

# The Section 37 Consent Process

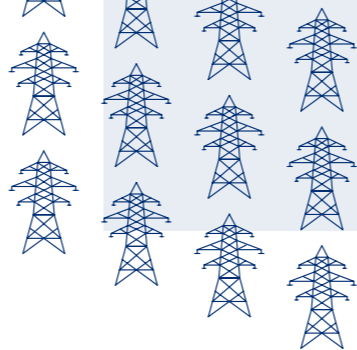
The legislation governing the consenting of overhead line (OHL) projects in Scotland is the Electricity Act 1989. Applications for consent to construct and operate new overhead lines are made under Section 37 of this Act and are referred to as “Section 37 Consents”.

## Environmental Impact Assessment

Applications made under Section 37 of the Electricity Act 1989 are submitted to the Energy Consents Unit (ECU) of the Scottish Government for determination by Scottish Ministers. If the proposals meet certain criteria under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (‘2017 EIA Regs’), the application may be classed as an Environmental Impact Assessment (EIA) Development. Applications for EIA Developments require an EIA Report to be submitted with the application as an unbiased consideration of the potential environmental impacts of the proposals.

We know our Pathway to 2030 OHL projects are EIA Developments as they meet the criteria for Schedule 1 development set out in the 2017 EIA Regs – this means we do not need to submit an EIA Screening Request, and instead proceed to submitting an EIA Scoping Request. An EIA Scoping Opinion is then adopted by the ECU following consultation with the local planning authority and other statutory consultees, which confirms the scope of environmental issues that the EIA Report needs to address, and the kind of information that is expected in the assessments.





# The public consultation process

For projects that are EIA Development, the ECU has published Good Practice Guidance for Applications under Section 36 and 37 of the Electricity Act 1989 (July 2022). This details the voluntary good practice guidance that the ECU encourages developers to undertake in the pre-application stages of consent for EIA Developments. This broadly emulates the mandatory consultation required of National and Major development proposals under the Town and Country Planning (Scotland) Act 1997, including an expectation of at least two voluntary public consultation events.

We have already undertaken a series of consultation events for our Pathway to 2030 overhead line projects, focusing on identifying corridors and routes for the proposed OHLs. This current series of consultation events is focussed on the more detailed potential alignment of the infrastructure, including tower locations and any Limits of Deviation (LOD), as well as providing feedback from the route consultation.

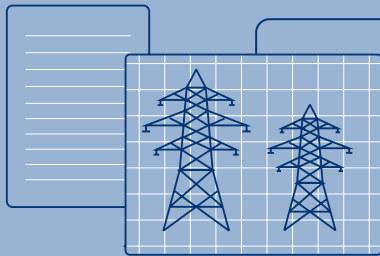
Please note that feedback provided to us through the pre-application public consultation process, which will be carefully considered to help inform the development of our overhead lines, are not formal representations to the ECU.

When the Section 37 planning application is submitted there will be an opportunity to make formal representations via the ECU online portal, as well as by email and post.



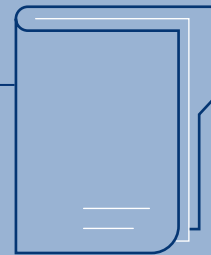
# Submitting a Section 37 application

We plan to submit the Section 37 applications to the ECU toward the end of 2024, at which point the ECU will consult with the local planning authority and identified statutory and non-statutory consultees. We will also be publishing advertisements in certain newspapers to inform local communities and the general public of the applications being made to the Scottish Ministers.

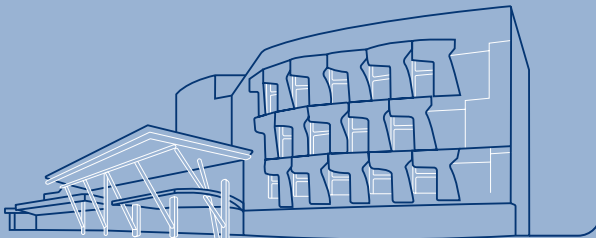


The Section 37 applications will be accompanied by an EIA Report, including a Schedule of Mitigation, as well as standalone reports such as a planning statement, and detailed design drawings.

The application also needs to include information about the status of wayleave agreements with the owners and occupiers of land proposed to be crossed by the line.



A Report on Consultation will also accompany the application providing details of the public and statutory consultation undertaken and detailing how the consultation process has influenced our proposals. Where comments are received that cannot be addressed in the final proposals, an explanation will also be given as to why this is the case.



## Determining a Section 37 application

Section 37 applications are determined on a case-by-case basis by Scottish Ministers, taking into account the application documentation, EIA report, additional information if applicable, consultation responses, representations and any other material information in making the decision.

If within two months of receipt of the application the local planning authority objects and notifies the ECU, under Schedule 8(2) of the Electricity Act 1989, this triggers the requirement for a Public Local Inquiry (PLI) to be held. In these circumstances the application is passed on to the Scottish Government Planning and Environmental Appeals Division (DPEA) to undertake the PLI and produce an inquiry report, with a recommendation, which is then considered and determined by Scottish Ministers.

When a decision is made the ECU will send a decision notice to the applicant, copying in the local planning authority and other consultation bodies. The decision notice is a record of the reasons for the decision and, if the application is approved, notes the conditions that must be satisfied in implementing the consent. The ECU and local planning authority will publish the decision notice via their own channels, and the applicant is obliged to publicise the outcome of the determination on the application website, in the Edinburgh Gazette, and in a newspaper circulating in the locality of the proposed development.