

The proposals	Consultation Questions	Responses and Issues to raise
<p>Pre-application requirements</p> <p>Currently SG asks applicants to voluntarily engage in pre-application consultation. The proposal is to make this mandatory.</p> <p>Pre-Application Stage:</p> <ul style="list-style-type: none"> - applies to all onshore windfarms and electricity generating stations and network projects requiring an EIA. Some pre-application requirements would also apply to offshore applications. - applicant must notify SG and provide a list of proposed bodies to be consulted, which must include relevant statutory consultees and any public body the developer considers is likely to be interested. This applies to both on and offshore applications. - applicant must make public/publish information, including a brief description of the proposed development, its location, details of how and within what time period preliminary information may be inspected/obtained, explanation of how and by what date any person can comment on the information. This applies to both on and offshore applications. - applicant must provide a Preliminary Information Report containing all information reasonably required to develop an informed view of the likely effects of the development. - applicant must undertake a consultation, which includes relevant planning authorities within or adjoining land where the application is located, community councils agreed in any Statement of Community Consultation, and the list of proposed bodies agreed with SG following consultation. - applicant must provide a Statement of Community Consultation to be sent to SG and any relevant planning authority, together with the Preliminary Information Report, prior to the proposed public and community councils consultation. The Statement should set out how the public and community councils will be notified of and consulted on preliminary information, how they will be able to submit views on the information, and how these comments will be considered in formulating the final application. This must provide details of at least 2 public consultation events as well as a website, email and postal address for public comments to be lodged. The Statement of Community Consultation and the Preliminary Information Report must be made available for public view. The relevant planning authority will have the opportunity to make comments to the SG on the Statement of Community Consultation and the Preliminary Report and Scottish Ministers will within 21 days notify the prospective applicant of any changes required. - applicant should hold two engagement events for members of the public where they can examine the Preliminary Information, engage with applicants and make comments on the proposals. - additionally, for network projects, this consultation welcomes views on whether a single or multistage consultation process is appropriate with the public, local communities and statutory consultees. - applicant must submit a Pre-application Consultation Report, setting out how the pre-application consultation has been undertaken, how views have been gathered and considered at each stage, and the applicant's consideration of the views raised, demonstrating regard to relevant responses. <p>Acceptance stage:</p> <ul style="list-style-type: none"> - Acceptance stage will precede the Application stage. SG would analyse the Pre-Application Consultation Report and decide if the pre-application consultation meets statutory requirements. If not, SG can reject the application. - the relevant planning authority would be able to raise an objection to SG if the pre-application consultation has been insufficient for consultees to fully consider or make representations on the application. - SG will charge fees for pre-application to recover full costs. 	<p>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?</p> <p>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?</p> <p>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?</p> <p>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?</p>	<p>We agree in principle that there should be a pre-application phase for onshore applications. HOWEVER WE DO NOT AGREE WITH THE CURRENT PROPOSALS BECAUSE OF THE FOLLOWING</p> <p>(i) EIA regulations should apply to ALL onshore and offshore windfarm applications (EIA regulations already automatically apply to major grid network expansions).</p> <p>(ii) The pre-application process should be a meaningful consultation with the public, where their considered, insights and comments are taken seriously and can shape or dismiss a development.</p> <p>(iii) The consenting/local authorities should be in control of the timing, content and administration of the pre-application stage. The applicant should NOT be in complete control.</p> <p>(iv) Responses, objections, or concerns should be sent directly to the consenting/local authority and SG and then properly recorded and published (with personal details redacted) so that an EIA scoping response is framed appropriately and that the 'meaningful' response to the pre-application consultation by the developer is actually transparent, accountable and auditable. Responses should NOT be sent only to the applicant.</p> <p>(v) There is no provision for data and privacy protection, if individuals send responses directly to a commercial developer. Personal details may be shared with unknown persons within and outwith that company, which may discourage participation for fear of retribution.</p> <p>(vi) Developments often impact more than one community council and there need to be AT LEAST TWO consultations in EACH community council area in the pre-application phase as well as in the application phase.</p> <p>(vii) There needs to be time to ensure consultations are well attended: community councils typically meet once a month and it is a challenge to get the message out to dispersed rural communities, so there needs to be a timescale of AT LEAST 2 months (8 weeks) for consultations to take place. Including the Preliminary Information Report, and the Statement of Community Consultation and the Pre-application consultation report, we think that a total of AT LEAST 20 weeks should be allowed for the pre-application phase. The Acceptance stage needs to allow time for communities and the relevant planning authority to respond to the report. Communities will already be aware of the application so this can be done quicker, e.g... a total of 12 weeks for the Acceptance stage.</p> <p>(viii) For network projects, it is essential that a multistage consultation process is implemented as these are large and complex and often cover many community councils.</p> <p>(ix) Consultations need to include all parts of the project, for example a generation proposal requires transmission and is not viable without it, and vice versa. These projects and their overall impact should be considered together.</p> <p>(x) Communities need specialist and financial support to respond effectively. They are at a significant disadvantage compared to the applicant and planning authorities: they respond on a volunteer, unpaid basis, in their own time; they have to find local experts to counter misleading statements that developers can make which takes time; they often have to fundraise to pay professional representatives in order to be taken seriously. The pre-application and application processes need to take all of this into account and ensure a better balance between all parties.</p> <p>(xi) Developers should be legally required to set out and consult on what community benefits would look like for the communities affected and legally required to deliver it.</p>
		<p>We agree that there should be a pre-application phase for offshore applications. See Question 1 response for additional comments.</p>
		<p>We agree that there should be a pre-application phase for all onshore applications for electricity generating stations, and for all network projects. These large projects should also ALL require an EIA. These are large projects with potentially significant impacts on the environment. See Question 1 response for additional comments.</p>
		<p>We think that there should be a multistage consultation process for all network projects to ensure meaningful consultation of all communities affected. See Question 1 response for additional comments.</p>

	<p>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?</p>	<p>The Pre-Application phase should allow meaningful consultation with communities and relevant planning authorities. Allowing for time to submit all the relevant reports, this could last say at least 20 weeks (see comments (vii) in Question 1 above).</p> <p>The Acceptance stage needs to allow time for communities and the relevant planning authority to respond to the report. Communities will already be aware of the application so this can be done quicker, say 8 weeks, with another 4 weeks for report writing, etc., giving a total of 12 weeks for the Acceptance stage.</p>
	<p>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?</p>	<p>We agree that SG should charge fees for pre-application functions and recover their costs.</p>
	<p>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?</p>	<p>Whether or not the proposals speed up the planning process depends on how meaningful the consultations are. If consultation input is ignored or watered down, this will not speed up the overall planning process.</p>
<p>Application information requirements: The proposal is to expand the information applicants must supply in applications. Information requirements would be prescribed in more detail in regulations and would vary depending on whether the development was on or offshore, whether it was EIA development or not, and whether it was a generating station or an overhead line. The information required may include the following (illustrative, not exhaustive list)</p> <ul style="list-style-type: none"> - A detailed plan showing the location of all infrastructure. - A statement setting out pre-application engagement with interested parties and how their input has been reflected in the application. - A statement on the alternative approaches considered. - A statement of benefits and needs. - A statement of all components of the proposal requiring consent. 	<p>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?</p> <p>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?</p>	<p>We agree in principle with the proposal for increased information requirements in applications. HOWEVER ESSENTIAL TO INCLUDE ARE THE FOLLOWING POINTS:</p> <p>(i) meaningful alternative approaches considered which must include as wide a range of options as possible, e.g. undergrounding or offshoring of transmission systems, much smaller wind turbines, solar panels on rooftops, etc.</p> <p>(ii) the statements of benefits should take a sustainability approach, balancing profit with impact on people and the environment (both climate and nature crises equally)</p> <p>(iii) the statement of all components requiring consent should take a total project view, taking the impact of generating and transmission projects together</p> <p>(iv) Developers should be required by law to set out the benefits to those people and communities directly impacted by the development and be compelled to provide appropriate compensation including for loss of property value, etc. Other social and local economic benefits should be developed with communities and set out in a detailed way, forming part of the approval process.</p> <p>Detailed information requirements should be set out in regulations to level the playing field and allow fair grounds for objection. The detailed information requirements should be consulted.</p>
<p>Application input from statutory consultees: Currently the relevant planning authority must notify SG of any objection by it to the application within 4 months (section 36 application) or 2 months (37 application). Consultation bodies under the EIA regulations are also invited to sent representations, but response times are often lengthy. Proposals are already in place for SG to work collaboratively with local authorities and others to deliver a just transition to net zero. This consultation is an opportunity to re-set the expectation on bodies providing essential support to the application process, taking account of their views, suggestions, and specific circumstances. Proposals to provide greater support for statutory consultees and greater clarity for application timelines include:</p> <ol style="list-style-type: none"> 1. Establishing a forum including the Energy Consents Unit and the statutory consultees to consider the common reasons for and patterns of delay and work together on agreed solutions; 2. Developing a framework for delivering the application process for all statutory consultees, agreed on a collaborative basis with the Energy Consents Unit; 3. Providing additional specialist support to facilitate the statutory consultees' ability to respond to the Scottish Government's consultations, to manage highly technical matters relating specifically to electricity infrastructure; 	<p>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?</p> <p>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?</p> <p>3. What specialist or additional support could the Scottish Government's Energy Consents Unit provide to facilitate the statutory consultees' ability to respond?</p>	<p>The most important reforms would be to allow communities through the Community Council statutory consultees to have a meaningful and equal say with other consultees. This will ensure local democracy is preserved for those most affected by the developments. It will also encourage the right developments are placed in the right places, and are not driven by commercial or political motives. To enable this, what is needed are additional specialist support, enough time to consult widespread rural communities and financial support.</p> <p>See response to Question 1.</p> <p>Additional specialist support could include landscape specialists, planners, ecologists, ornithologists, hydrogeologists, expert legal advice, carbon calculators, etc. who would be able to properly and independently challenge the work done by developers.</p>

<p>4. Enabling Scottish Government to set time limits for each stage of the application process, including for the Scottish Government's determination, and the contribution needed from each of the bodies, with the scope for these time limits to be extended by Scottish Government for the most complex applications.</p>	<p>4. Would new time limits help your organisation to prioritise its resources to provide the necessary input to the application process?</p>	<p>For Community Councils, it is important to have sufficient time to engage the often dispersed communities impacted. Anything that is too short threatens local democracy.</p>
<p>Amendments to applications: - SG would set out a point in the application process at which no further amendment may be made. This would be set on a case-by-case basis and communicated to the applicant following submission of the application. - this would not apply to offshore projects.</p>	<p>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? 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?</p>	<p>We agree in principle that a variable case by case limit on variations can be set by SG within the process, HOWEVER this should take into account any negative comments from statutory consultees and communities in an open and transparent way. We agree that there should be a maximum set time limit beyond which all amendments cannot be made.</p>
<p>Public inquiries: - Planning authorities will be encouraged to engage fully with the Pre-Application Consultation and to advise against acceptance during the Acceptance Stage if they consider applicants have not fulfilled their requirements around consultation. - where the relevant planning authority submits an objection, Scottish Ministers must appoint a person to make an examination and report back. - the procedures to be adopted for the examination would be at the discretion of the appointed person. - they may decide that the evidence available is sufficient and no further procedures are required. - if further procedures are required, they may specify a site inspection, further written submissions, hearing sessions, public inquiry sessions or a combination of these. - the reporter will determine the procedure, but the views of the applicant, relevant planning authority and other interested parties may assist the reporter in the decision. The reporter would not be bound by interested parties' views. - the reporter would have an option of holding a pre-examination meeting to discuss the procedures which may be adopted. This decision will be communicated to the interested parties. The reporter will also communicate a target timescale for any procedure(s).</p>	<p>1. What is your or your organisation's experience of public inquiries? What are the advantages? What are the disadvantages? 2. Do you agree with the proposed 'examination' process suggested? Why do you agree/not agree? How might it impact you/your organisation?</p>	<p>NO COMMENTS THIS QUESTION IS VERY IMPORTANT. IN THE STRONGEST POSSIBLE TERMS, WE DO NOT AGREE WITH THE PROPOSED EXAMINATION PROCESS. WE DO NOT WISH TO SEE ANY WATERING DOWN WITH REGARD TO PUBLIC INQUIRIES which currently allows individuals and communities the right to present their concerns and supporting evidence. That does not happen at a Hearing where participants are invited to speak on matters as directed by the Reporter, or in written proceedings where a decision is made after a Reporter considers objectors comments, which will often have been subject to a cut off date and made months before a consent decision is made by Scottish Ministers. Furthermore, we believe that this approach puts a significant power into the hands of a single examiner, who is not bound to take into account interested parties' views. However well qualified and impartial the examiner is, this is of great concern.</p>
<p>Variations of networks projects A change of consent after consent is granted. This cannot fundamentally change the terms of the original consent which would require a new application. - The proposal is to give SG a clear statutory process under which variations to network projects may be granted.</p>	<p>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?</p>	<p>We agree in principle that there should be a clear statutory process for variations of networks projects, HOWEVER WE DO NOT AGREE THAT THIS SHOULD BE AT THE SOLE DISCRETION OF SG. THIS MUST INCLUDE THE OPPORTUNITY FOR COMMUNITIES AND RELEVANT PLANNING BODIES TO GIVE INPUT AND OBJECT. The right to object and make comment MUST be retained - as laid out in EIA regulations when there is any new information submitted by the developer. This should include the right to comment and object if SG decides unilaterally to change a consent. At the moment, it is proposed that right is only given to the developer/consent holder and the local authority.</p>
<p>Variation of consents without an application Variations may be due to changing conditions, new scientific insights, obsolete conditions, errors, etc. - The proposal is to give SG the ability to modify, suspend or revoke consents for network projects or generating stations both onshore and offshore where there has been a change in environmental circumstances or relevant technological changes, or it is necessary to correct errors in consents. - The consent holder would have the opportunity to make representations on the proposed variation, suspension or revocation. SG would take any representations from the consent holder before making the decision.</p>	<p>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?</p>	<p>We agree in principle that there should be a process to vary, suspend or revoke consents without an application being made specifically in the circumstances that there has been an environmental or technical change or errors have been made, HOWEVER WE DO NOT AGREE THAT THIS SHOULD BE AT THE SOLE DISCRETION OF SG. THIS MUST INCLUDE THE OPPORTUNITY FOR COMMUNITIES AND RELEVANT PLANNING BODIES TO GIVE INPUT AND OBJECT. The right to object and make comment MUST be retained - as laid out in EIA regulations when there is any new information submitted by the developer. This should include the right to comment and object if SG decides unilaterally to change a consent. At the moment, it is proposed that right is only given to the developer/consent holder and the local authority.</p>

	<p>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?</p>	<p>NO COMMENTS</p>
<p>Fees for necessary wayleaves Currently, when parties cannot agree through negotiation or a landowner wants to revoke an existing wayleave, network operators may use a statutory procedure to obtain a 'necessary wayleave' which grants the electricity licence holders legal authority to install and maintain lines and equipment on private land, with rights including access for upkeep and equipment management. SG can approve these applications often for a 40-year term. Compensation for the landowner is agreed separately. SG does not currently charge a fee for processing wayleave applications. Transmission Operators are expecting >1,000 applications in 2025 alone, causing staffing and financial pressures - The proposal is to charge fees that will be used to resource the processing of this service, in line with UKG. - The proposed fee would be based on the average cost to process wayleave applications including administration and reporters' costs.</p>	<p>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?</p>	<p>We agree that SG should charge fees for wayleaves applications and recover their costs.</p>
	<p>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?</p>	<p>We agree that SG should charge fees for pre-application functions and recover their costs.</p>
<p>Statutory appeals and judicial proceedings Scottish Ministers' decisions on consenting applications for electricity infrastructure can be challenged by an 'aggrieved person'. This may involve either a judicial review or a statutory appeal. Currently, offshore infrastructure can be challenged through statutory appeal, and must be initiated within 6 weeks of consent being granted, and onshore infrastructure can be challenged through judicial review, and must be initiated within 3 months of consent being granted. - The proposal is to create a unified and more efficient system for challenging consents, by making the statutory right of appeal the legal mechanism for onshore infrastructure within 6 weeks of consent being granted.</p>	<p>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?</p>	<p>THIS QUESTION IS VERY IMPORTANT. IN THE STRONGEST POSSIBLE TERMS, WE DO NOT AGREE WITH THE PROPOSALS TO CHANGE THE APPEALS PROCESS. The proposed changes are about making it harder for third parties in particular to appeal successfully by reducing both the avenues available and the timescale for getting organised and raising funds to support the appeal. The proposed changes are all about pushing through more "renewables" infrastructure, doing so faster, and reducing risk (and therefore costs) for developers.</p>
	<p>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?</p>	<p>WE DO NOT AGREE - 6 weeks is NOT long enough time to prepare for a challenge to a consenting decision for onshore electricity infrastructure. These are complex projects that significantly impact people and the environment over very long periods. The period should be maintained at 3 months.</p>
<p>Transitional arrangements: The proposal is that all applications submitted to the Scottish Government after the new provisions come into force and applications already being processed by the Scottish Government will be consented to under the new system. This would apply from the stage in the consenting process that the application has already reached and would not be retrospective. For example, applications which have been submitted before the new system comes into effect would not be required to fulfil pre-application requirements but would be subject to limits on requesting amendments.</p>	<p>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?</p>	<p>THIS QUESTION IS VERY IMPORTANT. IN THE STRONGEST POSSIBLE TERMS, WE DO NOT AGREE WITH THE PROPOSED CHANGES IN RESPECT OF THE TRANSITIONAL ARRANGEMENTS. Transitional arrangements should NOT include applications already being processed by SG. This is moving the goal post in the middle of a process and is not fair.</p>