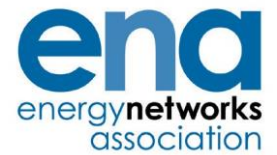


The Voice of the Networks



Energy Networks Association

**Fair and Effective
Management of DNO
Connection Queues:
Progression Milestones
Best Practice Guide**

3 November 2016

1. Purpose and Objective

- 1.1. The purpose of this guidance document is to outline a best practice approach on queue management connection milestones for Distribution Network Operators (DNO). These milestones have been developed with Distributed Generator (DG) stakeholders on the Energy Network Association's (ENA's) DG and DNO Steering Group (the steering group¹). The milestones have also been subject to wider consultation with stakeholders². Alongside this document, we have published a summary of the responses received to our consultation.
- 1.2. This document includes the best practice milestones which have been agreed with the steering group and also the rationale for why the steering group arrived at that position, including how it considered responses to our consultation.
- 1.3. The purpose of the milestones is to ensure efficient allocation of network capacity to customers. At present, many customers have their connection held up by slow moving projects which are ahead of them in the connection queue. DNOs currently have limited legal or contractual powers to remove these projects from the queue and potentially free up capacity for the projects that are ready to connect. The milestones will provide DNOs with the contractual basis to remove customers from the connection queue if their project is not progressing towards being connected. Removing those customers whose projects aren't progressing can help free up capacity already on the network and ensure other customers can be connected faster.
- 1.4. The intention of this document is to apply milestones to projects that require export capacity. The applicability to projects that require import capacity will be considered by each DNO and applied where they consider it appropriate.

¹ The ENA DG-DNO Steering Group is made up of a number of diverse stakeholders, including various Distributed Generators, trade association representatives, six DNOs and an IDNO.

² <http://www.energynetworks.org/assets/files/news/consultation-responses/Consultation%20responses%202016/Queue%20Management%20Milestones%20consultation%20April%202016%20-%20FINAL.pdf>

2. Background

- 2.1. In some areas of the distribution network, there is limited capacity to connect new customers. Once that capacity is used up, network reinforcement may be required to create new capacity. This has both cost and time implications for connecting customers. In assessing any new connections, DNOs need to take into account any customers that have accepted connection offers but not yet connected. These “contracted but not yet connected” customers (often referred to as the “queue”) can have an impact on any subsequent customers wishing to connect to the network.
- 2.2. Many of these “contracted but not yet connected” customers progress their connection project to energisation and others make every attempt to do so. However, where a project is not progressing, DNOs currently have limited powers to remove a project from the queue. In some areas of the network this has led to a situation where projects which could progress are held up in a connection queue behind others projects which are stagnant. This is not the most efficient way to allocate network capacity.
- 2.3. This issue has been raised by stakeholders and was highlighted in Ofgem’s published [Quicker and More Efficient Connections – next steps](#). This suggested a number of actions for DNOs to address that they would take forward through the steering group.
- 2.4. This document seeks to outline a best practice approach on connection milestones. Section 3 sets out high level principles for milestones and section 4 details the specific milestones.

3. High Level Principles

3.1 Please see below the high level principles to underpin the specific milestones. We have included the rationale under each milestone to explain our approach and in particular any changes of approach from the version which we consulted upon.

1. In general, early milestones, particularly milestones before a project has achieved planning consent, will be enforced more rigidly. Milestones will be enforced more flexibly after planning consent is granted and as a project nears completion.

Rationale: At the early stage of a project, fewer resources and time are deployed by the customer therefore it is easier for the customer to accept a connection offer and not progress the project. As a project progresses further, the customer will incur more sunk costs and therefore be more likely to progress the project. It seems appropriate to recognise this with greater flexibility around the assessment of milestones as the project develops.

Some respondents commented that the payment of securities to National Grid (for any Transmission works) could be taken as a significant commitment. The steering group agreed with this and considered that this could be taken into account by DNOs as evidence of customer commitment, should a milestone be missed. Other stakeholders thought that 'planning' should be more clearly defined. The steering group felt that the term was sufficiently clear for the purposes of the milestones.

2. There will be no single milestone relating to funding progression.

Rationale: DNOs understand that many projects rely on external funding mechanisms such as Contracts for Difference³, or being selected to provide ancillary services to National Grid in order to be financially viable. Securing funding can be a long process, with no certainty of whether a project will be successful. The steering group had a lengthy debate on whether there should be a milestone for obtaining external funding. On the one hand, it would provide DNOs with another tool to remove projects from the connection queue which, without funding, are unlikely to progress. However, some stakeholders highlighted that it is not for a DNO to say whether a project is still financially viable and that the customer may be able to explore other funding avenues.

The conclusion was that a specific milestone on funding progression is not required, as it will be up to individual customers to decide how they progress the project. This position was supported by respondents to our consultation.

³ <https://www.gov.uk/government/collections/electricity-market-reform-contracts-for-difference>

3. Once a milestone has elapsed and the DNO has received no evidence of it having been met, it will write a letter to the customer stating it will terminate the contract unless convincing evidence is provided within a period specified in the letter, typically four weeks. The DNO will offer the customer the opportunity to discuss project progress in the letter.

Rationale: Some respondents felt that a different time period should apply to the notice letter. Some stakeholders had wanted it shorter and others longer. However, we consider that four weeks represents a fair time period for a customer to provide evidence. The steering group noted that four weeks was standard legal timescales for such notice of termination. Other respondents considered that there should be an exception for more complicated projects. Again, the steering group felt that this was best dealt with as part of any evidence a customer presents for missing a milestone. Individual DNOs will be able to set their own response time but the recommendation from the steering group is for four weeks.

The steering group highlighted that it should be made clear to customers that the milestones process does not restrict their ability to appeal against a DNO's decision through the normal channels⁴.

4. Milestones should be spaced out across the timescales for the project, where possible. Where practicable, there should be a maximum of one year between milestones. Milestone dates will be set either from the date of accepting the connection offer or according to the construction plan which the customer has agreed with the DNO. The DNO will provide most of the milestones in the connection offer and it will be down to the DNO to decide if these need altering at a later date. In general, construction-related milestones will work backwards from the target connection date while planning, design and TSO⁵ process initiation milestones will normally work forwards from acceptance, where reasonable to do so. Regardless of the milestones in place, DNOs can still write to customers at any time during the build out phase of a project to ask for evidence of progression and should do so at least annually.

Rationale: One respondent commented that milestones should only be set once a customer has received a complete offer from the DNO which includes clarity on any transmission works required. The steering group rejected this on the basis that the information on transmission works required would rarely be available to the DNO in time to include in the original offer⁶. Further, if a customer missed a milestone because it only became apparent that Transmission works were required following the issue of a connection offer, the DNO will take this into consideration as mitigating evidence.

Another respondent commented that there should be a minimum of a year between milestones. The steering group thought that it would not always be appropriate to do so and therefore could not be a stringent requirement. In order ensure timely progression of projects

⁴ Details on the appeals process available to customers can be found on all DNOs' websites.

⁵ Transmission System Operator, presently National Grid Electricity Transmission plc in GB.

⁶ Please note that National Grid and DNOs are working together to improve the current process as part of the ENA's statement of works group but the timescales for the DNO offer and production of mod app from National Grid are unlikely to align.

is achieved the steering group thought that there should not be a period greater than one year between milestones and therefore the dialogue between the DNO and the customer. In situations where there is a long connection date due to reinforcement or transmission works, the DNO will need to consider the setting of milestones to ensure that these are appropriate for the connection date.

We have also clarified that DNOs will be responsible for setting the milestones and that they will make the final decision on milestone dates. Nevertheless, DNOs will have discussions with the customer when it comes to assessing any reasons why a milestone has been missed. The steering group rejected some comments that milestones should be based around project spend as we want focus on continued project progression through objective milestones.

5. The customer will need to demonstrate that it has tried to make progress (assessed against the evidence outlined in the milestones tables detailed later in this document) and demonstrate that delays are no fault of their own. Otherwise the milestone will be considered to have been missed and principle 3 will apply.

Rationale: A number of respondents commented that this principle placed too much discretion with the DNO and that assessment would be subjective. The steering group considered that it would not be possible to be prescriptive in terms of how DNOs would assess every permutation within a generic principles document. DNOs will need to act reasonably since customers have the right to refer the terms of the milestones (and DNOs' application of them) to Ofgem for determination. The steering group also rejected a claim from one respondent that consideration should be given to the type of developer when assessing evidence as to progression. DNOs were clear that they can't discriminate between different customer types.

6. Milestones and associated specific time periods for planning will vary depending on whether the project requires an Environmental Impact Assessment (EIA) or not.

Rationale: We had originally consulted on a proposal where the time periods for planning milestones would vary depending on the technology type of the project and its size (driven by the voltage level at which it planned to connect). However, the majority of respondents commented that the planning process is complicated and that it would be inappropriate to 'pigeon-hole' projects into such limited categories based on size and voltage. It became apparent in responses and discussion at the steering group that the main factor which can be used to determine planning timelines is whether the project will require an EIA or not.

Some respondents requested that planning milestones were set on a project by project basis. DNOs had some concerns with this approach given that they have licence obligations not to discriminate, added to the practical issues of having to agree bespoke milestones for every project which they are required to provide a connection offer to. For simplicity, the steering group agreed to have two standard milestones for planning, one for projects where no EIA is required and another where one is. In both cases reasonable representations can be made by customers to justify why specific projects have not followed anticipated planning timescales and milestones can be extended if the DNO agrees. These same standard milestones will apply regardless of the size of the project or voltage of connection. This is reflected in the milestones detailed in section 4.

7. Individual DNOs may choose to apply less than all of the milestones above to certain categories of projects. For example, some may choose to apply fewer milestones to LV connection projects.

Rationale: There were mixed responses to this question. Some stakeholders were concerned that not applying milestones to LV could result in “gaming” where customers changed their voltage of connection to avoid milestones. However, there was also recognition that milestones shouldn’t be introduced where they would not provide benefits. The setting and monitoring of milestones is a cost and time commitment for both DNOs and customers. There would be limited value in implementing milestones where they would make very little difference in terms of freeing up capacity. This document sets out best practice on milestones to ensure a consistent approach wherever possible. It will be up to each DNO to decide how they implement these and where they see best value.

4. Milestones

4.1. The steering group has developed the following milestones:

- 1. Initiated Planning Permission;**
- 2. Secured Planning Permission;**
- 3. Land rights;**
- 4. TSO interface;**
- 5. Contestable works design submission;**
- 6. Commence and progress works; and**
- 7. Project construction.**

4.2. Annex 1 to this guidance includes diagrams outlining the process and timelines (some of which are illustrative⁷) associated with these milestones. The rest of the document provides the detail of each milestone, as agreed with the steering group.

⁷ Some of the later milestones around commencing and completing construction will need to be agreed on a case by case basis once the project is further progressed. We have included illustrative timelines for these milestones for completeness in annex 1.

Milestone 1: Initiated planning permission

Milestone 1	Detail	Evidence	Time period
Initiated planning permission	<i>Projects can fall into two separate categories; 'A' if they do not require an Environmental Impact Assessment (EIA) and 'B' if they do require an EIA:</i>		
	<u>Category A</u> The customer must be able to provide evidence that it has initiated the relevant planning process.	Submission of a valid planning application.	2 months from offer acceptance date.
	<u>Category B</u> For projects which require Environmental Impact Assessment (EIA) the customer must be able to provide evidence that work on the assessment has been initiated. and The customer must be able to provide evidence that it has initiated the relevant planning process.	Written confirmation from relevant third party undertaking the EIA work proving that the EIA has been commissioned or evidence that the customer has incurred costs in initiating the EIA. Submission of a valid planning application.	2 months from offer acceptance date. and 14 months from offer acceptance date

Rationale: As explained above, the steering group has moved to a simpler description of what Category A & Category B projects are, based solely on whether they require an EIA. The other change which has been made is to the time period for Category B projects to submit planning application. Stakeholders highlighted that the initial proposed time period of 14 months from submitting the EIA initiation could drive customers not to start the EIA process until the connection offer had been accepted and that this could cause unnecessary delays. Consequently, the steering group has amended this time period to 14 months from offer acceptance. The steering group accepts that some projects may take longer than 14 months for legitimate reasons. Where this is the case, the customer will need to demonstrate these to the DNO before the 14

month time period has expired. Where there are legitimate reasons for delay due to the specific nature of the project and the EIA required; the DNO will be able to extend the time period for the milestone.

Some stakeholders questioned the 14 month time period; while others thought it would appropriately encourage developers to start the planning process prior to seeking a connection offer. One stakeholder commented that it may be difficult to provide evidence of initiating the EIA as some developers do so in house. Having discussed this, the steering group felt that it should be straight forward to provide evidence of costs incurred as a result of progressing the EIA and that this should constitute sufficient evidence to the DNO. Consequently, we have added this into the evidence required to meet the milestone as a result of the consultation response.

Milestone 2: Secured planning permission

Milestone 2	Detail	Evidence	Time period
Secured planning permission	The customer must provide evidence that it has done everything reasonably within its control to secure planning permission.	<p>The planning decision notice confirms planning permission has been granted and that this permission allows the customer to meet the terms included in the accepted connections offer.</p> <p>DNOs can check progress against relevant planning portal for a notice decision.</p>	<p>12 months from offer acceptance date for Category A projects which don't require an EIA</p> <p>24 months from offer acceptance date for Category B projects which require an EIA</p> <p>Where convincing evidence is provided, DNOs can extend the time period.</p>
	The customer will be allowed to follow the full planning process. If the customer has planning permission rejected, or a third party challenge is made then an additional milestone will be added (on request) to allow them to go through the appeal process.	Paperwork demonstrating that an appeal, or challenge has been lodged	This can follow the process set out under the applicable planning rules: an appeal needs to be made within 6 months in England & Wales; 3 months in Scotland from the date of a refusal notice <u>OR</u> when the local planning authority should have made a decision.
	If the appeal process went to Statutory Challenge, evidence of a submission would form a milestone but not the outcome as it is outside both the customer's and DNO's control.	Paperwork demonstrating that a Statutory Challenge, redetermination or appeal has been launched.	This can follow the process set out under the applicable planning rules: Statutory Challenge must be launched within 6 weeks of the preceding negative planning decision.

Rationale: For reasons highlighted above, the steering group has moved away from setting time periods for planning on the size of project and voltage of connection. The steering group has set a simple time period to secure planning permission, 12 months for projects which don't require an EIA and 24 for those which do. The steering group recognise that some projects may need longer than 24 months for legitimate reasons, including where the local planning authority had failed to meet its own timeframe. Where this is the case, the DNO will look to extend those timelines by an appropriate period but only where evidence has been presented of legitimate reasons for delay. Further extensions can be agreed, provided that legitimate reasons and evidence for lack of progress are presented. DNOs will assess this on a case by case basis as set out in principle 5 above. The steering group considered that this allows a flexible approach but also continued assessment on whether a project is making progress.

Milestone 3: Land rights

Milestone 3	Detail	Evidence	Time period
Land rights	The customer has land rights to develop the site. ⁸	Customer can provide paperwork to demonstrate that it: (i) is an owner or lessee of the land on which the station is situated; or (ii) has entered into an agreement to lease the land on which the station is situated; or (iii) has an option to purchase or to lease the land on which the station is situated; or (iv) has entered into an exclusivity agreement in relation to the land on which the station is situated.	2 months from offer acceptance date.
	If land rights expire, the customer has re-obtained land rights for the site.	Same as above	2 months from date of expiry of the land rights.

Rationale: There was a mixed response to the proposed 6 month time period which we included in our consultation proposals. While some respondents agreed with them, others didn't and suggested that a shorter time period would encourage developers to start securing land rights before the connection application is made to the DNO. DNOs still receive a large number of speculative applications from developers⁹. This leads to costs for the DNO which are largely borne by customers who do connect to the network.

The steering group noted that there was support from generators as well as DNOs for shortening these timescales. We had consulted on the question of timescales and as a result we have changed these from 6 months to 2 months. This stance is supported by the steering group.

⁸ This relates to land rights for the construction of the station and not the landowner authority which DNOs may require of DG for making an application.

⁹ As of May 2016, DNOs had received applications for 20GW of storage to connect to the network but less than 10% of these applications have gone ahead.

Milestone 4: TSO interface

Milestone 4	Detail	Evidence	Time period
<p>TSO interface</p>	<p>Some connection applications require interaction with the Transmission System Operator (TSO), either to ascertain if Transmission works or operational restrictions are required to make the connection, or to ascertain rights for use of the transmission system (which is obligatory for distributed generators above a certain size). Some of these processes are in the control of the customer and some of the DNO and TSO. In either case, where participation is obliged under the relevant industry code, the customer is required to initiate and continue to progress the relevant TSO process in good faith.</p> <p>The process by which relevant transmission works are normally established is the “Statement of Works” process, as detailed in connection and use of system code (CUSC) section 6.5. Further information is available on the TSO and DNO websites The DNO will clearly advise the customer whether Statement of Works (or equivalent replacement process) is required at the connection offer stage.</p> <p>In parallel, customers may enter into a bilateral agreement (BEGA¹⁰ or BELLA¹¹) with the TSO in parallel with their agreement to connect with the DNO. This would normally replace the Statement of Works process.</p> <p>For either process, as applicable, the customer will be required to undertake the following:</p>		<p>All within timescale of relevant TSO processes, in accordance with its governance process, notwithstanding any reasonable negotiations which may be ongoing between TSO and DNO or TSO and customer (which may require extensions of time).</p>

¹⁰ <http://www2.nationalgrid.com/UK/Services/Electricity-connections/New-connection/New-BEGA-Agreement/>

¹¹ <http://www2.nationalgrid.com/UK/Services/Electricity-connections/New-connection/New-BELLA-Agreement/>

	<ul style="list-style-type: none"> initiate and continue process (including separate application to TSO, if relevant); 	Instruction for DNO / confirmation of receipt of application from TSO.	
	<ul style="list-style-type: none"> make payment(s) to DNO; 	DNO has received payment.	
	<ul style="list-style-type: none"> provide information as reasonably required; 	DNO/TSO has received information.	
	<ul style="list-style-type: none"> accept resulting contract offers and/or variations requested; and 	The signed contract.	
	<ul style="list-style-type: none"> maintain relevant financial securities. 	If not directly maintained with the DNO, then TSO confirmation that relevant securities have been placed.	

Rationale: This milestone is to ensure that developers do not unduly delay the transmission processes required to progress a connection. DNOs accept that they also have a role to play in interacting with the TSO, particularly on statement of works. If any milestone is missed due to the DNO not meeting its timeframes above, then this would be a legitimate reason for extending the milestone. We have also amended the milestone to provide more context on the relevant TSO interfaces and included the links to where relevant processes can be found in the Connection and use of system code (CUSC). One stakeholder commented that milestones shouldn't apply until the customer has received a "complete" offer which includes costs and timescales for any transmission works. The steering group acknowledged this point but highlighted that at present, the process to understand whether transmission works are required takes longer than the time period DNOs have to issue an offer to the customers. However, it was accepted that where information on transmission works is unknown and potentially significant then DNOs may take this into account when assessing whether milestones should be extended.

Milestone 5: Contestable works design submission

Milestone 5	Detail	Evidence	Time period
Contestable works design submission (where applicable)	Where a customer has gone down the contestable route for connection, evidence that their independent connection provider (ICP) has submitted a design for contestable works to the DNO.	Complete design submission received by DNO.	To be agreed with the customer, normally working back from connection date but generally no earlier than the date of planning consent.

Rationale: In our consultation, we had linked this milestone to the adoption agreement, rather than design submission. One respondent highlighted that this could be confusing for customers as DNOs are often in control of the timelines for adoption. Following further discussion at the steering group, it was agreed to amend this to the design submission for contestable works. The steering group has also been clear that this needs to be the complete design submission. Where the submission is incomplete, DNOs will need to understand the reasons for this and take a decision on whether to extend the time period for the milestone. This will need to be on a case by case basis as per general principle five. For the benefit of doubt, where it has not been possible to progress the design submission because the customer/ICP is awaiting inputs from the DNO, then this will be treated as a legitimate reason for not meeting the milestone and a new time period agreed.

Milestone 6: Commence and progress works

Milestone 6	Detail	Evidence	Time period
Commence and progress works	The customer must provide evidence that it has taken steps to follow its programme of works.	Present to the DNO, for the DNOs agreement, the customer's programme of works (and/or ICP programme of works) that demonstrates how they will be ready for the agreed connection date and Demonstrate how progress has been made in line with this programme.	Within 6 months following the granting of planning permission. As set out in the customer's programme of works.

Rationale: We received feedback from stakeholders that the time period would need to be agreed on a case by case basis. Having discussed at the steering group, we felt it appropriate to agree a programme of works with the customer (*the customer's programme of works*) and use this as the basis for the milestone on commencing and progressing works (see below). As a rule, it seems fair for the customer's programme of works to be agreed with the DNO up to 6 months following confirmation of planning permission. This will be used as a basis for the time period on this milestone. To give some idea of the time period, we have highlighted that historically, when working back from the connection date, EHV projects have generally required two summer periods to build out and projects at HV and below one summer period to build out.

Milestone 7: Project construction

Milestone 7	Detail	Evidence	Time period
Project construction	The customer completes the construction of the generating facility.	As set out in the construction plan agreed with the DNO e.g. G59 certificate.	Set on a case by case basis according to customer's programme of works.

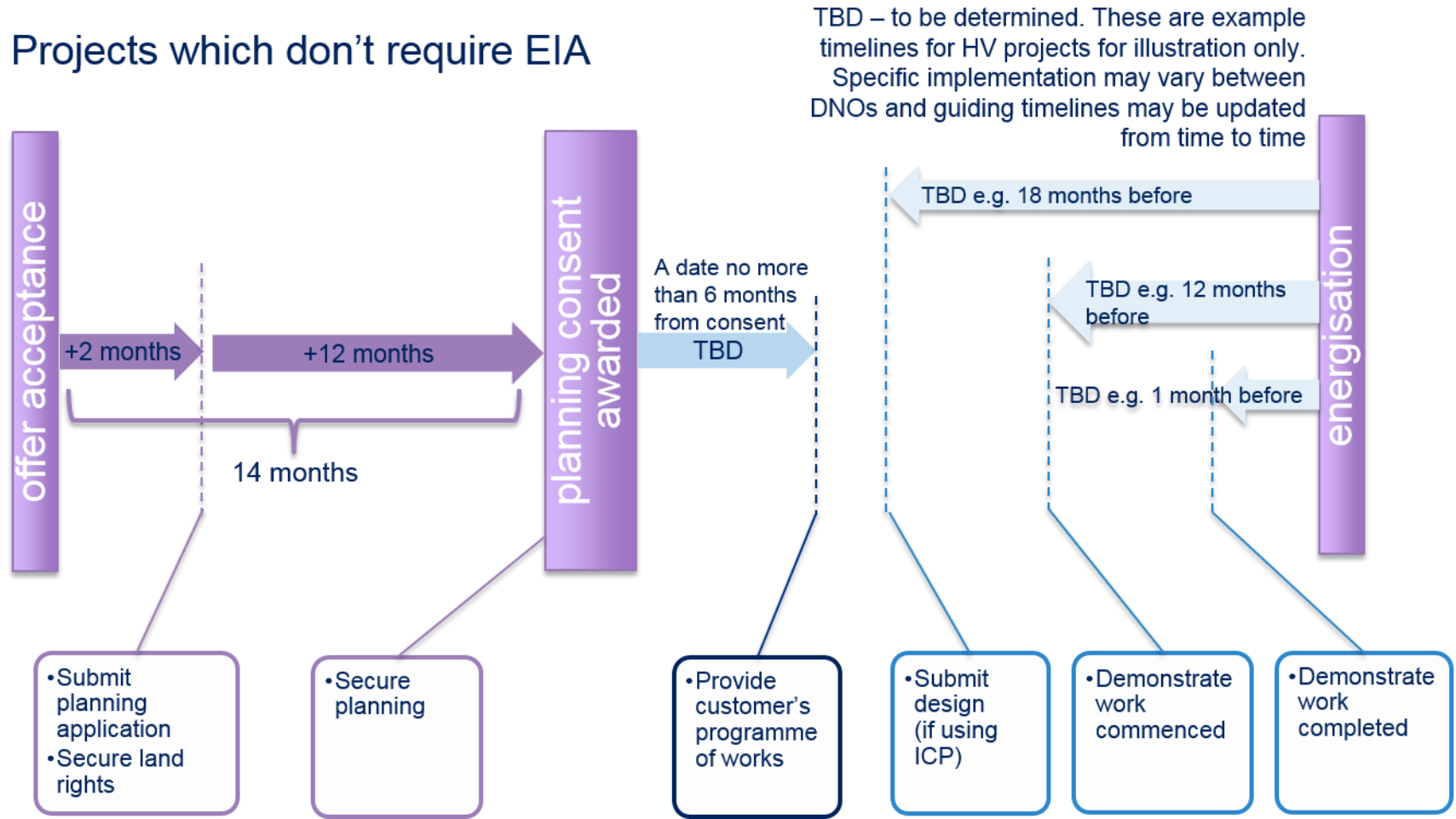
Rationale: As with milestone 6, we received feedback that this milestone needed to be agreed on a case by case basis and that this could be done as part of the customer's programme of works. One respondent to our consultation commented that we had to be clear on the evidence on which the milestone would be assessed. The steering group consider that this is best set out clearly in the customer's programme of works with detail within that programme of works used to set the milestone.

5. Next Steps

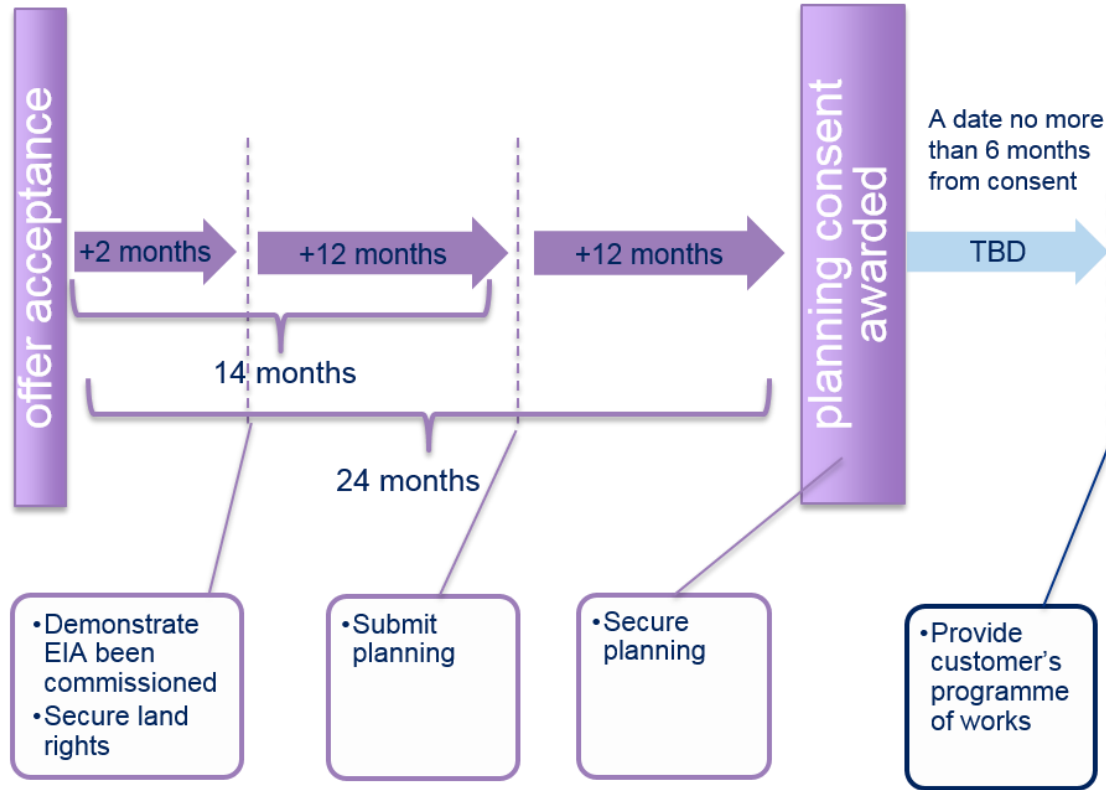
- 5.1.** As set out in the introduction, this document is intended to act as best practice guidance which will provide a basis for DNOs to implement. It reflects the proposals agreed by the steering group and consulted on further with stakeholders. The steering group has amended the proposals where it has agreed with the comments raised by stakeholders.
- 5.2.** In addition, the proposals set out in this document have been presented at the ENA's DG Fora in September 2016. Feedback from stakeholders at the Fora has been taken into account in finalising this document.
- 5.3.** We have separately published a summary of all consultation responses. It will be up to individual DNOs to decide how to implement this guidance
- 5.4.** In addition, the steering group will review how these milestones are implemented and will update this guidance document as and when further experience is gained on best practice. Feedback on your experience will be welcomed and can be sent to regulation@energynetworks.org

Annex 1 - Illustrative timescales for milestones

Projects which don't require EIA



Projects which require an EIA



TBD – to be determined. These are example timelines for EHV projects for illustration only. Specific implementation may vary between DNOs and guiding timelines may be updated from time to time

