

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 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:	Holly MacDonald	
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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 checked="" 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>It is challenging at this stage of the process to effectively comment on whether the proposed Primary Process better facilitates the Applicable Objectives of the CUSC, namely because the majority of the detail underpinning the proposals is yet to be developed. Note that the proposals at this stage do not include draft legal text, in our view this level of detail is needed to be able to present a fully formed assessment of whether the proposal better facilitates the Applicable Objectives.</p> <p><u>Objective (a)</u> Given the Primary Process is proposing changes to obligations in the licence on parties such as ESO and the relevant TO's without the legal text, it is not possible to conclude whether this this better facilitates objective (a). We are concerned that the proposal to migrate to an annual process seems to extend the process timelines, meaning developers are having to wait longer to get a connection offer in comparison to the existing process. Whilst the need to progress projects to meet net zero targets is essential, the First Ready First Connected approach should ensure not to penalise those projects which are more complex and therefore take longer to develop, and should account for projects which have strategic priority.</p> <p><u>Objective (b)</u> Given our concerns that this proposal will delay connection timelines in comparison to existing timelines, it is not possible to conclude that the proposal will better facilitate objective (b).</p> <p><u>Objective (c)</u> Neutral impact</p> <p><u>Objective (d)</u> The proposals outlined in Element 1 to migrate the detail of the Primary Process into "Methodologies", as opposed to being detailed in the code, does not appear to support the fulfilment of this objective. The efficient delivery of the Primary Process also relies upon it being well resourced, planned and managed, as batched application and assessment periods will be time and resource intensive.</p>				

2	Do you support the proposed implementation approach? (see pages 59-61)	<input type="checkbox"/> Yes <input type="checkbox"/> No
We have no strong views with respect to the proposed implementation approach		
3	Do you have any other comments?	
Given the very limited timeframe for consultation, we have focussed our review and response on the individual Elements of the Modification Proposal. See below out response for details.		
4	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 Workgroup Consultation Section) <input checked="" type="checkbox"/> No
Click or tap here to enter text.		

Specific Workgroup Consultation questions

5	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 CM095 . Please provide rationale for your answer and any suggestions for improvement to each element?	
Element 1: Proposed Authority approved methodologies and ESO guidance (see pages 9-10, 55)		<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>We are concerned with the proposed approach to codify the “high level concept” of the Primary Process and have the detail contained within Authority approved Methodologies and supporting Guidance. Whilst we recognise the desire to find a balance between governance and flexibility, currently there is a severe lack of clarity on the level of detail being proposed for the codified high-level principles and Methodologies which means at this stage it is not possible to agree to the proposed solution.</p> <p>At a minimum, the essential elements of the connections process, such as timescales for submitting and receiving offers at key milestones must be codified and/or outlined in the ESO’s licence, as well as the detail of what customers will receive within key documents (e.g. Gate 1 and Gate 2 offer). Otherwise there is a risk of long delays, an example being the recent HND process, whereby holding offers (akin to the Gate 1 offer) were given with an 18 month delay between that and the formal offer.</p> <p>The proposed Methodology governance process is of concern as the timelines for consultation and engagement are short and it does not allow for industry to propose Alternatives or raise own modifications. This would be a step-back from</p>		

the existing arrangements under the code governance process, which allow for industry to actively engage and shape the arrangements which directly impact them as customers. It also appears to be out step with other similar industry processes, such as the Capacity Market Rules change process, where industry can raise rule changes for consideration and implementation by Ofgem.

If a Methodology approach was to be pursued, to ensure industry is able to effectively engage and plan resources to do so it should follow an annual process for review, consultation, approval similar to the Frequency Risk and Control Report¹.

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

We are concerned that the introduction of an annual application window, with two formal gates, may result in an overall “slowing-down” of the process which would appear to go against the original intention to enable quicker connections. At present, it would appear from the indicative process timeline, that a customer could be waiting up to 8 months for a Gate 1 indicative offer, compared to the current process where an offer is provided in 3 months. It is also not clear whether projects which request earlier connection dates, will have that request taken into consideration when their queue position is allocated at Gate 2. The First Ready First Connect approach should not penalise larger infrastructure projects which are inherently more complex (for example, interconnector projects), have longer development and construction timeframes, and therefore may take longer to progress to Gate 2. In addition, it needs to take account of other processes which may interact with the timings of connection offers, such as Crown Estate Seabed leasing rounds, CfD auctions, and application windows for Cap and Floor. The sequencing should be such as to bring projects forward, not to limit their ability to progress through inflexible timeframes which are limiting.

Finally, to ensure that an annual process works effectively, it needs to be well resourced and have clear processes in place to manage the peaks in workload throughout the year. For example, it would be reasonable to expect that during the application window, parties will seek to get clarification on submissions etc, and need to be able to effectively engage with the ESO to support good quality applications. Similarly, there should be a clear process to allow for any minor errors in Gate 1 applications to be rectified by customers, otherwise they risk having to wait another 12 months to apply which would seem very unreasonable (i.e. the equivalent of application validity confirmation and clock start process is not clear under the proposals).

With the proposal to introduce a gate process, it would be reasonable to request that applicants should have some flexibility in meeting the eligibility criteria to avoid creating artificial delays. For example, an applicant could commit to a date for meeting the relevant Gate criteria, including rationale for why they will meet them at that time as opposed to now, however if the applicant fails they are rejected and therefore must reapply.

¹ [Frequency Risk and Control Report \(FRCR\) | ESO \(nationalgrideso.com\)](#)

<p>The Capacity Market provides an example of where there is a clear process, including routes for disputes, for parties applying to participate in the Capacity Market Auction. Similar principles could be applied here.</p>	
<p>Element 3: Clarifying which projects go through the Primary Process (see pages 11-12, 35-36)</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>No comments</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 <input type="checkbox"/> No</p>
<p>We are concerned at the proposal to have Signification Modification Applications “at the ESO’s sole discretion”. At this stage it is challenging to comment on the proposal as there is no draft legal text, and it’s not clear how this process may interact with the “Non-Significant Modification” process which exists under the current process</p>	
<p>Element 5: Clarifying any Primary Process differences for customer groups (see pages 13-14, 35-36)</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>We welcome the proposed Primary Process differences in relation to interconnector projects specifically, and we are pleased to see that the Proposer has taken into account the inherent differences with the development of these projects which need to be accounted for in the process. Failure to acknowledge these differences, for example the need for an interconnector project to have clarity on the onshore connection location to enable a cable route to be defined, will result in these projects being unfairly disadvantaged through the connections process. As such we are supportive of the proposals in relation to Gate 1 and Gate 2 for interconnector projects.</p> <p>We are however concerned, that the Gate 2 proposal to provide land rights more broadly, may result in land owners being able to take advantage of the developers’ need to acquire land within a specific timeframe to get a connection agreement in negotiations. This may then results in non-reasonable negotiations needing to move to CPO processes, which take time and are out of the developers’ control, risking that the developer cannot progress to Gate 2. Therefore, we would suggest that Gate 2 allows for recognition that if a developer has moved into a CPO process, it has the powers to acquire the necessary land and has started the process, rendering it in a position to have passed the Gate 2 criteria. (Should it be helpful, we would be pleased to discuss an appropriate milestone within the CPO process that may best align for the Gate 2 test.)</p> <p>In addition, at this point it is not clear what provisions or processes are being put in place to ensure that the Crown Estate Scotland/The Crown Estate are able to facilitate the proposed Primary Process in a timely and non-discriminatory manner. Further details of how Crown Estate Scotland/The Crown Estate propose to do this would be welcomed, including opportunity for consultation and engagement.</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)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>As stated in our response to Element 2, our primary concern is the potential for this process to slow down grid connection applications and offers, which will impact overall project certainty and investor confidence.</p>	
<p>There is a risk that if a project does not meet the entry requirements for Gate 1, it then needs to wait 12 months for the next application window. This could materially slow down the development of projects. As such, it is integral to ensure that the Gate 1 process is sufficiently resourced and has clear processes in place to support customer applications. For example, it would be reasonable to expect that during the Gate 1 application window, parties may seek to get guidance or clarification on elements of their submissions, and need to be able to effectively engage with the ESO to support good quality applications. Similarly, there should be a clear process to allow for any minor errors in Gate 1 applications to be rectified by customers, otherwise they risk having to wait another 12 months to apply which would seem very unreasonable. The Capacity Market provides an example of where there is a clear process, including routes for disputes, for parties applying to participate in the Capacity Market Auction. Similar principles could be applied here.</p>	
Element 7: Fast Track Disagreement Resolution Process (de scoped from this modification – see pages 16, 58)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>We are very concerned that the fast track disagreement process has been determined out of scope at this time, especially given that it is not clear from the Proposal what the disagreement resolution process would be in absence of this (or whether there is one).</p>	
<p>At present the disagreement process is slow, and is often as a result of avoidable errors, such as connection offers not being in line with the relevant codes (e.g. the CUSC). To support an effective connections process there should be consideration given as to how the current arrangements can be improved upon, for example the current Ofgem process takes between 6-24 months. An independent arbitrator could be called upon to conduct a swift assessment process in advance of any dispute being referred to Ofgem. It is also unclear how ESO will account for any background changes which may be required of Ofgem was not to rule in their favour, and therefore offers need to be amended.</p>	
<p>The transition to an annual process may exacerbate the current challenge of dispute resolution being slow, as the disputes are likely to cluster around the key milestones in the process (e.g. Gate 1 offer, Gate 2 offer etc.). Therefore this should be accounted for when considering the full end to end process and supporting resource and workload requirements. It should also be that when a</p>	

<p>developer enters into a disputes process, the timelines for achieving milestones, such as meeting Gate 2, should be paused so as not to be unfairly impacted.</p>	
<p>Element 8: Longstop Date for Gate 1 Agreements (see pages 16, 40-41)</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>The longstop date of 3 years working effectively is primarily reliant upon ESO and the relevant TO's undertaking their roles and responsibilities adequately, and in line with the required timelines and quality of offer and submission. This again reiterates the importance of these elements of the process being codified and transferred into licences, to ensure there is an effective route to hold these parties to account with respect to their obligations and duties.</p> <p>To ensure there is fair treatment of all customers, there should be clarity on the criteria that ESO considers relevant for an extension, as opposed to the high-level principles that it would be at "ESO discretion".</p> <p>We would reiterate the concern that the process should not penalise projects which are inherently more complex and therefore may take longer to progress. Whilst we recognise the importance of a longstop date to support the progression of projects, we would be concerned if this was applied in such a way as to unfairly punish projects where development takes more time due to their complexity.</p>	
<p>Element 9: Project Designation (see pages 17-18, 48-49)</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>It is unclear from the proposal how much, under Project Designation, a project could really "accelerate" versus other projects. In order to effectively comment on this proposal, there needs to be further clarity on how a project might accelerate, for example would it be within the "batch" of projects it applies for Gate 1 or Gate 2 with? As currently described, the proposal seems to be more akin to within-batch prioritisation rather than acceleration, in that projects still need to meet Gate 1 and Gate 2 criteria, but their queue position would be prioritised in the next batch of Gate 2 batch assessment.</p> <p>It would also be helpful to clarify how frequently this may be used, through there being further details on the proposed criteria around Security of Supply, system operation, and system/network constraints. In addition, we would request further clarity on the impact any prioritization or acceleration may have on other projects, for example may it cause those projects to be delayed? Further detail is required to ensure that projects are being treated reasonably, and that any form of acceleration or prioritisation is clearly evidenced and justified.</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)</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>We agree with the proposals under Element 10, including that it would be appropriate to extend this mechanism to include network competition. Given this</p>	

<p>process is currently utilized by ESO Network Services Procurement processes (pathfinders), which follows a similar principle to the planned CATO processes, it is reasonable to extend those principles to include network competition as well as co-ordinated offshore network design. Failure to reserve connection points and capacity for these projects could fundamentally undermine the planned process, by preventing these essential projects to progress.</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 type="checkbox"/> No</p>
<p>We are concerned with the proposal to have the Gate 2 criteria in a separate Authority approved methodology. Whilst we recognize the desire of ESO to be able to modify the arrangements more quickly, the proposed approach appears to remove the ability for industry to propose amendments to the rules, and the limited time for consultation and engagement doesn't provide the same level of certainty and clarity as currently provided through the process being codified. In turn this could impact upon investor confidence, as there is a risk that changes could make it more challenging to achieve the various criteria and therefore gain a connection agreement.</p> <p>With respect to the criteria to meet Gate 2, we are supportive generally that an Option Agreement is acceptable and the requirements to keep it valid or to replace it with a lease or purchase agreement until the Completion Date of the project. However we are concerned with the requirement to ensure an Option Agreement must have at least a 3-year period during the development phase of the project, and the requirement for this in the proposal is unclear. It would also be helpful to confirm if this proposal to have an Option Agreement with a minimum 3-year period is only for the satisfaction of the Gate 2 criteria, or will be an enduring requirement.</p> <p>We are concerned that the proposal does not offer a Gate 2 criteria exemption, or flexibility, for developers who may need to obtain land via CPO powers. It is our view that Gate 2 should allow for recognition that if a developer has moved into a CPO process, it has the powers to acquire the necessary land and has started the process, rendering it in a position to have passed the Gate 2 criteria. (Should it be helpful, we would be pleased to discuss an appropriate milestone within the CPO process that may best align for the Gate 2 test.)</p> <p>Compliance – Land Requirements We are concerned that the current proposals, with respect to continued demonstration of the appropriate land rights, utilising the red line boundaries are unduly restrictive. It is necessary to maintain an element of flexibility through the development and planning phases, where project design alterations can impact upon red line boundaries. We would therefore suggest there is more flexibility in these proposals.</p>	

<p>Compliance – Planning</p> <p>We are concerned that the addition of another “gate” for grid compliance will exacerbate the complexity of already complex project programmes. We also have concerns that the timescales on planning (outlined in the table on page 21) are an underestimation, particularly in reference to S.36 and DCO applications.</p>	
<p>Element 12: Setting out the general arrangements in relation to Gate 2 (see pages 25-26, 47)</p>	<p><input type="checkbox"/>Yes</p> <p><input type="checkbox"/>No</p>
<p>We are generally supportive of this element of the proposal, therefore we have no additional comments at this time.</p>	
<p>Element 13: Gate 2 Criteria Evidence Assessment (see pages 26-27, 47-48)</p>	<p><input type="checkbox"/>Yes</p> <p><input type="checkbox"/>No</p>
<p>With respect to the Criteria Evidence Assessment, we are supportive that there is a template provided to parties which requires a consistent approach to the submission of evidence as well as providing clarity as to what parties need to provide.</p> <p>With respect to the requirement to “Upload evidence they have secured the necessary land rights in accordance with current proposed Gate 2 criteria” we would request that this ensures no commercially sensitive information is required to be shared, and equally acknowledges that the landowner may not be comfortable with details of agreements being shared, or that an agreement is even in place. A pragmatic approach could be to accept the declaration of the developer’s Director in the Self-Declaration Letter that the necessary land rights have been secured, and that the amendment to the land registry is provided as evidence once they are available (this can take a period of time, so this could be required no later than 12 months after the Self-Declaration Letter was submitted).</p>	
<p>Element 14: Gate 2 Offer and Project Site Location Change (see pages 28, 46)</p>	<p><input type="checkbox"/>Yes</p> <p><input type="checkbox"/>No</p>
<p>To be able to appropriately assess Element 14, there needs to be further clarification of how projects might be impacted. It would seem this Element implies that projects have no certainty on their project connection location, capacity and connection date until after they have passed Gate 1, applied for Gate 2, and then potentially been given an Offer for a location which they have not planned for. As the annual process extends the timelines in comparison to the current process, this brings another layer of risk to the process for developers. In order to properly assess this proposal, there needs to be further clarity on what might trigger a different location to what is applied for in Gate 1, if an earlier indication could be provided to parties (for example at Gate 1) that they may be offered a different location than applied for. In addition, it is likely that 12 months is an ambitious timeline for projects to meet the Gate 2 criteria, especially if they are having to relocate to a site where they have not had any engagement with respect to land requirements to date. Again, this could also increase the risk that land owners take advantage resulting in non-reasonable negotiations, which may result in the need to utilise CPO processes. As outlined before this process takes time and are out of the developers control, risking that the developer cannot progress past Gate 1.</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)	<input type="checkbox"/> Yes <input type="checkbox"/> No
	As outlined in our response to Element 2, we are concerned that the introduction of an annual application window, with two formal gates, may result in an overall “slowing-down” of the process which would appear to go against the original intention to enable quicker connections. At present, it would appear from the indicative process timeline, that a customer could be waiting up to 8 months for a Gate 1 indicative offer, compared to the current process where an offer is provided in 3 months.	
	Element 16: Introducing the proposed Connections Network Design Methodology (CNDM) (see pages 29, 53-55)	<input type="checkbox"/> Yes <input type="checkbox"/> No
	No comments.	
	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 aligned to the Gate 1 Application Window (see pages 30-33, 51-53)	<input type="checkbox"/> Yes <input type="checkbox"/> No
	No Comments	
	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 type="checkbox"/> Yes <input type="checkbox"/> No
	No Comments	
6	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)	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Click or tap here to enter text.	

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?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Click or tap here to enter text.		
8	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?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Click or tap here to enter text.		
9	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?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please see response to Element 1 and 8, where we share concerns that the process may penalise projects with longer development and construction timelines due to their complexity.		
10	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).	<input type="checkbox"/> Yes <input type="checkbox"/> No
Click or tap here to enter text.		
11	Do you agree that DFTC should be included as part of CMP434? If not, do you believe that the reformed	<input type="checkbox"/> Yes <input type="checkbox"/> No

	connections process can function without DFTC? Please justify your answer. (see pages 30-34, 51-53)	
	No comments	
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 type="checkbox"/> Yes <input type="checkbox"/> No
	See response to Element 1	