to be carefully aligned with that on the CUSC changes and development of critical methodologies (CNDM, Gate 2 and Designation Methodologies) which puts a lot of pressure on the intended 1 January 2025 implementation date.</p>	
<p>Element 16: Introducing the proposed Connections Network Design Methodology (CNDM) (see pages 29, 53-55)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>The Connections Network Design Methodology is, in our view, one of the critical elements of the proposal. It will contain the details behind how capacity is first allocated (by reference to the original Gate 1 and Gate 2 connection applications) but also its subsequent reallocation following the success or failure of a project in the connections queue from meeting one or more of the subsequent milestones.</p> <p>We agree with the Working Group discussions that this is therefore a pivotal document that could result in the reallocation of millions of pounds of economic value between customers. However, as even a draft of the methodology has not yet been made available, we are unable to offer comments beyond its overall criticality to the process proposed to be introduced by CMP434. As we have highlighted in our responses to other questions, it is a key element of the overall package of measures seeking to reform the connections process, and it becomes difficult to assess CMP434 holistically without sight of it.</p>	
<p>Element 17: Introducing the concept of a Distribution Forecasted Transmission Capacity (DFTC) submission process for Distribution Network Operators (DNOs) and transmission connected Independent Distribution Network Operators (iDNOs) to forecast capacity on an anticipatory basis for Relevant Embedded Small Power Stations or Relevant Embedded Medium Power Stations</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

aligned to the Gate 1 Application Window (see pages 30-33, 51-53)	
<p>We support the introduction of the concept of the DFTC for DNOs and transmission connected IDNOs in TMO4+.</p> <p>In our view the inclusion of the DFTC in the annual process will enable a more coordinated network design and is critical to the Gate 1 process. It is important that the cumulative MW value of Relevant Embedded and Medium Power Stations is considered in the proposed batch assessment process.</p> <p>We understand the rationale behind the various aspects of the proposal. We also note the intention to include the obligations within the CUSC but that the working level process will be agreed via the Energy Networks Association.</p> <p>However, we believe that it is critical that the DNO/transmission connected IDNO forecast is as accurate as possible. Inaccurate forecasts risk taking up MW capacity that could be offered to other developers, and also risk triggering greater transmission reinforcement works than would be required. Both could potentially impact the transmission reinforcement works and offered connection date for other developers.</p> <p>In addition, it is also important that the DNOs and transmission connected IDNOs ensure that they monitor the Longstop Date for each relevant embedded generation customer and take action to terminate their contract should they fail to progress before this deadline. We would expect the ESO to have a role in ensuring that this obligation is met, on the basis that there should be a consistent and fair approach applied for all.</p>	
Element 18: Set out the process for how DNOs and transmission connected IDNOs notify the ESO of Relevant Embedded Small Power Stations or Relevant Embedded Medium Power Stations which meet Gate 2 criteria (see pages 33-34, 51-53)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We understand the proposed approach for Relevant Embedded Generation to demonstrate compliance with Gate 2 criteria, noting that the DNO/transmission connected IDNO will assess if the embedded customer's project has met the Gate 2 criteria on behalf of the ESO.</p> <p>In addition, we understand the proposed Gate 2 Offer process for Relevant Embedded Generation which is akin to the processes that currently exist between DNO/transmission connected IDNO, ESO and Relevant Embedded Generation.</p> <p>We do want to raise concern relating to the use of land rights as the measure for an embedded generator to be able to progress to Gate 2. The planning consent for projects of this nature is not as complex as large projects therefore the suggested approach appears to make it easy for a project to move from Gate 1 to Gate 2. The use of land rights as the sole measure of project viability needs further consideration as it seriously disadvantages certain project types.</p>	

6	<p>Are there any elements of the proposal which you believe should not be included as part of this proposed solution, which the Proposer believes represents the 'Minimum Viable Product' reforms required to the connections process? If not, why not? (Please note the element number in each of your responses if applicable)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We would strongly encourage ESO to take a materially different approach to establishing its "minimum viable product" approach to implementing TMO4+ via CMP 434 and 435. It should focus on delivering technology specific solutions underpinned by robust analysis that demonstrates their effectiveness to the queue management approach rather than a "one size fits all approach".</p>		
7	<p>As per question 6, are there any additional features which you believe should be included as part of Minimum Viable Product reform to the connections process?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We would strongly encourage ESO to take a materially different approach to establishing its "minimum viable product" approach to implementing TMO4+ via CMP 434 and 435. It should focus on delivering technology specific solutions underpinned by robust analysis that demonstrates their effectiveness to the queue management approach rather than a "one size fits all approach".</p>		
8	<p>Do you agree that the Gate 1 process should be a mandatory process step, or do you think Gate 1 should be an optional process step with projects being able to apply straight into the Gate 2 process if the project meets both the relevant Gate 2 and Gate 1 criteria?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We agree that the Gate 1 process should be a mandatory step.</p> <p>We feel strongly that the proposal will see certain technologies with low hurdles to securing land proliferate in the connection queue at the expense of others. This may result in a connection queue that will not deliver on a host of wider governmental objectives including net zero targets, security of supply and wider</p>		

	<p>coordination between network build and new sources of energy both onshore and in the seas around Great Britain.</p> <p>Allowing projects to apply straight into Gate 2 provides further advantages (e.g. queue position) to technologies with low hurdles to securing land early in their development timeline.</p>	
9	<p>Do you believe that the proposed Gate 1 and Gate 2 process could duly or unduly discriminate against any types of projects? If so, do you believe this is justified?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>Without being able to see a fully worked up package of CMP434 and accompanying methodologies, it is very difficult to form a firm opinion on discrimination. However, given the direction of travel, we believe there is significant potential for CMP434 to unduly discriminate against IC/OHA projects.</p> <p>Please refer to Element 1 and Element 5 for further explanation of our response.</p>	
10	<p>Please provide your views on the proposed options ((a) to (e) on page 45) to mitigate the risk of requiring a developer to submit their application for planning consent earlier than they would in their development cycle (with the risk this consent could expire and any extension from the Planning Authority is not automatic).</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
	<p>This question seeks views on a particular risk, yet the substance of the Workgroup discussion on page 45 relates to “whether it is reasonable to ask a developer to submit their application for planning consent earlier than they would in their development cycle”.</p> <p>It is simply not feasible for all project types to submit their application for planning consent early as it is not possible to undertake all the necessary survey work and consultations; this would lead to challenge and rejection. We feel strongly that the proposal will see certain technologies with low hurdles to securing land proliferate in the connection queue at the expense of others. This may result in a connection queue that will not deliver on a host of wider governmental objectives including net zero targets, security of supply and wider coordination between network build and new sources of energy both onshore and in the seas around Great Britain.</p> <p>Relating to the specific question on planning consent expiring without ability to extend, it is now Government policy to overhaul the planning system; implementing change at this point is likely to be counter productive as these risks cannot be</p>	

	properly assessed. We support retaining backwards facing QM milestones (as per CMP376). If it is essential to implement forward facing milestones, option (d) "M1 Milestone remains backwards looking from the Completion Date if a project's Completion Date is more than X years" would be the most practical solution (with X initially set to 5 years).	
11	Do you agree that DFTC should be included as part of CMP434? If not, do you believe that the reformed connections process can function without DFTC? Please justify your answer. (see pages 30-34, 51-53)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	<p>We agree DFTC should be included but wish to state that it is critical that the following points are considered further:</p> <ul style="list-style-type: none"> the DNO/transmission connected IDNO forecast is as accurate as possible. Inaccurate forecasts risk taking up MW capacity that could be offered to other developers, and also risk triggering greater transmission reinforcement works than would be required. Both could potentially impact the transmission reinforcement works and offered connection date for other developers. it is also important that the DNOs and transmission connected IDNOs ensure that they monitor the Longstop Date for each relevant embedded generation customer and take action to terminate their contract should they fail to progress before this deadline. We would expect the ESO to have a role in ensuring that this obligation is met, on the basis that there should be a consistent and fair approach applied for all. 	
12	The Proposer intends to set out supporting arrangements for TMO4+ via a combination of guidance and methodologies (e.g. DFTC, CNDM, Project Designation, Gate 2 Criteria). Do you anticipate any issues with having these outside of Code Governance? (see Pages 9-10, 55)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	We do not – on principle – have any objection to these methodology documents sitting in governance that is not directly under CUSC governance. There are other documents such as Balancing Services Adjustment Data Methodology, Procurement Guidelines and so forth that sit under a methodology governed directly	

under the respective transmission licensee. Our main comment is that the governance process is appropriate to the methodology being set out. If this is to sit under the transmission licence, then there will of course be a separate (Ofgem-led) consultation to determine the governance process.

As we have set out in our previous response to Q5 “Element 1” we suggest that at minimum there be an increased frequency of reviews of the methodologies in the early years of their operation, reflecting the speed at which they are being developed ahead of 1 January 2025 and the likely rapid learning all parties will gain once they enter into operation.

We also suggest that there be a mechanism for industry participants to initiate change to the methodologies, perhaps with Ofgem highlighting those worthy of further assessment and consultation (without fettering Ofgem’s discretion ahead of a final decision).