

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	
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Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network <input type="checkbox"/> Operator <input checked="" type="checkbox"/> Generator <input type="checkbox"/> Industry body <input 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?	<p>Mark the Objectives which you believe the Original solution better facilitates:</p> <p>Original <input checked="" type="checkbox"/>A <input type="checkbox"/>B <input type="checkbox"/>C <input type="checkbox"/>D</p> <p>The current Proposal requires many changes to the Transmission licence and the obligations it imposes. However, under a batch process it has the potential for a more efficient discharge of the Licensee's obligations. The current proposal could be adjusted to create an even more efficient discharge. For example confirming POC and connection date at Gate 1.</p> <p>Under the current proposal, it does not better facilitate effective competition. It may even hinder competition with some clear preferential treatment for some projects and larger developers, with no clear justification. The non-codification of the capacity reallocation mechanism will give no clear indication of how a clear and effective competition can be facilitated.</p> <p>Under the current proposal it could create more work for implementation of the CUSC. The checking of Gate 2 criteria and the methodologies (and their review) will also require further administration of the CUSC arrangements.</p>
2	Do you support the proposed implementation approach? (See page- 57-58)	<p><input type="checkbox"/>Yes <input checked="" type="checkbox"/>No</p> <p>We agree with the Primary Process in its simplest format of creating a batched process with two Gates to allow for a better and more coordinated design. However, the proposal to not codify specific elements of the Proposal does not provide for a better approach than is currently used.</p> <p>There are some Elements of the proposal that should not be included, with current processes allowing for a minimum viable product. However, some of these Elements may create a further efficient process and so we would recommend the ESO raises these as separate code modifications.</p> <p>One of the biggest concerns of the proposal is the indicative nature of a Gate 1 offer. It seriously increases the initial risk of a project if the connection point has the</p>

	<p>potential to change. Putting agreements in place can cost £100,000's or £1m's for a project, and once through Gate 2 it could change significantly rendering the original land unviable. The 12-month exemption does not reflect the process of development and would not allow enough time to readjust.</p> <p>A forward looking M1 milestone is also something we strongly object to. IGP were part of the CMP376 workgroup that developed the Proposal for including milestone within all connection offers. It was decided that forward looking milestones would not appropriately reflect the development timeline of projects. To prepare and submit a planning application takes millions of pounds and is paid at risk. The current Proposal would expect this to come out at a much earlier stage of a project's life cycle, if it has a long connection date, and would see developers receive no return for much longer than would be acceptable. Even if a developer has enough funding to be able to develop the project, it may not be able to take this level of liability for such a long period of time. It will restrict competition to only the very large companies that have enough income elsewhere. We also note the timeline for achieving the proposed forward-looking milestone is not achievable, especially when only an indicative POC is given. Whilst some initial planning surveys may be able to take place prior to land rights, they would be very limited in nature and scope.</p>	
3	<p>Do you have any other comments?</p> <p>If the final solution does include the Proposed non-codified Methodologies and Guidance documents, we would encourage a much greater engagement with industry. The ESO has stated that some Elements of the proposal were consulted on with industry after the large consultation on whether TMO4+ was the right solution 2023. However, IGP, who have one of the largest pipelines of solar and battery developments at Transmission level and are currently developing multiple NSIP scale solar farms across the UK, were not consulted.</p> <p>It is all well and good saying the ESO will consult on these documents, but it needs to be much clearer on how it intends to do this. However, to reiterate, we believe these documents should be codified further than is currently Proposed.</p>	
4	<p>Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?</p>	<p><input type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section)</p> <p><input checked="" type="checkbox"/> No</p>
	<p>We do not have the resource to be able to raise a WACM that would be comprehensive in its proposal, however, we will support others and suggest amendments as needed.</p>	

Specific Workgroup Consultation questions

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| 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>	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>IGP does not agree that this Element is the most appropriate way of implementing the proposed solution. There are major concerns that the use of Methodologies does not allow for the appropriate level of industry consultation and input for what will be major sections of the Proposer's solution for implementing Connections Reform. For Example, the Gate 2 Criteria Methodology will set out the actual criteria that developers will need to meet to be able to move to Gate 2. Under the current proposal, whilst the ESO will be obliged to consult the industry, it has the potential that the solution will be very mis-informed and will not reflect how the development process actually works for the industry.</p> <p>Under the current system, the ESO does not have the power to change the entry requirements without a CUSC modification, for example the implementation of CMP427 to raise the bar to a requirement for a Letter of Authority (LoA). The ESO's original proposal would not have been appropriate without workgroup involvement.</p> <p>Further codification along with published ESO guidance and interpretation, would be a more appropriate.</p>	
<p>Element 3: Clarifying which projects go through the Primary Process (See pages 10-11,29-31)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>No objections with the list of projects that this solution is applied to.</p>	
<p>Element 5: Clarifying any Primary Process differences for customer groups (See pages 11-12,32)</p>	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>We do not see how it creates a fair market when Interconnectors and OHAs are offered confirmed connection points and capacity at Gate 1 when others are only offered them on an indicative basis. For an NSIP scale solar project, for example, the land assembly can be just as complex if not more so and is still heavily dependent on the location of the POC.</p> <p>DFTC as a concept is a good idea. However, IGP are concerned as to how this will work in practice, if DNO's/iDNO's predict more capacity than is needed, this could detrimentally affect the Directly Connected Generation going through Gate 1. And</p>	

<p>if they underestimate the capacity, this will detrimentally affect their customers (Relevant Embedded Generation).</p> <p>It is unclear how Offshore projects differ from the primary process and we request further information on this. However, from our understanding of the Proposal, it is agreed for the Proposer to bring normal Offshore projects in-line with other projects going through the Primary Process.</p>	
<p>Element 8: Longstop Date for Gate 1 Agreements (See pages 12-13, 32-33)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>A Longstop Date for the Gate 1 Agreements could be a good way of incentivising projects to progress. If this is going to be the case the suggestion, by the workgroup, of the deadline being at the point at which the applicant meets the Gate 2 criteria rather than acceptance of the Gate 2 offer, is much more in line with the development timelines. It is also not the developer's fault the length of time it would take the TO and ESO produce the Gate 2 offer.</p> <p>The ESO discretion to be able to extend a project's deadline is fine. However, where a project has some land signed but insufficient to meet Gate 2, there should be a minimum percentage, below which ESO discretion may not be applied.</p> <p>This being said, with the Gate 1 offers only being offered on an indicative basis and not setting a queue position, does not set a high consequence for not complying with this forward-looking milestone. Projects potentially could continuously apply for Gate 1 applications with little to no consequence for not progressing.</p>	
<p>Element 9: Project Designation (See pages 14-15, 33-34)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>We understand the rationale and the potential need case that can be made for Project Designation and its associated Methodology. However, it moves away from the primary objective of this proposal, aiming for a first ready, first connected connections process. Rather it achieves a first needed, first connected system. If this is a proposal the ESO wishes to pursue, it is our belief that it should be raised as a separate code modification.</p> <p>It is unclear as to how a Designated Project differs from a project developed through the Network Services Procurement. If this Element were to stay in the Proposal, this would need clarification, with potentially much more tangible differences defined and codified. This could include the criteria or at least the definitions of the criteria's terminology (e.g. what does "materially" mean in "materially reduce system/network constraints"?).</p>	

<p>Whilst there is an obvious need for speed on a designated project, we deem it as unfair and uncompetitive that the project would be allowed to skip the Gate 1 process entirely. We also believe it is unfair that a project, unless it facilitates more capacity on the network, is allowed to 'skip the queue'. If a project, which is ahead in queue, is ready to connect first and is still able to connect ahead of a Designated Project, from a technical perspective, then it should be able to do so.</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 16-21, 34-39)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>There are several issues with current proposal of establishing Gate 2 and it's criteria.</p> <p>The first of which is that it is our opinion that the criteria should be codified. Under the current rules, the requirements for entry into the queue (i.e. LoA and application fee) are both codified. We fail to see a reasonable justification for changing this convention under the new process. Having the criteria set out in a Methodology does not allow for the appropriate level of industry scrutiny that such a pivotal and important part of the Primary Process should require.</p> <p>We agree that the minimum requirement for entry into Gate 2 should be projects which can demonstrate complete land right for the project.</p> <p>With respect to the change in redline boundary from LoA to Gate 2 application, the caveat of an "allowed change" under Element 4 of this Proposal should be removed from this Element. Under a normal development process, a change in the location is highly likely at such an early stage, when there are no legally binding contracts in place. Also, with the current Proposal including a Gate 1 offer that is only indicative, the effect on the change in location on the network would negligible.</p> <p>IGP is slightly confused as to the reasoning for including a minimum duration of an Option Agreement. As long as the developer is able to prove to the ESO, at any point that it may request, that they can still demonstrate the necessary land rights, then it should not matter to the ESO how or why the developer may structure its deal with the landowner. We would also be very nervous of introducing a minimum operation timeline, under the lease or purchase agreement. This is attempting to regulate how a developer structures its commercial and legal deal with a landowner, which is bilateral agreement of which the ESO is not party to. There are various scenarios where a developer may have to structure this deal with much shorter timescales before having to re-negotiate. For example, an overage over a piece of land may restrict the number of years a lease can be given for.</p> <p>11.3 Land Requirements</p>	

We note that changes to the red line boundary through the planning process is almost an inevitability. There should be some flexibility to allow a developer to change the red line boundary throughout the planning process, as long as they are able to demonstrate the necessary land rights and are still able to achieve the M1 milestone. However, we understand and agree with the restriction on the allowed changes to the original red line. The current Proposal does still need to be adjusted though.

TEC is not inherently linked to the amount of land you need for a project. The Energy Density Table developed through CMP427 was meant as guide for minimum acreage needed for a project to meet its TEC. Trying to link TEC back to restrictions on changes to a red line boundary is near impossible. TEC can be achieved in a plethora of ways. For example, on solar there are numerous oversizing strategies (which may change throughout the planning process) as well as strategies on yield. We would, therefore, suggest the restriction should be defined and examples given using acreages or hectares. A calculation of this should be calculated for the “original red line boundary” that is submitted with a Gate 2 application, most likely a self-certified figure. It can then be calculated using the appropriate percentage of how much further land you would be able to add into the project.

The argument used by the Proposer for not including “No more than X% change to the red line boundary once Gate 2 has been met”, is that it “could allow developers to build 100% of the site outside of the original red line boundary”. This does not seem to stack up. If you have a percentage that is not 100%, we’re not sure how this can be possible.

11.4 Planning

There is a valid reason why, in the CMP376 workgroups, it was decided to not include the forward-looking milestones. The ESO can NOT expect projects that have connection dates far into the future to find ways around keeping their planning permission valid until they are able to construct. Requiring developers to find loopholes in the planning system is completely unreasonable!

Requesting a developer to front load the investment for a project that will not come to fruition for say 10 years into the future (i.e. paying c. £6-8m for a solar NSIP to gain planning permission), requires exceptionally more capital than it would if planning was done at a more appropriate time. It is money going out the door for a much longer period of time, which is not a sustainable model for smaller developers, who may still be funded well enough to progress the project. This restricts the competition significantly within the development industry.

It would also be unreasonable to request the developer to re-submit planning if it expired. This is not an easy or cheap thing to do and, again, restricts competition.

If the Proposer was insistent on this section of the element staying in, it would need a very large re-think as to how it is implemented. Firstly, if the Proposer is expecting the projects will have different forward-looking milestones, dependent on which planning regime they are going through, the ESO needs to be confident that it has covered all basis for this. For example, already missing from the current list is DCO planning for Wales (solar projects >350MW). The Proposer should also clarify whether the project needs full planning permission or outline approval.

Secondly, the concept of starting planning in parallel with attaining land rights is impossible under the current proposal. With Gate 1 offers not confirming the POC to the NETS, restricts the amount of investment a developer can put into a project. This is the argument used to justify the inclusion of Element 5 for OHA's as this would be the same for any DCO project. The milestones should, therefore, discount the assumption of starting planning prior to receiving and accepting a Gate 2 offer.

If the Proposer decides to change the Gate 1 offer to include firm connection points and a better understanding of the financial commitment needed for the connection, it may be possible to progress planning in parallel to greater extent. Although it would still be fairly limited with no binding agreement with the landowner.

It is also unclear and will need further detail to understand who, how and why a specific planning regime has been chosen for the forward-looking milestone, especially when they will be significantly different timescales. Will it be developer nominated or ESO imposed? There are pros and cons to both, but the overriding factor may be that some projects do in fact have an option as to which one they follow. For example, an energy scheme that has the ability to go through Town and Country Planning (TCP) is able to request the option to utilise the DCO process, if they feel it is necessary, via a Section 35. It will also need clarification on co-located projects, for instance BESS would usually be under TCP but if it is co-located with solar >50MW it could potentially go through the DCO process.

Element 13: Gate 2 Criteria Evidence Assessment
(See pages 22-23, 39-40)

☐ Yes
☐ No

We firstly, question the reasoning for the difference in treatment of checking evidence provided by Large Embedded Generators compared to Small and Medium Embedded Generation, both with BEGAs. As they are both connecting at Distribution, they should be checked with the relevant DNO or iDNO.

A Self-Declaration Letter with sampling checks of evidence, in our eyes, defeats the point of requesting the evidence in the first place. If the ESO are looking to implement the criteria it is currently suggesting, it would seem highly unfair if in the unlikely event a project snuck through to Gate 2 without actually meeting the criteria. We, therefore, believe the ESO should be prepared to check for all connections. If it does not have the necessary workforce to be able to do so, it should be prepared to source this. Evidence checking is an essential part of this code modification.

With the location of a project being a key consideration under the current proposal, it is quite surprising to us that within the declaration letter the Proposer is not requesting the site(s) address.

Duplication of option/lease areas is a very real possibility and should be considered when looking at the duplication checks. For example, a wind project co-located with a solar project with separate connections. There should be something within the letter that allows the developer to explain the reasoning for the duplication or cross-over and to self-declare that it will not affect its ability to connect one or the other or both.

Element 14: Gate 2 Offer and Project Site Location Change (See pages 23-24, 40-41)

☐ Yes
☒ No

The first thing to note on this Element, is that if the offer at Gate 1 were to include a firm connection point and date, this would be unnecessary.

ESO will need to clarify, before this Element can be agreed, what would happen if the developer notified the ESO on, say, the last day of the acceptance period for Gate 2 that they wish to have this 12-month grace period? Perhaps a way around this would be to automatically include the revised clauses in the Gate 2 offer for projects that have changed POC from Gate 1.

Once a project has been able to agree the new land for the project, we fail to see the need for a Modification Application. Nothing has changed in the offer and the ESO has already agreed the project can change the land. An Agreement to Vary would therefore be a more appropriate implementation. It could potentially cause an unfair advantage to those that had progressed through Gate 1 earlier than another project but then both projects go through Gate 2 at the same time.

Element 16: Introducing the proposed Connections Network Design Methodology (CNDM) (See pages 24-25, 41-42)

☐ Yes
☒ No

CNDM is one of the most central Elements to the current proposal. Setting out how the ESO and TO's will reallocate capacity that has been released by terminated projects will define how the ESO proposes to move away from the first come first serve model. To not codifying this Element and not even publish and get workgroup comments on the CNDM prior to the conclusion to this workgroup, is

	<p>sidestepping the crucks of how this proposal will work in practice. This will likely lead to a very chaotic first round, whether CNDM is approved by the authority or not.</p> <p>The “capacity reallocation mechanism” should, first and foremost be a defined term. As already expressed by some workgroup members, the significance of the reallocation could millions of pounds of impacts on developers and subsequently billions of pounds to consumers. If ESO were to get the reallocation incorrect or against industry expectations, and it does not codify the methodology then, in our opinion, it leaves them highly vulnerable to legal action.</p>	
	Element 19: Contractual changes (See pages 26-28, 43-46)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	<p>For group 1, only changing the relevant clauses in the CUSC is not going to be a strong enough change to the connection agreement. Moving from a confirmed offer back into a Gate 1 offer is going to be a significant change to the contents of the offer. This should, therefore, be done through an Agreement to Vary.</p> <p>Within the 3rd group, the Proposer states it will be “treated as a modification application”. As raised in the workgroup we have concerns over whether a mod app fee will be applied or not. It is our opinion that it should not be as this is similar to the ESO’s five point and the EOI for advancement, where no app fee was required.</p> <p>For the 4th group, we are concerned as to why Transitional offers are not able to request advancement. It is not their fault that the project has been fully studied and therefore, requiring them to submit a mod app seems highly unreasonable. In our opinion you are restricting an offer to similar to a Gate 1 offer before the go-live and then requesting them to go through Gate 2 as they would do if they applied after the go-live date.</p>	
	Element 20: Cut Over arrangements (See page 28, 47)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	This is agreed.	
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>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Click or tap here to enter text.	
7	<p>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.</p> <p>If yes, please provide details and justification.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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 type="checkbox"/> No
Click or tap here to enter text.		
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 checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Under the current Proposal, there are several groups of projects discriminated against. DFTC has the potential to give an unfair advantage to distributed connected projects compared to directly connected ones. If this is the case it will significantly reduce competition.</p> <p>The forward-looking milestone M1 discriminates against smaller developers. To pay millions of pounds of upfront costs to submit planning and gain permission and then not get any returns on this investment for 5-10 years if the connection is further in the future is restricting cashflow into the business. Only very large-scale developers will be able to withstand this liability on their balance sheets for such long period of time.</p> <p>For CMP435 specifically, the Isle of Man is undue discrimination against projects that will apply between now and the go-live date. Element 19's proposal of making them submit Mod App is not appropriate.</p>		