



Department for
Energy Security
& Net Zero

Land Rights and Consents for Electricity Network Infrastructure

Summary of responses received to the Call for
Evidence



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Introduction

Across Great Britain, households, businesses and vital infrastructure all rely on the electricity network. After decades of reliance on imported fossil fuels to power the grid, the country has accelerated its transition to cheaper, cleaner, home-grown energy, transforming our energy portfolio by delivering over 1,200 TWh of renewable energy in the last two decades¹. The rapid deployment of network infrastructure, including renewable energy connections, is critical to reaching the UK's legally binding target of net zero emissions by 2050.

Our mission is for clean power by 2030, because getting clean, homegrown energy is the way to lower bills and boost Britain's energy independence.

As we increase electrification and decarbonise heat, transport and industry in our transition to net zero, we expect a doubling in demand for electricity by 2050². This underlines just how important the grid will continue to be for our way of life. To meet this increase in demand, we will need around four times as much new transmission network in the next seven years as has been built since 1990³. Analytical modelling suggests that the distribution network in Great Britain could require between 210,000 and 460,000 km of additional distribution network cabling by 2050 compared to now⁴.

In addition to meeting net zero, we must also focus on generating cheaper, cleaner power in Great Britain. The rapid deployment of low-carbon electricity will enable a systematic transformation across the economy to deliver cheaper, more secure energy and guarantee energy security.

All told, the electricity network is a fundamental enabler of the UK meeting its net zero and energy security ambitions, transporting clean power from where it is generated to the consumers and businesses who need it. The network of the future requires infrastructure to be built efficiently – in a timely, cost effective and fair manner.

Land Rights and Consenting

Land rights and consenting processes are an important factor in meeting the country's need to build more network infrastructure. By land rights and consenting processes, we refer to the processes by which network operators gain the consent of landowners and/or occupiers of land to access their land in order to build and/or maintain network assets, in a manner that protects the rights of landowners and local stakeholders.

¹ Department for Energy Security and Net Zero (2023), Energy Trends: UK Renewables, Renewable electricity capacity and generation (ET6.1 – quarterly) <https://www.gov.uk/government/statistics/energy-trends-section-6-renewables> and Department for Energy Security and Net Zero (2023), Regional Renewable Statistics, Regional Statistics 2003-2022: Generation, <https://www.gov.uk/government/statistics/regional-renewable-statistics>

² Department for Energy Security and Net Zero (2022), Electricity networks strategic framework: Enabling a secure, net zero energy system, Figure 2, <https://www.gov.uk/government/publications/electricity-networks-strategic-framework>

³ Calculated using data held by the Department on the length of historic and future transmission networks.

⁴ Electricity Networks Strategic Framework: Enabling a secure, net zero energy system, Annex 1, Figure 10. (2022) <https://assets.publishing.service.gov.uk/media/62eb91398fa8f50335b35e09/electricity-networks-strategic-framework-appendix-1-electricity-networks-modelling.pdf>

Government understands that, in some cases, costs and delays as a result of land rights and consenting processes can hinder or prevent electricity network infrastructure projects from going ahead.

The government has made it a priority to review current processes and consider whether they are fit to facilitate our net zero goals and energy security transformation. This document summarises the responses from stakeholders to the questions raised in the Call for Evidence on this topic as we consider potential reforms to these processes to enable the rapid deployment of future network connections.

Working Group

A Land Access and Consents Working Group is looking at what changes could be made to the land purchase and wayleave processes, to support accelerating the delivery of electricity network infrastructure. The Working Group had its first meeting on 17 April 2024 and will continue to support Ministers to develop a system for developing land rights that facilitates Britain's clean energy by 2030 mission, whilst ensuring that landowners get a fair deal.

In addition to wayleaves and land purchase, the Working Group will also explore changes to Section 37 processes. The Working Group includes representatives from various affected stakeholder groups, including Transmission Operators, Distribution Network Operators, the National Energy System Operator, Planning Inspectorate, Scottish and Welsh Governments, and organisations representing landowners.

Working closely with the Scottish and Welsh Governments, Government will consider the potential application of the policy proposals set out in this document across the whole of Great Britain, apart from where a Devolved Administration has a comparable policy which is already in operation.

Summaries of responses

This section contains summaries of the responses to each question presented in the Call for Evidence collected in the period of 4 August 2022 to 15 September 2022. Although all responses were considered, this section does not necessarily capture every view expressed by respondents, but rather it summarises the majority of responses, with all relevant and important points. More detail can be found in the full response summaries provided in [Annex 1](#) on page 19. [Annex 2](#) on page 51 contains a glossary defining some of the key terms used throughout this document.

Scope

Q1: Should anything else be included, or excluded, from the scope of this review of the land rights and consents processes for electricity network infrastructure, and why?

Some respondents found the review's scope appropriate, but the majority suggested extending it to cover additional issues described below.

Respondents raised concerns about the scale of the challenges for the electricity network in achieving net zero; there was emphasis on the need for significant infrastructure investment, and addressing access issues for housing developers, rural generators, and electric vehicles.

Some respondents emphasised the need for a review to consider the suitability of the current framework in protecting both existing electricity network assets and new infrastructure. Some respondents called for reforms to the Nationally Significant Infrastructure Project and Development Consent Order system. Others asked for transmission infrastructure and underground cables to be included in scope. Some respondents highlighted that the Scottish consenting regime also needs to be reviewed.

Respondents raised specific issues with statutory processes, such as: the tree lopping process, access rights over third-party land for repairs and construction traffic, compulsory purchase law complexity, as well as challenges with processes for accessing land for surveys.

Compensation, consistency and standardisation of land rights processes and digital integration were highlighted by multiple respondents. A few respondents raised the addition of heat networks in the scope of the review. Other suggestions included the consideration of independent connection providers' rights, the inclusion of private streets and a review of statutory powers under the New Roads and Street Work Act 1991.

Overall, stakeholders stressed the importance of achieving a balance between infrastructure needs and the impact on landowners and communities.

Q2: What has been your overall experience of the land rights and consenting processes for electricity network infrastructure?

The majority of respondents expressed negative experiences with land rights and consents processes for electricity network infrastructure, calling for reform. Only some said their experience was mostly positive.

Many respondents complained that planning processes are a barrier, causing delays and additional costs, and hindering deployment of LCT. Some respondents claimed that current processes are fragmented, slow and uncertain.

Concerns were raised about necessary wayleaves, with many respondents stating that the statutory powers are prohibitively slow and expensive, leading to delays with landowners who can sometimes exploit this to demand premium payments. Other respondents claimed that network operators are reluctant to use the necessary wayleave process.

Stakeholders emphasised the need for a more structured and less bureaucratic approach, balancing the interests of landowners, bill payers, and network operators. Issues were also raised, noting outdated procedures in Scotland, a lack of resources for hearings, and network security threats from terminations and tree interference. Compensation levels, the distinction between minor and major works, and the ability to serve notice were also highlighted as concerns.

On voluntary land rights, negotiations were deemed time-consuming and costly, with a lack of a clear framework for compensation. Inconsistent guidance from Distribution Network Operators (DNOs) and a lack of standardisation were noted as challenges.

Some respondents felt that an adversarial approach by certain DNOs led to disputes, emphasising the importance of consensual negotiations.

Improvements to the consenting process were recommended. These included additional resourcing for the bodies involved in these processes, transparency, more open communication, and standardisation.

In summary, the responses indicate widespread dissatisfaction with the current land rights and consenting processes for electricity network infrastructure, with calls for reform, standardisation, and improved efficiency.

Voluntary wayleaves and easements

Q3: What is your experience of, and what are the pros and cons of, the current voluntary negotiation process for wayleaves and easements? For example, this could include consideration of time and cost, impact on landowners, communication between parties.

Both pros and cons were raised. Some respondents believe voluntary negotiations are effective – most agreements are reached consensually in a timely manner – and this ensures enduring relationships. Some respondents detailed that a voluntary process allows landowners to input into plans and, in comparison to the statutory process, is often much quicker and allows for permanent rights to be agreed. Furthermore, professional regulation brings efficiency to the voluntary process and helps to ensure reasonable conduct.

Many respondents explained that negotiating land rights agreements leads to delays for projects, with adversarial positions sometimes being taken by all parties. On one side, respondents claimed that landowners can take unreasonable positions on compensation and sometimes refuse to engage. On the other, it was claimed that network operators' engagement can also be poor, that responsibility for negotiating is passed on to connecting customers and that operators are unwilling to compensate fairly.

Some respondents acknowledged the implication of lack of resourcing and standardisation on the timelines for negotiating voluntary agreements. Respondents highlighted that there is no obligation to use Alternative Dispute Resolution and that a Code of Practice would aid negotiations.

Q4: How do you expect your experience of the voluntary negotiation process for wayleaves and easements to change given a rapid increase in network build will be required to meet net zero and energy security objectives?

Many respondents predicted an increase in the number of land rights agreements that will be required and believe that current issues will be exacerbated. They warned that relying on voluntary, terminable agreements could jeopardise net zero targets.

Some respondents argued that landowners may take advantage of the pressures and constraints on network companies to upgrade capacity and demand greater compensation. This could result in significant delays if landowners' demands are considered to be particularly difficult to meet and agreements are not reached. As a result, some respondents believe there will be a greater reliance on statutory powers.

Many respondents also expressed concerns about the resourcing requirements within DNOs and government as a result of an increase in required agreements.

In contrast, some respondents didn't believe their current experience would change or that a large volume of new agreements will be needed, given that a significant part of the work to increase capacity will be delivered by upgrading the existing network, where land rights agreements are already in place.

Q5: How do you think the voluntary negotiation process for wayleaves and easements could be improved?

Introduction of a Code of Practice for negotiations was the most popular suggestion, with some believing this should be mandatory and enforceable. Other respondents said that greater standardisation and set timescales would allow for streamlining of the process. It was also noted that Alternative Dispute Resolution should be promoted, and potentially included in a Code of Practice.

On compensation, some respondents believe there should be a compensation framework, and others believe that fairer rates of compensation should be paid.

Some respondents noted resource being an area that could be improved, particularly in DNOs and their legal teams to support delivery within acceptable timeframes.

There were differing opinions about the use of the voluntary versus the statutory process. Some believe that voluntary negotiations should remain central to securing land rights, whereas others believe that DNOs should make greater use of their statutory powers. Many believe that stronger statutory powers for DNOs are required, with some respondents drawing comparisons to the powers in the water and telecommunications sectors.

Necessary Wayleaves

Q6: What is your experience of, and what are the pros and cons of, the necessary wayleave process? For example, this could include consideration of time and cost, and the mechanism for determining compensation.

While some respondents found the overall process fit for purpose, but acknowledged challenges in implementation, others highlighted significant issues. Common concerns included the high cost and lengthy duration of the process, leading to delays in projects, such as in renewable energy

deployment. Respondents noted delays for wayleave hearings and in determination periods, attributing them to resourcing issues in relevant government departments.

Some argued that the infrequency of applications for necessary wayleaves indicates the system's effectiveness, while others claimed that the cost and time involved makes the process unviable for certain projects, leading to project alterations or abandonment.

The current process is not designed for the volume of applications now received, according to some respondents, but they believe that a code of conduct for voluntary negotiations partnered with an Alternative Dispute Resolution mechanism would help to reduce applications. Issues such as high costs (which, for hearings, are often borne by the network operator), and absence of cost recovery were raised. Additionally, some expressed frustration with the one-size-fits-all approach and a lack of prioritisation in the process.

It is believed that notices to remove infrastructure are used to leverage increased compensation payments and respondents highlighted the absence of a requirement for landowners to justify why the infrastructure needs to be removed, or a requirement for landowners to participate in the process. While some argue for a mechanism to address compensation within the necessary wayleave process, others state that compensation should be a matter for a separate tribunal.

Further concerns brought forward included the complexity of the process and lack of transparent information, the inadequacy of the 15-year wayleave agreement for major infrastructure projects, and the slow statutory consent process for tree and vegetation management, with potential for misuse for financial gain.

Q7: How do you expect your experience of the necessary wayleave process to change given a rapid increase in network build will be required to meet net zero and energy security objectives?

Stakeholder opinions on the impacts of future network build on the existing legislative framework varied. Respondents foresaw increased delays with a surge in necessary wayleave applications (although a few respondents do not agree), with a few emphasising the need for substantial resource investment. While some find the process suitable, others criticised it as insufficient for the required rapid rollout, calling for improved clarity and efficiency.

Anticipated challenges included: grid constraints, complications with renewables deployment, and inadequacy to cope with large-scale electric vehicle (EV) projects.

Some respondents highlighted policy proposals in their answers to this question, such as developing a best practice guide, producing a code of conduct, establishing an Alternative Dispute Resolution Taskforce to determine new ADR mechanisms, increased use of statutory powers by DNOs and increased legal intervention. These suggestions were provided in addition to question 8, which asked how the necessary wayleave process could be improved.

Q8: How could the necessary wayleave process be improved?

Many respondents wished to see a more efficient necessary wayleave process with clearly defined timescales. Other respondents suggested that tailoring of the approach depending on the type of application should be introduced, for example, a fast-track route could be offered for certain projects, such as net zero or smaller scale projects. Respondents suggested that increasing resource within the Department for Energy Security and Net Zero (previously Department for Business, Energy and Industrial Strategy), Distribution Network Operators and the Planning

Inspectorate could lead to improvements in the process. Furthermore, it was suggested that decision making could be delegated within DESNZ to relieve resource pressure.

Respondents recommended introducing a Code of Practice as a method of providing industry standardisation and of mitigating delays. In addition, a few respondents raised the importance of Alternative Dispute Resolution routes being made available to enable quicker and simpler settlement of disputes, accompanied by guidance. Respondents raised the importance of updated BEIS (now DESNZ) guidance on how to approach the necessary wayleave process and improved communication between parties.

On compensation, respondents believed there should be standardisation of compensation rates and that compensation should be dealt with via the necessary wayleave process.

A few respondents also highlighted that land rights would be secured quicker if DNOs utilised their statutory powers more often and that landowners should be required to justify why they want infrastructure removed from their land. Lastly, a few respondents wanted to see an increase in the term of wayleave beyond 15 years to provide greater security for network assets.

Voluntary purchasing and leasing of land

Q9: What is your experience of, and what are the pros and cons of, the voluntary negotiation process for purchase or lease of land?

Respondents noted a number of pros and cons to the current process. Pros included the development of positive and enduring relationships between parties and stated that agreements are straightforward where sites are on connecting party land.

Many stakeholders raised concerns about landowners demanding payments above market value, which were perceived as ransom payments, also commenting that the statutory process is time consuming and costly and that it is not a viable option for small sites. When there are contentious relationships and protracted negotiations, it was put forward that network operators have to pay higher rates of compensation, abort a project or seek alternative sites, which is a particularly significant challenge.

Delays, uncertain timeframes and cost were noted as issues. A few respondents highlighted concerns around DNOs terms of engagement, including the minimum requirement for a 99- year lease alongside an inconsistency of approach across DNOs.

Q10: How do you expect your experience of the process for voluntary purchasing and leasing of land to change given a rapid increase in network build required to meet net zero and energy security objectives?

Respondents believe that the current issues with the process would be exacerbated as more infrastructure will need to be installed, more agreements will need to be reached, and this will become progressively more challenging. This is due to an increase in demand on land, including from competition with other sectors, which will result in higher prices being demanded by landowners and more costs being accrued due to the compulsory process having to be used more frequently. A few respondents provided suggestions for improving the process here, such as additional resource to manage the projected increase in required agreements.

Q11: How could the process for voluntary purchasing and leasing of land be improved?

Many respondents believe current legislation should be amended for the compulsory purchase process, to support the voluntary process. Another popular suggestion was introducing a Code of Practice or best practice examples for all parties, alongside Alternative Dispute Resolution where negotiation fails. Standardisation of documentation and processes were raised as possible improvements, as well as introducing standardised compensation levels. Action to alleviate resource pressure was also raised, alongside a desire to see shorter lease terms for agreements between landowners and DNOs.

Compulsory purchase of land

Q12: Are there any specific issues with the compulsory purchase process in England and Wales relating to its use by network operators, beyond those addressed in the current Bill, which need to be considered, and what is the impact of the specific issue(s)? For example, this could include consideration of any issues around determining compensation.

Many respondents stated that the length of the Compulsory Purchase Order (CPO) process, its complexity, lack of certainty on timescales and costs involved with the process are challenges which can prevent the use of compulsory purchase powers. Several respondents also highlighted a lack of experience of the CPO process discourages the use of compulsory purchase powers.

A number of respondents outlined that determining compensation is not generally a hindrance to the use of compulsory purchase powers. The reforms to the CPO process being taken forward in the Levelling Up and Regeneration Bill, the now Act, are generally supported.

Q13: How could the compulsory purchase process be improved further to address the issue?

Modernisation of the CPO process was a suggestion put forward by multiple respondents to address the challenges to the use of compulsory purchase powers. It was noted the processes should be streamlined, and improvements should be made to its efficiency and expediency. Several respondents to questions 12 and 13 stated stronger and clearer guidance is needed on a number of areas related to these powers.

Many respondents requested measures be implemented that would reduce the costs and time of the CPO process.

Section 37 Consents

Q14: What is your experience of, and what are the pros and cons of, obtaining Section 37 consent for overhead lines?

The feedback from participants regarding the Section 37 consent process for overhead lines was diverse. Some viewed the process as generally fit for purpose, emphasising its cost-effectiveness, timeliness and ability to promote good engagement between network operators and statutory stakeholders. They went on to say this generally makes applications to the Secretary of State or Scottish Ministers, in circumstances where there are objections, very unlikely. It was also noted that exemptions regulations have improved the efficiency of the process and should be extended.

However, many respondents voiced issues. Some highlighted that prolonged approval times (6-12 months) are responsible for causing project delays, with some also suggesting that extending the exemptions regulations would reduce application volumes and expedite timelines.

Some respondents noted that the linear nature of the process – the need to acquire land rights before making a Section 37 application – leads to inefficiencies and delays. Some respondents expressed their concerns with the role Local Planning Authorities play in the process. Respondents mentioned that a lack of resources and unfamiliarity with the process, as well as poor guidelines and timeframes for responses, contributes significantly to delays.

Environmental Impact Assessment screening was a concern for some respondents, who called for more flexibility and proportionate scrutiny. A few respondents believed the Section 37 process was overly complex for low voltage and 11kV lines, minor works, and upgrades. Other respondents mentioned delays being caused by onerous landowner engagement, routing issues and the lack of opportunity to vary or extend a consent. One respondent recommended that the length of overhead lines that were excluded from being defined as Nationally Significant Infrastructure Projects (NSIPs) should be extended from 2km to 5km.

Q15: How do you expect your experience of the consenting process for overhead lines to change given a rapid increase in network build will be required to meet net zero and energy security objectives?

Many respondents highlighted extended timelines and increased delays as likely impacts of a rapid increase in network build. Some of these respondents expected application volumes to increase and some anticipated that existing weaknesses in the process would be exacerbated, increasing timescales. A few of these suggested the impacts could be mitigated by further investment in resources, more enforcement on delivery timescales and statutory rights, or by a review of the current exemption rules. Some respondents highlighted the risk that consenting delays pose to achieving the UK's net zero ambitions.

Many respondents expected to see an increase in the demand for overhead lines, highlighting the anticipated increase in customer connections for LCT and the need to reinforce the existing overhead network system. These respondents suggest that changes need to be made to the current exemption rules and additional investment in resources is necessary.

One respondent highlighted that there are likely to be more objections on a landscape and visual basis, as well as physical congestion requiring more underground crossings, as the market becomes more congested. Another respondent suggested that, without reform, landowners may take advantage of the urgent necessity of network build to negotiate better deals and more restrictive agreements from license holders.

Q16: How could the Section 37 process be improved?

Many respondents provided recommendations for improving the Section 37 process. Over half of these proposed expanding the exemption regulations to help improve and simplify the process for works. A respondent phrased this as allowing automatic approval for certain upgrades. They suggested that certain works with minimal impact (see page 41 for the list of proposals) should be treated as permitted development, to reduce timelines and improve efficiency of the consents process. A few of these cautioned that any expansion to the exemptions regulations would need to consider the interests of landowners and wider public interest.

Some respondents suggested the process could be improved by increasing awareness and providing clearer guidance, with a few highlighting the processes within Local Planning Authorities and Environmental Impact Assessments as areas that required more clarity in order to engage effectively with the process. Some advocated for set or reduced LPA timescales to be

implemented. Some respondents highlighted the need for parallel processing of land rights and consenting to shorten timescales.

A few respondents emphasised the need for investment in resources to enable timely delivery of the critical infrastructure needed to deliver net zero. A few others advocated for streamlining the process, with an expedited process for smaller, simpler cases. Two respondents advocated for the introduction of performance management to encourage speed and efficiency. One stakeholder mentioned the need to improve the functionality of the portals used for Section 37 consents. Another advocated for the introduction of heritage protocols for network operators to guide design and implementation of works. The use of digital tools in the Section 37 application process was backed by one respondent, emphasising the benefits of digitisation in Environmental Impact Assessment and route optioneering.

Alignment with Scottish planning legislation, better engagement to understand the impacts on landowners, and introducing more criteria to reach the threshold for public inquiries were additional suggestions from respondents. Overall, many suggestions were made in favour of improving the process but only two respondents argued that the Section 37 process is already fit for purpose and should remain unchanged.

Permitted Development Rights for substations

Q17: Is the 29m³ size threshold for substations (Part 15, Class B (B.1.(a)(ii)) suitable for a future electricity system? If not, what would be a suitable size threshold? What evidence do you have to justify this change?

Respondents noted the threshold of 29m³ was appropriate for lower voltage substations that would typically serve a housing estate, commercial unit or a small renewable energy project. Other respondents discussed the benefit of expanding the current threshold to encourage larger scale substations rather than multiple smaller substations. Some respondents also noted that the current threshold doesn't serve the need for more electric charging and other net zero technology.

A few respondents noted that more evidence would be needed to suggest a required new threshold. Other respondents highlighted 40m³, 50m³ and 100m³ as alternative thresholds that could accommodate renewable energy projects and additional equipment requirements. They noted this would allow more projects to be considered for permitted development rights where they currently require an application for planning permission. Respondents discussed the benefit of reducing timeframes and costs that increasing the threshold would have and how this would be a good solution to the future demands of customers.

Q18: What would be the benefits and impacts of increasing the threshold beyond 29m³? Are there any locations where an increased size threshold beyond 29m³ would be inappropriate?

Some respondents explained that a benefit of increasing the threshold would be that it would allow necessary infrastructure to be installed, maintained, and reinforced without the need for a planning application. These respondents noted changes here would be welcome due to the projected increase in demand for infrastructure, which includes an increase in the number of generation sites required, a change in the type of infrastructure needed and the reinforcement of existing infrastructure.

One respondent stated that the benefit of changing this threshold would be the ability to design and build substations that are mindful of the surrounding environment, without having to submit a planning application.

A few respondents detailed that increasing the threshold would allow substations to be constructed more readily and contribute to the delivery of the future net zero system and the rapid uptake in LCT. A few respondents similarly echoed that an increased threshold would reduce the associated timeframes and costs. A respondent stated that another benefit is the prospect of greater energy self-sufficiency for farms and rural businesses. Another respondent raised that there would be a reduced footprint of overall sites.

Regarding locations, some respondents thought that increasing the size threshold in sensitive locations e.g. areas of outstanding natural beauty could give rise to visual impacts. Others thought that the increased threshold may be inappropriate in densely populated urban locations.

One respondent explained that if an increased size threshold was introduced, there should be exclusions for 'highly graded' designated heritage assets and non-designated heritage assets of equivalent significance. This could include limitations for conservation areas to allow for effective management of location, scale and design parameters.

Comparison of land rights to other utility industries

Q19: Recognising that there are differences between electricity network infrastructure and the infrastructure of other utilities, how could the electricity industry learn lessons from the comparable processes in the telecommunications and water industries?

In general, respondents noted that there are limited lessons that could be learned, or examples that could be applied to the land rights process from the telecommunications and water industries. Respondents highlighted differences in the scale and physical nature of the infrastructure in the utilities sector, with water pipes being buried, leading to limited interference when compared with electricity network infrastructure.

Some respondents believe that there must be a balance between rights of the operators and the interests of operators. It was noted that any reforms made must be fair and equitable and should not fundamentally interfere with the current balance, as seeking voluntary agreements in the first instance was highlighted as having the benefit of positive, enduring relationships with landowners.

Positive and negative attributes of the process in the telecommunications industry were raised. On the positive side, areas respondents thought should be emulated for electricity included a code regulating the legal relationships between electricity network operators, landlords and site providers. Also noted as a potential element that could be transferred were the powers a Tribunal has to grant interim access of the telecoms industry to land to install infrastructure.

Negatively, some respondents mentioned that 2017 reforms in the Electronic Communications Code reduced the rent paid to landowners, and the balance of rights between operators and landowners shifted too far in favour of the operators. It was noted that while this code was introduced with the best of intentions, it has no legal standing and therefore no sanctions for non-compliance.

Similarly to the telecommunications industry, both positive and negative points were made about the land rights process for the water industry. Some respondents would welcome similar powers to those granted to water companies, in particular, a statutory right to access land and install infrastructure with no negotiation required, and a statutory code of conduct similar to the one

monitored by Ofwat, with penalties for non-compliance. In contrast, other respondents believed that the current process of not requiring a voluntary consent is a significant unchecked use of compulsory powers and is unfair on landowners.

In addition, a number of respondents also raised points about the gas industry. A few respondents stated that gas installations are concluded more quickly than electricity network installations, and electricity network infrastructure should have the same statutory protections. It was noted, however, that the gas industry, with its statutory powers not being as robust as that of the water industry, generally completes all land transactions by negotiation. A few respondents believe that the amendment made to the Gas Act 1986 regarding access to private streets should be mirrored for the Electricity Act 1989.

Q20: Is there any additional information or evidence that you would like to submit?

The key points from respondent feedback include proposals for an industry Code of Practice. Respondents suggested that this Code of Practice would underpin legislative changes and establish requirements for network operators interacting with landowners, providing a standardised approach to negotiations alongside Alternative Dispute Resolution (ADR).

A few respondents discussed consents for private streets, recommending alignment with the Gas Act 1986 to address ambiguity in these applications. A few respondents highlighted the inflexibility of DNOs concerning Electric Vehicle Charging Stations (EVCS), particularly in Scotland, and advocated for the process to be tailored to the unique needs of the EV charging sector rather than treating it the same as, say, residential developments.

Additionally, a few respondents emphasised the need for modernised statutory powers and potentially asset-sharing between electricity network operators and telecoms companies. A few others recommended changes to the wayleave process, one suggesting priority based on apparatus voltage and land use potential, and the other mentioning voltage and tree management as areas of priority. Compensation concerns were raised by a few respondents, noting the issue as potentially stifling future developments and the impact this could have on housing supply figures and land use. These respondents wanted compensation to factor into potential development values of a site. They also proposed a compensation code along with a standardised approach to handling disputes.

Respondents expressed satisfaction with the current statutory processes for Net Zero projects but raised concerns about recent code changes impacting connection requests and land negotiations. Respondents emphasised the need to consider Scotland's legal differences when implementing new proposals and suggested improvements for substations, including allocating land for Net Zero development. Issues with DNO cable routes were discussed, leading to recommendations for greater incentivisation of anticipatory reinforcement investment. Respondents also advocated for a pragmatic approach to land rights for DNO cables within highways and acknowledged the significance of the DfT/OZEV Rapid Charging Fund programme for reducing environmental impact at high voltages.

Next steps

This summary of responses updates stakeholders on the key themes which emerged from the responses to the Call for Evidence. The Call for Evidence covered the range of processes in gaining land rights and consents. This exercise garnered a range of submissions and the content of these and supporting evidence has made a substantial contribution to our evidence base and supports our ongoing policy development.

Based on what we heard from respondents, we understand the current framework suits neither developers nor landowners and is therefore potentially unsuited to facilitating the UK's net zero power by 2030 ambitions.

The government will now consider what policy changes are needed and will consult as necessary. We are continuing to build our evidence base on land rights and consents for electricity network development, and we encourage all available evidence to be brought forward to support our ambitions.

Reforms

The government will take forward the following reforms in the interim of the call for evidence being published and government consulting on changes to the land rights and consenting processes. These are listed below, some of which industry has already been engaging on.

Key: LR=Land Rights, CPO=Compulsory Purchase Order, C=Section 37 Consenting

Interim reform measures	Detail
<p>LR1: The Central Association for Agricultural Valuers (CAAV) to introduce an industry-led voluntary Code of Practice for negotiations between landowners and network operators</p>	<p>Respondents suggested that a Code of Practice would be beneficial in supporting the voluntary process of reaching agreements between developers and landowners. Government agrees with this measure, which formalises government's expectation that parties should act reasonably, constructively, collaboratively, efficiently and in the public interest whenever land access agreements are necessary.</p> <p>The Central Association for Agricultural Valuers (CAAV) is a national specialist professional body representing those acting and advising on agricultural/rural property and business matters across the whole United Kingdom. CAAV is leading engagement with DNOs, TOs, landowners/ land agent representatives, and other regulatory bodies on finalising a Code of Practice to be delivered as a Memorandum of Understanding (MoU). This Code of Practice MoU outlines the expected behaviours of parties during negotiations between landowners and developers. Government will work closely with industry to encourage sign-up to the MoU Code of Practice and monitor its impact.</p>

<p>LR2: Update publicly available guidance documentation on statutory land rights processes</p>	<p>Respondents called for transparent information on necessary wayleaves. Government acknowledges that the published guidance⁵ on wayleaves requires amending.</p> <p>DESNZ will provide updated guidance documentation on necessary wayleaves to inform stakeholders on how best to approach the process.</p>
<p>LR3: Introduce proposals on alternative dispute resolution (ADR) for compensation disputes between landowners and network operators</p>	<p>Under the Electricity Transmission (Compensation) Act 2023 (the “Act”), Government is required to bring forward proposals on ADR processes in cases where land or land rights have been acquired for the build of electricity transmission network infrastructure, and there is a dispute about compensation. This will help landowners avoid having to take a case to the Upper Tribunal, which can be an expensive and lengthy process.</p> <p>The previous government established an ADR Taskforce of experts and representatives from relevant sectors. This government has reconvened the Taskforce, which will in due course deliver a report to government outlining its proposals on ADR for resolving compensation disputes between landowners hosting infrastructure and network operators. Government will consider the proposals before deciding on next steps.</p>
<p>CPO 1: Update the MHCLG guidance on the compulsory purchase process to reflect the LURA reforms and include strengthened advice on surveying powers.</p>	<p>Respondents called for stronger guidance on the use of CPO powers. Government acknowledges that updating current guidance on the context of when the CPO process could apply would be beneficial to parties.</p> <p>MHCLG has updated the guidance on compulsory purchase⁶ to reflect the Levelling Up and Regeneration Act 2023 CPO process reforms. MHCLG has also enhanced its guidance on surveying powers available to acquiring authorities.⁷</p>
<p>CPO 2: Update the Department for Energy Security and Net Zero’s guidance on the use of compulsory purchase powers under the Electricity Act 1989 to facilitate comprehension</p>	<p>Respondents called for stronger guidance on the use of CPO powers. Government acknowledges that updating current guidance on the context of when the CPO process could apply would be beneficial to parties.</p> <p>DESNZ will update published guidance to reflect the need to for clarity on the use of compulsory purchase powers under the Electricity Act 1989⁸, strengthening advice that use of compulsory purchase powers by transmission owners should be a last resort after attempts have been made to acquire land through negotiation.</p>

⁵Granting a necessary (compulsory) electricity wayleave: guidance for applicants and landowner and/or occupiers (2014) <https://www.gov.uk/government/publications/granting-a-necessary-compulsory-electricity-wayleave-guidance-for-applicants-and-landowner-and-or-occupiers>

⁶ Compulsory purchase process: guidance (2024) <https://www.gov.uk/government/publications/compulsory-purchase-process-guidance>

⁷ Ibid

⁸ Granting a necessary wayleave guidance

<p>C1: Update publicly available guidance documentation on the Section 37 process to facilitate comprehension</p>	<p>Respondents noted the lack of up-to-date guidance. Government agrees and will consider how to update the current published guidance⁹ on the approach to submitting an application, as well as the roles and responsibilities for each interested party, including in relation to Local Planning Authorities and Environmental Impact Assessments.</p>
<p>C2: Clean up applications systems to ensure consent applications are processed in a timely manner</p>	<p>Respondents highlighted that there are delays with processing consent applications that government could address. Government agrees that internal measures can be taken to alleviate the risk of delays to current processes, allowing applications to move quickly through the project pipeline.</p> <p>Government has already implemented a new process for low-risk applications and enhancements to the on-line portal, which have significantly improved performance. The application process continues to be monitored to inform whether further changes are needed.</p>

⁹ The statutory consents regime for overhead power lines in England and Wales: guidance note (2014) <https://www.gov.uk/government/publications/the-statutory-consents-regime-for-overhead-power-lines-in-england-and-wales-guidance-note>

Annex 1: Full response summaries

57 responses were received to the call for evidence. The respondents fell into the following categories:

- Renewable energy developers (11)
- Land agents and surveyors (11)
- Network Operators (8)
- Trade associations (7)
- Independent Distribution Network Operators (iDNOs) and Independent Connection Providers (ICPs) (6)
- Major infrastructure projects (3)
- Solicitors (3)
- ChargePoint operators (2)
- NGO and non-governmental public body (2)
- Other (4)

This document does not necessarily capture every view each respondent expressed but aims to summarise the vast majority of the mostly frequently mentioned, and the most constructive points. The approximate number of respondents who expressed a particular view is written in brackets within each sentence. This is according to the descriptors of:

- A few – 3
- Some – 4-9
- Many – 10 or more
- Majority – More than half the number of respondents who answered a particular question

Scope

Q1: Should anything else be included, or excluded, from the scope of this review of the land rights and consents processes for electricity network infrastructure, and why? (43 respondents)

Some (9) respondents stated the scope of this review was appropriate. The majority (28) of respondents to this question welcomed the call for evidence, but suggested the scope of this review should be extended to cover other issues.

Some (4) respondents highlighted the scale of the challenge for the electricity network in the context of net zero and energy security. They acknowledged that significant investment in infrastructure is needed at scale and pace between now and 2030 (and beyond) and network constraints were mentioned by some (4) respondents. This included addressing the problem of access to the grid by housing developers, the many rural generators (especially solar) and where additional user capacity is required for electric vehicles, air source heat pumps and other uses. One respondent stated that the review should target prioritising technologies that support the net zero target, stating the consenting process will play a pivotal role in unlocking network capacity and amendments to the Electricity Act should be considered to update current consenting practices in the context of net zero.

Some (7) respondents stated that to meet the net zero targets, network operators will need to undertake an unprecedented level of work on the existing network. Therefore, the review should consider the suitability of the current framework in respect of the protection of existing electricity network assets. It was noted there are a significant number of cases where existing infrastructure is held on terminable land rights, rights that no longer exist because of changes in land ownership, or where the historic rights may not be fit for purpose. This poses a significant risk to the ability to upgrade the system.

Including the consenting regime in Scotland within scope of reform was mentioned by some (5) respondents, with it being noted that significant investment is also planned in Scotland and needed if the UK wide net zero target is to be met. A couple (2) of respondents stated that the Nationally Significant Infrastructure Projects (NSIP) Development Consent Order (DCO) system in England and Wales and its prescribed timescales is not matched in Scotland where applications for large scale infrastructure remain subject to an outdated consents system. In Scotland, whilst the planning decisions are taken by Scottish ministers, the enabling legislative provision is retained by the UK Government and the Scottish Parliament does not have the ability to institute reform.

Some (4) respondents suggested that the scope of the review should include high voltage or transmission projects that are not classed as NSIPs. One respondent stated that processes for securing land rights and planning consents are one of the main contributors to delays in the delivery of nationally important grid projects. Two other respondents stated this review should reflect the ongoing review of the Planning Act process and the National Policy Statement updates and maintain consistency. Many respondents raised specific issues for inclusion in the scope, such as the statutory processes for land rights set out in the Electricity Act 1989 and other legislation.

Some (4) respondents believed improvements to the process for tree lopping should be included within scope of the review. In the absence of a voluntary agreement to access the land for vegetation management, it was noted that the current statutory process takes too long (9-12 months). Respondents noted that trees need to be lopped or felled to ensure the safety and resilience of the electricity network, but often a further growing season occurs in the time it takes to deal with an application.

A couple (2) of respondents highlighted that, whilst distribution network operators can serve a notice (5 days) to carry out essential works (entry to replace, repair and alter apparatus), at present transmission owners do not have such powers. This can give rise to refusal of access resulting in impacts to the delivery of essential works.

One respondent stated that, for existing apparatus, there is no presumption in favour of retention when a notice to remove infrastructure is submitted and there is no burden on the landowner to support their demands to remove the apparatus. Another respondent highlighted that there should be rights-of-access over third-party land to the cable route/ substations for construction traffic to allow developers to carry out the works required. Furthermore, consideration needs to be given to diversionary works.

A general review of compulsory purchase law is needed according to one respondent, who commented that it is currently too complex, with too many different pieces of applicable legislation.

One respondent raised concerns with the current statutory processes for accessing land for surveys, noting landowners are increasingly refusing voluntary access. Developers in this instance are therefore finding using the statutory processes over multiple landowners prohibitive in terms of time, cost and resource availability. The respondent stated this is causing projects to lose valuable programme time and miss critical connection dates to achieve aspirations for 2030.

In addition, several (4) respondents stated that the review should look to compare the land rights processes of other utilities, including water, telecommunications and gas (the latter of which was

not mentioned in the call for evidence), and consider the potential to align statutory rights for all utilities as far as possible.

Other respondents raised points about the impacts of network infrastructure projects and the importance of balancing the rights of landowners and network operators. One respondent stated that the scope of the review does not address the impact, or attempt to establish a balance, between the needs of the infrastructure provider and the impact on the landowner, their business, or other property they own. They suggested that a statutory Duty of Care is the only way this balance can be achieved. Another respondent stated that it is not clear that it is necessary to alter current provisions and that any interference with private property rights should be exercised with caution and only where there is a clear and demonstrable public benefit.

Two respondents also suggested the scope should include the wider impacts, such as environmental, health, social and security, on the landscape, businesses and communities in the vicinity of the infrastructure. Respondents noted this should be alongside measures to mitigate against the impacts and reduce the need for new infrastructure, which could include burying power lines, moving to a more distributed energy network and taking measures to reduce electricity demand. Two respondents specifically highlighted their concerns regarding the impacts of electromagnetic fields on human health.

Another respondent stated that farmers, growers and the wider rural community need to benefit more directly from increased investment in network infrastructure, for example through enhanced connectivity.

Compensation was raised by several respondents. A review of compensation was suggested by a couple of respondents, with one specifically highlighting how injurious affection is dealt with, and whether consideration and compensation is more appropriate than just compensation. Another respondent suggested that government should consider putting in place agreed rates of payments for compensation to set an industry standard baseline for negotiations with landowners.

Points were made about the current process of agreeing land rights. Two respondents believed the review should consider consistency and standardisation of the land rights processes, as currently each network operator follows their own process. A few (3) respondents suggested including guidance and procedure within scope. Specific issues were identified around access to substations, including which party builds and maintains the substation, and which leases.

One respondent believed network operators should be incentivised to build larger, more capable lands teams, and to provide more outward focussed engagement for new connections and diversions. Another believed the review should consider the possibility of integrating digital solutions into the process.

Several (5) respondents stated that underground lines should be included in the scope – both for planning permission and permitted development rights. Two respondents stated an increasingly common way of installing electrical cables is by placing them underground. In this regard, the scope of this consultation should also include consents under Section 50 of the Highways Act of 1980. It was noted a standard interpretation or application of Section 50 could help to streamline the development process.

Another point raised was that statutory undertakers (i.e. network operators) have permitted development rights to install underground cables. However, Independent Connection Providers (who design and install new infrastructure for adoption by network operators) are not classed as statutory undertakers. It was noted that in some instances, this leads developers to apply for planning permission for cable routes or having the work done by the DNO directly, reducing competition in grid connections, which ultimately increases the cost and duration of the rollout of

electricity infrastructure. A couple of respondents urged government to consider the rights of independent distribution network operators (iDNOs) compared to DNOs.

A couple of respondents stated that private streets should be included within the New Roads and Street Work Act 1991 akin to Schedule 4 of the Gas Act 1986. Another respondent mentioned that the statutory powers available under this Act should be reviewed and consideration given to whether they can be widened.

Lastly, a couple of respondents believed the scope of the review should be expanded to include heat networks.

Q2: What has been your overall experience of the land rights and consenting processes for electricity network infrastructure? (52 respondents)

A couple of respondents stated the majority of land rights are agreed consensually and believe a consensual environment where landowners are not automatically threatened with powers is best for successful delivery, as where conflict does arise it is expensive and time-consuming to resolve. One respondent felt there was inflexibility on both sides and a few (3) felt one DNO in particular was taking an adversarial approach, refusing to negotiate and often refusing to reimburse professional fees.

The majority of the respondents (42) shared a negative experience of the land rights and consenting processes for electricity network infrastructure and believed reform is necessary.

Many (14) respondents highlighted that planning processes are a barrier to the build of new infrastructure and maintenance of existing assets, causing delays and additional cost, which cannot be predicted or mitigated. According to one respondent, this is slowing deployment of renewables and electric vehicle chargepoints and, in some instances, is preventing new connections from proceeding. Another respondent stated the planning process is often the most difficult element in the development of renewable projects.

Some (6) respondents claimed that the current planning processes are fragmented, slow and carry a high degree of uncertainty and that there need to be swifter, more efficient processes. One respondent stated that it is necessary to liaise with several government departments which are often under-resourced and experience high staff turnover.

A few respondents (3) drew comparisons to other utilities. One respondent highlighted that the introduction of the Electronic Communications Code (ECC) has significantly lowered the amount of compensation due to landowners, leading to an increase in litigation, which is holding up the process. Conversely, others suggested that network operators should have the same rights as other utilities operators and some form of Code powers, similar to telecoms. One respondent believed this may be helpful in securing requisite rights and in mitigating the cost implications in tough negotiations. One respondent also highlighted that network projects do not have the same certainty in delivery of critical infrastructure as water.

One respondent stated that the regulations must be changed to afford greater and improved powers to the network operators. Another respondent said that other parties should be given the same rights as network operators.

Some (5) said their experience of the planning system was mostly positive. One respondent stated the land rights and consenting process is typically a reasonably smooth process with timely outcomes. Similarly, one respondent stated their experience was mostly positive for voluntary wayleaves but negative where third party landowners are involved.

On **Necessary Wayleaves**, many respondents (10) noted that the statutory powers are prohibitively slow, bureaucratic and expensive. One respondent specified that there can be delays of 18 months, another stated it can take three years. One respondent highlighted that there was a severe lack of resource to undertake wayleave hearings, while another respondent felt the statutory processes fail to provide certainty on delivery timescales.

As a result, respondents suggested developers are often wary of using statutory powers and one respondent stated that the processes do not distinguish between minor and major works, resulting in complex and disproportionate processes for minor works adding significant cost and delays.

Some (5) respondents stated landowners use the limited statutory powers and lengthy timescales to their advantage, drawing out negotiations, resulting in commercial settlements, above market value, being made to deliver projects. Respondents believe this rewards difficult landowners whilst most landowners accept standard wayleave payments.

Other (5) respondents stated that network operators show reluctance to use statutory powers and only use them as a last resort, delaying connection dates. A couple of respondents noted that DNOs believe that these powers should not be used for the benefit of private developers and network operators should be prepared to use powers at an earlier stage.

Some (6) respondents expressed a need to amend the existing regime to ensure a more structured, balanced and less bureaucratic approach. It was noted any changes need to balance interests of landowners, bill payers and network operators, including landowners' own plans for their sites, therefore safeguarding long term relationships between DNOs and landowners.

One respondent believes the existing legislation is an inadequate form of protection, as network security is under constant threat from wayleave terminations. A couple of respondents stated that large volumes of notices to remove infrastructure are being used to negotiate better financial terms, with landowners exploiting the ability to serve notice without any requirement to justify. Conversely, one respondent highlighted that, for landowners, the ability to serve notices to remove is essential, particularly where a landowner has inherited existing infrastructure as a new owner. It was noted in some cases landowners have to pay for removal of equipment in order to expedite the process.

On compensation, one respondent felt the main issue is often the level of compensation payable, which should reflect loss to the landowner and have regard to any existing and proposed uses, which can only be determined following a hearing and reference to the Upper Tribunal. One respondent felt the necessary and expediency test is too narrow to truly reflect the impact of apparatus on landowners. Another respondent felt the necessary wayleave process should determine the level of compensation.

One respondent mentioned issues specific to Scotland – that Scottish ministers do not have the powers to change the wayleaves process and in particular, the associated hearing procedure rules are very outdated in Scotland as they are from 1967, whilst they were updated for England in 2013.

On **voluntary land rights**, some respondents (8) stated that negotiating land rights can be time consuming and cause costly delays. There is a heavy reliance on voluntary negotiation and there is limited control over time or cost. One respondent quoted delays of 9 months and direct costs of £30-40k, which had caused consequential delays worth £2 million.

Some (6) respondents stated that the current practice of upfront negotiations with no clear framework or standardisation of approach often results in protracted negotiations, payments that exceed reasonable market values, redesigning to avoid land or aborting. Their experience is that landowners are almost always unwilling to agree to wayleaves at the rates offered.

One respondent stated that DNOs are quick to pass the burden of securing rights to developers and developers often have to consider multiple routes in an attempt to avoid certain landowners. Additional payments to persuade landowners can be substantial, particularly if no alternative route is available. Some respondents (4) stated developers need to commit to signing agreements with landowners at an early stage before final route confirmed. Developers try and obtain flexibility from landowners and landowners in turn apply pressure on payment levels. This was also supported by another respondent who said negotiations need to be completed before further consents such as Section 37 or planning can be obtained, as often the final route design is based on discussions with landowners. It was noted a balance should be found within negotiations while ensuring projects can be delivered within budget while preventing particularly tough negotiations from either side.

Similarly, other (6) respondents stated that there is no consistent guidance on negotiations provided by DNOs, or consistency across DNOs or even within a DNO. It was noted this causes uncertainty and claimants can be treated differently in different regions. Given there is no universal standard for leases, wayleaves and easements it is therefore very difficult to set landowner expectations. Certain landowners have land in multiple DNO regions and DNOs have inconsistent expectations on payments. The lack of standardised documentation leads to more negotiation and protracted processes. Some (4) respondents feel there is a need for a framework or code that sets out clear parameters for compensation payments and timescales, as well as a standardised dispute resolution approach.

A couple of respondents highlighted that difficulties occur when there are wider issues, for example - impacts on the landscape, new routes passing close to houses and changes to existing land use to accommodate network infrastructure. They suggest higher payments would facilitate faster agreement and reduce the burden of hosting infrastructure. Landowners are the only people in the chain not able, by law, to make money from the infrastructure. In addition, it was noted network companies ask for developers to commit to 'no build zones' which often do not correspond to the cable routes on the plan. In addition to this, another respondent felt landowners were completely disregarded as DNOs only consider the least costly option rather than the scheme that impacts the landowner the least.

A couple of respondents stated the majority of land rights are agreed consensually and believe a consensual environment where landowners are not automatically threatened with powers is best for successful delivery, as where conflict does arise it is expensive and time consuming to resolve. One respondent felt there was inflexibility on both sides and a few (3) felt one DNO in particular was taking an adversarial approach, refusing to negotiate and often refusing to reimburse professional fees.

On **Consenting**, a couple of respondents believe improvements can be made to speed up current processes. Some (3) respondents highlighted timescales can be influenced by resourcing - in the DNOs in preparing the application, or in the Local Planning Authority (LPA) and other consultees reviewing the application. They suggested that a well-resourced team with a high retention of experienced staff, focussed and motivated to deliver consents, in a timely manner.

One respondent also mentioned that amendments could be made to the Electricity Act to set out the grounds on which LPAs can object. LPAs take a long time to respond to S37 applications and often seek extensions. Another respondent suggested that when a response triggers a public local inquiry, there should be more certainty on timescales.

Another respondent stated the consenting process needs to be transparent, improve communications and deliver sufficient standardised reporting to developers while providing appropriate notice periods for notifications. Another respondent felt there could be scope for

greater use of a standardised process and documentation. Additionally, another respondent stated that consenting timescales for generation and network infrastructure should be aligned or accelerated in tandem.

One respondent highlighted that the current process does not allow for digitalisation. They suggested allowing digital submissions for section 37 consents that could be iterative and collaborative, to allow for selection of routes. It was suggested these changes could reduce time and allow stakeholders to be more involved in the decision-making process.

Voluntary wayleaves and easements

Q3: What is your experience of, and what are the pros and cons of, the current voluntary negotiation process for wayleaves and easements? For example, this could include consideration of time and cost, impact on landowners, communication between parties. (48 respondents)

Positive and negative responses were provided by 18 respondents. A couple of respondents provided purely positive responses, but the majority (27) respondents provided purely negative responses. In total, we received 20 positive responses and 45 negative responses regarding the voluntary negotiations process.

Advantages of the current voluntary negotiation process:

Some respondents (6) stated that the majority of agreements are reached in a timely manner and have a good conclusion. Some respondents (9) consider voluntary negotiations to be effective where there is mutual agreement and in ensuring there are enduring relationships between parties. Another respondent detailed that a well approached and managed voluntary negotiations process is key and leaves less room for the negatives that can emanate from the statutory process.

Some respondents (4) find voluntary negotiations desirable when Distribution Network Operators (DNOs) have consistency of approach and a positive commitment to the provision of information and timely communication with landowners and their professional advisors. A few respondents (3) appreciate that negotiations allow for landowners to input into developer and DNO plans during discussions on matters such as routing, safety and future relocation provisions and amendments to be made where need be.

A few respondents (3) compared voluntary negotiations with statutory land rights processes and argued that negotiations have significantly better transactional speeds and costs.

A couple of respondents (2) mentioned that the process is accessible and transparent for all stakeholders in the industry. Another respondent echoed that the process is broadly understood.

According to one respondent, DNOs find it beneficial to have enforceable protective agreements over assets for their operational lifetime. A couple of respondents (2) raised that voluntary negotiated easements provide investors security and highlighted the benefit of registering these agreements. These included: the relatively cheap cost of registering easements and wayleaves; plans being accessible via the Land Registry portal (2); transparency over land which helps to avoid disputes/ensures landowners are given fair compensation (2); and cable routes being easily identifiable by the public (2).

Some respondents (4) mentioned that professional regulation from organisations including Royal Institution of Chartered Surveyors and Central Association of Agricultural Valuers brings efficiency to negotiations and fair and reasonable conduct and package of compensation.

Disadvantages of the current voluntary negotiation process:

Many respondents (15) linked delays in agreements on land rights to delays in project timescales. Some respondents (6) stated that there is an imbalance between DNOs and landowners, and that this is the main barrier to connections. Adversarial positions of parties on both sides was highlighted - of the DNOs/developers, and landowners/land agents. Some respondents (8) raised that, on occasion, DNOs have poor engagement and refuse to enter into appropriate professional negotiations, resulting in limited communication between parties. One respondent mentioned that DNOs could abuse their powers.

Many respondents raised points about compensation. Many respondents (14) stated that unreasonable positions are taken by the landowner regarding rights and / or compensation, including holding tough negotiating positions over the project. Some respondents (8) raised the high expenses for developers and DNOs and that there are limitations around project budgets and timescales. In contrast, some respondents (4) attributed poor relationships to landowners not being fairly compensated, therefore providing a low incentive for a smooth negotiations process from the landowners' perspective. One respondent went further, noting there is a lack of premium payment available, which would speed up the process and compensate landowners more fairly. Another respondent highlighted a lack of standardised scale of remuneration for landowners.

A few respondents (3) raised limited engagement on the landowner's side as a negative experience of the process, as there is no obligation or incentive for landowners to engage. In addition, a few respondents (3) argued that notices to remove require no justification and are a means for landowners to demand higher levels of compensation. Some DNOs pass the responsibility of negotiating wayleaves and easements to infrastructure developers (e.g. for housing). One of the key issues here is that developers do not have the statutory powers that DNOs have, so it is more challenging for fair outcomes to be reached between developers and landowners. Some respondents (5) thought DNOs should carry out a more proactive role in negotiations and use statutory powers available to them to aid smoother connection processes.

A couple of respondents (2) raised the lack of a standardised approach to negotiations being an issue. A few respondents (3) attribute negatives of the process to limited resource including experts, land rights teams and wayleave officers. A few respondents (3) therefore noted that there is confusion between wayleaves and easements from landowners and their advisors and that the process is poorly understood by many.

A couple of respondents (2) raised that there is no obligation to use Alternative Dispute Resolution, primarily for DNOs. Similarly, a respondent detailed that Court action is costly and leads to delays.

Some respondents raised possible improvements to the process:

A few respondents (3) raised that a Code of Practice would help the negotiation of voluntary wayleaves and easements.

A couple of respondents (2) mentioned that streamlining of the process would benefit all stakeholders.

A respondent mentioned that there should be an uplift in skilled resource for smoother agreements to be reached.

Q4: How do you expect your experience of the voluntary negotiation process for wayleaves and easements to change given a rapid increase in network build will be required to meet net zero and energy security objectives? (45 respondents)

A total of 24 respondents detailed that their experience would get worse.

Some respondents (8) thought that an increase in network build would drive a corresponding increase in the number and complexity of negotiations. A few respondents (3) foresee an increase in third party involvement and therefore an increase in protracted negotiations.

Similarly, some respondents (4) noted an uplift in number of applications for connections due to more projects, meaning an increase in the volume of work and a scalable increase in the volume of challenges that the current system encounters.

Many respondents (12) stated that current issues are likely to be exacerbated. Some respondents (7) highlighted significant risks to delivery timescales and longer delays. Some respondents (6) believe that net zero targets will be jeopardised by the land rights and consenting processes, and that relying on voluntary negotiations and terminable agreements is too risky. One respondent noted a risk of current processes being outdated for a prospective increase in network build.

Many respondents (13) envisage higher requests for greater compensation and landowners using their increased power in this situation as leverage.

Due to these challenges, many respondents (11) raised resource as an issue or called for more resourcing in Distribution Network Owners and in government. One respondent raised the need for a standardised and accessible process. A couple of respondents (2) similarly raised the need for universal guidance to make processes less frustrating and more transparent. One respondent highlighted a future need for digitisation and automation for some parts of process e.g. routing of infrastructure.

Some respondents (4) believe network operators will rely more heavily on statutory powers and that this would be a mistake and result in hostile relationships.

A respondent viewed that there needs to be more standardisation between Transmission Owners/DNOs about interests in land they need for a new connection.

A few respondents (3) held the opposing view that they do not expect their current experience to change. A few respondents (4) also made the point that the increase in connection projects may not be quite as large a challenge as expected, as a lot of the work required will be upgrading the existing network and land rights agreements are already in place for a lot of this network, and these agreements allow upgrades to take place.

Q5: How do you think the voluntary negotiation process for wayleaves and easements could be improved? (49 respondents)

Many respondents (14) suggested a Code of Practice or a Code of Conduct, and guidance documentation should be developed. This would provide more structure and certainty to the voluntary negotiation process and limit unreasonable conduct on both sides. Some (5) respondents believe a Code of Practice should be enforceable or placed on a statutory footing. Some respondents (9) suggested greater standardisation and streamlining of the negotiations process, including documentation templates and standardised contracts. Some respondents (6) suggested that ADR should be promoted to avoid cases having to use the statutory processes and that ADR processes could be outlined in a Code of Practice.

Some respondents (4) mentioned the benefit of having a compensation framework where there are templated and standardised compensation rates. A few respondents (4) mentioned that landowners should have greater compensation or fairer rates of compensation. It was one respondent's view that premium payments should be made to promote more rapid agreements. In contrast, another respondent mentioned that alternative incentives for landowners to come to agreements quickly, that are not purely financial, should be promoted.

Some respondents (5) proposed increased resourcing and uplifting of skills within DNO land and legal teams and of 3rd party land agents and solicitors, all being encouraged by government.

Regarding engagement with DNOs, some respondents (4) highlighted that transparency from the outset from DNOs would improve negotiations, including the justification of cabling required and routing, with compensation being offered to help progress engagement.

Some respondents (7) believe that voluntary negotiation should remain central to the process for securing land rights and should be pursued first before making use of statutory processes. In contrast, other respondents (5) raised that DNOs should make greater use of statutory powers to avoid drawn out negotiations. Many respondents (13) believe that stronger statutory powers should be given to the DNOs or there should be a review to make the statutory process more efficient, with some respondents (5) highlighting the benefit of a completely modernised statutory process. Conversely, another respondent's view was that no review of statutory powers is necessary, and the aim should be to keep as many cases as possible out of the statutory process.

A couple of respondents (2) thought that independent Distribution Network Operators or chargepoint operators should also be allowed to negotiate wayleaves and decrease resource burden on DNOs. A few respondents (3) raised that digitisation of parts of the process would speed these processes up.

Many respondents (7) raised set negotiation timescales and the processing of necessary wayleave applications as being important to improving the process.

One respondent highlighted that land access powers, similar to those provided to water and sewerage undertakers, should be provided to DNOs. Similarly, a couple of respondents (2) mentioned that DNOs should have similar powers to telecoms providers.

Necessary wayleaves

Q6: What is your experience of, and what are the pros and cons of, the necessary wayleave process? For example, this could include consideration of time and cost, and the mechanism for determining compensation (44 respondents).

A few respondents (5) stated that the overall process is fit for purpose, though noting that it may not always be followed effectively in practice. Many respondents stated that the process is costly (13) and lengthy (19), often causing or potentially causing significant delays to projects, such as the deployment of renewables. One respondent detailed that the process works well up until the wayleave hearing stage where there are often severe delays. One respondent quoted delays in excess of 2 years, between evidence being filed by the inspector and a determination being made. Other respondents agreed that there were lengthy delays to undertake wayleave hearings (5) and for determination periods (3). Some respondents (7) attributed these delays to a resourcing issue in the Planning Inspectorate, Planning and Environment Decisions Wales and the Department for Business, Energy and Industrial Strategy (now the Department for Energy Security and Net Zero).

A few respondents (3) raised the point that relatively few cases result in applications for necessary wayleaves. One of these respondents further detailed that the fact that the process is engaged with so infrequently is evidence that the statutory scheme as a whole works well. Conversely, other respondents (7) highlighted that for some projects, the cost and time of the necessary wayleave process is unviable and means that the project is either aborted, an excessive sum is paid to the landowner, or the route has to be altered at extra cost. A couple of respondents (2) concluded that necessary wayleave applications for new apparatus are made very infrequently because there is a substantial risk to the project that the application will be unsuccessful, and much time will have been lost in its delivery.

One respondent detailed that the necessary wayleave process is usually triggered by inappropriate behaviour by the network operator. It was noted that the process is the only recourse to a landowner, to require the network operator to act reasonably and offer appropriate compensation and is essential where landowners need equipment removed in order to progress development of the land. Another respondent raised that delays are a concern for landowners and in some cases, landowners are paying for removal of the infrastructure so that they can progress development of their land.

Some respondents (5) highlighted that the current process is not designed for the volume of applications now received. Some respondents (5) believed that a code of conduct together with a mechanism for parties to participate in Alternative Dispute Resolution and settle compensation disputes would significantly limit the number of applications.

A couple of (2) respondents highlighted their frustration that the same process applies across the board regardless of the voltage or type of apparatus and that there is not a priority-based system. A couple of respondents (2) mentioned that there is a lack of appetite within Distribution Network Operators (DNOs) to consider this process for new connections and therefore the threat of necessary wayleaves is not credible.

High legal costs is an area a few respondents (4) specifically raised, along with a lack of cost recovery mechanisms (4). One respondent highlighted that information about what the networks requirement is mostly held with DNOs, making it difficult for landowners to access and understand, even when they have professional advice.

A couple of respondents (2) raised that the majority of applications are notices to remove infrastructure or to retain existing infrastructure, rather than applications for new infrastructure. It was raised that notices to remove existing infrastructure have become more and more frequent and are not always triggered by cases of landowners seeking a change of use of land. Some respondents (8) believed notices to remove are often used to resolve compensation disputes or to leverage increased compensation payments.

Further, on the subject of notices to remove, some respondents (9) raised that under the current process, a landowner can object to a scheme or submit a notice to remove the equipment without needing to provide any justification or evidence. There is also no requirement for a landowner to participate in the process, as mentioned by some respondents (4). A couple of respondents (2) mentioned that there is evidence of landowners not engaging with the process nor attending necessary wayleave hearings, even when the landowners have initiated the process and insisted on a hearing. Some respondents (7) raised that the full cost of these hearings including application, inspectors time and hosting costs are all borne by the network with no financial consequence to the landowner, as there are no costs associated with submitting a notice to remove.

In addition, a couple of respondents (2) raised that for existing assets, there is no presumption in favour of retention of the assets and it is for the licence holder to justify not only the need case, but

the location of the assets too. A few respondents (4) detailed that for both existing assets and new assets, the network operator has to satisfy a legal test that the infrastructure is necessary and expedient, which requires assessment of as many possible engineering options as exist (e.g. diversions or alternative routing) before confirming the most economic and efficient option. This was noted as time consuming and costly (2).

One respondent raised the lack of transparency of annual wayleave fees being an issue and that these should be available in the public domain. Similarly, the lack of consistency in compensation costs across DNOs was raised by a couple of respondents (2).

A couple of respondents (2) mentioned that it would benefit both parties if the necessary wayleave process also had a mechanism for dealing with compensation, with Landowners being left with the only option of making a reference to the Upper Tribunal. One respondent detailed that for many ordinary landowners, the time and cost involved in referring a case is a barrier to taking such action.

Conversely, another respondent mentioned compensation is not a consideration for a Necessary Wayleave hearing, and this is appropriate. Compensation for financial loss is properly a matter for the appropriate Tribunal and not the Planning Inspectorate.

Other concerns raised by a couple of respondents (2) were the complexity of the process. Many respondents (10) mentioned that the current 15-year wayleave term is not appropriate for major infrastructure investment.

A couple of respondents (2) stated that applications can also be made for statutory consent to lop or fell trees and vegetation that poses a risk to the network, or is a health and safety risk. It was noted this process is very slow, often taking many months and increasingly landowners are prepared to use a network operator's need for rapid access to maintain a safe clearance around overhead lines as an opportunity for financial gain. One respondent detailed that there remains no harmonisation between the requirements in The Electricity Act and The Electricity, Safety, Quality & Continuity Regulations 2002 (ESQCR), which sets out minimum vegetation clearances.

Q7: How do you expect your experience of the necessary wayleave process to change given a rapid increase in network build will be required to meet net zero and energy security objectives? (42 respondents)

Many respondents (13) believe that there will be an increase in the volume of necessary wayleave applications in the future to accommodate the amount of infrastructure required to meet net zero objectives.

Conversely, a few (3) respondents do not believe that there will be an increase in applications as a large portion of the required increase in network capacity will be provided by reinforcing existing infrastructure, where land rights are already in place.

Some respondents (8) stated that the current necessary wayleave process will not deliver rapid roll out of new infrastructure and that a better approach is required. A couple of respondents (2) stated that current issues are likely to be exacerbated, and one respondent raised that grid capacity constraints would become more apparent.

Some (8) respondents believe that an increase in applications will result in an increase in delays, unless there is a significant upscaling of resource. As a result of lengthy timescales and a short term of agreement, a few (4) respondents stated they do not and will not use the necessary wayleave process, preferring to seek permanent rights.

In terms of the relationship between parties, one respondent raised that some parties could use these longer time frames to their advantage. Another respondent mentioned that treating farmers and landowners with respect would help avoid the statutory process. A couple of (2) respondents raised concerns that a desire for quicker network build will result in less time or inclination to address landowners' concerns, and this may result in quicker referrals or threats of referrals to the necessary wayleaves process.

A few respondents (5) suggested that more work needs to be done to make the process clearer and more accessible from a time and cost perspective. Resourcing of organisations involved in the process was also mentioned by a number of respondents - one respondent believed that the existing legislative framework is largely fit for purpose, if there is significant investment in additional resources. A few (3) other respondents agreed that significant investment in resource in the Department for Business, Energy and Industrial Strategy (now the Department for Energy Security and Net Zero) and the Planning Inspectorate is required. Another highlighted that resource pressures may be exaggerated given the additional work which will be required.

A few respondents (5) suggested that a code of practice/code of best practice should be introduced; increasing the chances of successful voluntary negotiations and reducing the need for necessary wayleave applications. One respondent mentioned that Alternative Dispute Resolution mechanisms would also help to ease the burden on BEIS (now DESNZ).

Finally, one respondent made the link between delays and high costs in the necessary wayleaves process having a knock-on effect on obtaining section 37 consents, where land rights are required before consent can be granted.

Q8: How could the necessary wayleave process be improved? (42 respondents)

A few respondents (3) consider that the necessary wayleave process should remain unchanged. Similarly, one respondent detailed that the system as a whole is a good one.

Due to the financial and resource burdens on stakeholders caused by the current statutory processes, one respondent suggested that proportionately more agreements should be arrived at through voluntary negotiations rather than through the necessary wayleaves process. Conversely, some respondents (5) mentioned that Distribution Network Operators should make more use of statutory powers to ensure agreements are reached in a timely manner.

In contrast to those who believe the current process should remain unchanged, many respondents (12) wish to see a new simpler, streamlined and standardised necessary wayleave process. Many respondents (12) suggested that processes should have clearly defined timescales. Another respondent estimated that the whole process for serving of notices could be completed within a 12-month timeframe.

Many respondents (10) suggested reforms to introduce a more flexible or streamlined approach to dealing with different categories of necessary wayleave applications, such as a fast-track process for net zero technologies, and a simpler process for smaller scale projects. One respondent suggested a simplified process for the felling and lopping of trees.

Several (3) respondents suggested that similar powers to those in telecommunications and water should be introduced, such as a Clean Technology Connection Code.

On compensation, a few (3) respondents believe landowners use the necessary wayleave process as a negotiating tool. A few (3) respondents believe compensation should be dealt with as part of

the necessary wayleave process and other (3) respondents believe that there needs to be standardisation of compensation rates.

On the wayleave process, some respondents (6) mentioned introducing an industry Code of Practice / Code of Conduct and some respondents (5) suggested that Alternative Dispute Resolution would enable quick and efficient settlement of disputes. A couple of respondents (2) raised the importance of updated BEIS (now DESNZ) guidance on how to approach the necessary wayleave process and improved communication between parties.

A number of respondents (6) suggested increasing resource within the BEIS (now DESNZ) and the Planning Inspectorate to alleviate long delays. A few respondents (3) suggested that power be delegated in BEIS (now DESNZ) to allow additional persons to approve applications in addition to the Secretary of State, to relieve resource pressure.

Some respondents (5) suggested that the term of a necessary wayleave should be increased beyond 15 years to provide greater security for the DNO applying. Another respondent noted that the length of term is at the discretion of the Secretary of the State; often this is 15 years, but requests for a longer term is untested as a method, which creates some uncertainty for applicants.

One respondent recommended published heritage protocols should be implemented so that network operators identify heritage constraints at the earliest opportunity to mitigate risks to the historic landscapes. A couple of (2) respondents suggested the upskilling of planning inspectors in such areas as environmental matters and sensitive historic landscapes.

A few respondents (3) mentioned that landowners should have to justify submitting a notice to remove apparatus from land to ensure ongoing network security. Another respondent argued that where a landowner fails to make a substantive case for removal, the default position should be to grant a necessary wayleave for a 15-year term to dissuade landowners from instigating the process for commercial gain.

One respondent highlighted that for Scotland, powers to regulate for establishing new hearing rules in respect of Scottish cases would improve matters. The respondent also mentioned that any substantial process improvement should be informed by consultation in Scotland.

Voluntary purchasing and leasing of land

Q9: What is your experience of, and what are the pros and cons of, the voluntary negotiation process for purchase or lease of land? (40 respondents)

Positive and negative experiences were provided by respondents.

Pros of the current voluntary negotiation process:

An advantage to the voluntary process highlighted by some respondents (5), is the ability to form a consensus with landowners and build enduring and positive relationships. Other respondents (2) raised that in instances where sites are on connecting party land, this is straightforward, and land is purchased for a nominal sum. Similarly, another respondent stated that substation leases will usually be on a nil or low rent basis under this process.

One respondent appreciated that the process enables enforceable, protective covenants over assets for their operational lifetime. Others raised the speed (1) and flexibility (1) of the voluntary process as advantages.

Cons of the current voluntary negotiation process

On compensation and the relationship with landowners, many respondents (14) described the challenges associated with landowners demanding payments above market value and would like to see landowners prevented from exploiting these situations. Some respondents (4) raised that the process is entirely reliant on the willingness of landowners to engage, and third parties may be uncooperative, perhaps because they receive no direct benefit from the project. Similarly, a couple of (2) respondents detailed that the process can be laborious if multiple parties are involved. One respondent noted that Distribution Network Operators often have no direct relationship with the landowner. Another noted there is limited consistent engagement and little coherent internal policy perceived when DNOs commence engagement.

One respondent highlighted a lack of clear compensation levels whereas another stated that there are well established rental terms. A couple of respondents (2) mentioned that rental payments or purchase prices should not be based solely on market value and should take proposed use of land into account. It was also noted that there is no process for obtaining a Certificate of Alternative Appropriate Development, resulting in difficulty resolving arguments on future alternative developments.

One respondent reported a trend where DNO agents are instructed to purchase land at unrealistically low prices set internally. Another raised that DNOs have a significant advantage as they have all comparative evidence and will not share it. In contrast, one respondent raised that the requirement to carry out significant consultation, means landowners have a better negotiating position.

A couple of respondents (2) raised that the associated legal costs can be an issue if negotiations become protracted. Costs in general can be uncertain and it can be expensive to reach agreements, as stated by a couple of (2) respondents.

A number of respondents raised delays and uncertain timeframes as an issue. Some respondents (6) raised that it can take considerable time to reach an agreement, that timescales are uncertain, and that often negotiations become protracted. One respondent stated that the process is often even more complex than negotiating land rights, another that the open-ended timeframes are a disadvantage. A few respondents (2) raised that negotiations between independent DNOs and DNOs frequently takes 12 months or more, due to difficult relationships, which significantly impacts on timelines. One respondent raised delays experienced waiting for responses from lenders as an issue. Another noted that time taken to obtain highway searches can be lengthy and vary considerably.

On standardisation, a couple of respondents (2) highlighted that lack of a standardised approach to negotiations leads to protracted negotiations and others (2) thought that more could be done to ensure a level of standardisation. In contrast, one respondent stated that landowners have bespoke requirements, and it is difficult to see how this can be standardised.

On terms of agreement between parties, a few respondents (3) raised that often to reach agreement, compromises are made on enduring liabilities and length of term. Another respondent mentioned that certain DNOs will refuse to negotiate on certain terms. A few respondents (3) discussed that it can be beneficial to have separate leases for network connection and the project looking to connect. However, it was noted it is challenging when they have different timeframes – an EV charging site lease is usually for 10-30 years and the lease for connection 99 years. This length of lease often makes it difficult to agree with landowners and most DNOs won't negotiate on length of lease i.e. will impose a 99-year lease.

One respondent highlighted that an effective statutory process provides certainty of project delivery where there is otherwise none provided, and another detailed that statutory undertakers need to use their powers. Another respondent raised that objections to Compulsory Purchase Orders are used as a negotiating tactic, to cause delay and apply pressure to increase payment. Some respondents (7) stated that the statutory process is time consuming and costly, making it unviable for small sites. According to some (5) respondents it can be a significant challenge to find an alternative site due to limited options available.

Q10: How do you expect your experience of the process for voluntary purchasing and leasing of land to change given a rapid increase in network build will be required to meet net zero and energy security objectives? (37 respondents)

Some respondents (8) mentioned that the acquisition of land for substations will need to increase. Other respondents (9) believe that securing voluntary agreements will become progressively more challenging for the following reasons: additional pressures on land and land access leading to more protracted and expensive negotiations; networks being outcompeted, and an increase in potential conflicts with other projects such as battery and solar. Some respondents (9) raised that the increase in demand on land will bring commercial pressures on pricing and higher prices will be demanded by landowners. Some respondents (6) stated that the current situation would get worse, and a couple of respondents (2) mentioned that the process would not change unless there is legislative change.

Some respondents (4) detailed that more resource will be needed with the increase in network build required, as there would be greater workloads placed on limited land rights resources. Other respondents (3) raised that costs may increase if the use of statutory powers is preferred over the voluntary process. A couple of respondents (2) raised that there will be greater pressures on timescales in general. Finally, one respondent highlighted that there would likely be more adversarial relationships.

Q11: How could the process for voluntary purchasing and leasing of land be improved? (37 respondents)

Numerous suggestions were made as to how the process could be improved. Many respondents (13) suggested that legislation should be amended: some respondents (6) called for a review of Compulsory Purchase Order powers; a few respondents (3) raised introducing powers similar to those in telecommunications. A few respondents (3) suggested creating a fast-track process; one respondent raised the increase in scope of permitted development rights for substations; another highlighted acceptance of permitted development rights for all utility assets and to allow for a substation to be moved within a development. Finally, one respondent discussed statutory protection for all installed cables, making it a criminal offence to build over electric lines.

Many respondents (13) suggested establishing a code of practice or setting out best practice examples, which should include clear rules of engagement and clear processes, including timelines. Some respondents (4) suggested an increased use of Alternative Dispute Resolution. A few respondents (4) raised the need for increased resourcing in DNOs and agents.

On the process, some respondents (6) wished to see greater use of standardised documentation and processes. Another respondent raised that government could legislate to prescribe acceptable forms of document, as is so under the Housing Act. One respondent suggested more consistency is required between DNOs, another suggested that the early issuing of documentation should be implemented. A couple of respondents (2) highlighted that timescales should be limited around response times and between steps.

On compensation, a few respondents (4) wished to see standard compensation levels set for landowners, dependent on the extent of disruption. One respondent raised that DNOs should be compelled to release details of all leasehold and freehold transactions, so landowners are compensated fairly and there is not such a disparity between agreements. Similarly, one respondent raised that the use of well-established and tested methods of valuation would enable market values to be determined.

A couple of respondents (2) mentioned the need for fair and reasonable compensation with another couple of respondents (2) noting payments should be allowed that are over market value. One respondent detailed that there should be an opportunity for other consequential losses to be claimed at a later date, like in the telecommunications code. However, this should not override where a landowner has legitimate safety concerns or development plans.

One respondent highlighted that DNOs could be incentivised to prioritise negotiations. Another respondent said that there should be early consultation and stakeholder engagement, and a further respondent agreed that responsibility for negotiations to begin at earliest practical stage should be introduced.

A couple of respondents (2) detailed that there should be shorter lease terms that match the lease for the development. Furthermore, there should be security of tenure so that shorter lease terms can be agreed, but with statutory protection for the lease to "hold over" at the end of term if the substation is still in use. One respondent mentioned that amending the length of the "removal notice" might encourage more use of easements rather than compulsory purchase process. Another respondent highlighted that there should be the inclusion of implied rights for cable easements so that leases only need to deal with above-ground assets. Finally, a respondent raised that there should be a system of self-certification, as with Scottish Water, where the developer confirms they own / have access rights for the cables and the utility company provides the power.

Compulsory purchase of land

Q12: Are there any specific issues with the compulsory purchase process in England and Wales relating to its use by network operators, beyond those addressed in the current Bill, which need to be considered, and what is the impact of the specific issue(s)? For example, this could include consideration of any issues around determining compensation (29 responses).

The majority of respondents (12) noted issues with the length of the Compulsory Purchase Order (CPO) process, lack of certainty on timescales and costs involved with the process being challenges which can prevent use of compulsory purchase powers. Some of the respondents outlined the CPO process can cost in the region of £50k-150k, which includes substantial consultant/legal fees and takes between 12-24 months to conclude. Furthermore, it was noted the CPO process needs to be simplified to provide a level of protection for landowners.

One respondent outlined that the law on compulsory purchase is complex, which is a reason why they had made limited use of compulsory purchase powers. Another respondent detailed that stronger guidance is needed on the use of compulsory purchase powers by statutory undertakers as a last resort, after reasonable attempts to acquire land by negotiation have been made. It was also noted that best practice should be developed and promoted on the use of Alternative Dispute Resolution techniques rather than referring disputes to the Upper Tribunal.

A couple of respondents (2) highlighted they have a lack of experience of the CPO process which prevents their use of compulsory purchase powers. Another respondent opined that compulsory purchase powers should be used more often.

One respondent commented that compensation should be based on open market value/market rental value whilst another respondent stated it is not the determination of compensation payable which is problematic, as opposed to the actual use of compulsory purchase powers.

One respondent stated the impact on landowners needs to be better understood, along with the introduction of appropriate mitigation measures. Another respondent signalled support for the reforms to the CPO process being taken forward in the Levelling Up and Regeneration Bill.

One respondent commented that the Electricity Act 1989 does not provide for the inclusion of Certificates of Appropriate Alternative Development in compensation payments.

One respondent stated that for the acquisition of small areas of occupied land for substations etc statutory powers should be used to install these installations via a fast-track process i.e. serving a form of legal notice and the completion of a prescribed notice period.

Other responses were received which were not relevant to the question asked.

Q13: How could the compulsory purchase process be improved further to address the issue? (23 respondents)

The majority of respondents (4) suggested the Compulsory Purchase Order process should be modernised to improve efficiency and expediency and that the time between each step of the process should be reduced.

Several respondents (3) stated stronger guidance is needed on: mitigating the effects of schemes on landowners and occupiers; using compulsory purchase powers as a last resort measure and promoting the use of Alternative Dispute Resolution techniques. Another respondent requested that further clarity should be given regarding the grounds for which an objection to a CPO can be made.

A couple of respondents (2) highlighted measures that need to be implemented to reduce the costs of the CPO process. Another respondent commented that other consents should be allowed to be obtained after, or to be run in parallel with, the CPO process.

One respondent requested that the interests of landowners and occupiers should be protected by a statutory Duty of Care.

A couple of respondents (2) commented that there should be a method of acquiring small and moderate sized sites through the offer of an enhanced market value within a Code of Practice.

A couple of respondents (2) outlined the compensation regime should be replaced with a sliding scale of financial penalties.

Section 37 consents

Q14: What is your experience of, and what are the pros and cons of, obtaining Section 37 consent for overhead lines? (19 Respondents)

Pros of the current voluntary negotiation process:

Some respondents (6) regarded the Section 37 consent for overhead lines to generally be fit for purpose. A few of these (3) commented that the process is cost effective, while also encouraging substantive engagement between network operators and the various statutory stakeholders, making applications to the Secretary of State or Scottish Ministers in circumstances where there are objections, very unlikely. One developer of onshore wind and solar projects said that their experience of the Section 37 consent process for electricity network infrastructure to connect new onshore renewable projects was typically a reasonably smooth process, with timely outcomes. One respondent commented that the issues do not lie with the process, which is generally fit for purpose, but with the ineffective implementation of the process by the electricity network operators.

A few respondents (3) cited the introduction of the Overhead Lines (Exemption) (England and Wales) Regulations 2009, as a positive of the Section 37 consents process. Two respondents commented that this significantly improved the efficiency in the delivery of works to modernise the overhead network while enabling the Local Planning Authorities to refer matters via the full section 37 process for more sensitive matters when required. One respondent commented that the tolerances provided by the Overhead Lines (Exemption) Regulations are vital for the rapid delivery of many projects and an exemplar in relation to the delivery of critical works which have a minimal impact on the environment. It was suggested that this should be extended to enable other types of low impact works to be permitted. They noted that this is particularly relevant to the rapid delivery of low-impact upgrades, large numbers of which are anticipated to prepare the network for Net Zero.

One respondent said that in their experience the majority of applications are determined within 9-12 months and that this is satisfactory within the project timetable of a new line installation, as there will also be wider consents required. These include landowners, highways, network rail, Crown, environmental, street works as well as engineering requirements, putting works out to tender and general community engagement.

Cons of the current voluntary negotiation process:

Many respondents (10) expressed cons of the Section 37 consent for overhead lines process.

In contrast to the above, some (9) respondents cited the length of time for Section 37 consents to be approved as a negative, with some of these commenting that this is typically between 6-12 months. One respondent commented that Section 37 consents can be time consuming to obtain, causing unnecessary delays to projects and can be further delayed if there are objections and public enquiry is required.

Some respondents (8) suggested that extending the exemptions would be beneficial. One commented that the volume of future applications could be significantly reduced by extending permitted development rights for certain works that have minimal impact, adding that a change in this respect would reduce the timescales and increase certainty for these works. Another said that the inclusion of further minor works that could be undertaken within the “six weeks” procedure would be beneficial to delivering on governments and customers’ needs in a timely manner. One

respondent highlighted that the range of statutory exemptions at present is limited and, in some instances, does not enable licence holders to carry out routine upgrading works to existing network apparatus without section 37 consent in each case. They noted this could lead to increased costs and delays for the delivery of such projects. Another respondent said that the exemption for placing a line for a temporary period of 6 months is too limited when lines need to be moved temporarily for building works.

Some respondents (6) cited the linear nature of the process – having to obtain the necessary land rights and Form B approval from the local planning authority prior to making a Section 37 application – as inefficient and a contributor to delays. Two of these respondents said that network operators frequently have to delay submission of their Section 37 applications until the land rights have been acquired. One commented that factoring this into timescales for a project is very difficult to forecast. One respondent commented that they have incurred extra costs acquiring temporary wayleave rights (when permanent easement rights are being legally finalised) simply for the purpose of validating their applications. Two respondents said that where negotiations to obtain land rights are slow or have broken down, they must resort to using statutory powers, adding time to project delivery. Another respondent commented that the inherent delays associated with the linear process have resulted in them seeking alternatives, where available, such as underground options, which may avert delays albeit at a significantly higher cost. One respondent said that the linear process has a significant negative effect on their ability to connect new customers or rebuild existing overhead lines in a timely manner.

Some respondents (6) mentioned the role of the Local Planning Authorities (LPAs) in the Section 37 process. Five of these cited either a lack of resourcing or lack of understanding of the process within LPAs contributing to delays. One respondent said that no timescales exist for LPAs to respond. It was noted that significant effort is needed to chase responses within a reasonable time and a number of LPAs do not respond with the required forms, adding to the time taken in resolving this. Another respondent said that the LPAs are understaffed and underfunded which results in significant time delays in not only registering the Form B application but in also approving it. This means the process taking, in their experience, on average 5 weeks to register and up to 3 months to formally approve. One respondent commented that while the introduction of the exemption regulations was a positive, the disadvantage of submitting fewer Section 37 applications to LPAs is that their experience in processing them has diminished, leading to longer lead times in the processing of applications, which do not follow the minor works process. Another respondent said that the Section 37 process is significantly delayed due to unfamiliarity of many councils with such applications and their role in it. Some LPAs were noted to register Section 37 applications as planning applications, leading to some councils carrying out the same type of consultation as that of planning applications. These respondents suggested that where there are no likely environmental impacts indicated and LPAs do not provide a response within the allotted time, the absence of a response classified as a default 'acceptance'. Another said that many stakeholders, including LPAs, are unfamiliar with Form B, screening and submissions, and find the process complicated. They added that LPAs and statutory advisers have different stances on whether consultation on proposed Section 37 applications is a duty or is discretionary. Consequently, some organisations do not respond in a timely manner and the new procedure for front-loading engagement is slowing the process. This respondent suggested having a consistent position would be helpful, together with agreed charges should it be agreed that these are payable.

Some respondents (4) mentioned Environmental Impact Assessment (EIA) screening in their submissions. Two of these said greater flexibility within the Electricity EIA Regulations applying to

England, Wales and Scotland would permit more timely consideration of Section 37 applications. One said that the Department for Business, Energy and Industrial Strategy (now the Department for Energy Security and Net Zero) requirements for EIA screening on most Section 37 projects is unnecessary as most do not have environmental impacts. Another said that the degree of scrutiny and the nature of the conditions from BEIS (now DESNZ) can be disproportionate to the scale and nature of minor overhead line works and is not consistent with regulations which state the requirements for EIA screening.

A few respondents (3) commented that the Section 37 process is overly complex and cumbersome for Low Voltage and 11kV lines, minor works and network upgrades and improvements.

Two respondents noted that landowner paperwork and engaging with the landowners' solicitors is a part of the process that is most susceptible to delays.

Two respondents mentioned routing. One of these suggested a more sympathetic approach regarding the design of apparatus is required, saying that 'as the crow flies' is not the best approach in terms of not restricting future land use. Another respondent mentioned that the current method for selecting a preferred route for Section 37 submissions is time consuming and expensive due to the need to demonstrate multiple alternative route options during the design phase.

One respondent stated that Section 37 does not currently contain a provision to allow for an application to vary a consent, or extend the period before the consent has to be implemented. It was noted that this can create significant delays to the delivery of critical grid infrastructure if a new consent must be sought, rather than the variation to an existing consent which has already been subject to assessment and determination. They highlighted that there is a provision with Section 36 of the Electricity Act which allows for variations relative to the consent required for generating stations and recommended that the Act be amended to allow for variations of Section 37 consents.

One respondent welcomed the exclusion of overhead lines less than 2km from being defined as Nationally Significant Infrastructure Projects (NSIPs), but noted that this is a relatively short distance for overhead lines in non-designated areas and a greater length of 5km could be beneficial.

Q15: How do you expect your experience of the consenting process for overhead lines to change given a rapid increase in network build will be required to meet net zero and energy security objectives? (23 respondents)

Many respondents (14) highlighted extended timelines for obtaining a Section 37 consent and increased delays as likely impacts of a rapid increase in network build.

Of these, eight respondents expected application volumes to increase. Some respondents (8) said that existing weaknesses in the consenting process would be exacerbated by an increase in applications, increasing decision times. A few of these respondents suggested the impacts could be mitigated by further investment in resourcing, more enforcement on delivery timescales and statutory rights or a review of the current exemption rules.

Five of those that cited increased delays in consenting as an expected impact highlighted the risk this would pose to achieving the targets for increasing network capacity and ultimately the UK's net zero ambitions. Of these, one said that consenting delays are one of the key concerns for their

business. Another was concerned that increased timescales could delay the physical works required to meet the objectives. A further respondent said that they present a barrier to the delivery of large numbers of projects within in short period of time. A couple of respondents (2) said that the scale of the negative impact in terms of delay and cost is likely to be significant.

Many respondents (12) expected to see an increase in the demand or use of new lines and section 37 applications. Two of these anticipated that they would increase their use of overhead lines/section 37 applications in order to deliver in infrastructure required to meet net zero and energy security objectives. A further two anticipated there would be a significant uplift in section 37 applications for the upgrading of 11kV from single phase (2 overhead lines) to three phase (3 overhead lines). One of these respondents also anticipated that there will be a considerable increase in customer connections, specifically in relation to Electric Vehicle charge points and single customer connections for other LCT. One respondent expected there to be a significant number of applications for large scale transmission infrastructure in the next few years, in addition to business-as-usual distribution level proposals.

Some respondents (5) mentioned the need for an increase in resources to support the network requirements to meet net zero and energy security objectives. Two of these said that without a review of the current exemption rules, there will be a significant increase in the number section 37 applications for processing by LPAs and the Department for Business, Energy and Industrial Strategy (now Department for Energy Security and Net Zero). They went on to say without additional investment in resourcing this will lead to extended decision timelines and therefore directly impact on network operators' investment plans on overhead networks and connecting customers. One said that in addition to accelerating current consenting processes, significant investment in planning resources (people and skills) is also urgently needed to tackle the twin climate and environmental emergencies at scale and pace. It was noted if the status quo is maintained with current consenting resources and practices it will put renewable energy and net zero targets at risk. Another respondent emphasised that timescales can be influenced by resources of the company preparing the planning application or the planning authority and consultees reviewing the application, and this should be considered as part of the review. Another respondent anticipated an increased volume in pre-application requests and statutory consultation through the consent process that would place an increased demand on their resources.

Some respondents (4) mentioned exemption thresholds or permitted development rights. Three of these highlighted the need for significant reinforcement of the existing legacy overhead network system. It was noted this would increase the overall energy levels in the system which would require changes such as replacement of small section conductors with modern conductors, upgrading from single to three phase (two conductor 11kV to three conductor 11kV) and the increase of lower voltage legacy lines 6.6kV to the common standard of 11kV. Without a review of the current exemption rules there will be a significant increase in the number of Section 37 applications being made. One respondent anticipated that the energy sector will seek to have updated Permitted Development Rights widened to incorporate their operational needs. However, their view is that the granting of such Permitted Development Rights should not mean that rights over land are similarly short-cut or take precedence over planning and development for other uses.

One respondent highlighted that as the market becomes more congested it is likely that there will be more objections raised on a landscape and visual basis. They also said that there will be more occurrences of physical congestion, requiring more underground crossings on overhead line routes.

One Distribution Network Owner said that the challenge of delivering their future projects is further compounded when the linear nature of the section 37 process is factored into project timelines. They noted this is particularly relevant when considering the number of future projects that could be affected and gave the example of the need for large-scale upgrades from 2 wire to 3 wire on our 11kV network to accommodate the electrical loads resulting from the significant increase of electric vehicle chargers and heat pumps predicted. They continued to say that many of the original section 37 consents for these lines will have been for 2 wire construction and so an upgrade to 3 wire will need a fresh application to the Department for Business, Energy and Industrial Strategy (now Department for Energy Security and Net Zero). Likewise, many of the wayleaves will have been 2 wire specific and so new rights for the upgrade will need to be negotiated. They therefore anticipated that their upgrade programmes could be delayed firstly by negotiations with landowners and thereafter, assuming that every negotiation is successful and does not result in the need for statutory powers, by the section 37 process.

One respondent stated that from the landowner side they expect without some form of reform that owners and agents may look to use the urgent necessity of this network build to extract better deals and more restrictive agreements from the licence holders, commenting that they had observed this in the telecommunications industry.

Q16: How could the Section 37 process be improved? (26 respondents)

Two respondents considered the Section 37 process already fit for purpose. The majority of respondents (24), however, put forward recommendations for how the Section 37 process could be improved.

Many of these respondents (14), including both developers and landowners, recommended broadening the scope of the Overhead Lines (Exemption) Regulations to cover additional minor, minimal impact works in order to significantly reduce the timescales and increase certainty for these works. Among these respondents, the proposed additions to the exemption regulations included the following suggestions:

- Upgrading overhead lines from Single to Three Phase (2 lines to 3 lines) (9 respondents)
- Increasing the Nominal Voltage of existing lines, for example, from 6.6kV to 11kV (4 respondents)
- Allowing for multiple consumer connections and an increase in the voltage limit from 20kV to 33kV (3 respondents)
- Increasing the 6-month and 850m limitation for temporary lines (3 respondents)
- Altering the conductor type (2 respondents)
- Increasing the 60m distance threshold for replacement larger lines/towers (1 respondent)
- Removing the restriction of using the Exemption Regulations in Sights of Special Scientific Interest where there is no objection (1 respondent)
- Introducing exemptions for turn-ins and downloads from existing overhead lines which create line entries to substations (1 respondent)
- Where a line has existed for longer than 10 years, an implied S37 could be assumed
- The restriction on the placement of an existing line should be increased from 30m to 60m for all supports (1 respondent)

- Allowing for schemes, once consented, to change within the stated (new) tolerances in the exemptions rather than require an amended plan from the Local Planning Authority to be approved as a revised consent (1 respondent)
- Removing the need for Section 37 consents for Low Voltage and 11kV lines. It was noted these parts of the network are quite common across the countryside and have extremely limited, if any, visual impact. The main issue brought up for these works is positioning, which is down to what land rights can be agreed between the operator and the landowner (1 respondent).

Three of the 14 respondents that recommended the expansion of the exemption regulations emphasised alongside the need to take into account the interests of landowners and wider public interest. Two of the 14 were explicit that the full Section 37 consent process should be retained solely for the establishment of new overhead lines.

Some respondents (5) suggested the process could be improved by increasing awareness and providing clear guidance. Two of these mentioned Local Planning Authorities (LPAs), with one highlighting the importance of increasing awareness of the process with LPAs and the other suggesting the Department for Business Energy and Industrial Strategy (now Department for Energy Security and Net Zero) issues an updated guidance note to LPAs on the processing of section 37 applications and the Exemption Regulations. Two suggested that good practice guides, such as those in place with Western Power Distribution (now National Grid Electricity Distribution), could be implemented more widely. One suggested that, as well as the provision of clear advice on the Section 37 submission process e.g. documents, terminology and interpretation, the process could be improved by clarifying whether all Section 37 developments need to be screened for Environmental Impact Assessments (EIAs) and what information is needed to support the screening process.

Some respondents (4) advocated for set or reduced timescales. One of these wanted to see a reduction in the LPAs' timescale from two months down to one, by amending the Electricity (Application for Consent) Regulations 1990. Another suggested a mandatory requirement for LPAs to respond within 6 weeks when notified of an exemption, implementing a default acceptance when the timescale wasn't met. Another respondent suggested timescales should be set for DESNZ to determine applications, as this would help plan and programme work. The respondent noted that there is onus on scheme promoters to consult in advance with all Statutory Environmental Bodies (SEBs). However, their experience is that the SEBs do not consider these submissions to be part of their statutory role, and that they are either not prioritising responses or not responding at all. They suggested that compelling SEBs to respond would be a helpful improvement to the process. One respondent advocated for the introduction of fixed maximum consenting timescales of 9 months for EIA Section 37 applications, and 4 months for non-EIA applications through processing agreements, with accountability for meeting measurable consenting targets. This is similar to what is currently in place for Town and Country Planning applications at Local Authority level in Scotland.

Some respondents (4) highlighted the need for parallel processing of land rights and consenting. Two of these said that to facilitate time efficient processing and to shorten the timescales for project delivery, the temporal dependency of the section 37 process on land rights should be reviewed or uncoupled. Another said that not having to have all of the land rights fully secured and/or the final design plan before commencing the Section 37 process would improve this process by reducing the time period for obtaining the Section 37 consent.

Three respondents mentioned resourcing. One of these said that resourcing is key to timely processing of Section 37 applications. Another said that a significant investment in resource is required by all determining bodies at all levels of the consenting process (government consenting

bodies and local authorities), as well as statutory consultees, to enable timely delivery of the critical infrastructure needed to enable net zero.

A couple of respondents (2) advocated for streamlining the process, with one saying that this should be based upon the importance of the scheme, size of project and infrastructure required. Another said that BEIS (now DESNZ) validation could be expedited when Section 37 applications include all correct information at the outset. Including where the operator states there are no likely environmental impacts identified.

Two respondents mentioned the need for performance management. One of these said that measurable performance improvement needs to be introduced to enable targeted acceleration of timescales for projects that will enable net zero delivery. The other suggested that given the pivotal role of Network Operators (NO) in the process, suggesting BEIS (now DESNZ) should consider including a performance mechanism for NOs. It was noted these would be designed to encourage speed and efficiency and to create accountability in order to prevent impacts on the pace of project development.

One respondent mentioned the need to improve the functionality of both the BEIS (now DESNZ) and Scottish Government Energy portals for Section 37 and Necessary Wayleave applications.

One respondent would like to see the introduction of heritage protocols for network operators to guide design and implementation of works permitted under Section 37. They stress early engagement with Heritage Organisations and local planning authority heritage teams to identify and address potential heritage issues, emphasising that Section 37 doesn't exempt network operators from heritage consents. They noted operators should instruct contractors to follow a constraint protocol, engaging with the heritage organisations described above to identify heritage assets for any works that risk impacting the historic environment. This would align with the approach undertaken by other infrastructure providers such as gas and water companies.

One respondent said that current consenting process is a manual-led process with manual methods for route optioneering and Environmental Impact Assessment (EIA). They suggested that BEIS (now DESNZ) should embrace digital submissions that allow for an iterative and collaborative approach to the selection of routes for new distribution alignments, rather than traditional methods.

One respondent advocated for better engagement to understand the impacts on landowners' business and potential mitigation.

One respondent suggested that, in Scotland, alignment with established Scottish planning legislation for major developments could be achieved if powers to regulate the process were devolved.

Another respondent suggests putting in place more criteria on the need for a public enquiry.

Permitted Development Rights for substations

Q17: Is the 29m³ size threshold for substations (Part 15, Class B (B.1.(a)(ii))) suitable for a future electricity system? If not, what would be a suitable size threshold? What evidence do you have to justify this change? (27 respondents)

A few respondents (3) considered the current threshold reasonable and working well. A couple of respondents (2) agreed that the current size is suitable but could do with clarification as to, for example, whether it involves fencing and access.

Some respondents (6) suggested that the threshold should be increased to accommodate the increased transformer capacities and apparatus required for larger scale renewables and electric vehicle (EV) charging. One respondent detailed that there is a higher demand particularly in urban areas.

Some respondents (5) agreed that the current threshold should be increased and remarked that further work into industry substation design is needed. These respondents noted that new threshold size requirements would need to be governed by technical matters, such as switches and other apparatus, and that this is best answered by industry.

Two respondents suggested the size threshold should be increased to 40m³. One said that this would accommodate new “containerised” solutions that package different electrical components into a single, easily deployable asset. The other said that this was an appropriate figure based on projected transformer sizes, plinth requirements and additional equipment requirements. One respondent suggested the threshold should increase to 39m³ as this would include the most frequently used brick-built secondary 11kV substation design.

One respondent said they would prefer a limited threshold to minimise risk of harm to significant heritage assets.

One respondent said that the current threshold is not fit for purpose to support increased electrification and net zero in the rural economy. They suggested a more suitable size threshold for permitted development would be 35m³, 70m³, or even 100m³, which would enable more efficient rollout of substations as well as greater energy self-sufficiency for farms and other rural businesses, though they recognised that these thresholds may be less preferable in certain urban settings.

One respondent suggested that increasing the threshold to 50m³ would accommodate larger transformers and large sites.

Q18: What would be the benefits and impacts of increasing the threshold beyond 29m³? Are there any locations where an increased size threshold beyond 29m³ would be inappropriate? (24 respondents)

A number of respondents raised benefits to increasing the threshold including (4) respondents who thought that it would enable quicker deployment of renewable energy infrastructure and other LCT. A few respondents (3) highlighted that an increased threshold would allow larger scale infrastructure that is needed to meet increased demand to be installed, without the need for a planning application.

One respondent detailed that increasing the threshold to 40m³ would enable widespread use of containerised solutions and in doing so reduce the overall footprint of individual sites and decrease installation times. This would then increase the pace of the overall rollout of technologies including EV charging infrastructure, renewable energy generation and energy storage.

Some respondents (6) stated that raising the threshold would be a valid way to improve efficiency, reducing cost and timescales for the development of new, larger substations. Similarly, another respondent detailed that substations could be constructed more readily and contribute to the delivery of the future net zero system.

One respondent highlighted that there would be greater energy self-sufficiency for farms and other rural businesses.

Regarding the impacts of an increased threshold and whether there are any locations or circumstances where an increase in threshold would be inappropriate:

A couple of respondents (2) stated that an increased threshold could have a visual impact and some respondents (4) highlighted that the increased threshold may be inappropriate in densely populated urban locations or close to residential dwellings.

Some respondents (4) discussed that restrictions should be included for sensitive locations such as national parks, conservation areas, and areas of outstanding natural beauty (AONBs).

A respondent mentioned that clearer guidance on the threshold and what constitutes permitted development would be beneficial and this should include instances where sites are located in AONB as well as other planning policies.

Comparison of land rights to other utility industries

Q19: Recognising that there are differences between electricity network infrastructure and the infrastructure of other utilities, how could the electricity industry learn lessons from the comparable processes in the telecommunications and water industries? (41 respondents)

A few (3) respondents stated that there are very limited lessons that can be learned from the land rights processes for the telecommunications and water industries. A number (9) of respondents highlighted that there are significant differences in scale and physical nature between the utilities. According to some respondents (3), there are approximately 1.4 million mobile phone masts in the UK, and the water distribution network has 347,636km of pipes. In contrast, DNOs occupy more than 180,000 substation sites together with 868,729 km of distribution lines and 4.1 million poles. Some (6) respondents drew attention to physical differences, with water pipes being buried and, once laid, the landowner does not experience any interference except for repairs and maintenance. Whereas, electricity network infrastructure causes interference on farms and impacts on current and future use of land. The health and safety risks are also greater for network infrastructure, as raised by a few (4) respondents.

Another key theme to the responses was that of the relationship between landowners and network operators. Some (7) respondents noted that the current approach of seeking voluntary agreements in the first instance has the benefit of positive, enduring relationships with landowners. A few (4) respondents believe that this approach is the right one and more effective than in other sectors.

Some (7) respondents believe that there must be a balance between rights of the operators and the interests of operators. Any reform must be fair and equitable and should not fundamentally interfere with the current balance. A few (3) respondents stated that the rights of landowners should be protected and that there would be significant resistance if the comparable rights to the other sectors were introduced.

Telecommunications

Both positive and negative points were raised about the process for the telecommunications industry: thirteen respondents made positive points and fourteen made negative points.

Regarding the positive points that were made, some (5) respondents would welcome a code for electricity network operators similar to that used in the telecommunications sector. It was noted both regimes (water and telecommunications) benefit from greater certainty and efficiency by some (3) respondents and others (2) stated that the Electronic Communications Code has provided

parameters for compliance for both landlords and site providers, reducing timescales for negotiation. One respondent stated that the principles of the 2017 Act provide a quick, cheap process of imposing rights against landowners with lower standards of proof.

Other respondents raised specific points about the telecommunications process that should be emulated in the electricity sector. This included - the power for a Tribunal to grant interim access to land so that installation of infrastructure is not delayed whilst negotiating and obtaining land rights (raised by 5 respondents); and encouragement of the use of Alternative Dispute Resolution (4 respondents). A few (3) respondents highlighted the benefits of a fast-track process for allowing operators to deploy infrastructure where landowners have failed to engage. Automatic rights to upgrade existing infrastructure was raised by a couple of respondents (2). One respondent highlighted the benefits of introducing a complaint handling procedures while another stated that they would support informing landowners at an early stage of the statutory powers that are available, as is done in telecommunications.

One respondent raised that the Code of Practice for Mobile Network Development includes environmental considerations which extend to the historic environment, noting this could be a good practice approach for electricity networks and would set the framework for the introduction of network operator heritage protocols.

Finally, a couple of respondents (2) thought that it is positive that the government is actively and regularly reviewing the Electronic Communications Code in the aftermath of the 2017 reforms and suggested this would be beneficial if the land rights processes are reformed for electricity network infrastructure.

Many (14) respondents believe that the reforms in 2017 to the Electronic Communications Code have had negative consequences. Some respondents (7) mentioned that these reforms reduced the rent paid to landowners, and that the balance of rights between operators and landowners has now shifted too far in favour of the operators (4). There was a strong sense among landowners, their representative bodies and the firms that advise them that they had not been adequately consulted and that the reforms were imposed on them, according to a couple of respondents (2).

It was noted that the reduction in rent and the behaviour of certain operators has caused a high level of distrust and potentially damaged relationships with landowners (6), with some landowners now not wanting to engage with operators (5). It was noted in some cases that landowners under the advice of their agents have refused to engage in the voluntary process and challenged the operators to go through the Tribunals instead. Likewise on the operator side, operators also sought recourse to the Tribunals. One respondent believed this was to conclude new agreements but, more importantly, to set precedents for compensation. Another respondent raised that applying to the court to impose an agreement on a landowner was supposed to be a fallback position when negotiations failed. Instead, it was noted, negotiations seem non-existent, and landowners are presented with Heads of Terms that operators won't deviate from. These Heads of Terms are often accompanied by the threat of a referral to court and adverse costs against them.

A couple of respondents (2) believe that ambiguity in the drafting has led to legal and valuation uncertainty, which has also caused disputes.

As a result, it was noted that there has been a marked increase in court cases (6). Respondents mention that prior to code reform, court cases were rare but since 2017, the Tribunal and Court services have been inundated, with 3 cases progressing to the Supreme Court. Some (7)

respondents believe that this has resulted in a significant delay to roll out infrastructure and that whilst Code reform was intended to speed up roll out, it has had the opposite effect.

One respondent raised that the original Telecommunications Act open market procedures enabled the roll out of a comprehensive mobile phone network across the UK. Further it was described that the proposed changes under the Product Security and Telecommunications Infrastructure Bill (now an Act) will move even further away from the market model that was proven to work in practice towards a confiscatory approach.

A Code of Practice was also introduced as part of Code reform. A couple of respondents (2) highlighted that whilst this Code of Practice was introduced with the best of intentions, it has no legal standing and no sanctions for non-compliance. Some operators frequently do not adhere to it and this non-adherence is rarely mentioned in court proceedings.

Water

Similarly to the telecommunications industry, both positive and negative points were made about the land rights process for the water industry: sixteen respondents raised positive points and nine respondents raised negative.

Some (8) respondents would welcome similar powers to those granted to water companies, in particular a statutory right to access land and install infrastructure with no negotiation required, believing that this would expedite network build. One respondent noted that negotiations on compensation are undertaken in parallel to the works in such a way as to have a minimal impact and consequently water companies do not routinely pay high premiums to access.

Noting that negotiations are not necessary, another respondent stated that mindful of their reputation, and are driven by landowner pressure, water companies' modern approach is of a more collaborative nature and there is a strong focus on compliance with codes of good practice in connection with their works. However, they still use statutory notices when works need to be undertaken.

Some (6) respondents highlighted that the water industry benefits from a Statutory Code of Conduct, monitored by Ofwat, where there are penalties for non-compliance. This sees most water companies follow protocols for accessing and taking rights over land, with plain English correspondence, outlining the rights of the landowner to seek professional advice (with reasonable costs of the same being met). It is useful in setting landowner expectations.

In contrast, other respondents (3) believed that the current process of not requiring a voluntary consent is the greatest unchecked use of compulsory powers and is unfair on landowners. These powers carry the risk of adversely impacting relationships with landowners, according to some (4) respondents. A couple of respondents (2) noted that the water industry is the only sector not to pay for the imposition of their apparatus, for example there is no means of recovering compensation if the apparatus stifles future development and no payments are made to reflect easement rights. Another respondent opined that water companies sometimes lack initiative to engage on compensation, with claims therefore taking years, leaving the landowner significantly out of pocket.

Gas

In addition to lessons learned from water and telecommunications, a number (7) of respondents also raised points about the gas industry.

A few (3) respondents stated that gas installations are concluded more quickly than electricity network installations and electricity network infrastructure should have the same statutory protections (2).

One respondent noted that the gas industry, with its statutory powers not being as robust as that of the water industry, generally completes all land transactions by negotiation. While it was noted that levels of consideration are typically higher than that of electricity or water, the relative overall costs to the gas industry should be considered. Infrastructure it was noted is delivered with ease and without protracted, costly negotiations and without the risks and costs of project delay.

A few (3) respondents believe that the amendment made to the Gas Act regarding access to private streets should be mirrored for the Electricity Act. Currently for electricity when works need to be undertaken in a private street, voluntary consent(s) are then required with every party that holds an interest in that street. It was pointed out that this issue has been addressed for the gas industry.

Q20: Is there any additional information or evidence that you would like to submit? (15 respondents)

Fifteen respondents included additional information or evidence in this call for evidence.

Three respondents mentioned the development of an industry Code of Practice. Two of these said that any future legislative changes could be underpinned by an Industry Code of Practice, itself founded in legislation. This would set out requirements in respect of how networks interact with landowners and provide for standardisation of approach in third party matters, including Alternative Dispute Resolution. One respondent said that Independent Connection Providers and Independent Distribution Network Operators (iDNOs) should be included in the development of best practice.

Three respondents mentioned consents in private streets. Two of these note that there are provisions within the current framework to facilitate the acquisition of consents within a private street, however, these provisions are ambiguous and unclear in respect to an application to the Secretary of State under Para 3. All three respondents recommended alignment with the rights granted by the Gas Act 1986 Schedule 4, Paragraph 3(2).

Two respondents highlighted the inflexibility of DNOs in relation to Electric Vehicle Charging Stations as a barrier to connection, particularly in Scotland. One said that EV infrastructure is treated no differently by the DNO than other use cases, such as residential developments, whereas in reality they have completely different needs. The current processes in place are not tailored to the charging industry, where lease lengths are not aligned, for example.

Two respondents mentioned the role of telecommunications in networks and the need for modernised and cost-effective statutory powers. One mentioned the potential for asset sharing arrangements between electricity network operators and telecoms companies. It was described that this could provide timely and cost-effective delivery of fibre for electricity network purposes and potential parallel benefits to telecoms companies for the expansion of their own networks.

Two respondents recommended changes to the necessary wayleave process. One said that priority should be given based upon apparatus voltage and land use potential. Furthermore, it was stated that landowners need to be heard and all factors taken into consideration when determining the granting of any rights. Another said that the process should be reviewed to allow for a more proactive approach to lower voltages and the felling and lopping of trees.

Two respondents mentioned compensation. One highlighted that compensating landowners for existing land-use will stifle future development potential and impact upon the housing supply figures as vast acres of land primed for development will remain undeveloped. This is due to developers wanting to avoid pursuing sites with apparatus which is protected on an easement. Therefore, compensation must factor in the potential development value of a site. Another respondent recommended a Compensation Code to allow for set parameters on compensation, together with a standardised approach to dispute resolution.

One respondent noted that extensive use of compulsory purchase rights is likely to be required to meet the government's Net Zero targets.

One respondent stated that innovation will have an important role to play in the delivery of Net Zero, with land rights and consents having built in flexibility, or the ability to be varied at the discretion of the licence holder (akin to the telecommunications rights), subject to any additional loss suffered by the landowner. This respondent also noted that there are scenarios where the transmission network has gaps in express and documented land rights, and that even where appropriate land rights exist, entry to land to undertake repairs, maintenance and upgrades is prevented due to challenging landowners. Where this is the case on the distribution network, there is the ability in Schedule 6 paragraph 9 to serve a notice and enter the land. However, it was noted the transmission network is not afforded such rights. This leads to further ransom positions with entry refused often when outages are booked and contractors are mobilised, delaying the work at further cost to the consumer.

One respondent shared their view that statutory processes are working close to perfectly and are fit for purpose for the Net Zero project. They said that by comparison to the volume of consents that the DNOs agree voluntarily each year, the volume of cases which enter statutory situations is minimal, and that a significant proportion of the necessary wayleave applications submitted in the last five years have been submitted by just one DNO. They agreed that work is needed on the low and high voltage network if DNOs are to meet Net Zero targets said that the consenting project necessary to achieve the necessary build is likely to be far smaller than may be anticipated, since current consents would likely allow whatever upgrade is required.

One respondent raised the Network Access and Forward-Looking Charges Significant Code Review (SCR) that came into effect on 1st April 2023 changed how new connections or upgrades of existing connections are costed, rebalancing the proportion of cost which a customer pays for reinforcing the wider network to accommodate their new connection or upgrade. Their view was that this change would drive an increase in the number of connection requests, and, in turn, land and land rights negotiations. They also said that the change would transfer the costs of purchasing land rights and consents for upstream reinforcement works from the customers requesting those works onto bill paying customers, raising a dilemma in how network operators should proceed with several cost alternatives present. It was further noted that if the use of statutory powers delivered a more cost effective outcome, then the network operator's only option would be to seek that course of action, regardless of the delay that will impose on its customer's connection works. The respondent called for a novel statutory powers solution to address this problem.

One respondent emphasised that any proposed reform of reserved matters must consider the important differences in law and practice in Scotland. For example, in considering whether amendment of section 37 is necessary, it must not be assumed that such consents are for smaller/lower voltage lines only.

One respondent proposed that the land around the larger substations could be allocated or have permitted development rights for net zero related development, with landowners being obligated to facilitate cable crossing routes across their land into the substations where technically feasible.

One respondent noted that if the Form B/Section 37 process remains in its current format, mandatory timescales will need to be introduced to prevent delays and to allow for timescales to be built into capital and connection projects.

They also said that to prevent notices to remove being submitted for reasons not in line with the intent of the Act (for example to leverage compensation or increase the value of compensation), further grounds by which a notice to remove can be objected to and rejected should be introduced. They also recommended the introduction of a requirement for sufficient evidence to support the submission of a notice to remove. This would be along the lines of similar processes as currently in place for Upper Chamber (Lands Tribunal) regarding cost awards to ensure the process is fair and equitable and does not disproportionately increase the cost of bills for consumers.

One respondent recommended alignment with the rights granted by paragraph 74 of the Electronic Communications Code to permit the power to fly lower voltage overhead lines.

Another respondent highlighted a lack of maintenance and asset renewal, with some substations appearing in poor condition and becoming unsightly, eroding landowner appetite to consider that additional assets should be installed in their property. They said there is opportunity for substations to be land-scaped and containerised to reduce visual impact. DNOs are currently working on a standard design which allows for future upgrades without the need to dig for more cables or install more substations. The respondent also mentioned that land take for DNO cable routes can be considerable and asked whether easement corridors can be removed or reduced, with temporary rights of access increased either side of the asset corridor. They highlighted that overhead lines pose considerable challenge to landowners but are cheaper to install and suggested incentivisation towards buried cable routes. The same respondent mentioned that DNOs will not install duct work, nor install cables, nor energise circuits unless land rights are in place and suggested that temporary powers are granted to facilitate construction and lessen programme pressure.

The respondent noted that the requirement to compress land take as part of the DCO process can lead to insufficient access rights for both temporary & permanent DNO assets and suggested a focused relaxation (or enhancement of land-take) be considered to mitigate this. They also mentioned that the current surge in connection demand is being seen in various hot spots in the UK, with some DNOs now reporting 8 years for the necessary reinforcement works in order to make provision of the full demand capacity. They said that there needs to be greater incentivisation of anticipatory reinforcement investment, not driven by market requirements, but by DNO & NGET regional planning.

They continued to say that installation of DNO cables within highways does not require land rights and suggest a more pragmatic approach is taken with other national infrastructure operators to mitigate land rights schedule pressure. It was noted some utility companies are mentioning the need for easements in temporary land that will eventually become highway, adding unnecessary process and cost when land rights are ultimately not required.

They concluded by highlighting that the DfT / OZEV Rapid Charging Fund programme is a big policy driver and to reduce electrical losses and environmental impact the most effective way to do this is at high voltages (11kV and 33kV) cabled to a single connection point at the Motorway Service Area.

Annex 2: Glossary

Alternative Dispute Resolution (ADR)	Alternative Dispute Resolution refers to ways of resolving disputes between consumers and traders that don't involve going to court. The government wants to encourage the development of ADR. Better ADR and easier access to it should also be good for all businesses committed to giving their customers the best possible service.
Alternative Dispute Resolution Taskforce (ADRT)	Government committed in Parliament during the passage of the Electricity Transmission (Compensation) Act 2023 to set up an Alternative Dispute Resolution Taskforce which would be responsible for generating proposals on Alternative Dispute Resolution in cases where there is a dispute over compensation. This will help landowners avoid having to take a case to the Upper Tribunal.
Area of Outstanding Natural Beauty (AONB)	Land protected by the Countryside and Rights of Way Act 2000. It protects the land to conserve and enhance its natural beauty.
Certificates of Appropriate Alternative Development (CAAD)	A CAAD is part of the compulsory purchase legislation. It enables the claimant under a compulsory purchase scheme to request that their local planning authority review their site and consider what development could have occurred in a 'no scheme world'. This can range from development of agricultural barns to residential or commercial uses or large-scale renewable energy schemes, and everything in between.
Development Consent Order (DCO)	A Development Consent Order is a means of obtaining permission for developments that are considered Nationally Significant Infrastructure Projects.
Department for Energy Security and Net Zero (DESNZ)	The Department for Energy Security and Net Zero is focused securing our long-term energy supply, bringing down bills and reaching net zero. From the former Department for Business, Energy and Industrial Strategy (BEIS).
Department for Transport (DfT)	The Department for Transport work with our agencies and partners to support the transport network that helps the UK's businesses and gets people and goods travelling around the country. We plan and invest in transport infrastructure to keep the UK on the move.
Distribution Network / Distribution Network Operator (DNO)	A network or the operator of a network that is authorised to be operated by the holder of an electricity distribution licence. They bring electricity to homes and businesses at lower voltages from the transmission network.
Electronics Communication Code (ECC)	Regulates the rights of telecommunications operators to install and maintain apparatus on public and private land.
Electric Vehicle Charging (EVC)	Both electric vehicles and plug-in hybrid electric vehicles require an EV charger to keep the battery full.

Environmental Impact Assessment (EIA)	Is a tool used to assess the significant effects of a project or development proposal on the environment.
Low Carbon Technology/Low Carbon Technologies (LCT)	Low-carbon technology products produce less pollution than their traditional energy counterparts and will play a vital role in the transition to a low-carbon economy. Low carbon technologies include mechanics like wind turbines, solar panels, biomass systems and carbon capture equipment.
Local Planning Authority (LPA)	The public authority whose duty it is to carry out specific planning functions for a particular area. ¹⁰
Ministry of Housing, Communities and Local Government (MHCLG)	The Ministry of Housing, Communities and Local Government is central to the mission-driven government, from fixing the foundations of an affordable home to handing power back to communities and rebuilding local governments.
Motorway Service Area (MSA)	Also described as service station. These are rest areas from the motorway where drivers can refuel/recharge, shop and rest.
Energy National Policy Statements (NPS)	The Energy National Policy Statements set out the government's policy for delivery of major energy infrastructure.
Nationally Significant Infrastructure (NSIP)	The installation of certain overhead lines in England and Wales, typically higher voltage lines at 132kV and above, and 2 kilometres in length or over, requires a development consent order under the Planning Act 2008. These are considered Nationally Significant Infrastructure Projects
Non-Nationally Significant Infrastructure Project (Non-NSIP)	Includes lines whose nominal voltage is expected to be less than 132kV or whose length is less than 2km as set out in the Planning Act 2008 section 16.
Office for Zero Emission Vehicles (OZEV)	The Office for Zero Emission Vehicles (OZEV) is a team working across government to support the transition to zero emission vehicles (ZEVs). OZEV provides support for the take-up of plug-in vehicles, as well as funding to support chargepoint infrastructure across the UK.
Planning Inspectorate (PINS)	The Planning Inspectorate deals with planning appeals, national infrastructure planning applications, examinations of local plans and other planning-related and specialist casework in England.
DfT / OZEV Rapid Charging Fund programme	The rapid charging fund (RCF) will enable a comprehensive ultra-rapid charging network by funding prohibitively expensive grid connections.
Transmission Acceleration Action Plan (TAAP)	The government response to the Electricity Networks Commissioner's report on accelerating electricity transmission network build.

¹⁰ The [National Planning Policy Framework \(NPPF\)](#)

This publication is available from: www.gov.uk/government/calls-for-evidence/land-rights-and-consents-for-electricity-network-infrastructure-call-for-evidence

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