

CMP435 & CM096

Application of Gate 2 Criteria to existing contracted background

Workgroup Meeting 7, 19 June 2024
Online Meeting via Teams

WELCOME



Agenda

Topics to be discussed	Lead
Introductions	Chair
Timeline and Topics	Chair, Proposer, SME
Action Review	Chair
Terms of Reference	Chair
<ul style="list-style-type: none"> • Verbal updates on NESO designation, CNDM & Connection Point and Capacity Reservation • Dispute Process • I/DNOs impacts relevant to CMP435 (<i>Note: this will not be a discussion on DSO/EG processes/impacts or DCUSA</i>) • Update on Gate 2 Criteria and Gate 2 evidence assessment 	Proposer, SME
Any Other Business	Chair
Next Steps	Chair

Timeline and Topics

Elana Byrne – ESO Code Administrator

Timeline for CMP435 and CM096 as at 02 May 2024

Milestone	Date	Milestone	Date
Workgroup Nominations (4 Business Days)	26 April 2024 to 02 May 2024	Code Administrator Consultation (9 Business Days)	19 August 2024 to 02 September 2024
Ofgem grant Urgency	01 May 2024(5pm)	Draft Final Modification Report (DFMR) issued to Panel (3 Business Days)	09 September 2024
Assuming Ofgem have granted Urgency Workgroup meetings 1 - 6	07 May 2024 15 May 2024 23 May 2024 29 May 2024 04 June 2024 12 June 2024 19 June 2024	Panel undertake DFMR recommendation vote (Special Panel)	13 September 2024 (by 2pm)
Workgroup Consultation (8 Business Days)	25 June 2024 – 05 July 2024	Final Modification Report issued to Panel to check votes recorded correctly	13 September 2024 (by 4pm)
Workgroup meeting 7 - 11	16 July 2024 19 July 2024 23 July 2024 31 July 2024 06 August 2024	Final Modification Report issued to Ofgem	13 September 2024 (by 5pm)
Workgroup report issued to Panel (2 Business Days)	13 August 2024	Ofgem decision	06 November 2024
Special Panel sign off that Workgroup Report has met its Terms of Reference	16 August 2024	Implementation Date	01 January 2025

Outline of Workgroup(s) Meeting Topics – CMP435 & CM096

WG meeting 1 (07 May)	<ul style="list-style-type: none"> • Set the scene, ToR, timeline, ways of working, context – why connections reform, what are the issues and solutions, what is and isn't scope, cross code impacts, who is impacted and how?
WG meeting 2 (15 May)	<ul style="list-style-type: none"> • Proposed solution and identifying the key issues we need to address in future Workgroups
WG meeting 3 (23 May)	<ul style="list-style-type: none"> • Exemptions from CMP435 • What costs will be reimbursed?
WG meeting 4 (29 May)	<ul style="list-style-type: none"> • Confirmation of Scope • Overview of Process • Financial Instruments
WG meeting 5 (04 Jun)	<ul style="list-style-type: none"> • Applying concepts agreed in CMP434 to in-scope projects in CMP435 – Gate 2 criteria • Process update • Query log update • Capital Contributions (meeting with TOs on 3rd June) – verbal update in AOB
WG meeting 6 (12 Jun)	<ul style="list-style-type: none"> • Transitional and cut over arrangements including how current applications and offers are treated, securities, pre-Gate 2 contract, scenario spreadsheet • NESO Designation and Connection Point and Capacity Reservation (note is a topic for CMP434 WG6 on 5 June) • ESO Position Clarification slides: Application fees, Capital Contributions, other development costs
WG meeting 7 (19 Jun)	<ul style="list-style-type: none"> • Verbal updates on NESO designation, CNDM & Connection Point and Capacity Reservation • Dispute Process (content covered in CMP434) • DNO/IDNO impacts • Update to Gate 2 evidence criteria and assessment

Action Review
Elana Byrne – ESO Code Administrator

Action review – WG7

Action number	Workgroup Raised	Owner	Action	Comment	Due by	Status
2	WG1	AT	Document that charging and user commitments will be out of scope for CMP435		N/A	Open
6	WG1	EB	Workgroup to discuss the consequences of the SO:DNO contract changes on DNO/IDNO contracts with other parties	Not for the CMP435 solution but WG Report WG time to be allocated to discuss this specifically	Ongoing	Open
7	WG1	Code Admin	Collaboration space – access queries to be explored with IT	Members can also explore this with their IT teams	Ongoing	Open
12	WG2 (amended LH/AC post WG4)		Discuss possibility of further impact assessment (RFI data). Discuss impact assessments of solution options in terms of effects on the current and future queue.	ESO have confirmed that they will not pursue the use of consultants at this time	Ongoing	Open
14	WG2	AT/PM	Update WG topics	Further updates to be made post WG4	WG5	Open

Action review – WG7

16	WG2	LH	Look into securities for offers	To be referenced in WG6	June 2024	Open
19	WG3	PM, MO	Clarification on mod apps where CMP435/CM096 are applicable	To be referenced in WG6		Propose to close
20	WG3	RW, AT	TOs and ESO meeting needed to discuss data available to review capital contributions for 2024	Information to be brought back to the WG and discussed in context of transitional arrangements	Ongoing	Open
21	WG3	ESO Connections Team	When considering transitional arrangements, include guidance for staged projects		WG6	Propose to close
28	WG4	PM	Work through different scenarios for progressing/not progressing through the Gates (accept, reject, refer) considering conditions such as restrictions on availability		Ongoing	Open
31	WG4	RP	Call to be arranged between RP and JD about the consequences of customers not progressing if part of multi-customer applications (to then progress understanding of this via the ENA SCG groups)	Meeting Thursday 06/06. Keep open for outcomes to be shared with WG.	Ongoing	Propose to close
34	WG5	Code Gov, Proposers, SME	Assess the agenda for 16 July (considering time needed to review consultation responses)		Ongoing	Open

Action review – WG7

35	WG5	RP	Updates shared to the 435/96 WG from the SCG group exploring implementation		Ongoing	Open
36	WG5	Angie	Statement from ESO as to the CAP150 powers and how they are applied /can be applied re: ongoing compliance (include link to CAP150 info on ESO website)		Ongoing	Open
37	WG5	Angie	Consequences for a false declaration on a self-certification letter outlined for CMP435/CM096 (i.e. any other than termination of agreement)		WG7	Propose to close
39	WG5	PM	Date for the Gate 2 qualification dispute process could start		Ongoing	Open
41	WG6	PM/AP	The process & evidence requirements confirmed for DNO/IDNO evidence checking & if there will be a specific template for the self-certificate process for DNOs/IDNOs.	WG7		Propose to close
42	WG6	LH	Check with legal as to the clock start dates for new applications considering the point of implementation after an Authority decision (is 15th of November date is legally acceptable as the Gate 1 process only comes to existence 10 Working days after Authority decision?)	Ongoing		Open
43	WG6	RM	Clarify the resources available to industry if they disagree with the a specific NESO designation or NESO designation as a process and the basis of (link to query 50 from GG – on what legal basis the ESO can designate projects to not meet CMP435 criteria)	Ongoing		Open

Action review – WG7

44	WG6	RM	Confirmation about whether NESO designation applications, decisions and decision rationales would be published.	Ongoing	Open
45	WG6	RM	Confirm when NESO designation guidance is likely to be finalised.	Ongoing	Open
46	WG6	RM	Check if the three competition routes for reserving bays will be codified and stipulate the specific routes applicable.	WG7	Open
47	WG6	RM	ESO to reflect on the NESO designation vs Ofgem derogation question and respond to the Workgroup with a confirmed position.	Ongoing	Open
48	WG6	PM/MO/AD	Call arranged to discuss interconnections and OHA in relation to CMP435 impacts	Ongoing	Open

Terms of Reference

Elana Byrne – ESO Code Administrator

Terms of reference – CMP435 (agreed by May Panel)

Workgroup Term of Reference

- a) Consider Electricity Balancing Regulation implications.
- b) Consider the scope of work identified and whether this is achievable within the timeframe outlined in the Ofgem Urgency decision letter.
- c) Consider what types of existing contracts that CMP435 should apply to, and what exemptions are required (if any).
- d) Consider changes to the contractual arrangements for those existing contracted parties that have not met the Gate 2 criteria by the Go-Live Date of 1 January 2025.
- e) Review the transitional arrangements in relation to changes to the contractual arrangements and any associated costs.
- f) Consider the application of the User Commitment methodology to projects in Gate 1 and Gate 2 and the transitional arrangements that may be required for existing connections contracts.
- g) Consider how any new financial instruments associated with connections are cost reflective and predictable.
- h) Consider how the solution(s) conforms with the statutory rights in respect of terms and conditions for connection.
- i) Consider the impact of NESO designation of Gate 2 status, and ways to make this non-discriminatory.
- j) The cross Code impacts this modification has, in particular the STC and distribution arrangements (e.g. DCUSA)
- k) Consider the relevant content of Annex B of the Ofgem [Open letter on connections reform publication](#).

Terms of reference – CM096 (agreed by May Panel)

Workgroup Term of Reference

a) Consider Electricity Balancing Regulation implications.

b) Consider the scope of work identified and whether this is achievable within the timeframe outlined in the Ofgem Urgency decision letter.

c) Consider what types of existing contracts that CM096 should apply to, and what exemptions are required (if any).

d) Consider changes to the contractual arrangements for those existing contracted parties that have not met the Gate 2 criteria by the Go-Live Date of 1 January 2025.

e) Review the transitional arrangements in relation to changes to the contractual arrangements and any associated costs.

f) Consider the application of the User Commitment methodology to projects in Gate 1 and Gate 2 and the transitional arrangements that may be required for existing connections contracts.

g) Consider how any new financial instruments associated with connections are cost reflective and predictable.

h) Consider how the solution(s) conform(s) with the statutory rights in respect of terms and conditions for connection.

i) Consider the impact of NESO designation of Gate 2 status, and ways to make this non-discriminatory.

j) The cross Code impacts this modification has, in particular the CUSC and distribution arrangements (e.g. DCUSA).

k) Consider the relevant content of Annex B of the Ofgem [Open letter on connections reform publication](#).

Verbal Updates: NESO Designation, CNDM & Connection Point and Capacity Reservation

Mike Oxenham

Dispute Process

Holli Moon

Dispute

What's In and Out of Scope

Dispute Timelines against Proposed TMO4+ Model
(whole queue approach and new applications) +
Diagram

Working Scenarios for Dispute

Proposed Dispute Process – Step by Step

Second Step Dispute (Escalation)

What this process covers

In Scope

- New Gate 1 and Gate 2 criteria based disputes (as below)

Out Of Scope

- Any other disputes e.g. covered within CUSC or STC

Dispute Types

- ESO rejects an application on grounds that it has not met Gate 1 criteria, but the applicant believes they have met Gate 1 criteria within the current window timeline
- ESO rejects an application on grounds that it has not met Gate 2 criteria, but the applicant believes they have met Gate 2 criteria within the current window timeline
- Any other dispute raised in relation to not being accepted into Gate 1 or Gate 2 processes

Due to the nature of this process and our broader approach to codification of new concepts we are not looking to fully codify the fast track dispute process

Proposed Dispute Timeline against Gate 1 and Gate 2 Windows

- **Whilst the window for applications is open, there is opportunity to send documentation and meet criteria within the window.**
- **Once the window closes, projects will be made aware if they have met criteria, or been rejected.**
- **Any criteria based disputes can only be submitted once the application window has closed. You will have 5 working days to raise a dispute, from the day you are advised your application has been rejected.**
- **ESO will investigate (within internal timeframes – 5 working days)**
- **If ESO dispute resolution is not accepted, the customer has 3 working days to request it to be reinvestigated by an internal independent ESO colleague (outside of Connections department) as an escalation.**

We are proposing on balance that projects will stay within the process whilst in dispute. This is to prevent risk to the customer.

This process remains the same, for both gate 1 and Gate 2 criteria disputes.

Please note the below duration and frequency timeframes are subject to change and the visual has been created to help understand how the dispute and potential escalation processes work alongside the Gate 1 and Gate 2 windows (CMP434), including Gate 2 to whole queue (CMP435).



CMP435 Slide

(Gate to whole queue)



Working scenarios – Applicable to Gate 1 and Gate 2

Scenarios Relating To Invoice's

Scenario 5

- Window opens for applications
- Application submitted in time with correct competency criteria
- Invoice sent to customer for payment
- Customer wishes to dispute payment calculation

This application will continue in the process until the invoice dispute is resolved.

Scenario 6

- Window opens for applications
- Application submitted in time with correct competency criteria
- Invoice sent to customer for payment
- Payment date missed by customer

This application will be removed from the process if after window closure. Customer will need to re-apply in the next window.

Scenario 1

Window opens for applications



Application 1 applies early on in the window and is missing information

ESO contacts customer to request information by X date

Correct information is provided

Window closed and evidence assessed



Application 1 is advised by ESO criteria has been met once the application window has closed

ESO process progresses application 1 through

Scenario 2

Window opens for applications



Application 2 applies toward the end of the application window

all relevant competency criteria is attached

Correct information is provided

Window closed and evidence assessed



Application 2 is advised by ESO criteria has been met once the application window has closed

ESO process progresses application 2 through

Scenario 3

Window opens for applications



Application 3 applies toward the end of the application window

Some competency criteria is missing

Window closed and evidence assessed



Application 3 is advised by ESO criteria has not been met once the application window has closed

ESO process rejects application 3 on the grounds criteria was not met



If applicant is unhappy with this outcome, a dispute can be submitted (within 5 working days of outcome acknowledgement date).

Scenario 4

Window opens for applications



Application 4 applies toward the end of the application window

Some competency criteria is missing

Customer submits missing criteria *after* the cut off date

Window closed and evidence assessed



Application 4 is advised by ESO criteria has not been met once the application window has closed

ESO process rejects application 3 on the grounds criteria was not submitted in time



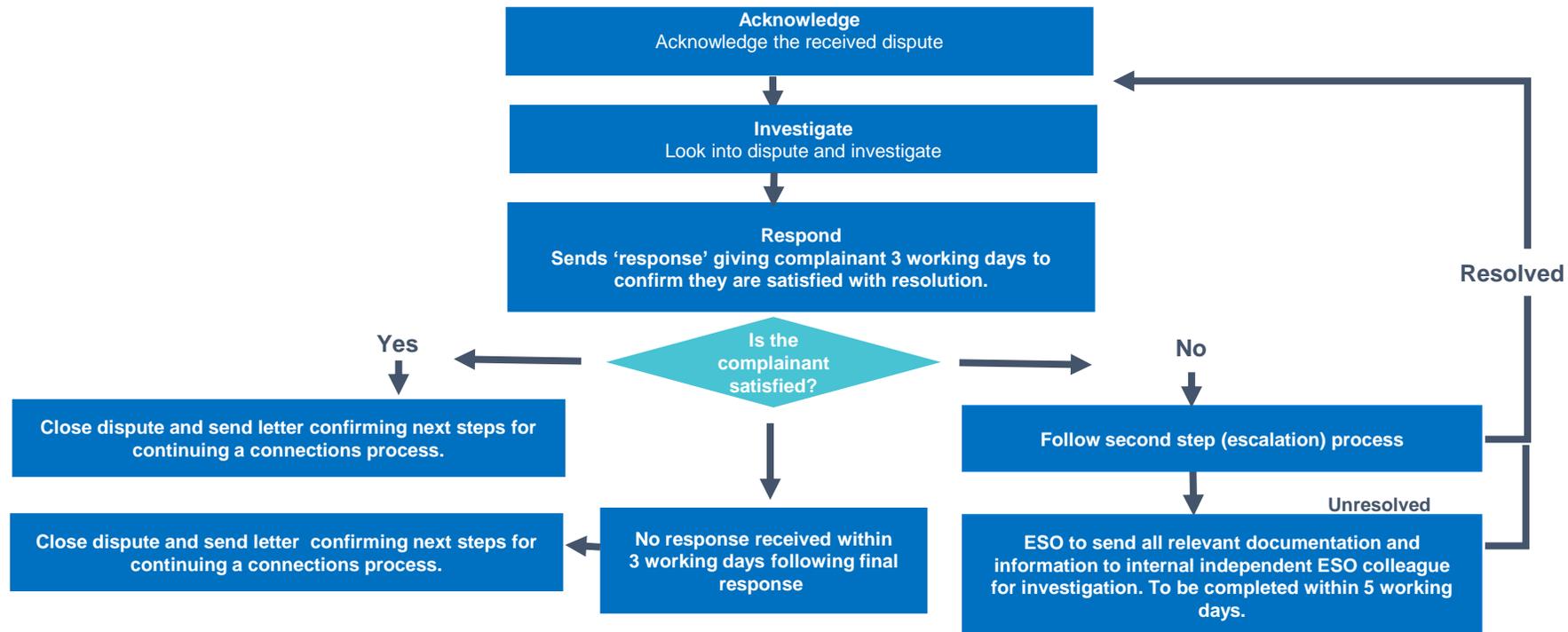
If applicant is unhappy with this outcome, a dispute can be submitted (within 5 working days of outcome acknowledgement date).

Proposed Dispute Process Step by Step

Our Proposed Service Level Agreements (SLAs)

- **Within 2 working days (48hrs):** we will acknowledge the dispute.
- **Within 5 working days (Not inc the above 2 working days):** we will investigate and make contact the with our final response.

We would aim to resolve a criteria based dispute promptly and give our decision as soon as possible, but **within 5 working days +2** (unless there is a material reason for extending the timescale). In all cases, we are committed to keeping all relevant parties updated on progress throughout the fast track dispute process.



Second Step Dispute (Escalation) Process

ESO's Position: After considering options, our initial position has changed due to the minimal number of disputes we expect to go through a second step process and the requirement needed for all disputes and any escalations to be handled fast.

We propose the dispute and second step (escalation) processes are dealt with by ESO. The initial dispute process would be investigated by the appropriate teams and the second step process (escalation) would be investigated by an internal independent ESO colleague (outside of connections department). The second step would allow for any applicants unhappy with the original dispute outcome to be reinvestigated quickly.

DISCUSSION POINT: Would this process work for industry?

Is there a necessary requirement for the escalation part of this process to be dealt with externally? If so, who do you think should do so?

Pros to an external escalation route

To discuss

Cons to an external escalation route

- May not be resolved quick enough to allow project to stay within its window?
- May be additional costs due to an external body investigating escalated disputes?
- May cause customer issues around their project timeframes?

DISCUSSION POINT: If an escalated route is external, how do we ensure any escalations are legitimate and appropriate for an external body to investigate?

Could a sum of money (in proportionate to cost incurred to progress an escalated dispute) be taken to cover the cost of the external resource?

Should this sum of money be reimbursed if the dispute was overturned?

Could only certain criteria based disputes be eligible to request an escalation process?

I/DNO Impacts Relevant to CMP435

Richard Paterson

So, what are we covering?

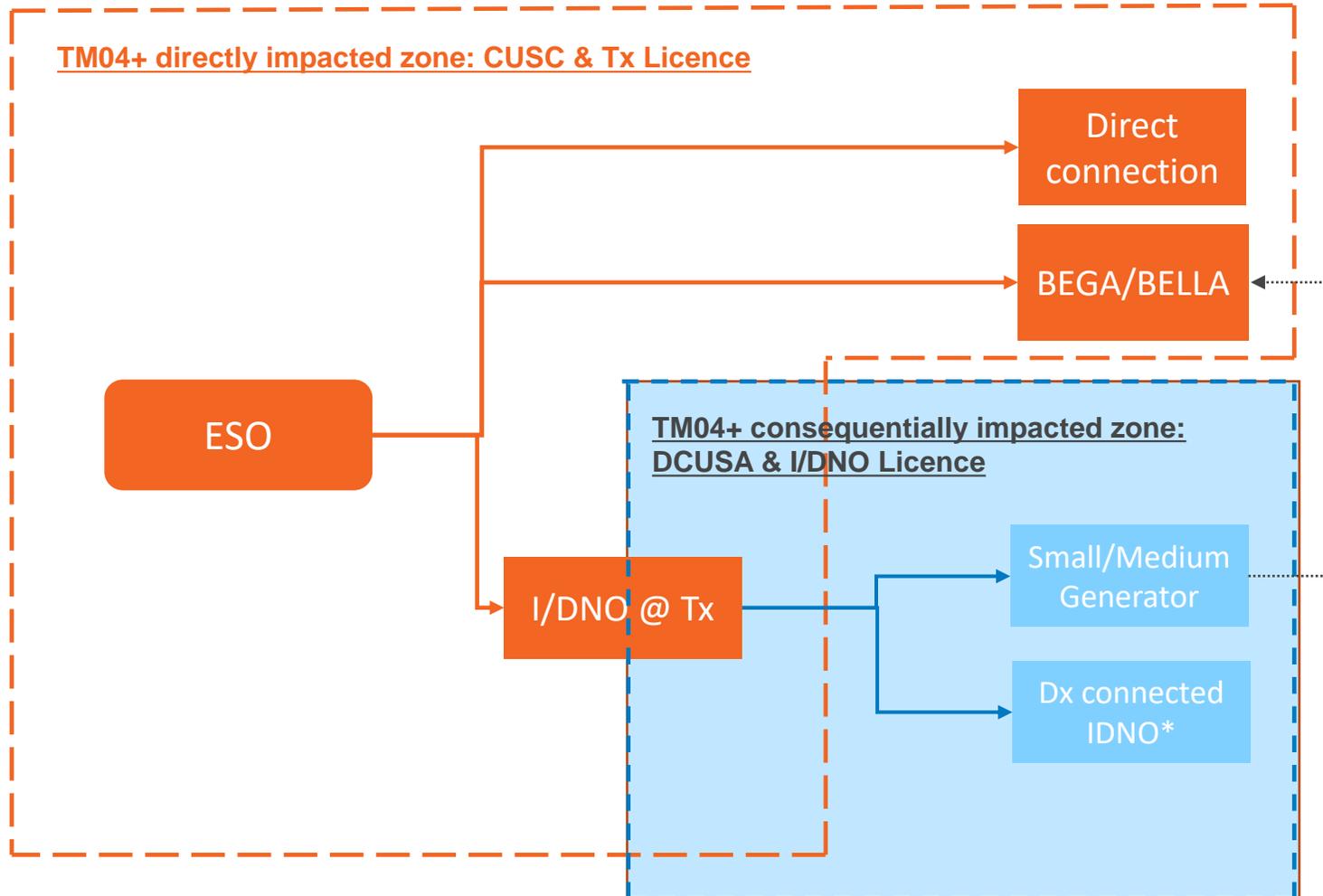
What is being covered:

- Simplified model of the contractual relationship to differentiate direct and consequential impacts
- Based on WG actions and topics that appear to require further discussion from query log for CMP435 and 435:
 - Capital Costs (CMP435 QL and CMP435 WG action 31)
 - Potential D queue impact (CMP434 WG action 6)
 - Queue Milestones: alignment Tx and Dx

What is not being covered:

- Summary of all component parts of TM04+ through Distribution lens
- Summary of answers provided on topics in query logs
- How ENA/DNO community are proposing to mitigate consequential impacts

A simplified picture of the contractual relationships...



- TM04+ directly impacted zone is focus of CMP434/95 and CMP435/96
- TM04+ consequentially impacted zone is outside scope of CMP434/95 and CMP435/96 as this relates to the contractual relationship between DNO's and their customer
- CMP434 and CMP435 include recommendations on CUSC and Licence changes to support the Minimum Viable Product
- The ESO have suggested recommendations relevant to the consequentially impacted zone. However DCUSA, Licence and ENA guidance changes at this level must be driven by DNO/ENA. ESO will continue to provide input and support.

The main potential direct impact of retrospective application for DNO's could be Capital Cost contribution.

Concern

- Where DNO's have batched customer projects in a project progression, the DNO's have liabilities via the BCA which they generally pass through to the customers (See Appendix for simplified model)
- If projects that currently form part of a project progression don't progress to Gate 2, the DNO's may need to share these costs across the remaining projects. This could result on increased costs for the remaining projects and they may subsequently decide not to continue.
- Focus of discussion is on Capital Contribution costs as Applicable and Wider Works are £/mw and should therefore reflect change in projects forming part of batched Project Progression. CC are potentially more fixed as based on required assets.

Current proposal

- The issue of capital costs being reallocated across fewer projects is a current issue today for DNO's where projects are terminated
- Our current position is that Capital Costs would not be reviewed (unless the result of a change in transmission reinforcement due to advancing a connection at customer request)
- The potential size of the issue will be linked to the number of existing projects that are not able to meet the Gate 2 criteria in the retrospective time-scales

Potential options available to DNO's?

- Absorb the costs on the basis the assets requested will be utilised and costs recovered at a later date
- Pull forwards projects that could meet Gate 2 criteria to substitute*
- Cover as part of wider review of charges in other Code Mods

Next Steps

- The ESO will continue to review as part of work on these code mods and as part of CNDM

* Potentially challenging based on Dx Queue – see next slide

Q. Are there any views on whether another party should cover any exposure on Capital Costs created by retrospective application that we could test in the consultation?

A potential consequential impact is that the Distribution queue is not able to reorganise easily to match the Transmission queue

Concern

- There is a potential issue that DNO's may not have flexibility to change the Distribution Queue order to reflect First Ready at Transmission level
- This is potentially an issue for CMP435 and CMP434
- For CMP434 the potential issue is created if DNO's continue make binding offers for D capacity, even when Transmission access is indicative (pre-gate 2)
- For CMP435 the potential issue is where a D customer has a current binding offer for D capacity, but does not meet Gate 2 criteria and defaults to an indicative T connection. This could limit the ability of a DNO to progress a project that is Gate 2 ready, for example to replace a project in a Project Progression to pick up Capital Costs that otherwise fall onto fewer projects.

Current TM04+ position

- Provision of a mechanism to allow the DNO's to align the Distribution Queue with revised Transmission access sits outside of the Code Mod scope.
- The contractual relationship is between the DNO and their customers and cannot be addressed by CUSC changes
- For CMP435 the issue potentially exists only if a developer with a binding D offer does not meet Gate 2 criteria in the retrospective period

Next Steps

- The ENA have established a SCG Working Group to investigate and resolve any issues and will consider and progress DCUSA, Licence and Guidance changes
- The ESO will continue to support the ENA and the SCG Working Group

Q. Are there existing mechanisms/precedents that could be utilised to prevent any potential sterilisation of D capacity?

A consequential impact will be that Distribution Queue Milestones may need to be reviewed by the ENA

Situation

Currently there is an interaction between Transmission and Distribution Queue Milestones, particularly around TSO Interface and transmission impact assessment.

Current TM04+ position

- Queue Milestones and Queue Management of Distribution connecting customers requiring transmission access will remain the responsibility of the ENA/DNO community. The contractual relationship is between the DNO and their customers.

Next Steps

- The ENA have established a SCG Working Group which will look at where Distribution Queue Milestones can be more aligned to Transmission QM
- The ESO will continue to support the ENA and the SCG Working Group

Q. Does the work group acknowledge that alignment of DQM sits outside of these Code Mods?

Are there any specific areas relating to potential DNO impact the WG feel a further Deep Dive is required on to resolve a major question?



Gate 2 Criteria Updates

Paul Mullen

Gate 2 Criteria – Overview

What is the purpose of Gate 2?

- To provide a full offer including a queue position (and so connection point and connection date) to projects.
- With a batched process there may also be an opportunity for some consequential network design co-ordination.

What Gate 2 criteria have we considered previously?

- In our initial consultation, we proposed a Gate 2 of submission of application for planning consents (i.e. Queue Management Milestone M1) but many respondents felt this was too onerous from a development perspective.
- After consultation and stakeholder engagement (including a focused workshop with land and planning experts across different customer groups), we concluded that something in between M1 and M3 that is clearly evidencable, does not unduly discriminate against a particular technology or cause any material issues for projects utilising a particular planning consents route compare to other routes e.g. Development Consent Orders.
- When raising this code modification, we also considered a Gate 2 financial instrument as an additional criteria. However, we believe that if the submission of the application for planning (**Queue Management Milestone (M1)**) is forward calculated from Gate 2 offer acceptance date, this provides a sufficient incentive for projects to progress to connection and as such **propose no further financial instrument at Gate 2.**

What Gate 2 criteria are we proposing today?

- Secured Land
- Note there will be ongoing compliance requirements as well

Proposed Gate 2 Criteria:

Secured Land (*note there will be ongoing compliance requirements as well*)

No longer part of our proposal:

Consideration of a Gate 2 Financial Instrument

Secured Land: Overview as per CMP434 Workgroup 28 May 2024



To meet Gate 2:

- Developer has secured the rights to lease or own the land (or already leases or owns the land) on which their Site is planned to be located. Exclusivity agreement is not sufficient evidence
 - Customers submit 100% of the land required for their project to meet M3 milestone (to be amended to remove exclusivity route) i.e. to meet Gate 2. This will be calculated using the Energy Density Table as defined under CMP427 and contained in the ESO guidance document.
 - Customers to provide a red line boundary for the project site showing the land secured
 - Any Option agreement must have a longstop date that is later than the earlier of the Completion Date or [7] years after submission of Gate 2 evidence
 - Any Option agreement is accompanied by a lease or purchase agreement, which must reflect typical minimum operational timelines – suggested a minimum of [20] years from the date of exercise of the option.
 - Or, evidence of existing ownership, or existing land lease with a remaining term of minimum of [20] years from the earlier of the Completion Date or [7] years after submission of Gate 2 evidence

Note that we asked CMP434 Workgroup on 28 May for feedback on the parameters represented by the 5 sub-bullets (by close of play 3 June 2024 for the last 3 sub-bullets) and have worked through this feedback – see next slide

Note: The above relates to the milestone achievement route to Gate 2 and not the NESO Designation Route to Gate 2

Note: The above excludes potential differences in relation to Offshore Wind, Interconnectors and Offshore Hybrid Assets

Secured Land: Minimum Option period – You said

You said:

- Currently 3-5 years in market with an ability for the developer to extend subject to the developer having met agreed milestones. Shorter option lengths could lead to gaming but tough red line boundary changes policy would mitigate this
- Some concern that a minimum length provides an additional barrier and notes that multiple ways to structure an option agreement e.g. X years + ability to extend or use of rent free periods (to secure land rights for a period that is longer than the nominal option contract length)
- Practical concern that the developer won't know at the point of signing the option agreement how long to fix the option agreement as Completion Date not known at that time
- Consider if option length could differ by voltage
- For CMP435 specifically, where options already signed, we should not be applying a minimum option length retrospectively

Secured Land: To Meet Gate 2 updated – *changes shown in red text*

- Developer has secured the rights to lease or own the land (or already leases or owns the land) on which their Site is planned to be located. Exclusivity agreement is not sufficient evidence
 - Customers submit 100% of the land required for their project to meet M3 milestone (to be amended to remove exclusivity route) i.e. to meet Gate 2. This will be calculated using the Energy Density Table as defined under CMP427 and contained in the ESO guidance document.
 - Customers to provide a red line boundary for the project site showing the land secured
 - *Any Option agreement (taking into account any contractual rights to extend the option period or rent free periods) should as a minimum be sufficient in first instance to meet the time period from Gate 2 offer signature to submission of the application for planning consent (M1 Milestone)* . There will be an ongoing requirement for the developer to keep the land under option by seeking further agreements with the landowner until the Completion Date.*
 - Any Option agreement is accompanied by a lease or purchase agreement, which must reflect typical minimum operational timelines – suggested a minimum of [20] years from the date of exercise of the option.
 - Or, evidence of existing ownership, or existing land lease with a remaining term of minimum of [20] years from submission of Gate 2 evidence.

**For CMP435, we are not proposing to retrospectively apply the option requirements to those who have achieved land options [by the Implementation Date/Date that the CMP435 Proposal was raised] but there will be an ongoing requirement for the developer to keep the land under option by seeking further agreements with the landowner until the Completion Date.*



Confirms the position we will present as part of CMP434 Workgroup Consultation. However, we need to consider what if any allowances should be made for existing contracted parties under CMP435 who will have already negotiated options – CMP435 Workgroup views sought.

Secured Land: Technology Differences

To provide clarity in relation to Offshore Wind, Offshore Hybrid Assets (OHAs) and Interconnectors.

All Technologies (excluding Offshore Wind, OHAs and Interconnectors)	Offshore Wind	OHAs and Interconnectors
Secured the rights to lease or own the land (or already leases or owns the land) on which the Site is planned to be located.	Agreement for Lease with the Crown Estate / Crown Estate Scotland for the seabed awarded / signed through the leasing round.	Secured the rights to lease or own the land (or already leases or owns the land) for the Onshore Converter Substation.



Note, that as discussed at last CMP435 Workgroup and CMP434 Workgroup there has been challenge as to whether or not this requirement is line with Interconnector project development and will revert back to Workgroup if any changes

Secured Land: Ongoing Compliance – *changes shown in red text*

Ongoing Compliance:

- Want to avoid situations where Users can amend their project site beyond Gate 2 such that they are actually developing a completely new site.
- Any amendments made to the red line boundary post achievement of Milestone M3* (as amended) will have to meet criteria specified by the ESO. **Note there was feedback at the CMP434 Workgroup on 28 May that this should be Milestone M1 instead but we will keep at M3 but allow an exception for changes identified specifically by the Statutory Body – we note the mixed feedback on the need for red line boundary checks with some Workgroup Members arguing that allowable red line boundary checks need to be strict and some arguing that a better test would be does the red line boundary amendment change the works needed for that connection and some Workgroup Members added that a red line boundary change could actually be benefit to the transmission or distribution system.*
- Proposed initial solution and will be housed in accompanying guidance is:
 - At each Queue Management Milestone, Users have sufficient acreage (calculated using the Energy Density Table as defined under CMP427 and contained in the ESO guidance document) of land rights and/or consents for the full capacity of all technologies in the Connection Agreement and use existing rights under CUSC (introduced by CAP150) to remove and/or reduce the capacity of those technologies; and
 - User builds no more than [33%] of the capacity of a technology outside of their original red line boundary. Where User has built more than [33%] of the capacity of a technology outside their original red line boundary, use existing rights under CUSC (introduced by CAP150) to reduce a User's capacity of that technology or technologies

Have ruled out the option of “No more than ‘X%’ change to the red line boundary once Gate 2 has been met” – as subjective



Confirms the position we will present as part of CMP434 Workgroup and have sought views on the % of capacity of a technology that is allowable outside of the original red line boundary and why.
Is there anything we need to consider for CMP435 specifically?

Gate 2 Criteria – Planning

Paul Mullen

Planning: Ongoing Compliance

Gate 2 Criteria on its own is not enough so how do you incentivise the project to continue to be developed.

If the submission of the application for planning (Queue Management Milestone (M1)) is forward calculated from Gate 2 offer acceptance date we believe this provides sufficient incentive for projects to progress from Gate 2 to connection.

Ongoing Compliance (Planning):

- Requirement to submit the application for planning consent at the earliest of:
 - i) the Queue Management Milestone M1 (“M1”) calculated back from the connection date (as per current CMP376 methodology); or
 - ii) M1 calculated forwards from the Gate 2 offer acceptance date (based on an agreed standard time period calculated from the date that the Gate 2 offer is accepted for each planning type) to move from Queue Management Milestone M3 (“M3”) to M1.

Appendix 1 shows how Queue Management Milestone M3 could be amended to reflect this and the evidence requirements for Queue Management Milestone M1

Note: We are currently considering whether more Queue Management Milestones become forward looking to incentivise delivery

Note: Work on alignment of Queue Management Milestones with Distribution is being done via ENA working group



Note that we asked CMP434 Workgroup on 28 May for feedback on what they believe is a suitable timeline for each planning type and why by close of play 3 June 2024. The next slide shares the key feedback.

Planning Ongoing Compliance – You said

Planning Type	Period from Gate 2 Offer acceptance to submission of application for Planning Consent
Town and Country Planning (England, Scotland and Wales)	<p>Typically 18-24 months for the pre-app work including EIA works, surveys and engagement with one developer noting it is extremely rare that can do less than a years worth of ecological surveys.</p> <p>Some support for 12 months (Sufficient time to secure planning permission if developer is ready to go)</p>
Section 36 (Scotland)	Typically 18-24 months and requirements similar to Town and Country Planning
Development of National Significance (Wales - akin to NSIP)	Typically 24 months - As Town and Country Planning but extra engagement with local stakeholders is required pre-submission
NSIP (need Development Consent Order - England)	<p>Typically 3 years as complex and duration and timing of some surveys e.g. most breeding bird surveys are required to be carried out over two breeding/nesting seasons and comprehensive engagement and consultation.</p> <p>A developer noted this could be 5 years for Offshore and Nuclear</p>



At CMP434 Workgroup on 13 June, sought views on whether in practice, developers would progress land and planning in parallel and how does this impact the above typical timelines? - *note that under Queue Management Milestones there is only 3 months between Queue Management Milestone M3 and M1 so can Workgroup provide views on why the delta has increased?*

Do these typical timescales change under CMP435? - CMP435 Workgroup views sought.

Gate 2 Evidence and Assessment

Paul Mullen

Gate 2 Criteria Evidence

Gate 2 Evidence

Self-Certification Approach

- Self-Declaration Letter must be signed by a director and must show:
 - Date achieved Gate 2 Criteria.
 - Red line boundary for site, and confirmed to align with minimum land density requirements.
 - Land status information i.e. whether land already owned or leased (for the operational life of the project), or whether an option agreement in respect of lease or purchase.
 - If not already owned/leased, parameters of length of option agreement in respect of lease or purchase.
 - (If applicable) Parameters of length of lease (and that this or any extension will cover the operational life of the project).
 - Statement that to your best knowledge, no-one else has rights over the land and that it does not overlap in relation to mutual exclusive usage.
 - Upload evidence they have secured Land (as per Queue Management Milestone M3 apart from iv)
- **CMP435 only**
 - **Developers can also identify on this Self-Declaration Letter if they wish to advance current contracted connection date and if so to which connection date, if possible.**
 - **Not retrospectively applying the option requirements to those who have achieved land options [by the Implementation Date/Date that the CMP435 Proposal was raised] but there will be an ongoing requirement for the developer to keep the land under option by seeking further agreements with the landowner until the Completion Date.**

ESO propose that a template will be created to facilitate this process and this will be mirrored across Transmission and Distribution and there will be accompanying guidance



Please provide views on CMP435 specifics shown in red text

Gate 2 Criteria Evidence

Preferred option on Gate 2 Checks undertaken by ESO/DNO

- Director checks - ESO will verify that the Director, for Limited and plc companies is on Companies House. If a company is not listed on Companies House, the ESO will utilise publicly available information to verify authorised individuals. However, the ESO recommend that a Covering Letter is provided if clarification is required regarding an organisation.
- Check that all the Self-Certifications meet the Gate 2 criteria
- Sample check (minimum % to be defined by ESO/DNO – **we need to consider if there is a role of Ofgem in setting this %**) evidence of secured land rights including duplication checks (**considering if it is possible practically to do 100% of duplication checks**). Note that sample checks could be done by Network companies or an independent external audit body.



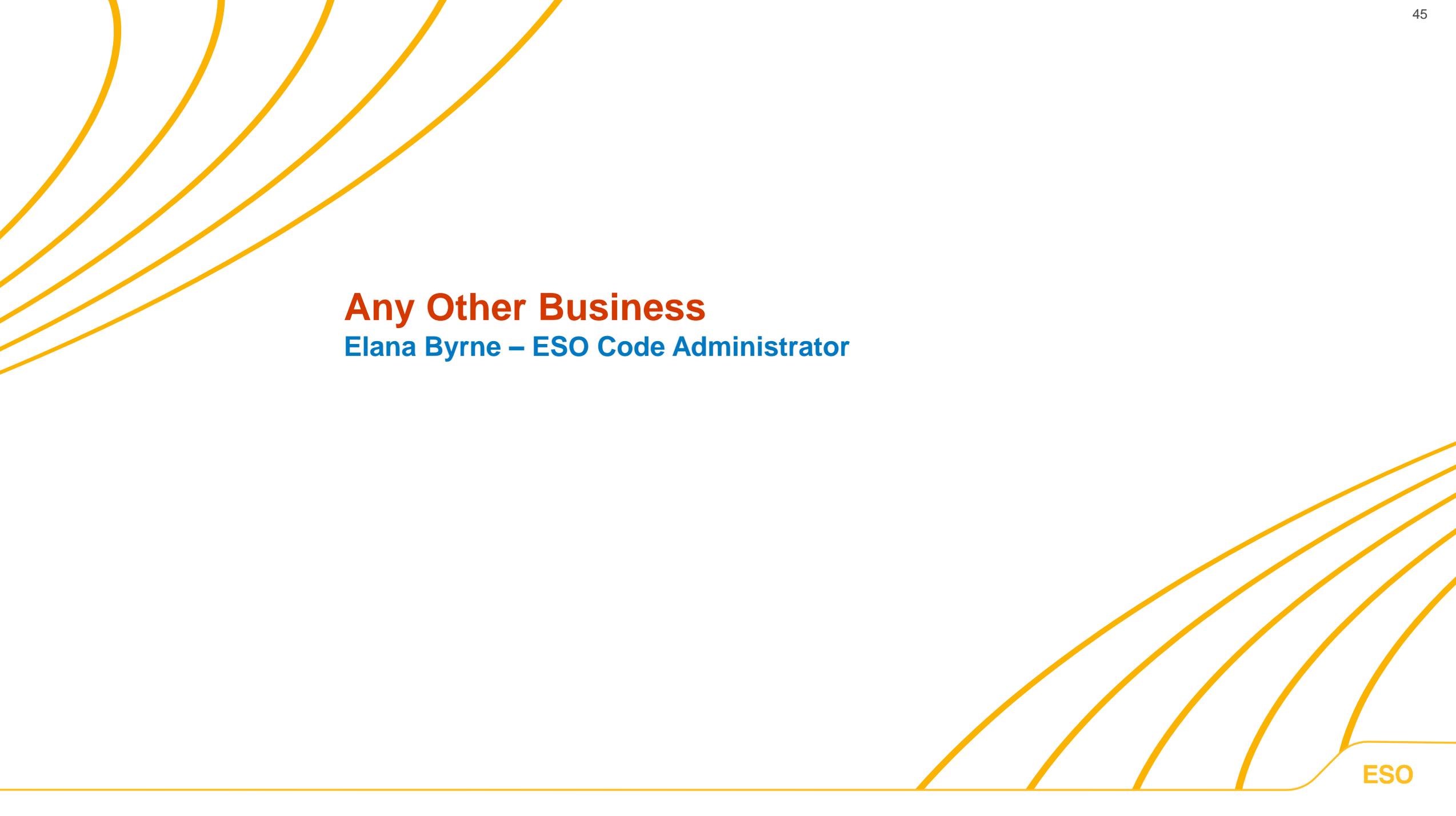
Confirms the position we will present as part of CMP434 Workgroup Consultation. Should there be a lighter touch approach i.e. a lower % sample check for the one-off exercise under CMP435?

Consequences if Self-certification is later found to be false

- **Consequences are:**
- Breach of CUSC
- Termination of Bilateral Agreement and Construction Agreement for that site
- Consequences for Director and reputational/credibility issues generally within the industry for the company



Please provide views on other appropriate consequences



Any Other Business

Elana Byrne – ESO Code Administrator

Next Steps

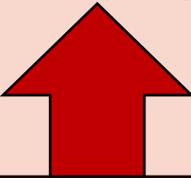
Elana Byrne – ESO Code Administrator

Appendix 1: Queue Management Milestone Changes

Appendix 1 - Queue Management Milestone M3 Changes

Milestone Requirement	Evidence Required
<p>The User must have secured the required land rights to enable the construction of the project. The User may be the owner/occupier of the land or has the necessary agreement from the owner/occupier.</p> <div style="display: flex; flex-direction: column; align-items: center; margin-top: 20px;"> <div style="display: flex; align-items: center; margin-bottom: 20px;"> <div style="background-color: #c00000; color: white; padding: 10px; border: 1px solid black; text-align: center;">Proposed to be removed as part of Gate 2 Criteria</div> <div style="font-size: 2em; margin: 0 10px;">→</div> </div> <div style="display: flex; align-items: center;"> <div style="background-color: #c00000; color: white; padding: 10px; border: 1px solid black; text-align: center;">Update to clarify requirements for Offshore Hybrid Assets and Interconnectors</div> <div style="font-size: 2em; margin: 0 10px;">→</div> </div> </div> <div style="margin-top: 20px; display: flex; align-items: center;"> <div style="background-color: #c00000; color: white; border-radius: 50%; width: 40px; height: 40px; display: flex; align-items: center; justify-content: center; margin-right: 10px; font-size: 2em;">?</div> <div style="background-color: #e67e22; padding: 10px; border-radius: 10px; display: flex; align-items: center;"> Note proposed changes and feedback (after Workgroup) any initial comments? </div> </div>	<ul style="list-style-type: none"> (i) The User is an owner or tenant of the land on which the proposed site is or will be situated; or (ii) The User has entered into an agreement to lease the land from the owner of the land on which the proposed site is or will be situated; or (iii) The User has an option to purchase or to lease the land from the owner of the land on which the proposed site is or will be situated; or (iv) The User has entered into an exclusivity agreement in relation to the land with the owner of the land on which the proposed site is or will be situated; or (v) For an offshore site, the User has entered into an agreement for occupation or use of the seabed upon which the User's project (excluding any OTSDUW) is or will be located Nb the obligation is to secure and evidence the land right for the site of the installation e.g. Power Station or demand site so the evidence does not relate to rights e.g. easements associated with that site or OTSDUW. <p style="margin-top: 20px;">Compliance with this milestone is ongoing.</p>

Appendix 1 - Queue Management Milestone M1 Changes

Milestone Requirement	Evidence Required
<p>Where statutory consents are required for the construction of the User's project, the User must begin the process of seeking statutory consents, including Planning Permission for the project within the timescales and be able to provide the required evidence.</p> <div data-bbox="598 585 789 763" style="text-align: center;">  </div> <div data-bbox="178 763 1228 1192" style="background-color: #c00000; color: white; padding: 10px; text-align: center;"> <p>Clarify for those meeting the Gate 2 criteria this will also be calculated forwards (based on an agreed standard time period for each planning type) to move from Queue Management Milestone M3 to Queue Management Milestone M1) as well as calculated back from the connection date (as per <u>current CMP376 methodology</u>). The developer will be required to meet the earliest Queue Management Milestone M1 date</p> </div>	<p>Submission of planning application to the relevant Statutory Authority or, if the User's project does not require a statutory consent, a declaration from the User to that effect.</p>



Note proposed changes and feedback (after Workgroup) any initial comments?

Milestone	Examples of evidence submission
Milestone 1) Initiated Statutory Consents and Planning Permission	<p>Planning application reference number (that is provided to User once they have submitted their application and it has been validated by the relevant Statutory Authority).</p> <p>The ESO will confirm against the Planning Portal (if the site is located in England and Wales) or Scottish Government - Energy Consents Unit - Application Search (if the site is located in Scotland) or alternatively it will confirm with relevant Statutory Authority.</p> <p>If the User's project does not require a statutory consent, then the User needs to provide a signed letter from the companies Director stating that no statutory consent is required.</p> <p>The User to upload the evidence via the Connections Portal for approval by the ESO.</p>

Queue Management Milestones – Pre-Construction

Conditional Progression Milestones	From 0 up to 2 years (0 – 729 days) from contracted Completion date	2 up to 3 years (730 – 1094 days) from contracted Completion date	3 up to 4 years (1095 to 1459 days) from contracted Completion date	4 up to 5 years (1460 – 1824 days) from contracted Completion date	5 years (1825 days) and above from contracted Completion date
Milestones:	All durations referenced back from contracted Completion Date				
M1 - Initiated Statutory Consents and Planning Permission	Bilaterally negotiated	18 months	24 months	36 months	48 months
M2 - Secured Statutory Consents and Planning Permission		12 months	18 months	24 months	30 months
M3 - Secure Land Rights		21 months	27 months	39 months	51 months

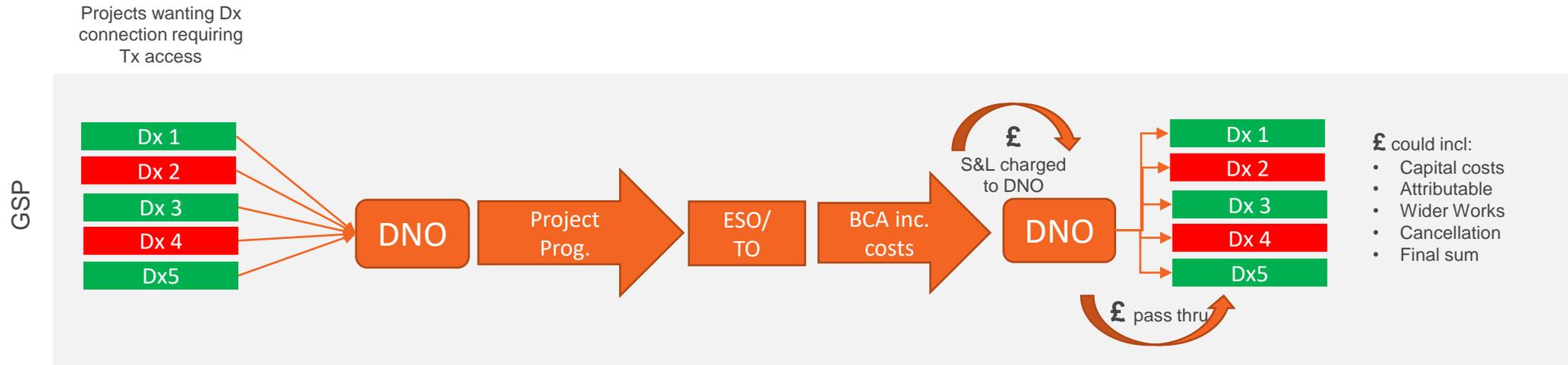
Queue Management Milestones –Construction

Construction Progression Milestones	From 0 up to 2 years (0 – 729 days) from contracted Completion date	2 up to 3 years (730 – 1094 days) from contracted Completion date	3 up to 4 years (1095 to 1459 days) from contracted Completion date	4 up to 5 years (1460 – 1824 days) from contracted Completion date	5 years (1825 days) and above from contracted Completion date
Milestones:	All durations referenced back from contracted Completion Date				
M5 - Contestable Design Works Submission	Bilaterally negotiated	12 months	15 months	18 months	21 months
M6 - Agree Construction Plan		9 Months	12 months	15 months	18 Months
M7 - Project Commitment		6 Months	9 months	12 months	15 Months
M8 - Initiate Construction		3 months	6 Months	9 months	12 months

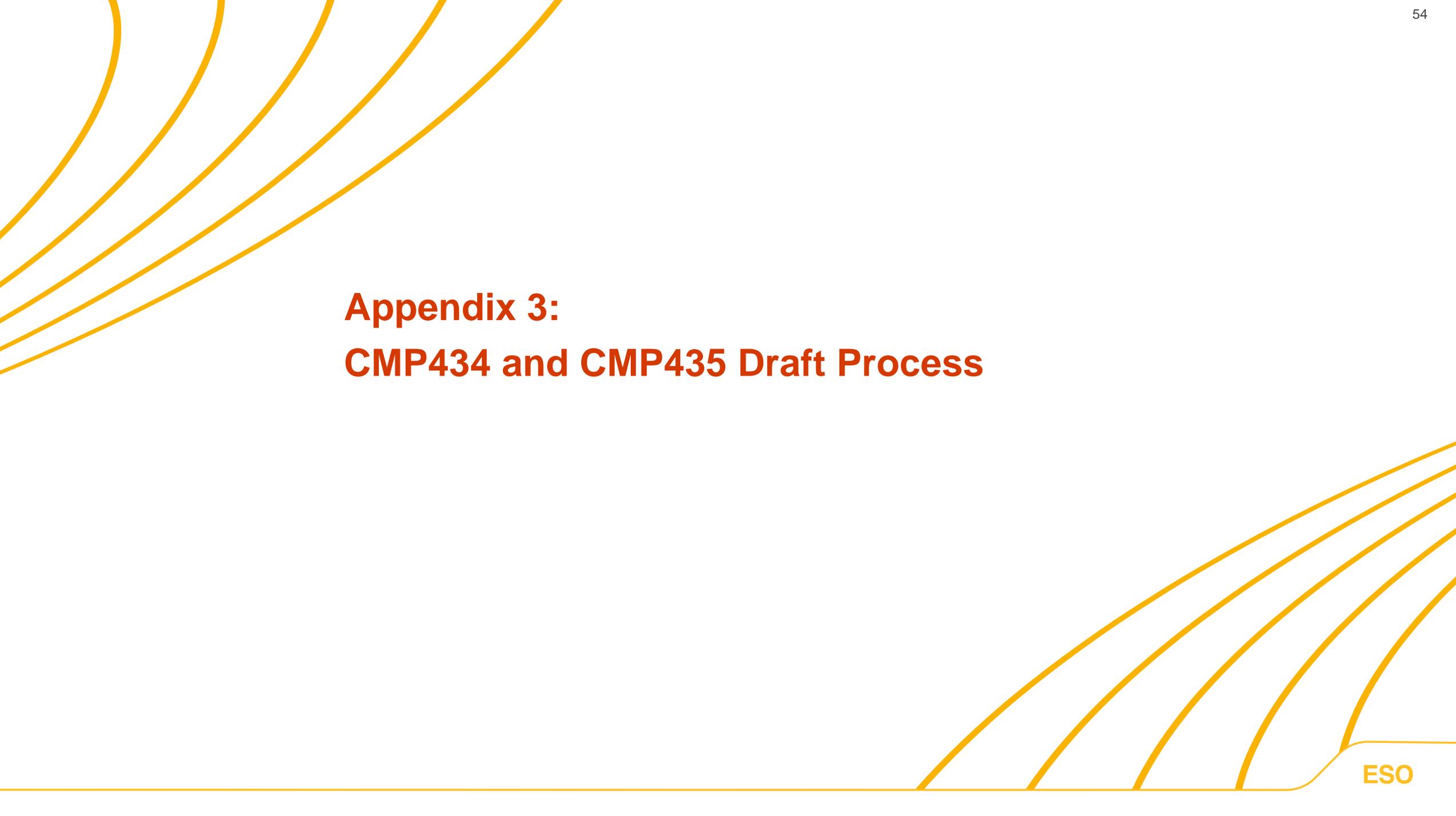
Appendix 2:

A simplified model of costs pass through for current projects

A simplified model of costs pass through for current projects

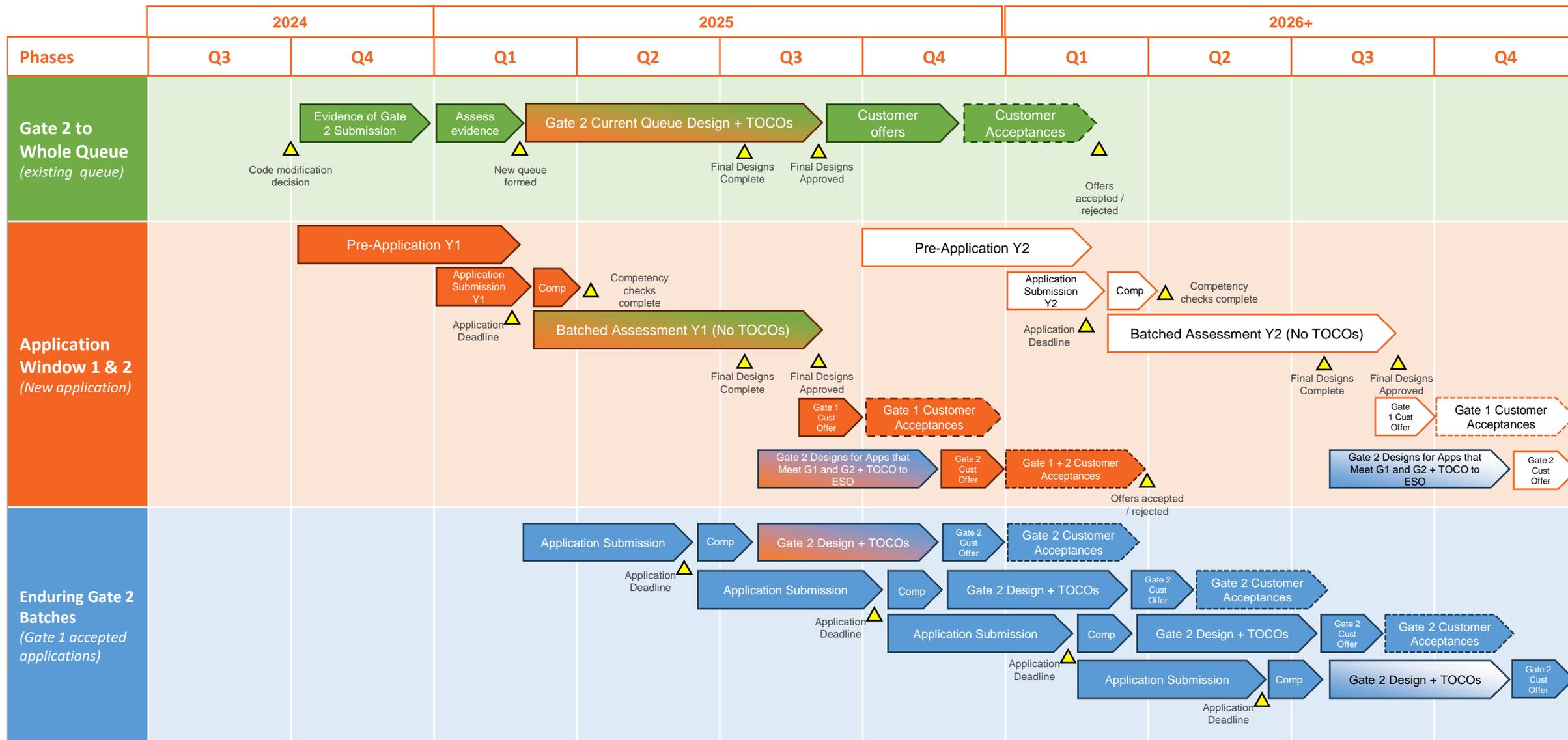


Projects in Red haven't no longer have firm Tx date as don't met Gate 2 criteria. Green projects remain firm date as meet Gate 2 criteria



Appendix 3: CMP434 and CMP435 Draft Process

Process and Timeline



Key: Phase Interdependent activities Phase Interdependent activities Phase interdependent activities Milestone

Appendix 4: Alternatives

What is the Alternative Request?

What is an Alternative Request? The formal starting point for a Workgroup Alternative Modification to be developed which can be raised up until the Workgroup Vote.

What do I need to include in my Alternative Request form? The requirements are the same for a Modification Proposal you need to articulate in writing:

- a description (in reasonable but not excessive detail) of the issue or defect as outlined in the Original Proposal which the alternative seeks to address compared to the current proposed solution(s);
- the reasons why you believe that the proposed alternative request would better facilitate the Applicable Objectives compared with the current proposed solution(s) together with background information;
- where possible, an indication of those parts of the Code which would need amending in order to give effect to (and/or would otherwise be affected by) the proposed alternative request and an indication of the impacts of those amendments or effects; and
- where possible, an indication of the impact of the proposed alternative request on relevant computer systems and processes.

How do Alternative Requests become formal Workgroup Alternative Modifications? The Workgroup will carry out a Vote on Alternatives Requests. If the majority of the Workgroup members or the Workgroup Chair believe the Alternative Request will better facilitate the Applicable Objectives than the current proposed solution(s), the Workgroup will develop it as a Workgroup Alternative Modification.

Who develops the legal text for Workgroup Alternative Modifications? ESO will assist Proposers and Workgroups with the production of draft legal text once a clear solution has been developed to support discussion and understanding of the Workgroup Alternative Modifications.

What is the Alternative Vote?

To participate in any votes, Workgroup members need to have attended at least 50% of meetings. The vote shall be decided by simple majority of those present at the meeting at which the vote takes place (whether in person or by teleconference)

Stage 1 – Alternative Vote

- Vote on whether Workgroup Alternative Requests should become Workgroup Alternative CUSC/ STC Modifications.
- The Alternative vote is carried out to identify the level of Workgroup support there is for any potential alternative options that have been brought forward by either any member of the Workgroup OR an Industry Participant as part of the Workgroup Consultation.
- **Should the majority of the Workgroup OR the Chair believe that the potential alternative solution may better facilitate the CUSC/ STC objectives than the Original then the potential alternative will be fully developed by the Workgroup with legal text to form a Workgroup Alternative CUSC modification (WACM)/ STC modification (WASTM) and submitted to the Panel and Authority alongside the Original solution for the Panel Recommendation vote and the Authority decision.**

What is the Workgroup Vote?

To participate in any votes, Workgroup members need to have attended at least 50% of meetings. The vote shall be decided by simple majority of those present at the meeting at which the vote takes place (whether in person or by teleconference)

Stage 2 – Workgroup Vote

- 2a) Assess the original and Workgroup Alternative (if there are any) against the relevant Applicable Objectives compared to the baseline (the current code)
- 2b) Vote on which of the options is best.

Alternate Requests cannot be raised after the Stage 2 – Workgroup Vote