

Workgroup Consultation Response Proforma

CMP435: Application of Gate 2 Criteria to existing contracted background

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 cusc.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 cusc.team@nationalgrideso.com

Respondent details	Please enter your details	
Respondent name:	Andy Dekany	
Company name:	National Grid Ventures	
Email address:	andy.dekany@nationalgrid.com	
Phone number:		
Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network <input type="checkbox"/> 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*

d) *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.

Standard Workgroup Consultation questions

1	Do you believe that the Original Proposal better facilitates the Applicable Objectives?	Mark the Objectives which you believe the Original solution better facilitates:	
		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 CMP435 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 CMP435 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 the proposal 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 page- 57-58)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
	<p>We have concerns about the proposed implementation approach.</p> <p>CMP435 (alongside CMP434) 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. Furthermore, the currently anticipated deadline for all projects in the existing connections queue to demonstrate that they have met Gate 2 criteria is 31st January 2025, giving little more than 5 weeks for applications representing hundreds of GW of new capacity to gather documentation based upon a known CUSC baseline that demonstrates that they should retain their place in the connections queue or otherwise. 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</p>	

	<p>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 1st January 2025 implementation date. It is also true that in our view they will be each be complex and highly interactive with 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.</p>	
3	<p>Do you have any other comments?</p> <p>Click or tap here to enter text.</p>	
4	<p>Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?</p>	<p><input checked="" type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section)</p> <p><input type="checkbox"/> No</p>
<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 for CMP435? <i>Please note that the application of these elements may be different to CMP434, therefore please answer the questions in respect to CMP435.</i></p> <p>Elements 2,4,6,7,12,15,17 and 18 are not part of the CMP435 Proposal and is only part of the CMP434 Proposal. 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 Page 8-10,29)</p>		<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<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</p>		

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. 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 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 3: Clarifying which projects go through the Primary Process (See pages 10-11,29-31)

☐ Yes
☐ No

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.

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.

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 / HND FUE / 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

<p>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 5: Clarifying any Primary Process differences for customer groups (See pages 11-12,32)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Process for Offshore Hybrid Assets (OHAs):</p> <p>We note that in CMP434, the intention is for Offshore Hybrid Assets (OHAs) to be considered as 'interconnector' and/or 'offshore transmission' throughout the proposal. This is not stated in CMP435 but is assumed to be the case.</p> <p>The connection arrangements for OHAs 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>Differences for Offshore Projects (IC/OHAs) - Gate 1 Offer</p> <p>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 from the date upon which an existing connection contract becomes a Gate 1 contract (Element 8):</p> <ul style="list-style-type: none"> • Contract - The underlying intentions of the proposal may be acceptable, but the proposal is currently ambiguous and not explicit in defining the details of the Gate 1 contract for existing IC/OHA projects that have not made the Gate 2 criteria by the deadline. <p>Element 19 states that "interconnectors and OHA will retain the connection point and date as per their current agreement", but it goes on to state that "all existing contractual rights (<u>such as their current confirmed connection point and connection date</u>) and obligations under the agreement <u>will fall away</u> including the requirement to submit securities"). 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, • 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 of these changes. 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

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.

Element 8: Longstop Date for Gate 1 Agreements
(See pages 12-13, 32-33)

☐ Yes
☒ No

We acknowledge that for CMP435, existing contracts (moving to Gate 1) will have contract date set to the date the existing connection contract becomes a Gate 1 contract, as further described in Element 19. We accept this to be sensible approach.

However, we feel that a fixed 3-year Longstop is based upon the incorrect premise that all projects follow a direct linear path to land acquisition.

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.

Longstop for IC/OHA Projects

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:

- 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

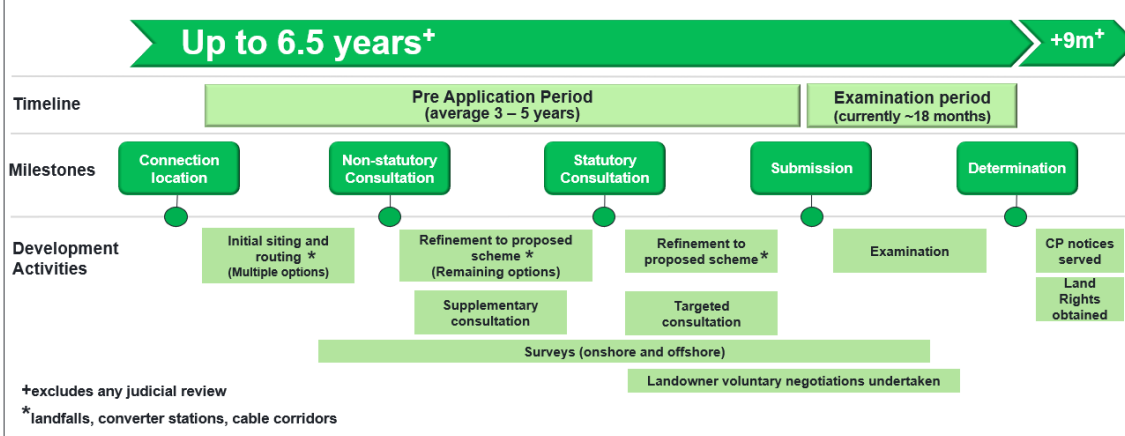
land availability, and the relevant land interest will therefore be pursued at an early stage.

whereas

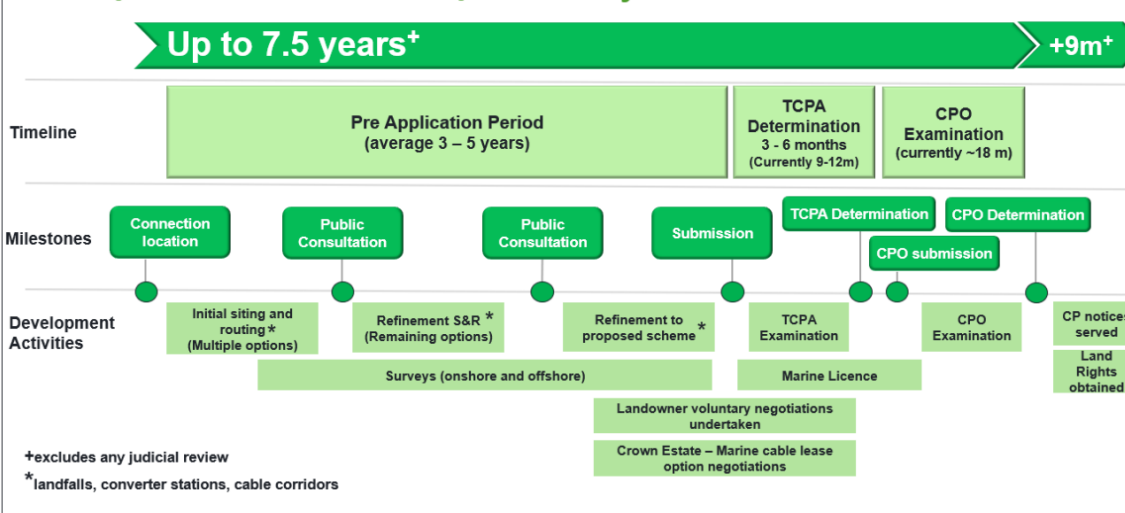
IC/OHA projects are developed based on technical and environmental constraints alongside economic and efficient interconnector licence obligations that are key to influencing the siting and routeing, and whilst land constraints will feed into this process, they are usually low down in the criteria as 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:

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 a 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.	
Element 9: Project Designation (See pages 14-15, 33-34)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<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 CMP435. 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 do not function correctly.</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 16-21, 34-39)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>We do not have a firm position as to whether there should be a minimum land rights 'option period' for existing projects that apply to Gate 2 (11.2 WG discussions); however, it would seem unfair to existing projects that have made arrangements prior to awareness of this Connection Reform change in April 2024.</p> <p>Our comments regarding ongoing planning compliance mirror those that we have made on CMP434.</p> <p>Gate 2 Criteria (11.1)</p> <p>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.</p> <p>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:</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 	

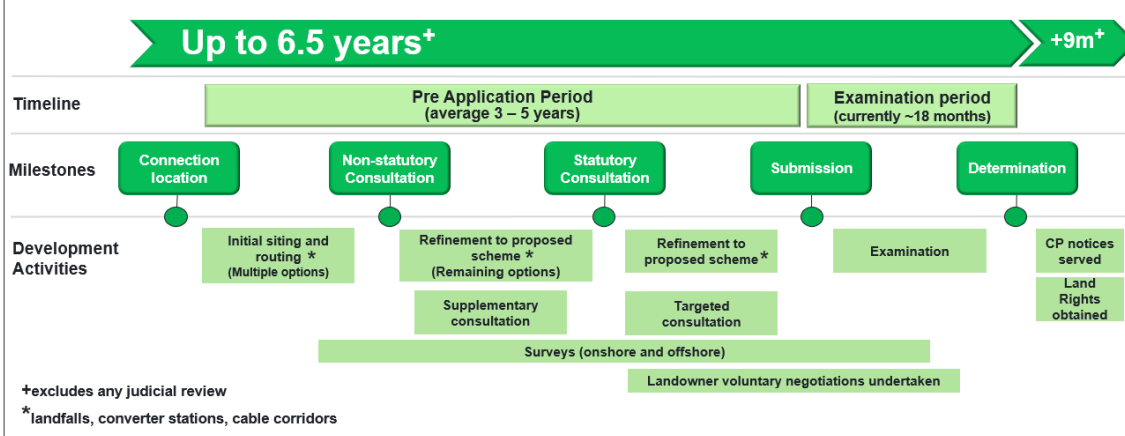
of planning and location of that land. Their project is therefore defined by the land availability, and the relevant land interest will therefore be pursued at an early stage.

whereas

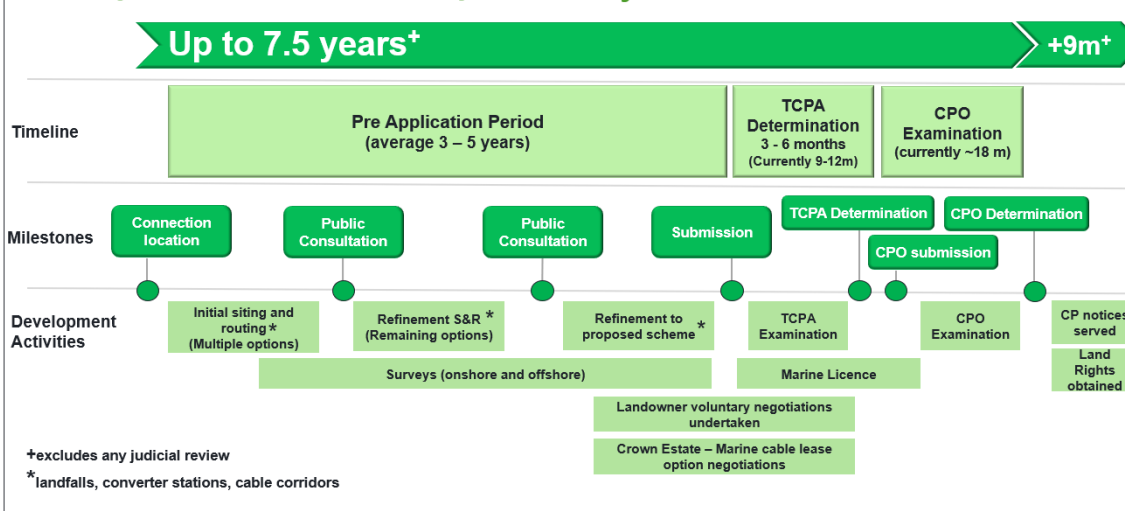
IC/OHA projects are developed based on technical and environmental constraints alongside economic and efficient interconnector licence obligations that are key to influencing the siting and routeing, and whilst land constraints will feed into this process, they are usually low down in the criteria as 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 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 (11.2)

Significant developments such as IC/OHA projects have complex programmes spanning a longer timescale. Forward looking QM milestones 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 (11.3)

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 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 within the separate ESO Gate 2 Criteria Methodology).

Approach to Planning Consent Timescales (11.4)

The question was posed “whether it is reasonable to ask a developer to submit their application for planning consent earlier than they would in their development cycle”.

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.

Relating to the specific question on planning consent expiring without ability to extend (pages 38/39), it is now Government policy to overhaul the planning system; implementing change at this point is likely to be counterproductive as these risks cannot be 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).

Element 13: Gate 2 Criteria Evidence Assessment (See pages 22-23, 39-40)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>This Element is identical to CMP434 except allowing developers to identify if they wish to advance the current contracted connection date. We do not have any objection to this.</p> <p>As per our response to this Element as consulted upon in the CMP434 consultation we believe that this element is an important part of the Modification's ability to better facilitate the Applicable CUSC objectives, however the detail of the proposal as consulted upon needs further development.</p> <p>Our specific concerns stem from the "one size fits all" approach whereby "Land Rights" are considered the criteria that apply to all projects. As we set out in more detail in our response to CMP434, we believe that for certain technologies criteria other than Land Rights are more appropriate.</p>	
Element 14: Gate 2 Offer and Project Site Location Change (See pages 23-24, 40-41)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>The process as written as part of the consultation is unclear and therefore, we believe further consideration is required.</p>	
Element 16: Introducing the proposed Connections Network Design Methodology (CNDM) (See pages 24-25, 41-42)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<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>	
Element 19: Contractual changes (See pages 26-28, 43-46)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Existing Projects moving into Gate 1</p> <p>The underlying intentions of the proposal may be acceptable, but the proposal is currently ambiguous and not explicit in defining the details of the Gate 1 contract for existing IC/OHA projects that have not made the Gate 2 criteria by the deadline.</p> <p>Element 19 states that "interconnectors and OHA will retain the connection point and date as per their current agreement", but it goes on to state that "all existing contractual rights (<u>such as their current confirmed connection point and connection date</u>) and obligations under the agreement <u>will fall away</u> including the</p>	

requirement to submit securities”). 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).

As outlined in Element 8, **IC/OHA type projects can 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 a 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.

Existing Projects moving into Gate 2

We do not have any specific comments.

Existing Projects seeking Advancement

We do not have any specific comments.

	<p>Existing Projects with a Transitional offer/agreement</p> <p>We do not have any specific comments.</p> <p>Handling Return of Securities</p> <p>Whilst this is not detailed in the proposal, the working group discussed how this would be handled. We have no additional comments, other than to emphasise this should be handled promptly.</p>	
	<p>Element 20: Cut Over arrangements (See page 28, 47)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
	<p>The arrangements for transition and cut over have not been made fully available. The lack of clarity (in particular the derogation letters with Ofgem that have not been shared), and the need to apply changes in approach so far in advance (of the Authorities decision to approve) demonstrates that these changes are being introduced too quickly, without adequate consultation, and that they carry significant risk.</p> <p>The following is understood to be the plan:</p> <ul style="list-style-type: none"> Existing arrangements will continue for those applications that have been clock started by 6 August (the end of this consultation) Transition may commence on 7 August 24 (not 1 August as previously suggested). The transitional arrangements are not entirely clear since the presentation referenced on page 52 of the consultation is now out of date (times have been delayed). However, the Proposer confirmed to the Workgroup that “while conversations with TOs were ongoing there were no TOCOs to be received, by the ESO, from TOs in the transitional period”. It would appear that transitional offers will be made by 31 December 24 for agreement by 31 January 25 at the latest. It is not clear when the latest transitional application can be made. Cut Over may commence on 31 December 24 (10 Business Days after the Authority's decision to approve). No applications will be processed from that time until the new Connections Reform processes commence. <p>Due to the lack of clarity, we are unable to comment on this Element of the consultation. We strongly urge that the ESO shares a detailed timetable with Industry as soon as possible. We recognise the ESO are not in a position to share the derogation letters, however visibility of those letters will help clarify the process for transitional arrangements and cut over arrangements.</p>	
6	<p>Are there any elements of the proposed CMP435 solution - as per Q5 - which you believe are not appropriate to include when you consider how to most effectively implement TMO4+ to projects in the existing contracted background (as opposed to the process for new applicants via CMP434)?</p> <p>If yes, please provide supporting justification.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

	We would strongly encourage ESO to 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”.	
7	In relation to Q6, are there any features which you believe are missing in the proposed CMP435 solution that would more effectively facilitate implementation of TMO4+ to the existing contracted background. If yes, please provide details and justification.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	We would strongly encourage ESO to 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”.	
8	Do you believe any groups of projects should be exempt from the scope of CMP435 or from some elements of the proposed solution? If so, please advise on which groups and elements and provide rationale to why.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	We do not believe groups of projects should be exempt from the scope, however the technology type for Gate 2 criteria should be fully considered and a “one size fits all” approach does not consider different agreement types, e.g., Connection Site versus Connection Node.	
9	Do you believe that the proposed solution could duly or unduly discriminate against any particular types of projects? If so, do you believe this is justified?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	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 CMP435 to unduly discriminate against IC/OHA projects.	
	Please refer to Element 1 and Element 5 for further explanation of our response.	