

# **Agenda Item 7**

## **Appendix 1**

**Electricity infrastructure  
consenting in Scotland –  
proposals for reforming the  
consenting process in Scotland  
under the Electricity Act 1989**

**Park Authority proposed  
response to consultation**



## Appendix 1 – National Park Authority’s proposed response to consultation questions

### Pre-application requirements

**Question 1 – Do you agree with the proposal for pre-application requirements for onshore applications? Why do you agree/not agree? How might it impact you and/or your organisation?**

Agree. The proposed changes are broadly welcome, ensuring a more transparent and simple set of pre-application consultation and engagement requirements, for both applicants and stakeholders. Bringing the pre-application requirements more in line with those in the Planning Act 2008 and the Town and Country Planning (Scotland) Act 1997 (as amended) will create an industry standard which is simpler for developers, stakeholders and the public alike. The proposed changes are expected to allow relevant authorities such as the Cairngorms National Park Authority (CNPA) to provide meaningful comment at an early stage on the likely effect of proposals, offering valuable early advice to applicants. It may also allow planning authorities to more effectively resource plan, with assured early sight of energy infrastructure projects.

**Question 2 – Do you agree with the proposal for pre-application requirements for offshore generating stations? Why do you agree/not agree? How might it impact you and/or your organisation?**

Neutral. Although we are broadly supportive, this is not likely to impact CNPA directly as a landlocked authority.

**Question 3 – Do you agree that pre-application requirements should apply to all onshore applications for electricity generating stations, and for network projects that require an EIA? Why do you agree/not agree? How might it impact you and/or your organisation?**

Qualified agreement. Although it is accepted that the majority of major network projects are likely to require an EIA, CNPA questions the merit of excluding those projects that fall below the EIA threshold from the pre-application requirements. It may be worth considering a single approach for all projects that meet the S36 or S37 thresholds. This would benefit such proposals in the same way as it would benefit EIA developments, but with the added benefit of simplicity and clarity for all stakeholders, the public and applicants.



**Question 4 – Do you agree that a multistage consultation process may be appropriate for some network projects? Why do you agree/not agree? How might it impact you and/or your organisation?**

Agree. By nature, linear infrastructure projects such as overhead lines often have the potential to impact stakeholders and communities across a very wide area. These projects often include multiple route selection stages including high level corridor(s) analysis, route optioneering, route siftings, route refinements and detailed route analysis. Ultimately, multiple rounds of pre-application consultation are likely to be of benefit to both the applicant and stakeholders on projects such as these.

**Question 5 – Do you agree with the proposal for an ‘Acceptance Stage’ for applications? How long do you think an acceptance stage should be (in weeks)? Why do you agree/not agree? How might it impact you and/or your organisation?**

Agree in principle. CNPA does not have a specific view on how long the acceptance stage should be in weeks, but if local authorities are to have an ability to raise an objection to the Scottish Ministers if there are concerns around the extent of pre-application consultation, then an appropriate and reasonable period must be allowed for this.

**Question 6 – Do you agree that the Scottish Government should be able to charge fees for pre-application functions? Why do you agree/not agree? How might it impact you and/or your organisation?**

Whilst this is not a matter for CNPA directly, we note that the proposed fees would be based on the principle of full cost recovery. It should be acknowledged that there is also a cost to planning authorities and statutory consultees in participating in pre-application engagement.

**Question 7 – Do you agree that our proposals for pre-application requirements will increase the speed of the end-to-end project planning process overall? Why do you agree/not agree?**

Qualified agreement. The proposed changes to pre-application consultation requirements will likely result in more meaningful community engagement and this should translate into better-quality applications at the point of submission. The proposals could therefore contribute to an increased speed of the end-to-end planning process.



## Application procedures

### Application information requirements

**Question 1 – Do you agree with the proposal for increased information requirements in applications? Why do you agree/not agree? How might it impact you and/or your organisation?**

Agree. It appears reasonable that existing guidance on further information requirements could be made mandatory through inclusion in future regulations.

**Question 2 – Do you agree with the proposal to set out detailed information requirements in regulations? Why do you agree/not agree? How might it impact you and/or your organisation?**

Agree in principle, providing that there would be an opportunity for further engagement on the detailed requirements as and when draft regulations are prepared.

### Application input from statutory consultees

**Question 1 – What are the reforms that would be most impactful in enabling your organisation to provide timely input on section 36 and section 37 applications?**

If time limits are to be considered for different stages of the application process, including contributions from planning authorities and other statutory consultees, these limits will need to take account of factors such as planning authority requirements for reporting to committees. Any time limits must allow sufficient time to accommodate these requirements.

**Question 2 – What are the advantages and drawbacks of the options set out under Proposed Changes? How might your organisation benefit from the proposed forum and framework?**

A forum including the Energy Consents Unit and statutory consultees may be helpful for looking at common issues, reasons for application delays, and helping to identify solutions. However, the resource implications of this for planning authorities and consultees should also be borne in mind, as forum participation may divert staff and resources from other work areas.



**Question 3 – What specialist or additional support could the Scottish Government’s Energy Consents Unit provide to facilitate the statutory consultees’ ability to respond?**

As above, a forum including the Energy Consents Unit and statutory consultees may be helpful for looking at common issues, reasons for application delays, and helping to identify solutions.

**Question 4 – Would new time limits help your organisation to prioritise its resources to provide the necessary input to the application process?**

This is uncertain given the significant existing resource constraints which we, in common with other planning authorities and public bodies, are currently working within. The ability to meet any time limits would also depend on the extent to which other proposed reforms are successful in delivering high quality applications with all relevant information available from the outset.

Amendments to applications

**Question 1 – Do you agree with implementing a limit for amendments to applications? Why do you agree/not agree? How might it impact you/your organisation?**

Qualified agreement. Amendments may be required for a variety of reasons, including to address concerns raised by statutory consultees, community groups and / or other stakeholders. It is accepted that other proposals – particularly those with respect to pre-application consultation – are designed to ensure that such concerns are raised and addressed at an early stage. However, there may still be instances where it is reasonable to make minor amendments to applications during the determination process, and it is important that any time limit does not arbitrarily preclude this.

**Question 2 – Do you agree the limit should be determined by Scottish Ministers on a case-by-case basis? Why do you agree/not agree? How might it impact you/your organisation?**

Agree in principle. For the reasons outlined above, the Park Authority considers that any time limit should not arbitrarily preclude otherwise positive amendments to applications. If there is to be a time limit, it therefore appears reasonable for it to be agreed on a case-by-case basis, having regard to the individual circumstances of each case.



## Public Inquiries

### **Question 1 – What is you or your organisation’s experience of public inquiries? What are the advantages? What are the disadvantages?**

Formal public inquiries can serve a purpose, and they can be useful in some cases – for example where technical and / or complex evidence needs to be explored under cross examination. However, they are inherently adversarial in nature and can be intimidating for many parties. They also often lead to the parties involved incurring significant costs because of the need for legal representation.

### **Question 2 – Do you agree with the proposed ‘examination’ process suggested? Why do you agree/not agree? How might it impact you/your organisation?**

Agree in principle. The National Park Authority considers it reasonable that the examination Reporter should have flexibility to determine the most appropriate procedure for undertaking their examination, based on the circumstances of the case and having regard to the views expressed by interested parties.

## Variations

### Variations of network projects

#### **Question 1 – Do you agree with the proposal to prescribe a clear statutory process under which variations to network projects may be granted? Why do you agree/not agree? How might it impact you/your organisation?**

Agree in principle. An approach which mirrors that set out in Section 36C of the Electricity Act 1989 for generation projects would appear sensible in principle.

### Variation of consents without an application

#### **Question 1 – Do you agree with the proposal to give the Scottish Government the ability to vary, suspend or revoke consents, without an application having been made in the circumstances set out above? Why do you agree/not agree? How might it impact you or your organisation?**

CNPA considers that any such ability must be subject to well-defined criteria and limitations in order that there is a clear distinction between variations of consent that can be dealt with under this power and other cases where a formal application would be required.



**Question 2 – Do you believe there should be any other reasons the Scottish Government should be able to vary, suspend or revoke consents? What reasons are these?**

No.

## **Fees for necessary wayleaves**

**Question 1 – Do you agree with the principle of introducing a fee for the Scottish Government to process necessary wayleaves applications? Why do you agree/not agree? How might it impact you or your organisation?**

CNPA has no specific comment on this.

**Question 2 – Do you agree that the fee amount should be based on the principle of full cost recovery, in accordance with Managing Public Money and the Scottish Public Finance Manual? Why do you agree/not agree? How might it impact you or your organisation?**

CNPA has no specific comment on this.

## **Statutory appeals and judicial proceedings**

**Question 1 – Do you agree that a statutory appeal rather than a judicial review process should be used for challenging the onshore electricity consenting decisions of Scottish Ministers? Why do you agree/not agree? How might it impact you or your organisation?**

Agree in principle. It is noted that this would ensure consistency with the appeal process for offshore electricity infrastructure under the Electricity Act 1989.

**Question 2 – Do you agree there should be a time limit of 6 weeks for initiating a challenge to a consenting decision of Scottish Ministers for onshore electricity infrastructure? Why do you agree/not agree? How might it impact you or your organisation?**

Agree in principle. It is noted that this would ensure consistency with the time limit for appeals relating to offshore electricity infrastructure under the Electricity Act 1989.



## Transitional arrangements

**Question 1 – Do you agree with the above proposal for transitional arrangements? Why do you agree/not agree? What impact would this have on you/your organisation?**

CNPA has no specific comment on this.