

**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 [cusc.team@nationalgrideso.com](mailto: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](mailto:cusc.team@nationalgrideso.com)

Respondent details	Please enter your details	
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<b>Which best describes your organisation?</b>	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input checked="" type="checkbox"/> Generator <input type="checkbox"/> Industry body <input type="checkbox"/> Interconnector	<input checked="" type="checkbox"/> Storage <input checked="" 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:**

- a) *The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- b) *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;*
- c) *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.

**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?	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 are supportive of changing the connection process to aid the timely connection of projects to meet net zero targets. We understand that this proposal aims to overcome the current issues faced with the connection queue and broadly support many aspects of the gated process. However, this original proposal fails as a package of measures to demonstrate how it will better facilitate the Applicable Objectives (AO), particularly in the areas set out below.</p> <p>The proposer has not provided an assessment of the number of projects and MW quantity which it believes will be impacted by these changes currently or on an enduring basis. Moreover, the proposer has not provided any assessment of the impact of any element (or variation thereof) on the current or future connections queue. For instance, it has not provided an assessment of the impact of the Gate 1 application window as an annual process as opposed to a six-monthly process, or an assessment of the expected quantity of significant modification compared to non-significant modification applications (for existing connected plant) based on the historical data it holds. Consequently, it cannot be demonstrated that the proposal satisfies AO (a) <i>The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence</i>.</p> <p>The proposal in its current form does not introduce the necessary Connection and Use of System Code (CUSC) changes to address the defect thus, not satisfying AO (a). At present, the proposer intends to have the substantive obligations on parties, and changes to the process, enacted outside the CUSC through methodologies under the Electricity System Operator Licence; these being the Project Designation Methodology, Connections Network Design Methodology, and the Gate Two Criteria Methodology.</p> <p>It is our view that the CUSC is the appropriate document to express any obligations pertaining to connection to the Transmission System. The proposer has not provided a compelling rationale for why this should not be the case. We also note that licence and Methodology introduction and any associated changes will require statutory consultation and/or Authority approval. We do not believe that this is an appropriate use of the regulatory arrangements in line with AO (a) <i>The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence</i>;</p>		

	<p>nor does it promote the efficient use of the CUSC in line with AO (d) <i>Promoting efficiency in the implementation and administration of the CUSC arrangements.</i></p> <p>The modification is insufficiently developed to assess if the proposed changes to the CUSC would facilitate effective competition therefore, not satisfying AO (b) <i>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.</i> There are instances throughout the proposal where the impact of differential treatment of parties has not been quantified or assessed. Consequently, it has not been possible to assess the impact on competition and the extent to which differential treatment is justified. For instance, Offshore developments and Interconnectors may have capacity reserved ahead of other parties. The proposal does not set out an assessment of the quantity or implications on other parties.</p> <p>More broadly, the stated benefit of delivering quicker connections is contingent on the Connections Network Design Methodology (CNDM), the detail of which has not been shared. It is proposed that this Methodology will sit outside of the CUSC and be subject to ESO licence conditions. As such, there has been no evaluation of the impact the CNDM may have on competition.</p> <p>The absence of quantifiable evidence presented at Workgroup meetings on the impact of the proposal as a whole, or the contribution of individual elements on promoting effective competition, means that we are unable to establish whether AO (b) is achieved through this proposal.</p> <p>The proposal of a standardised procedure for managing connection applications and/or the connection queue does satisfy AO (d) in some circumstances. The primary process has the potential to enable effective prioritisation and aims to ensure that projects that are first ready are first to connect, however, there are some fundamental flaws to this proposal that mean AO (d) is not satisfied.</p> <p>For instance, there is little to no obligation on the ESO to conduct timely checks and offer full transparency of projects that are designated, advanced and connected. The proposal set out by the ESO lacks evidence to suggest that the resulting process of connection would be one that is fair and will sufficiently address inefficiencies in the connection procedure.</p> <p>It is also unclear as to whether the proposer believes that the proposal set out in CMP434 is of benefit as a stand-alone modification or whether benefits only arise or are accelerated when in conjunction with the proposal set out in CMP435.</p>
<p>2</p>	<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 support the proposed approach in principle and share the desire to implement a working solution which addresses the backlog of projects that have accumulated. However, there is a lack of evidence to demonstrate the impact of the overall process. We are concerned that the lack of impact assessment means that the opportunity for mitigation of any unintended consequences (or areas that may cause potential negative impact) may not be understood.</p> <p>We note that implementation of the original proposal is contingent upon ESO Licence changes and consequential methodologies being approved by the Authority. ESO licence changes and the methodologies are subject to statutory consultation and Authority decision. We believe that this places the implementation timeline at risk. In our view, this risk could be mitigated by placing these Methodologies and obligations under CUSC governance.</p>		
3	<p>Do you have any other comments?</p> <p>We would note concerns raised by Workgroup members that Methodologies and guidance may not constitute valid terms and conditions of Developers' connection agreements and would value the ESO's and the Authorities legal opinion that this approach is compliant with retained law.</p> <p>The usual approach taken by the ESO when clarifying compliance with legal requirements to the Authority, including service applicable terms and conditions, is to reference the appropriate granular clauses within the CUSC, Grid Code or BSC, that satisfy the legal requirements that are applicable between parties.</p> <p>We would not want connection processes and agreements to be challenged as unlawful as this may lead to further project stasis and the need for additional code changes.</p>		
4	<table border="1"> <tr> <td data-bbox="260 1420 614 1675">                 Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?             </td> <td data-bbox="614 1420 1453 1675"> <input type="checkbox"/> Yes (the request form can be found in the <a href="#">Workgroup Consultation Section</a>)  <input checked="" type="checkbox"/> No             </td> </tr> </table>	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input type="checkbox"/> Yes (the request form can be found in the <a href="#">Workgroup Consultation Section</a> ) <input checked="" type="checkbox"/> No
Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input type="checkbox"/> Yes (the request form can be found in the <a href="#">Workgroup Consultation Section</a> ) <input checked="" type="checkbox"/> No		
	<p>At present, we do not wish to raise an Alternative Request. This position may change depending on any amends to the original proposal following feedback and assessment of the Request for Information results, which we understand may become available shortly.</p>		

**Specific Workgroup Consultation questions**

5	<p>Do you agree with the elements of the proposed solution?                  Element 7 has been de-scoped and Element 10 is proposed to be codified within the STC through modification <a href="#">CM095</a>.</p>
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Please provide rationale for your answer and any suggestions for improvement to each element?	
<b>Element 1:</b> Proposed Authority approved methodologies and ESO guidance (see pages 9-10, 55)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>We are not supportive of Element 1 in the way that it is set out in the current, original proposal. Without codification, this Element leaves room for legal uncertainty across the process. Codifying the Methodologies and the CUSC consultation process will ensure that obligations are enforceable through Code on all parties.</p> <p>While it is the proposer’s view that having this detail outside of the CUSC - in a Methodology approved by the Authority - allows ‘an appropriate balance of flexibility and governance’, it is our view that this approach creates scope for:</p> <ul style="list-style-type: none"> <li>- Inconsistency of application across different parties/ cases.</li> <li>- The Methodology to lack insufficient legal weight to support the success of this process in comparison to codified rules. For instance, if the ESO has a licence obligation to produce the Methodology, it is not necessarily the case that the ESO will be obliged to adhere to the methodology itself, nor is it clear how other parties will be obliged to adhere to obligations within the Methodology.</li> <li>- Limited ability to amend if the Methodology has unintended consequences or leads to negative outcomes, whereas the Code modification process can progress self-governance changes and operate under urgency if changes need expediting. The proposal for the Methodology is that it <b>may</b> be updated yearly subject to licence changes and associated lengthy consultation.</li> </ul>	
<b>Element 2:</b> 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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We broadly agree with the proposal for Element 2, as introducing the Primary Process and a gated approach incentivises commitment and preparation from developers. However, a new process that has not been trialled or undergone an impact assessment, could cause delays to the overall process where projects that are ready to connect are hindered due to factors such as administrative burden and unforeseen barriers to entry. We ask the proposer to consider conducting a risk assessment of the Primary Process to identify any potential issues.</p> <p>We believe there could be merit in a six-monthly Gate 1 and quarterly Gate 2 Process. The process as currently proposed does not allow the opportunity for projects to apply directly at Gate 2 for those parties who meet the criteria. Introducing a six-monthly Gate 1 and quarterly Gate 2 process allows the opportunity for projects that meet Gate 2 to apply sooner. Implementing this approach would support the aim of connecting first-ready projects.</p> <p>Details from the ESO on the historical run rates of modification applications for parties with existing operating connections, would provide an evidence base to assess the potential impact of the Primary Process.</p>	

<p><b>Element 3:</b> Clarifying which projects go through the Primary Process (see pages 11-12, 35-36)</p>	<p><input checked="" type="checkbox"/>Yes  <input type="checkbox"/>No</p>
<p>We support the overall approach of Element 3 but disagree with how modification applications for existing connected sites are handled. The requirement for these applications to undergo the Gate 1 process seems unjustified and lacks concrete evidence demonstrating how this would advance or support the Primary Process’s aims. We’d note that applicants submitting modification applications for existing connections are likely to have already secured land and relevant planning rights.</p> <p>Given that the purpose of Gate 1 is <i>‘to support more strategic network planning and facilitate the potential for earlier connection dates’</i>, there appears to be little evidence to suggest that it is beneficial to apply it to this scenario. This approach may result in unnecessary and disproportionate delay for these parties. We suggest that such modification applications should either be managed separately or allowed to proceed directly to Gate 2.</p>	
<p><b>Element 4:</b> Significant Modification Applications concept, including the proposed criteria and the proposed level of codification (see pages 12-13, 36-39)</p>	<p><input checked="" type="checkbox"/>Yes  <input type="checkbox"/>No</p>
<p>We broadly support the proposed approach to Element 4. However, we have concerns about the ESO’s intention to place rules, obligations, and their application, outside of Code governance and be subject to its sole discretion. We are concerned that this approach may invite legal challenge when the ESO becomes the NESO. We encourage the proposer to explore alternatives that maintain desirable regulatory practice, transparency, and robust, consistent governance.</p>	
<p><b>Element 5:</b> Clarifying any Primary Process differences for customer groups (see pages 13-14, 35-36)</p>	<p><input type="checkbox"/>Yes  <input checked="" type="checkbox"/>No</p>
<p>We believe that there is insufficient justification and evidence to fully understand two key aspects:</p> <ol style="list-style-type: none"> <li>1. The impact on other parties when Small and Medium Embedded Generators are exempted from Gate 1 processes through the DFTC process, and</li> <li>2. The benefits that Offshore and Interconnector parties will gain from reserving capacity at Gate 1.</li> </ol> <p>When looking to introduce such difference for customer groups into a complex and high impact process, we would expect the ESO to provide a quantified justification for any transmission entry capacity that may be sterilised through this proposed reservation process, which is exclusively available to certain parties. Obtaining this information and data would better help us and other parties understand how the transmission entry capacity might be allocated and how it could benefit the parties involved while ensuring fairness across the industry.</p>	

<p><b>Element 6:</b> 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>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We are supportive of this Element within the process and the criteria proposed for Gate 1. In principle, this Element seems proportionate and does not indicate that particular projects will be discriminated against as a result.</p>	
<p><b>Element 7:</b> Fast Track Disagreement Resolution Process (descope from this modification – see pages 16, 58)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>While this Element has been descope from this modification, we feel that there may be merit in setting an absolute limit on receiving a substantive response in relation to essential connection / project queries. Implementing this Element would enable a standard for all parties to reach resolution on queries and disputes in a timely manner. Without these standards being set out, there is scope for projects to be lost and held back.</p>	
<p><b>Element 8:</b> Longstop Date for Gate 1 Agreements (see pages 16, 40-41)</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>It is our view that this Element has four potential flaws preventing it from being effective and achieving its intended outcomes:</p> <ol style="list-style-type: none"> <li>1. The longstop date at the proposed point of the process may have little value or impact, as TEC will not have been allocated at this point; the TEC allocated will only be indicative.</li> <li>2. There has been no evidence presented as part of the consultation or published by the ESO to demonstrate the impact a 3-year longstop date will have on removing projects from the queue. Therefore, there is uncertainty on whether setting a 3-year time limit on progress from projects is effective, reasonable and mitigates discrimination against certain projects.</li> <li>3. If the implementation of the longstop date does enable the removal of a significant number of projects, there could be implications on grid planning which may lead to suboptimal use of grid capacity. The proposal does not set out how this would be managed effectively.</li> <li>4. We also note that the proposal does not set out any restrictions on applications repeatedly reapplying after having an application removed.</li> </ol>	
<p>While we understand that the implementation of a longstop date acts as a step to remove any projects that are not progressing, there is a lack of clarity and evidence on the impact of this Element and how this will be managed to support the aims of the primary process and Applicable Objectives of the CUSC.</p>	
<p><b>Element 9:</b> Project Designation (see pages 17-18, 48-49)</p>	<input checked="" type="checkbox"/> Yes

	<input type="checkbox"/> No
<p>It is our view that Project Designation should be codified if taken forward; this would enable simple adjustments to be made to the rules governing its use. The overall impact of this Element is reliant on the way the ESO implements and manages it. The ESO needs to maintain transparency in the decision-making process with clear criteria for designation, and appeals. Codifying this element would enable this to be done consistently and give all parties greater confidence and transparency around decision-making.</p>	
<p><b>Element 10:</b> Connection Point and Capacity Reservation (proposed to not be codified within the CUSC, but is intended to be codified within the STC through modification <a href="#">CM095</a> – see pages 18-20 and the <a href="#">CM095 Workgroup Consultation</a>, pages 6-10 <a href="https://www.nationalgrideso.com/document/322801/download">https://www.nationalgrideso.com/document/322801/download</a>)</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>We are unable to support the proposal for this Element at present due to the lack of evidence demonstrating its advantages and potential impact on other parties from sterilising this TEC at Gate 1. The potential consequences for other parties are significant, effectively sterilising this TEC at a single point in the process.</p> <p>Furthermore, it has been suggested that this measure would not be restricted to parties within an HND, as previously was the case. We do not consider this an essential component of the minimum viable product.</p>	
<p><b>Element 11:</b> 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>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We generally support the details outlined in Element 11, although, a clear definition is necessary. Specifically, the ESO needs to define the area of generation or demand siting that requires delineation by a boundary plan. We believe that clear definitions in relation to this Element allows for consistency, efficiency and transparency, to ensure that the process is streamlined and promotes the submission of accurate and complete applications at this point.</p> <p>We recognise that different types of sites may require distinct applicable definitions, and these variations should be permissible within the self-certification process. While maintaining consistency, well-defined criteria would also allow flexibility in accommodating different types of sites and technologies.</p>	
<p><b>Element 12:</b> Setting out the general arrangements in relation to Gate 2 (see pages 25-26, 47)</p>	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<p>We support this Element and agree with the proposer that this should be codified.</p> <p>As per our comments on Element 2, it is our view that the Gate 2 application arrangements should take place on a quarterly basis and that this should be implemented as a minimum. In relation to the Gate 2 application reviews being conducted at regular intervals, this Element would benefit from an impact assessment to establish whether the suggested ‘three tranches per year’ (as per footnote 28) would be sufficient compared to a quarterly review or other frequency of review.</p>	
<p><b>Element 13:</b> Gate 2 Criteria Evidence Assessment                  (see pages 26-27, 47-48)</p>	<p><input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p>
<p>Although we generally agree with the Gate 2 criteria evidence assessment, it is our view that these criteria should be codified in the CUSC rather than a methodology resulting from an ESO licence condition.</p> <p>Additionally, we note that the density table was described as indicative rather than an absolute requirement during Workgroup meetings. This distinction has not been reflected in the modification report.</p> <p>The proposal to sample-check an undefined percentage of applications may enable opportunities for stagnant projects to sit at Gate 2. If this is the case, we would be supportive of additional checks but do not believe this is necessary for implementation.</p>	
<p><b>Element 14:</b> Gate 2 Offer and Project Site Location Change                  (see pages 28, 46)</p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p>
<p>We generally support this Element within the process. There appears to be a degree of flexibility if a development requires adjustments in response to changes initiated by the ESO or TO. However, several Workgroup members have raised concerns about potential gaming. We would like to believe that all parties can adhere to good industry practices. If evidence of gaming emerges, it could be addressed promptly through use of Ofgem regulatory powers and urgent code modifications (if the arrangements are codified).</p> <p>Additionally, we believe that this Element places disproportionate emphasis on the developer’s responsibilities, rather than those of the ESO and TO’s. For instance, there is no obligation on the ESO to provide a justification or any reasoning as to why a location site is changing. In the detailed development and legal text, we believe it will be necessary to ensure complimentary obligations on all parties, including the ESO, to ensure the changes are suitable from both a developer perspective and a connection process perspective.</p>	
<p><b>Element 15:</b> 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>We do not agree with Element 15 as it removes any obligation from the ESO to develop efficient processes to drive meaningful outputs within acceptable timeframes. Footnote 28 in the consultation explains that <i>'the shortest time period from submission of a Gate 1 application to signature of a Gate 2 offer is around 46 weeks'</i>. We believe that there should be measurable targets on the ESO, and by extension TO's, to deliver quality responses and outputs throughout the connections process. These measures should be codified and form part of the respective organisation's reputational and financial incentives.</p>	
<p><b>Element 16:</b> Introducing the proposed Connections Network Design Methodology (CNDM) (see pages 29, 53-55)</p>	<p><input type="checkbox"/>Yes  <input checked="" type="checkbox"/>No</p>
<p>At present, the proposal is for the CNDM to sit outside of the CUSC as a separate Methodology. With no clarity on the detail of the CNDM, such as the criteria that would be applied or defined triggers for when or how it would be utilised to reallocate capacity, we are unable to support this as an Element.</p> <p>Notwithstanding that, we believe any such details, rules and obligations (placed on the ESO or participants) should be codified within the CUSC.</p>	
<p><b>Element 17:</b> 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 aligned to the Gate 1 Application Window (see pages 30-33, 51-53)</p>	<p><input checked="" type="checkbox"/>Yes  <input type="checkbox"/>No</p>
<p>We are supportive of some aspects of Element 17, however, we have not been provided with any information or data to illustrate the potential impact of this differential treatment of Embedded Small and Medium Generators, including the differing definitions of small, medium and large generation between England, Wales and Scotland. Without this information and assessment, we are unable to provide our full support for this Element.</p>	
<p><b>Element 18:</b> 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)</p>	<p><input checked="" type="checkbox"/>Yes  <input type="checkbox"/>No</p>
<p>Overall, we are supportive of Element 18. However, it is worth noting that many Elements of the solution that DNOs will implement have not been subject to consultation and are being taken forward by the Network's representative body - the ENA - rather than customers of the networks.</p>	
<p>6 Are there any elements of the proposal which you believe should</p>	<p><input checked="" type="checkbox"/>Yes  <input type="checkbox"/>No</p>

<p>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>	
<p>We do not believe that any modification applications for generation already connected to the Transmission Network should be included in the gated process. In most cases, it is highly likely that the necessary permissions, site boundary and connection point are already secured, and thus these projects should not have to satisfy the Gate 1 process and instead should immediately pass through to Gate 2 of the process. It would be an unnecessary and inefficient use of the ESO, TO and connecting parties' resources to include such applications within the gated process. Moreover, no evidence has been provided to indicate that modification applications for transmission connected generators are having a detrimental impact on the connections process at present.</p> <p>There is a considerable lack of clarity within each of these Elements, not least because significant aspects are to be covered in the proposed methodologies which we are not sighted on. There is also little to no evidence demonstrating the contribution each Element makes in supporting the reduction of the existing queue. In addition, there has been no evidence to illustrate any potential consequences as a result of each of these Elements, the potential capacity reallocation / escalation timescales under the CNDM, or prioritisation available through Project Designation. We would expect all necessary obligations on connecting parties and the ESO to be included within the CUSC.</p> <p>Evidence supporting the necessity to reserve capacity for offshore and interconnector projects at Gate 1 has not been provided. Therefore, it is unclear as to whether this Element is required for a Minimum Viable Product.</p>	
<p>7 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>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p>
<p>Each Element set out in this proposal lacks evidence to suggest that there will be positive impact on the connection queue. Without the detail and data to support these Elements, we are unable to identify whether there are any potential additional features that could support and enhance this proposal. This has been raised throughout Workgroup meetings but has not been forthcoming from the ESO. In the event we do have sight of data and detail, there is potential for additional features to be included as part of the Minimum Viable Product. For instance, additional Gate 1 application periods in the year or more stringent criteria to progress projects to Gate 2.</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>	<p><input type="checkbox"/>Yes  <input checked="" type="checkbox"/>No</p>
<p>If a project satisfies both Gate 1 and Gate 2 criteria, then it should be able to apply straight into Gate 2. Sample checks and duplication checks should mitigate issues of any criteria not being met and removing any projects that are already part of the queue.</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>The proposal does discriminate in that the Elements are different for different types of projects. For instance, those connected at Transmission versus those connected at Distribution. Additionally, offshore projects and Interconnectors are prioritised as the ESO will reserve capacity at Gate 1 for those projects.</p> <p>The ESO has not provided evidence to establish the impact of individual Elements. It is our view that a 'what if' analysis of the Elements using historical data would be of benefit to assess whether discriminatory treatment within this process is material and/ or justified.</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 type="checkbox"/>No</p>
<p>As a general point of principle, it would be unfair to penalise project developers if a substation location was not confirmed and this information was a prerequisite of planning.</p> <p>It is not currently possible to offer an opinion in relation to our preference on the options (a) to (e) outlined in the proposal, as there is no analysis (based on current or historical evidence) to identify the impact of these options to inform our view.</p>		

<p>11</p>	<p>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)</p>	<p><input checked="" type="checkbox"/>Yes  <input type="checkbox"/>No</p>
<p>Our view is that the DFTC obligations need to be codified in the CUSC and DCUSA.</p>		
<p>12</p>	<p>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)</p>	<p><input checked="" type="checkbox"/>Yes  <input type="checkbox"/>No</p>
<p>It is our view that obligations and responsibilities on all parties need to be embedded within and thus enforceable through the appropriate code. Obligations should be precise and detailed in the code with guidance available to support application of the multi-party agreement. As noted in question 1, question 3 and Element 1 of question 5, we have highlighted that there are issues with respect to governance, enforceability and the constitution of relevant terms and conditions.</p> <p>Firstly, on governance, the CUSC enables urgent changes and open stakeholder engagement. Where issues are encountered, these can be modified in the relevant codes without the necessity for licence alterations and lengthy statutory consultation. We believe the proposed methodologies could be open to legal challenge given the narrow consultation process that the ESO proposes (which is not part of this modification proposal).</p> <p>There is a lack of clarity around enforceability. It is not clear how developers and other licenced and unlicenced market participants can be bound to a licence obligation on the ESO to produce a Methodology. A more effective approach would be for all market participants to be bound by the related multi-party agreement (i.e., CUSC or DCUSA) in order to connect to the system.</p> <p>We are also aware that the question of what constitutes applicable terms and conditions in relation to connections (and changes to it) has been raised in the workgroup. It is our understanding that the connections arrangements must have Authority approval and that changes to the CUSC, when approved, are therefore compliant with the applicable retained law. In all equivalent cases to date (e.g., balancing terms and conditions), the approach the ESO has taken is to reference the granular aspects of the relevant code (be that the CUSC, BSC or Grid Code) that is applicable. We think having other referenceable methodologies and/or guidance that sits outside of the code, will increase the risk of conflicting provisions and legal challenge that could jeopardise future connection agreements.</p>		

Finally, it is not clear how transition arrangements and the CUSC changes can be introduced if corresponding licence changes have not been completed. This appears to design in a significant risk of failure and puts the regulator in the invidious position of having to approve a suboptimal Methodology to maintain the pace and timeline of connection process changes. We do not believe the Authority should be put in this position and this may not be in consumers' interest.