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Final Modification Report			
<h2>CMP435: Application of Gate 2 Criteria to existing contracted background</h2> <p>Overview: The related CUSC Modification Proposal (CMP)434: “Implementing Connection Reform” Modification introduces new processes and definitions that will update the existing processes and enable new applicants with more ready projects to progress more rapidly to connection. Gate 2 is a key component of the update; however, the size and rate of growth of the connections queue means that significant action is required as soon as possible to reduce the current queue so that viable projects can be connected more quickly and so that the benefits of our proposed Connections Reform model can be delivered earlier. This Modification seeks to address this by applying a project milestone/criterion (‘Gate 2’) to all existing contracted parties before they are provided with confirmed connection dates and locations.</p>	<h3>Modification process & timetable</h3> <ol style="list-style-type: none"> 1 Proposal Form 19 April 2024 2 Workgroup Consultation 25 July 2024 - 06 August 2024 3 Workgroup Report 05 November 2024 4 Code Administrator Consultation 08 November 2024 - 26 November 2024 5 Draft Modification Report 13 December 2024 6 Final Modification Report 20 December 2024 7 Implementation Q2 2025 		
<p>Have 30 minutes? Read our Executive summary Have 2 Business Day? Read the full Final Modification Report Have 3 Business Days? Read the full Final Modification Report and Annexes</p>			
<p>Status summary: This Report has been submitted to the Authority for them to decide whether this change should happen.</p>			
<p>Panel recommendation: The Panel recommended by majority that the Original and WACM1 better facilitated the Applicable CUSC Objectives. By majority the Panel recommended that WACM1 (5 out of 8 votes) best met the Applicable CUSC Objectives.</p>			
<p>This modification is expected to have a: High impact on Transmission Owners (TO), Interconnectors, Generators (including embedded generators), Demand, Distribution Network Operators, Independent Distribution Network Operators and National Energy System Operator (NESO).</p>			
<p>Governance route</p>	<p>Urgent modification to proceed under a timetable agreed by the Authority (with an Authority decision)</p>		
<p>Who can I talk to about the change?</p>	<table border="0"> <tr> <td style="vertical-align: top;"> <p>Proposer: Alice Taylor alice.taylor@nationalenergyso.com 07895310443</p> </td> <td style="vertical-align: top;"> <p>Code Administrator Chair: Elana Byrne elana.byrne@nationalenergyso.com 07749576706</p> </td> </tr> </table>	<p>Proposer: Alice Taylor alice.taylor@nationalenergyso.com 07895310443</p>	<p>Code Administrator Chair: Elana Byrne elana.byrne@nationalenergyso.com 07749576706</p>
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Executive summary

This code modification has been raised under Electricity System Operator (ESO)'s¹ Connections Reform Programme, with proposals to reform the electricity transmission connections process (as set out in the CUSC) and address the current connections queue.

What is the issue?

The current Great Britain (GB) transmission connections process is not enabling the timely connection of projects to meet net zero. A wholesale revision is needed to the connections process to meet those targets and the needs of project developers and consumers. There is therefore a need to address the existing GB transmission connections queue in order to deliver the benefits of the proposed reformed connections process to ensure viable projects are able to connect, at both transmission and distribution, ahead of those projects (which are currently in the GB transmission connections queue) that are not progressing.

What is the solution and when will it come into effect?

Proposer's solution:

This proposal looks to extend the Gate 2 concept and some features of Gate 1 (outlined in [CMP434](#)) to existing in scope (as set out in Element 3 below) connection contracts (as set out in the CUSC). This means that for all in scope existing connection contracts, project developers will need to provide evidence of their project(s) meeting the (new proposed) Gate 2 criteria by the deadline (which, at the time of publication of this report, is expected to be in Q2 2025², but after the implementation date and as further described in Element 19 below). If a project meets the Gate 2 criteria, then the project will enter a process for it to be provided (as set out in Element 19 below) with a Gate 2 Offer and the developer will also be able to apply, if they wish, for an advanced connection date for their project. The intention is that a specific queue position³ for a developer will be based upon the proposed new Gate 2 Criteria Methodology and proposed new Connections Network Design Methodology. If an existing project does **not** meet the proposed Gate 2 criteria, by the deadline (which, at the time of publication of this report, is expected to be in Q2 2025, but after the implementation date and as further described in Element 19 below), then their existing transmission queue position will be nullified and their existing contract with NESO will be transitioned to a Gate 1 style contract which will include an *indicative* connection point and an *indicative* connection date – and as a result they will **not** retain their current connection point, connection date (as set out in their existing contractual arrangements with NESO), or transmission queue position. If and when such projects meet the Gate 2 criteria at a later date then they can apply through a Gate 2 process, as proposed within [CMP434](#). Where this scenario relates to either a DNO or a transmission connected Independent Distribution Network

¹ This proposal has been developed over a number of months which preceded the establishment, on 01 October 2024, of the National Energy System Operator (NESO). Therefore, in some places, this document refers to the 'ESO' (to denote the GB Electricity System Operator) rather than 'NESO' (to denote the GB National Energy System Operator).

² On the basis that an Authority decision (to approve this modification) is issued in Q1 2025.

³ Accordingly, developers with existing projects should note that as a result of this that their existing queue position that has the potential to change following the application of these two Methodologies to existing projects that meet Gate 2.

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Operator (iDNO) contract with NESO (in respect of Relevant Small and Medium Embedded Generation), then that contract will also be updated in-line with the above, except there will not be an indicative connection point and indicative connection date for such embedded projects. The process for contractual changes is covered in more detail in Element 19 below.

Implementation date: Q2 2025.

Please note that the Proposer envisages a more specific implementation date being set out by the Authority in due course, and in any event with the Authority’s decision (if it is to approve the Original proposal or any of the WACMs) which is expected in Q1 2025.

Note that the intention is that the approval of CMP435 is contingent on the approval of CMP434 and CM095 (a Code Modification for the System Operator Transmission Owner Code (STC)) and the associated licence changes; however, it is noted that this is ultimately a decision for the Authority.

Summary of alternative solution(s) and implementation date(s):

WACM1 - Proposed solution:

- The results of the Gate 2 compliance check should be published – including any revised Transmission Entry Capacity (TEC) or technology change requests.
- A 2–4-week pause should be implemented for Gate 2 qualified applicants to assess the viability of their projects in light of updated competitor information, to understand the Clean Power Plan for 2030 (CPP30) regional technology quota proposals that will emerge, and any NESO project designation activity that has been undertaken at that point.
- Parties could then choose to either submit an application for capacity advancement, keep their project as is or withdraw.
- The TO/NESO network investment would then proceed as under the Original proposal, but in our view with a much more credible portfolio of generation projects which will reduce the risk of stranded assets and consumer costs.
- Implementation would be in-line with the Original proposal’s implementation approach.

Workgroup conclusions: The Workgroup concluded by majority that the Original and WACM1 better facilitated the Applicable Objectives than the Baseline.

Panel recommendation: The Panel recommended by majority that the Original and WACM1 better facilitated the Applicable CUSC Objectives.

By majority the Panel recommended that WACM1 (5 out of 8 votes) best met the Applicable CUSC Objectives.

What is the impact if this change is made?

The impact on all in scope existing connection contracts is as above, i.e., by a specified deadline, developers will need to demonstrate that their projects have met the (new proposed) Gate 2 criteria

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in order to request⁴ the retention of their existing contracted transmission connection point, transmission connection date (with the potential for advancement) and transmission queue position. The process for managing such requests is further set out in Element 19 below and will be subject to the proposed new Gate 2 Criteria Methodology and Connections Network Design Methodology. If an existing project fails to meet the Gate 2 criteria by the deadline (which, at the time of publication of this report, is expected to be in Q2 2025, but after the implementation date and as further described in Element 19 below) then they will be transferred to an *indicative* connection point and *indicative* connection date until the project meets the Gate 2 criteria (as being introduced under CMP434).

DNOs and transmission connected iDNOs, will have their existing contracts updated to remove the rights and obligations associated with energising embedded generators who have not met the Gate 2 criteria and DNOs and transmission connected iDNOs will not be provided with indicative dates and locations. These projects will be able to apply again in the future when they have met the Gate 2 criteria (in the process being introduced under CMP434).

Interactions

CMP435 is contingent upon the approval and implementation of the two separate modifications addressing Implementation of Connections Reform, namely CMP434 and CM095.

The Proposer decided to separate out the “*Application of Gate 2 Criteria to existing contracted background*” (contained in this CMP435) from the rest of the “*Implementing Connections Reform*” (contained in the CMP434) as this CMP435 proposal intends to apply the Gate 2 Criteria (that it ‘introduced’ by CMP434) to the existing contracted transmission queue (including distribution connected projects in the transmission queue) and this may impact stakeholders that are not necessarily impacted by the rest of the scope of the “*Implementing Connections Reform*” contained within CMP434 Modification.

When this CMP435 proposal was initially raised, there was a possibility of consequential changes to the Distribution Connection and Use of System Agreement (DCUSA) as a result of this code modification. However, after keeping the matter under review (as this proposal was progressed through the change process) the ENA advised the Workgroup that no such DCUSA changes have been identified at the time of publication of this report.

System Operator Transmission Owner Code (STC) modification CM096 had been raised in conjunction with CMP435 but was subsequently withdrawn.

⁴ Additional Gate 2 Criteria are required to be applied by the NESO, in order to align with the Clean Power 2030 plan, which will be defined in the proposed three new Methodologies. The application of this criteria could mean existing projects, that meet Gate 2; and subject to the content of the Methodologies (which have not been seen by the Workgroup at the time of publication, and which have not been finalised) and the approach taken within those Methodologies; could nevertheless have their existing contracted transmission connection point, transmission connection date and transmission queue position detrimentally changed. This would be in their Gate 2 Offer, and even be if the project has requested advancement of the connection date, due to the relative queue position changing; in the event other projects are brought forward (when NESO aligns connections with CP30) ahead of the project and thus the project moves down the transmission queue).

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Consequential further System Operator Transmission Owner Code Procedures (STCP) changes will be required in future to facilitate the changes associated with CMP435 (this will not be available at the time of publication of this Report).

There are also further interactions with the following wider developments (that are also ongoing at the same time as this Report is being written):

- Clean Power 2030 Plan
- NESO Methodologies (which are under development):
 - Gate 2 Criteria Methodology
 - Connections Network Design Methodology
 - Project Designation Methodology
- Ofgem Licence Consultation(s) (at the time of publication of this report, the Proposer expected this Licence Consultation to cover Network Companies)
- Ofgem End to End Connections Consultation

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What is the issue?

The current connections process is not enabling the timely connection of projects to meet net zero. A wholesale revision is needed to the connections process to meet those targets and the needs of project developers and consumers. This proposal introduces new processes that will update the existing processes and enable projects that are most ready, to connect more efficiently.

In December 2022, the ESO (now NESO), the Proposer of this [CMP435](#), published a [Case for Change](#), to conclude Phase 1 of their GB Connections Reform project, in respect of the longer term reform of the connections process (i.e. the process by which projects apply to connect to or use the electricity transmission system in GB). The ESO subsequently worked with stakeholders during early 2023 to develop and explore options in relation to a longer-term reformed process for connections and the ESO set out their initial recommendations for reform in a [consultation](#) in June 2023. The ESO have continued to engage and develop their thinking based on the ~80 responses to the consultation. The ESO set out their [final recommendations](#) for longer-term connections reform on 05 December 2023, which identified policy areas that needed to be finalised before raising changes to the codes. NESO concluded Phase 2 of their GB Connections Reform project and just prior to this, in November 2023, Department for Energy Security and Net Zero (DESNZ)/Ofgem published their joint [Connections Action Plan](#), which stated the following in relation to Connections Reform:

“Desired Outcome: Connections reforms delivered with a high degree of confidence in quality, pace, ambition and coordination of reform delivery, ensuring greater and faster impact of Connection Reform in reducing connection times as well as lower system and/or connection costs. In selecting the most appropriate implementation approach for the Connections Action Plan, we were guided by a range of factors and principles. We want an implementation approach that ensures sufficient industry engagement and efficient and coordinated delivery of changes, taking into account the interests of all stakeholders, as well as wider strategic objectives related to achieving net zero goals and enabling reforms to be substantially delivered by 2025 to ensure energy security and investability across the network.”⁵

Since the publication of the ESO’s final recommendations in December 2023 and noting the asks on the ESO within the Connections Action Plan, the ESO continued to engage across industry on the key policy decisions and how to incorporate these changes within the codes. As a result of this further policy development and industry engagement, the ESO published [an update to final recommendations](#) setting out what has changed since the final recommendations of December 2023 and why, and to inform the proposed code changes.

Since the ESO started its Connections Reform programme in October 2022 the transmission connections queue has grown by more than 275GW and has been growing steadily at an average of over 20GW a month for the last 12 months. This is despite the tactical actions that have been introduced as part of the ESO’s 5 Point Plan and the ENA’s 3 Point Plan. Those tactical actions have delivered/will deliver benefits for ~70GW of projects; however, they have had limited impact on reducing the size of the current GB connection queue or slowing down the rate at which new projects

⁵ [Pages 83 and 84](#).

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are added to the queue. At the current rate of growth, the total connections queue (across transmission and distribution) is likely to exceed 800GW by the end of 2024, over 4 times the installed capacity GB will need by 2050 for net zero purposes.

The Queue Management milestones, as introduced by [CMP376](#), once inserted into all connection contracts, will allow for the termination of projects that are not progressing. This will then create an opportunity to bring forward ready projects or prevent on-track projects from delay. However, this will take a considerable amount of time to start delivering material benefits and will take even longer than this (given the number of parties with connection agreements and the lengthy connection dates) to start terminating projects in the middle or towards the back of the current connection queue. In the Proposer's view, the size and rate of growth of the connections queue means that significant action is required as soon as possible to better manage the current queue as well as to improve processes for new applications so that projects that are ready to progress can be connected more quickly. This will mean that the benefits of the ESO's, now NESO's, proposed Connections Reform model can be delivered earlier as not taking action to address the current queue will mean that new applications under NESO's proposed Connections Reform model will initially be at the back of what could be ~800GW queue, with initial connection dates into the 2040s, and with at least several years before those connection dates are improved as a consequence of Queue Management.

Scope

- Extending the Gate 2 concept (proposed to be introduced by [CMP434](#)) to apply to existing in scope (as set out in Element 3 below) connection contracts.
- Changes to the contractual arrangements for those existing in scope (as set out in Element 3 below) contracted parties that have not met the Gate 2 criteria.
 - For example, removing the existing confirmed connection date⁶ and connection point, set out in the contract with the ESO/NESO, from any in scope projects which have not yet met the Gate 2 criteria from the given date, and disapplying any User Commitment/Final Sums and Queue Management milestones from those projects.

Why change?

Please note that in the ESO's [Connections Reform Consultation](#) (pages 73 to 78), the ESO set out the benefits in more detail, but in summary:

Overall, the broader Connection Reform proposals (of which this code modification is a part) have three main benefits as follows:

- Quicker connections for projects that are in a better position to progress to connection.
- A more coordinated and efficient network design for connections that delivers benefits for customers and consumers, since allocating capacity more efficiently to projects that are most

⁶ For clarity, embedded customers that have gone through a Transmission Impact Assessment process but do not have transmission works required to connect, are in scope of this modification and will need to meet the Gate 2 criteria.

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ready to proceed and studying connection applications in batches should lead to lower overall costs⁷.

- A process which helps to efficiently deliver Net Zero by delivering timely connections dates.

Of the options the ESO considered prior to making final recommendations, the broader The Reformed Connections Process Proposals (TMO4+) approach has:

- The opportunity for a first-ready, first-connected connection process (with the potential for the addition of 'first needed' in future if and when required); and the overall opportunity for earlier/more efficient connection dates.
- More efficient and coordinated future planning of the network, with the benefits further enhanced with the proposed future introduction of the Clean Power Plan 2030 (CP30), Strategic Spatial Energy Plan (SSEP) and Centralised Strategic Network Plan (CSNP). The Proposer believes the proposed solutions can be materially aligned with the plans for CP30, CSNP and SSEP and as such can deliver increased benefits for customers and consumers.
- An ability to build network assets more efficiently in anticipation of need as the batched assessment of connection applications under the proposed approach would also allow efficient inclusion of anticipatory investment in network design.
- Better facilitation of competition, innovation and introduction of non-build solutions; e.g., a coordinated design helps introduce innovation into network designs by facilitating competition in the design and delivery of infrastructure related to connections; as planning in advance should provide clear scope and time for competitive tenders.
- Future-proofed design to align with other programmes e.g., the Proposer believes the proposed solutions (including the use of new proposed Methodologies) are future proof for the likely development and use of CP30 and the SSEP, most specifically with regards to the use of application windows and the introduction of strategic coordinated network designs for connections.

Specifically for this Modification:

- The GB transmission connection queue growth has accelerated significantly beyond expectations when designing the ESO's proposed Connection Reform changes, even considering recent reforms. As part of the ESO's 5 Point Plan and the ENA's 3 Point Plan, the electricity networks have been undertaking multiple initiatives to address the size of the queue. These actions are in line to deliver benefits by removing stalled projects from the queue, releasing additional transmission network capacity, and providing projects with advanced connection dates.

⁷ Note that in the ESO [consultation](#) (page 73), it notes that the Holistic Network Design process is expected to lead to overall net consumer savings of approximately £5.5 billion when compared to an optimised radial design and expect similar benefit (although difficult to quantify) for our proposed reformed connections process.

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However, the size of the queue has continued to rise at a much higher rate. NESO is therefore recommending that aspects of the reformed connections process (including Gate 2 and queue position allocation at Gate 2), need to be extended to the existing contracted background in order to deliver meaningful impact. Reform needs to be implemented as quickly as possible, and this will need to be supported with accelerated code change via the urgency process.

What is the solution?

To help you navigate the document, the various building blocks of the ‘Proposer’s solution’ have been broken down into 20 distinct parts (number 1-20) which are then referred to, as ‘Elements’, in the following ‘Workgroup considerations’ as part of this document. The first 18 Elements are the same Elements, and in the same order, as those within [CMP434](#). However, where Elements of [CMP434](#) are not applicable to CMP435 this has been highlighted, and differences between those Elements related or relevant to both Modifications have been incorporated within each of the relevant Elements. The two (additional) Elements which are only applicable to CMP435 (and not [CMP434](#)) have been added to the end of the Proposer’s solution, namely Elements 19 and 20.

Proposer’s solution

Please note that throughout this section:

- **Black text** describes each element of the proposal in the context of CMP435, noting that CMP435 is contingent upon [CMP434](#) (and [CM095](#)).
- **Purple text** generally explains the key differences between the Element in [CMP434](#) and the same Element in CMP435.
- **Red text** indicates that an Element of [CMP434](#) that is **not** applicable to CMP435.

However, please note that some of the black text may be legally defined in a different way in CMP435 when compared to [CMP434](#) to suitably differentiate between the Proposal being undertaken in a one-off manner (under CMP435) and the Proposal being undertaken in an enduring manner (under [CMP434](#)).

Please also note that at the time of publication of this report, the Authority decision date (i.e., when they make a decision on, amongst other things, this code modification) is expected to be in Q1 2025. The implementation date (when the legal text for this code modification, and the others, becomes live within the code) is expected to be in Q2 2025. The ‘cutover date’ is proposed to be the day prior to the implementation date and this date relates to when any connection agreements would be considered to be ‘existing agreements’ for the purpose of this code modification, as is further set out in Element 19 and Element 20 below. Further information on when the Gate 2 application window opens and closes is also set out in Element 19 and Element 20 below (noting that these are not fixed calendar dates within this Proposal).

Element 1. Proposed Authority approved Methodologies and NESO guidance

The following Element is the same as [CMP434](#), except that the references to guidance on Significant Change and Material Technology Change have been removed in respect of CMP435, as they are not applicable in the context of CMP435.

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There are three areas within the Proposal where the Proposer intends to codify a very high-level concept but then have the associated detail in three proposed new Methodologies. These are:

- Gate 2 Criteria Methodology;
- Project Designation Methodology; and
- Connections Network Design Methodology (CNDM)

The Proposer intends to consult on each of these three new Methodologies in due course and they are also subject to NESO's and TOs Licence Change (which will be taken forward by the Authority). Further information can be found in [Ofgem's September 2024 open letter on the reformed regulatory framework on connections](#), including their intention to consult on new and modified licence conditions to enable the implementation of a TMO4+ connections process, including the three new Methodologies proposed above.

With this solution, it is also intended to utilise NESO's produced Guidance to support NESO's and industry's understanding of parts of the CUSC. NESO expects to publish the following Guidance documents⁸:

- Letter of Authority⁹ Guidance and Queue Management Guidance¹⁰ (as is currently the case, but as amended/expanded as a result of these proposals e.g., in respect of the proposed new Gate 2 Criteria).

Element 2. Introducing a bi-annual application window and two formal gates, which are known as Gate 1 and Gate 2 (i.e., the Primary Process)

This Element is not part of the CMP435 Proposal and is only part of the [CMP434](#) Proposal.

Element 3. Clarifying which projects go through the Gate 2 to Whole Queue Process (Primary Process)

The following Element is the same as [CMP434](#), except the table has been updated and references to new applications in respect of BEGAs/BELLAs have been removed, as being specific to [CMP434](#) and not, therefore, [CMP435](#).

It is proposed that the following groups of customers, who, at the implementation date, hold a relevant connection agreement with NESO, will follow the Gate 2 to Whole Queue Process from the implementation date:

⁸ Whilst not directly relevant to existing in scope projects under CMP435, it is worth noting that NESO produced Guidance on Significant Modification Applications and Material Technology Changes that will apply to existing in scope connection contracts if and when such developers seek to amend their connection contracts after the implementation date for [CMP434](#), which is anticipated to be in Q2 2025.

⁹ As introduced by [CMP427](#).

¹⁰ As introduced by [CMP376](#).

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Terminology:

- Connected: Where the project (in full or in part) is Energised.
 Contracted: An accepted offer for a project, but where the project is not yet Connected.
 New: A new application for a project, which is independent of any Contracted or Connected project(s).

Connectee Type	CMP435
<ul style="list-style-type: none"> • Directly Connected Generation • Directly Connected Interconnectors and Offshore Hybrid Assets • Directly Connected Demand • Large Embedded Generators <ul style="list-style-type: none"> ○ Whether a BELLA or a BEGA (via the ESO) ○ Whether embedded within in a DNO or an IDNO network. • Relevant Small and Medium Embedded Generators <ul style="list-style-type: none"> ○ Via DNOs/IDNOs and included in ESO/DNO (or ESO/IDNO) contracts (e.g. Appendix G) ○ Includes such projects opting for a BEGA (via the ESO) 	Contracted and Connected (but only in relation to any project stages which are yet to be Energised)
‘Significant’ Modification Applications (in relation to the above)	N/A

Notes:

- *Embedded Demand is not in scope of CMP435.*
- *The requirements do not apply to the construction of new transmission assets. For example, if a Directly Connected Generation customer triggers a new transmission substation, then the CMP435 Gate 2 criteria requirements only apply to the land related to the generation site and not, for example, to the land related to the new transmission substation, or other transmission infrastructure, including cables or overhead lines from the generation site.*
- *Directly Connected Generation includes Storage and 0 MegaWatt (MW) Connections, such as Sync Comps.*

Element 4. Significant Modification Applications

This Element is not part of the CMP435 Proposal and is only part of the [CMP434 Proposal](#).

However, it is worth noting that NESO produced Guidance on Significant Modification Applications and Material Technology Changes that will apply to existing in scope connection contracts if and when such developers seek to amend their project(s) connection contract(s) after the implementation date for [CMP434](#), which is anticipated to be in Q2 2025.

Element 5. Clarifying any Gate 2 to Whole Queue differences for customer groups

This Element is not part of the CMP435 Proposal and is only part of the [CMP434 Proposal](#).

It is worth noting that in relation to meeting the Gate 2 criteria, arrangements will be set out in the Gate 2 Criteria Methodology (as described within Element 11) for offshore projects.

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Element 6. Setting out the process and criteria in relation to Application Windows and Gate 1, including introducing an offshore Letter of Authority equivalent as a Gate 1 application window entry requirement for offshore projects

This Element is not part of the [CMP435 Proposal](#) and is only part of the [CMP434 Proposal](#).

Element 7. Fast-Track Disagreement Resolution Process

This Element is no longer part of the [CMP435](#) (or [CMP434](#)) Proposal.

It is no longer proposed to introduce a new and formal fast-track disagreement resolution process as part of this proposal, and this will be separately and informally developed by NESO at a later date. For the avoidance of doubt, any existing dispute and/or determination routes, as set out either in statute or the CUSC, are unchanged by this Proposal and would be applicable to the relevant aspects of this Proposal.

Element 8. Longstop Date for Gate 1 Agreements

This Element is no longer part of the [CMP435](#) (or [CMP434](#)) Proposal.

It is no longer proposed to introduce a longstop date for Gate 1 Agreements.

Element 9. Project Designation

This Element is the same as [CMP434](#).

It is proposed to create a Methodology (proposed to be approved by the Authority), to be known as the 'Project Designation Methodology' that would enable NESO to designate specific projects.

Element 10. Connection Point and Capacity Reservation

The following Element is the same as [CMP434](#), except it has been amended to refer to 'Gate 2 to Whole Queue Process'.

Currently, in limited circumstances, it is possible for NESO to reserve substation bays, through the investment planning processes, for allocation (of those bays) to specific projects applying for connection in the future. It is currently only utilised by NESO via the Network Services Procurement (previously referred to as Pathfinders) processes that it runs. It is proposed to extend the existing bay reservation process by introducing and codifying a project specific reservation process, distinct from the existing bay reservation process.

The reason for this extension of the current scope is to avoid scenarios where connection points and capacity, which NESO would otherwise require for a specific purpose, are being allocated to projects which have met the Gate 2 criteria within the 'Gate 2 to Whole Queue Process'.

The Proposal is to extend the ability for NESO to reserve elements of the transmission network for the exclusive use by projects in advance of their progress to Gate 2 (at the discretion of NESO). The right to do this will be described within the CUSC, and the process for NESO (and TOs, at the request of NESO) to reserve the elements of the network for specific projects will be described within the STC.

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Reservation for specific projects would only be progressed where those projects wish to benefit from Reservation.

This ‘Reservation’ concept could therefore (amongst other reasons) be used to avoid a circularity where Interconnectors and Offshore Hybrid Assets are unable to reasonably meet the Gate 2 criteria until they have a confirmed connection site (more so than any other project type, due to the nature of Interconnectors and Offshore Hybrid Assets and the large number of possible connection points) and are unable to know their connection point until they have met the Gate 2 criteria.

Where a connection point and/or capacity has been reserved for a specific project (e.g., an Interconnector or Offshore Hybrid Assets, or directly connected or large embedded projects), NESO will bilaterally agree a reasonable minimum contractual reservation period with the developer and will thereafter (if the project has not passed Gate 2 within those timescales) review this annually on a case-by-case basis.

Please note that the Proposer will consider the use (by NESO, at their discretion) of the ‘Reservation’ process for other applications / requirements (other than set out in the examples in the above paragraph, including potentially in relation to Relevant Embedded Small and Medium Power Stations in general via the STC) where such reservation would protect the integrity of any broader overall co-ordinated network design.

For the avoidance of doubt, this NESO Reservation process is not intended to be used to reserve capacity on the Distribution System.

Element 11. Setting out the criteria for demonstrating Gate 2 has been achieved and setting out the obligations imposed once Gate 2 has been achieved.

- **Incorporate necessary amendments of M1 and M3 Queue Management milestones¹¹**

The following Element is the same as [CMP434](#).

It is proposed to create a Methodology (proposed to be approved by the Authority) to be known as the ‘Gate 2 Criteria Methodology’ that would enable the introduction of the Gate 2 criteria.

For the avoidance of doubt, the Proposer anticipates that the amended Queue Management milestones remain codified, with the consequential update of NESO’s Guidance document related to Queue Management (as introduced by [CMP376](#)). Ongoing compliance obligations, for developers, in relation to red line boundaries are proposed to be codified. The Proposer considers that associated changes to align Queue Management for Distribution will be led by the ENA and, as such, these are outside of the scope of this code modification.

¹¹ <https://www.nationalgrideso.com/document/294156/download> - see CUSC Section 16.3, which provides detail on the Queue Management milestones.

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11.1 Gate 2 Criteria

The Proposer intends that the criteria that projects need to achieve in order to meet Gate 2 will be set out in the proposed new Gate 2 Criteria Methodology, as above, which it is intended to be separately approved by the Authority.

11.2 Gate 2 – Ongoing Compliance

Once a project is within Gate 2 (i.e., once the developer has accepted and signed a Gate 2 offer):

- There will be ongoing land requirements for that project (on the developer); and
- There will be a requirement (on the developer) to submit the project’s 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 arrangements); or
 - ii. M1 calculated forward (based on a standard time period for each planning type) to move from the issuing of the Gate 2 offer to M1.

The Proposer intends that the above change to the requirements for Transmission Queue Management milestone M1 will be codified in CUSC. The above ongoing compliance requirements do not directly apply to Small and Medium Embedded Generation (EG) where DNO queue milestones are in use to manage embedded generators and any associated changes for Distribution will be led by the ENA and sit outside of this modification. For the avoidance of doubt, Embedded Power Stations Queue Management milestones will continue to be managed by DNOs or transmission connected IDNOs.

The above points are further described in the sub-elements 11.3 and 11.4 below.

11.3 Ongoing Gate 2 Compliance – Land Requirements

Although there will be an obligation for a developer to continue to show they have the appropriate land rights for their project (as described above), measures would also be put in place to ensure developers cannot amend their project site location, beyond Gate 2, such that they are developing a completely new site. It is therefore proposed to use the red line boundary for the project site provided at Gate 2 (to be known as the “Original Red Line Boundary”) as a basis for any ongoing compliance in relation to secured land. Any amendments made, by the developer, to the red line boundary for a project post achievement of Gate 2, will have to meet criteria which would be specified in the code (to an appropriate extent i.e., to set out the associated change threshold) unless specified otherwise in the Gate 2 Criteria Methodology.

The Proposer’s proposal for red line boundary compliance (which is intended to be housed in the code (to an appropriate extent; i.e. to set out the associated change threshold) is that at each Queue Management milestone the developer has sufficient acreage for the project (calculated using the Energy Density Table as defined under CMP427 and contained in the previously published ESO Guidance document on Letter of Authority, as updated to include offshore projects) of land rights for the full capacity (i.e. installed capacity) of all technologies set out in the project’s Connection Agreement.

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NESO will use the proposed rights under the CUSC to remove and/or reduce the contractual right to have the intended installed capacity (and potentially Transmission Entry Capacity (TEC)) of one or more of those technologies (to the extent necessary) for that developer's project i.e. where any installed capacity is located outside of the original red line boundary, and this is greater than that permitted through these proposed ongoing compliance requirements.

To elaborate, where a developer builds any installed capacity outside of their project's original red line boundary (i.e., the red line boundary submitted when certifying the project has met the Gate 2 criteria), there is the potential that this will impact on their total contracted TEC, depending on how much of the installed capacity remains within the original red line boundary. This will be calculated by reference to the installed capacity planned to be (or actually) built within the original red line boundary. The proposal is that for whatever installed capacity of a project is built within the original red line boundary, only 50%¹² of that number can then be located outside of the original red line boundary unless NESO's discretion is applied. This discretion could be applied in circumstances where a developer can suitably evidence, to NESO, that applying this threshold has a detrimental impact on normal project development and in circumstances which could not have reasonably been avoided. Where this calculation results in a number that is less than the total contracted TEC, the total contracted TEC will be reduced accordingly to a revised total contracted capacity. For example:

Example 1: 1000MW Installed Capacity (and TEC)

- 500MW Installed Capacity in the original red line Boundary.
- The allowance for 50% on top of what is within the original red line boundary means that 250MW (i.e., 50% of the 500MW within the original red line boundary) will be allowed outside the original red line boundary.
- Therefore, the original 1000MW TEC applied for will be reduced to 750MW.
- The developer will need to reapply for the other 250MW at the next Gate 2 window.

Example 2: 1000MW Installed Capacity (and TEC)

- 667MW Installed Capacity in the original red line boundary.
- The allowance for 50% on top of what is within the original red line boundary, means that 333MW (i.e., 50% of the 667MW within the original red line boundary) will be allowed outside of the original red line boundary.
- No TEC reduction.

Example 3: 1000MW Installed Capacity (and TEC)

- 700MW Installed Capacity in the original red line boundary.
- The allowance for 50% on top of what is within the original red line boundary, means that 350MW (i.e., 50% of the 700MW within the original red line boundary) will be allowed outside the original red line boundary.
- No TEC reduction. However, whilst 350MW installed capacity would be permitted outside of the original red line boundary with 700MW located within the original red line boundary, as the TEC is 1000MW any installed capacity greater than 1000MW will also need to factor in any related TEC (and/or CEC) limitations.

¹² By way of example, this is broadly consistent with the methodology currently applied by NGED (NGED allows a 50% increase in project's Red Line Boundary).

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If the overall contracted capacity (TEC) needs to be reduced (e.g., as per Example 1 above) then NESO would use the proposed capacity reduction rights under the CUSC to reduce TEC to the lower value and the developer would also be liable to pay a Cancellation Charge, e.g., if the TEC reduction resulted in abortive works.

11.4 Ongoing Gate 2 Compliance – Planning

The Proposer considers that there should be ongoing incentives and obligations placed on developers beyond Gate 2 to ensure that projects are viable and continue to be developed at an efficient pace. If the submission of the application for planning (Queue Management Milestone (M1)) is forward calculated from the Gate 2 Offer issuing date (as is proposed), the Proposer believes this provides an appropriate incentive for projects to progress from Gate 2 towards connection. Note that the evidence requirement for Queue Management Milestone (M1); as set out in the Queue Management Guidance; is the project’s Planning application reference number (that is provided to the developer once they have submitted their Planning application and it has been validated by the relevant Statutory Authority).

There will therefore be a requirement, with this proposal, for developers to submit the project’s Planning application for planning consent (M1) (unless this Queue Management Milestone has already been met) at the earliest of:

- i. the Queue Management Milestone M1 (“M1”) calculated back from the connection date (as per current CMP376 arrangements); or
- ii. M1 calculated forward (based on a standard time period for each planning type) to move from issue of the Gate 2 Offer to M1.

The Proposal is set out as follows. For the avoidance of doubt, where a specific technology type is referenced, the timescale associated with that technology type will take precedence over the planning type timescale.

Planning Type	Timescale
Town and Country Planning (England, Scotland and Wales)	2 years
Section 36 (England/Scotland)	3 years
Development of National Significance (Wales)	3 years
Nationally Significant Infrastructure Project (NSIP) / Development Consent Order (DCO) (England and Wales)	3 years
Offshore (including Offshore Wind, Interconnectors and Offshore Hybrid Assets (OHA)s)	5 years
Nuclear	Case-by-Case ¹³
Novel technologies	Case-by-Case ¹⁴

¹³ For the avoidance of doubt, the Proposer does not intend that this is published.

¹⁴ For the avoidance of doubt, the Proposer does not intend that this is published.

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Note:

- Associated changes to align Queue Management for Distribution connecting projects will be led by the ENA and sits outside of this code modification.

To mitigate the risk of a developer having to submit their project’s application for planning objectively too early in their development cycle, the Proposer intends to introduce discretionary milestone adjustment ability for NESO, e.g., where a developer asks for an earlier connection date and gets a later connection date, or where a developer asks for and gets a later connection date (due to normal programme timescales, e.g., mega projects) to avoid unintended outcomes.

Element 12. Setting out the general arrangements in relation to Gate 2

This Element is not part of the CMP435 Proposal and is only part of the [CMP434 Proposal](#).

In the context of CMP435, developers (including via the relevant DNO or transmission connected iDNO in the case of Relevant Embedded Small and Medium generators) will only be able to confirm they have met the Gate 2 criteria as part of the Gate 2 to Whole Queue process further described in Element 19 and Element 20. Developers whose projects do not meet the criteria for Gate 2 criteria under the process described will be able to submit a Gate 2 Application, once the project has met the Gate 2 criteria, at a later date in accordance with the process described in [CMP434](#).

Element 13. Gate 2 Criteria Evidence Assessment

This Element is the same as [CMP434](#) except the process by which a developer can elect to seek advancement of their project’s current contracted connection date and/or to reduce capacity (with a Cancellation Charge payable) as part of the Gate 2 to Whole Queue process.

It is proposed to create a Methodology (proposed to be approved by the Authority), to be known as the ‘Gate 2 Criteria Methodology’, that would enable the introduction of an evidence provision and assessment process. The Proposer intends that a developer will need to provide a Declaration (that their project has met the Gate 2 criteria, with supporting evidence, including the original red line boundary of that project, as per Element 11 above) to NESO (or, in respect of Relevant Embedded Small and Medium Power Stations, to the DNO or transmission connected iDNO) as part of their Gate 2 Application within the Gate 2 Process. DNOs or transmission connected iDNOs will need to submit to NESO a copy of the Declaration(s) and project’s original red line boundary provided to them in respect of Relevant Small and Medium Embedded Power Stations.

Where an Embedded Small or Medium Power Station also holds a BEGA, the checks for each project are proposed to be undertaken by the DNO or transmission connected iDNO and not NESO, whereas for a Large Embedded Generator, the checks are proposed to be undertaken by NESO, not the DNO or transmission connected iDNO.

The Proposer intends 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 produced by NESO for that purpose. This template will be set out within the proposed new Gate 2 Criteria Methodology.

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As part of the Declaration process, developers will (if they wish) be able to reduce TEC or Developer Capacity to support the project meeting the Gate 2 Criteria (as set out in the Gate 2 Criteria Methodology). As installed capacity is a number provided by the project developer as part of the application process (as set out in Element 19), it would also be possible for a developer to remove a technology type from an existing contract; e.g. if only one technology type were able to meet the Gate 2 Criteria and the declaration/application were provided on that basis, including (if required) a reduction in capacity (i.e. TEC or Developer Capacity). The Proposer also intends that developers will be able to request an advanced connection date (that is bring the wished for date of connection forward from, say, 2030 to 2029). However, other changes to the contract/project details are not permissible through the Gate 2 to Whole Queue process and must be separately undertaken; e.g. by the developer through the Modification Application process (and noting that after the implementation date for CMP434 such change requests could be considered to be Significant Modification Applications).

NESO and/or DNO/transmission connected iDNO will have the right to check 100% of all the projects' statements / evidence set out in the Declarations, and they will use reasonable endeavours to check 100% in the Gate 2 to Whole Queue Process. After the conclusion of the process, NESO will publish the percentage of such checks which were undertaken.

NESO will also check 100% of the evidence provided by all developers of their projects secured land rights for duplication checks. Specifically, this will examine the extent to which the original red line boundary for Gate 2 applications overlaps with the original red line boundaries for any other project(s) applying in the same Gate 2 application window (or those already with a Gate 2 contract in place).

In respect of the evidence checking responsibilities, it is intended that NESO checks the evidence of secured land rights for all directly connected and large embedded projects. DNOs and Transmission connected iDNOs will check the evidence of secured land rights for Relevant Embedded Small and Medium Power Stations. In addition, NESO will also conduct the duplication land rights checks for all projects applying for Gate 2 (including Relevant Small and Medium embedded projects). These checks will be undertaken, by NESO, prior to provision of Gate 2 Offers i.e., they will not need to be done as part of the application competency stage of the process and the project's declaration will be relied upon in respect the entry into a Gate 2 process.

Where a statement and/or evidence is in question NESO and/or the DNO or transmission connected iDNO (as appropriate, depending on who the statement and/or evidence has been provided to) will contact the applicant to gather further information. Where a duplicate is identified, queries will be raised by NESO with the relevant applicants (for embedded projects this is likely to be via the DNO and/or transmission connected iDNO, as appropriate) in an attempt to understand the context of why this is the case for these projects. However, if NESO (or the DNO or transmission connected iDNO, as appropriate) is not satisfied with the position, (including, in respect of NESO duplication land rights checks, that the overlapping boundaries will be able to accommodate the development of the projects), the applicant(s) will be deemed to have not met Gate 2 criteria and may not be provided with a Gate 2 Offer in the Gate 2 to Whole Queue Process. Further information will be included within the proposed new Gate 2 Criteria Methodology.

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Element 14. Gate 2 Offer and Project Site Location Change

This Element is no longer part of the CMP435 (or [CMP434](#)) Proposal.

Gate 2 Offer and Project Site Location Change arrangements (whereby a developer would not be required to comply with the project's original red line boundary change restrictions and be allowed to move the project site location without losing their confirmed connection site and connection date, but only for a limited period after receiving their Gate 2 Offer), are no longer part of the proposed solution.

Element 15. Changing the offer and acceptance timescales to align with the Primary Process timescales (e.g., a move away from three months for making licenced offers)

This element is not part of the CMP435 Proposal and is only part of the [CMP434](#) Proposal.

Element 16. Introducing the proposed Connections Network Design Methodology (CNDM)

The following Element is the same as [CMP434](#).

It is proposed to create a Methodology (proposed to be approved by the Authority) to be known as the 'Connections Network Design Methodology' or 'CDNM', that would enable NESO to undertake connections network design. As a consequence of the introduction of the proposed new CNDM, the existing Interactivity Guidance Policy (and the concept of Interactivity within the code) will no longer be required within the code.

Element 17. Introducing the concept of a Distribution Forecasted Transmission Capacity (DFTC) submission process for Distribution Network Operators (DNOs) and transmission connected Independent Distribution Network Operators (iDNOs) to forecast capacity on an anticipatory basis for Relevant Embedded Small Power Stations or Relevant Embedded Medium Power Stations aligned to the Gate 1 Application Window

This Element is not part of the CMP435 Proposal and is no longer part of the [CMP434](#) Proposal.

Element 18. Set out the process for how DNOs and transmission connected iDNOs notify NESO of Relevant Embedded Small Power Stations or Relevant Embedded Medium Power Stations which meet Gate 2 criteria

This Element is not part of the CMP435 Proposal and is only part of the [CMP434](#) Proposal.

Please note that aspects of these CMP435 proposals related to Relevant Embedded Small Power Stations and Relevant Embedded Medium Power Stations which do (and do not) meet the Gate 2 criteria are set out across the relevant Elements within this consultation.

Element 19. Contractual changes

This Element is only part of the CMP435 Proposal and is not part of the [CMP434](#) Proposal.

The Gate 2 to Whole Queue process will lead to all existing in scope contracted projects (for what these are, please refer to the table in Element 3) having their Existing Agreements with NESO changed by the end of the process. The changes by the end of the process are broadly:

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- In scope generation and demand connections to the Transmission System will have their Existing Agreements with NESO converted to either a Gate 1 Agreement or a Gate 2 Agreement.
- BEGA/BELLA In scope Embedded Generators with a BEGA/BELLA will be converted to either a Gate 1 Agreement or Gate 2 Agreement.
- To align with CMP434, DNO and transmission connected iDNO (DNOs) agreements driven by embedded generation will be amended to reflect where embedded generators have, and have not, met the Gate 2 Criteria. Where embedded generators have not met the Gate 2 Criteria, the DNO agreements will also be amended to remove their rights to energise and/or use the Transmission System for those embedded generators who have not met the Gate 2 Criteria.

Contractual changes to the relationship between Embedded Generators and their respective DNOs are outside of the scope of this proposal.

There will be (as a result of this CMP435 code modification) a natural ‘allocation’ of all Existing Agreements with NESO into one of four groups¹⁵ (based on the action or inaction of developers with existing agreements) as follows:

Group 1 – Projects have not met the Gate 2 criteria

The first group are those projects (including those with a BEGA or BELLA with NESO) with an existing signed connection agreement, that have not met the Gate 2 criteria by the deadline, which is currently anticipated to be in Q2 2025.

These projects will be notified by NESO that they have not met the Gate 2 criteria (unless they themselves notify NESO that they are to be Gate 1 projects prior to the deadline). For relevant Embedded Generation projects (Small/Medium Power Stations) this approach will be replicated by the DNO or transmission connected iDNO (as per approach to declaration/assessment set out in Element 13). As such it is proposed (for all these projects) that changes to their existing connection agreement will be made via the existing ‘Agreement to Vary’ (AtV) process.

This will mean that projects in this group will end up with a Gate 1 form of agreement (with an indicative connection point and indicative connection date, except where NESO’s reservation process is utilised through the process set out in Element 10). All of their existing contractual rights (such as their current confirmed connection point and confirmed connection date) and obligations under the agreement will fall away¹⁶ (through use of a ‘conditional clause’) including their User Commitment / Final Sums Liabilities and associated requirement to submit securities. Any securities that have been provided, to date, by the projects in this Group 1 will be returned to them within a reasonable period of time, which will be no later than 6 weeks after the counter signature of the Gate 1 AtV. Separately, from the point at which such a project is known to be a Gate 1 project (prior to the Gate 1 AtV being offered and accepted), NESO’s obligations in the existing agreement will be waived through the code legal text provisions.

¹⁵ Please note the titles of the four groups outlined below are not defined terms in CUSC.

¹⁶ As a result of this appendices in the agreement(s) will mostly all also be deleted but some project specific data (e.g., installed capacity) will remain within a subset of the appendices.

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DNO or transmission connected iDNO agreements with NESO which are associated with embedded generators, and where those embedded generators do not meet Gate 2, will also be changed via the existing 'Agreement to Vary' (AtV) process to reflect those embedded generators status as not Gate 2. Whether this will result in termination of the relevant User contract, or a variation to its terms, will be decided on a case-by-case basis between NESO and the DNO or transmission connected iDNO, but the practical effect would be the same. The effect of this will be that the DNOs or transmission connected iDNOs existing contractual rights with NESO (such as their current confirmed connection point and connection date) and obligations under the agreement relating to the embedded generators projects that have not met Gate 2 will fall away including their User Commitment/Final Sums Liabilities and associated requirement to submit securities, after the counter signature of the AtV (or termination of the agreement).

Group 2 – Projects have met the Gate 2 criteria and do not request advancement

The second group of projects are those that have an existing connection agreement (including those with a BEGA or BELLA with NESO) that meet the Gate 2 criteria (or for DNOs and transmission connected iDNOs where embedded generators meet the Gate 2 criteria), by the deadline (which is currently anticipated to be in Q2 2025), but do not want to be considered¹⁷ for any connection date advancement for their project.

These projects will need to submit the evidence to the relevant party showing that the project has met the Gate 2 criteria (as per Element 13). The project's existing agreement will continue as is (including the confirmed connection point and connection date) until NESO updates it as part of the Gate 2 Modification Offer, including to add in ongoing Gate 2 compliance requirements related to their existing contracted connection date, such as the forward-facing Queue Management milestone(s), (or make any other necessary changes) via a Modification Offer, although the intention is that no application fee will have been charged for the associated (deemed) Modification Application. If the project does not sign their Gate 2 Offer, then the project will then revert back to a Gate 1 Offer (via an AtV) and will remain there until they sign a Gate 2 Offer in future, via the process introduced by [CMP434](#). For those projects with a BEGA or BELLA, they will need to continue to comply with Distribution Queue Management milestones.

For DNOs and transmission connected iDNOs, they will receive an updated NESO agreement (via an AtV) in respect of their contracted Embedded Generation projects which met the Gate 2 criteria. The AtV will make any other necessary changes, and the intention is that no application fee will have been charged. If the AtV is not signed by the developer, then the changes outlined in Group 1 will be put into effect. The applicable generators will also continue to have to comply with Distribution Queue Management milestones.

Group 3 – Projects have met the Gate 2 criteria and request advancement

The third group of projects is similar to the second group above, but these are for projects that are also requesting a connection date advancement (via a Modification Application with a subsequent fee) when they submit, to the relevant party, their Declaration Letter (as per Element 13) by the deadline (which is currently anticipated to be in Q2 2025). Where the request for advancement is from

¹⁷ As they have not requested such advancement.

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an Embedded Generator, the relevant DNO or transmission connected iDNO will need to confirm that the project can be accommodated before it can be considered as part of a submission. The Embedded Generator should discuss this with their DNO or transmission connected iDNO before applying for advancement.

For projects in this third group, as with the second group above, their current connection agreement will continue as is until they sign their Modification Offer as with the second group, if they do not sign the Modification Offer, then the project will revert back to a Gate 1 offer (via an AtV) and will remain there until the project does sign a Gate 2 offer in the future via the process introduced by [CMP434](#). In this situation, BEGA/BELLA will be treated in the same manner as outlined in Group 2 above. For those projects with a BEGA or BELLA they will need to continue to comply with Distribution Queue Management Milestones.

For DNOs and transmission connected iDNOs who have requested advancement on behalf of individual Embedded Generators, they will receive an updated BCA with NESO (via an AtV) in respect of those contracted Embedded Generation projects which met the Gate 2 criteria. This will make any other necessary changes and the intention is that an application fee will be charged to the DNO / transmission connected iDNO. If the AtV is not signed by the DNO / transmission connected iDNO, then the changes outlined in Group 1 will be put into effect. The applicable generators will also continue to have to comply with Distribution Queue Management Milestones.

For the avoidance of doubt, where a project is part of a single Project Progression with Multiple projects, projects that have met the Gate 2 Criteria and have requested advancement will not be detrimentally impacted (in respect of the connection date and location) by projects which are found, after the application window has closed and the coordinated design process has begun, to be non-compliant with Gate 2 Criteria or are unable to advance.

Group 4 – Projects have met the Gate 2 criteria with transitional agreements

The fourth group are projects with a Transitional agreement, as per the arrangements approved by the Authority on 21st August 2024¹⁸ ([found here](#)), that meet Gate 2 and will be treated by NESO in a similar manner to the third group. However, this is without the ability for those (Transitional agreement) projects to request advancement, as they would not have a fully studied agreement by the proposed declaration deadline (which is currently anticipated to be in Q2 2025). There will be a requirement (for these types of projects that are also requesting advancement) to submit a Modification Application (with a subsequent fee) as this will be the first time that the project will have been fully studied (by the TO) and a full suite of Appendices provided to the project (by NESO). Therefore, if and when those projects meet the Gate 2 criteria and submit their Declaration Letter by the deadline (which is currently anticipated to be in Q2 2025) they will be provided, by NESO, with a Modification Offer which, if accepted by the project, will provide a confirmed connection point and confirmed connection date, following the Gate 2 to Whole Queue network design exercise under the proposed CNDM. The Transitional Agreement, that the project(s) has, would continue as is until that point in time.

¹⁸ It should be noted that Distribution arrangements were not part of this letter and, at the time this report was published, are not currently agreed. This is planned for Phase 2, which is further described in Element 20.

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General Information

For the avoidance of doubt, Gate 2 Modification Offers will include updated liability and security statements based on the contracted TEC or Developer Capacity and reinforcement works, as well as any updated Queue Management milestones (and any other necessary changes as a result of the application/declaration and Gate 2 to Whole Queue network design process, which could in some cases potentially include connection point and/or connection date changes¹⁹, but this remains subject to the details contained in the proposed new CNDM).

As part of the project's declaration/application for each of the above, an installed capacity number will need to be provided by the applicant which needs to correspond to the project which is to enter into the Gate 2 to Whole Queue process. This will allow, alongside the original red line boundary (also provided by the project), the ongoing compliance arrangements set out in Element 11 to operate once a Gate 2 Modification Offer has been accepted by a project.

As a result of the process being proposed, a specific opportunity for advancement is provided to projects in the second group, and a specific process is provided to offer a connection date and connection point to projects in the fourth group. Any requests to advance the project's connection date, at a later date (i.e., in a future application window, as is being developed by CMP434) outside of the process proposed in this consultation, will only be available to such parties through separate processes, e.g., through the Modification Application process and the proposed new CNDM (including capacity reallocation).

Where a project is to become a Gate 1 Project and it has received an AtV, if that AtV is not then signed by the project developer within a reasonable time period, then NESO may utilise the existing related CUSC rights to accept the AtV on behalf of the developer. This is to ensure timely conclusion of the CMP435 process. Therefore, as a result of this Gate 2 to Whole Queue process, all in scope existing agreements will, in due course, either become Gate 1 Agreements or Gate 2 Agreements²⁰ and there is no way for a developer to retain an existing agreement, unless the project energises/connects prior to accepting a Gate 2 Modification Offer²¹ (having first met the Gate 2 Criteria prior to the deadline for doing so, which at this time of this report is expected to be in Q2 2025).

For the avoidance of doubt, projects not yet Energised prior to the deadline (which is currently anticipated to be in Q2 2025) for demonstrating that the Gate 2 Criteria have been met, but due to Energise shortly thereafter, will still need to declare/apply, to NESO or DNO / transmission connected iDNO (as appropriate, as set out in Element 13), that they have met the Gate 2 criteria. This will avoid

¹⁹ Those changes may, for some projects and in some cases, be detrimental, with the connection point location moving and the connection date being pushed out (for example from, say, 2029 to 2030).

²⁰ In the case of small or medium embedded generation, Projects not meeting Gate 2 will lose their right to energise and/or use the Transmission System. Whether this is achieved by the termination of the relevant User contract with a DNO or transmission connected iDNO, or via a variation to its terms, will be decided on a case-by-case basis, but the practical effect would be the same.

²¹ Which, at the time of publication of this report, is anticipated to be by the end of 2025 (but this remains to be confirmed).

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the possibility of the project which has met the Gate 2 criteria inadvertently becoming a Gate 1 project (by being issued a Gate 1 AtV). As existing agreements continue until the new Gate 1 or Gate 2 Agreement is in place (as described above across the four groups of project types), any projects due to be Energised prior to the relevant Gate 1 AtV or Gate 2 Modification Offer (as appropriate) will continue as they are now until that Gate 1 AtV or Gate 2 Modification Offer (as appropriate) is signed/effective; i.e. the project would be able to Energise under their existing agreement if they had met the Gate 2 criteria and the Energisation processes in that existing agreement has been done).

In respect of a project with an existing agreement which is staged and/or where there is more than one technology type, then it will be possible for that project to declare/apply for this existing agreement in part i.e., for the installed capacity and/or technology type which has met the Gate 2 criteria. The remainder of the project (which has not met the Gate 2 criteria) will remain at Gate 1. Please note however that (as per Element 13) any projects that request to newly stage agreements and/or change technology types (whilst noting the ability to remove technology types via the provision of the installed capacity figure(s) in Element 13) cannot be undertaken as part of the Gate 2 declaration/application and must either be done by the project prior to the declaration/application or once the Gate 2 Agreement is in place.

Element 20. Transitional Arrangements and Cutover Arrangements

This Element is only part of the [CMP435 Proposal](#) and is not part of the [CMP434 Proposal](#).

In order for NESO and TO's to migrate into the new process (introduced by CMP435 and [CMP434](#)) then (i) Transitional Arrangements and (ii) Cutover Arrangements are required as it would not be possible to have the current process and the proposed new process running in parallel over the implementation/Go-live period. Therefore, Transitional Arrangements and Cutover Arrangements are proposed to mitigate the potential risks/issues. Transitional Arrangements are not within scope of the solution in this code modification (and are provided for context only) whereas the Cutover Arrangements are within scope of the solution in this code modification.

NESO has previously sent the Authority a Phase 1 letter regarding the Transitional Arrangements (which is not within the scope of the solution in this Code Modification) requesting relief, for NESO, from the current code and Licence obligations for providing full offers for new directly connected transmission applications. The requested implementation date for this relief was the 02 September 2024 and it applies to any offers received by NESO from that date up until the implementation date of CMP435 or End March 2025, whichever is sooner. As mentioned in Element 19 above, this request was approved by the Authority on 21 August 2024.

In respect of the Transitional Arrangements, there is intended to be a second letter (Phase 2, which is not within the scope of this Code Modification) planned to be submitted by NESO to Ofgem, that will explain the areas of the current code and Licence obligations that NESO and TOs need relief from in respect of Modification Applications, Project Progression, BEGAs and BELLA's.

In respect of the Cutover Arrangements, there will be a cutover date provided by NESO prior to the implementation date (which is expected to be within Q2 2025) whereby agreements will need to be signed (by project developers et al) to be considered to be '*existing agreements*'. Therefore, only

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those agreements which are classified²² as being the in scope (as per Element 3 above) existing agreements become Gate 1 projects or Gate 2 projects through CMP435 (as set out in Element 19 above). In relation to any transitional offers made by NESO prior to the cutover date where the acceptance period of the offer runs beyond the cutover date, then (subject to Authority approval) further Transitional Arrangements will be put in place by NESO (whether through Phase 2, as above, or a subsequent phase) to lapse those agreements (where unsigned by the cutover date). This will ensure that the status of all existing agreements, for the purpose of this code modification, are known on or from the cutover date.

Workgroup considerations

The Workgroup convened 27 times to discuss the perceived issue, detail the scope of the proposed defect, devise potential solutions, and assess the proposal in terms of the Applicable Code Objectives.

Introduction

The Workgroup discussion has been organised to relate to the Elements within the Proposer's solution for CMP435. Within the section for each Element, it covers (i) the discussions prior to Workgroup Consultation, (ii) a summary of the Workgroup Consultation relating to that Element, and (iii) any discussions or actions taken following the Workgroup Consultation. Any Elements removed from the Proposer's solution following the Workgroup Consultation can be found in the section below, titled '*Consideration of options which are no longer part of the Proposal*'. Much of the Workgroup discussion prior to the Workgroup Consultation covers aspects related to the CMP434 Proposal which are intended (by NESO, as Proposer of CMP435) to be covered within the proposed three separate Methodologies. The content of these three new Methodologies has the potential to change as a result of the planned CP30 arrangements. However, these three documents (or, for that matter, the CP30 arrangements) were not subsequently discussed by the Workgroup as NESO had not made a draft version of the Methodologies available to the Workgroup. That having been said, from the two industry webinars held in October 2024 by NESO to discuss the CP30 (the recordings of which can be found at (Connections Forum 15 October 2024)) and the broad aspects of the three proposed Methodologies (noting that further information on all these four items is expected to be provided, by NESO, to the industry at its 05 November 2024 Connection Seminar, which takes place the day after this Workgroup is due to conclude) the Workgroup was keen to ensure that the reader of this report fully takes into account those four items when reading this document as there are, in totality, expected to be strong interactions.

In addition to this, the reader of this report should also be aware that NESO presented to the 11 October 2024 Transmission Charging Methodologies Forum (TCMF) [TCMF Slide pack - 11 October 2024] an approach to demonstrating that projects (that progressed through Gate 2 and accepted a Gate 2 Offer) had financial viability – as NESO was asked to do by Ofgem in its mid-August blog update Connections reform – going further | Ofgem proposal (regarding projects demonstrating financial viability).

²² According to the CUSC, as amended by this CMP435 proposal.

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Workgroup Consultation summary

The Workgroup held their Workgroup Consultation between 25 July 2024 – 06 August 2024 and received 69 non-confidential responses and 7 confidential responses. The full non-confidential responses and a summary of those 69 responses can be found in **Annexes 5 and 6**. That consultation focussed on the CMP435 solution and the discussions directly relevant to that.

The key general points from the Workgroup Consultation responses are summarised below, however points relating specifically to the Elements of the Proposer’s solution can be found under the relevant Element’s sub-heading. The full list of responses can be found in **Annex 5** (Workgroup Consultation responses) and **Annex 6** (Workgroup Consultation summary).

- The following numbers of respondents indicated that the Proposer’s solution better facilitated the Applicable Objectives than the Baseline (from the 69 respondents): 42 for (a), 39 for (b), 13 for (c) and 33 for (d).
- There were 38 respondents in agreement with the implementation approach, whilst 24 disagreed. Significant numbers of respondents noted concerns with the timeline for implementation, including a need to be more realistic/flexible to allow more time for developers to meet Gate 2 criteria and raise ‘ModApps²³’ if necessary.
- Several comments were made that more detail was required for the Elements of the solution, with more clarity being needed on the proposed processes involved.
- Support was expressed by multiple respondents for the overall solution and efforts to offer a structured process with greater efficiency.
- Multiple respondents expressed the need to see the accompanying three Methodologies and NESO’s Guidance documents as soon as possible along with the regulatory framework/governance for them.
- Several respondents noted a lack of evidence to support the proposal or any impact assessment.
- Multiple respondents supported more visibility of the ENA Strategic Connections Group to assess if distribution and transmission queue re-ordering will be aligned.
- Some respondents felt the Proposal could lead to unintended consequences such as the termination or reduction of viable projects with smaller industry participants not having access to the expertise required for the process.
- Views were expressed that no due/undue discrimination could be foreseen from the proposal, as well as views with concerns over discrimination against a number of different project types.
- Some respondents were not clear how the proposal will deliver either the Authority or Government policy and a suggestion for the full scope of Connections Reform being needed to make informed decisions.
- Question 6 of the Workgroup Consultation related to Elements deemed not appropriate for the existing contracted background. There were responses identifying most of the proposed

²³ Modification Applications (which are shortened, within the industry, to ‘ModApps’) where a project seeks to change parts of their contractual arrangements with NESO.

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Elements (separately or in conjunction with others), however more responses identified Element 9 and Element 14.

- Question 7 of the Workgroup Consultation asked for features felt to be missing from CMP435 to which there were a range of suggestions, examples being reviewed treatment of demand projects, flexibility for implementation, 100% certification of Gate 2 criteria, inclusion of significant 'ModApps', cost refunds/relocation and codification of guidance.
- Question 8 of the Workgroup Consultation asked if any groups should be exempt from CMP435. A range of suggestions were made, but several respondents noted that exemptions undermine the process by introducing potential distortion, and several respondents noted those with existing offers/agreements should be exempt.
- Question 9 of the Workgroup Consultation asked whether the proposed solution duly/unduly discriminated against particular project types. Multiple respondents noted no due/undue discrimination, but a range of different project types were raised by other respondents separately.

Consideration of the proposer's solution (by Element)

In the first Workgroup meeting, the Authority began with a reminder in an open letter published in April of their keenness for flexibility and to be presented with full optionality when it comes to decision making and not to leave any stone unturned and went on to say that Workgroups should be exploring varying degrees of codification and if it's considered appropriate, consideration should be given to raising an alternative code modification proposal.

As the CMP434 solution creates the basis for several elements of the CMP435 solution, the Workgroup did discuss relevant Elements of the proposed solution for CMP434 for context, although these are out of scope of the CMP435 solution.

Element 1. Proposed Authority approved Methodologies and NESO guidance

The Proposer presented their views to the Workgroup on how they foresaw the development and approval of three new, Authority approved Methodologies working in the future (subject to any changes to NESO's Transmission Licence) namely (i) the Connections Network Design Methodology, (ii) the Gate 2 Criteria Methodology and (iii) the Project Designation Methodology (see Element 1 above in the proposed solution).

The Proposer presented their intention to amend (in the context of CMP435) the existing NESO Guidance document in relation to Queue Management.

Workgroup members expressed their concerns in relation to these three proposed new Methodologies and suggested that codification of these documents is a more appropriate route. Workgroup members expressed concern that these Methodologies would contain terms and conditions related to Users connections, and if so whether these Methodologies were an appropriate place for these to sit. One Workgroup member queried if the proposed NESO Guidance documents²⁴ would impose any further obligations on Users, over and above what is set out in the CUSC or was the Guidance just to provide further information for the understanding of the Users and NESO. The Proposer noted that they did not plan to set out comprehensive lists of new obligations (arising from the needs of CMP435) in the

²⁴ As noted in Element 1 of the Proposer's Solution.

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CUSC. The Proposer clarified that the Guidance documents will not contain any new obligations which Users can be penalised for if they do not comply with and that there would be industry engagement, by NESO, on these Guidance documents.

When asked in the Workgroup Consultation, 28 respondents were in favour of this Element, whilst 27 disagreed.

- Several respondents noted that details of the three Methodologies have not been finalised or seen by industry yet (one respondent noting that those details were likely to impact project development risk levels).
- Comments expressed that further consideration was required to strike the right balance for codification to delivery transparency and with regular review.
- There were mixed views with some supporting more detailed codification for regulation and others supporting high level codification for flexibility.
- Concerns were voiced over NESO’s Licence expanding to cover the proposed guidance and the three proposed Methodologies, with a large number noting the risk of self-regulation without usual regulatory rigour/open governance in place and concerns over a lack of stakeholder engagement prior to external consultation on the three new Methodologies and Guidance.

The Proposer considered the feedback from the Workgroup Consultation; however, it did not think that a change was necessary to their Proposal but noted that feedback would be used to develop the proposed three new Methodologies and updates would be shared with the Workgroup. Industry sessions²⁵ to discuss the CNDM and the other Methodologies were held on 16 September 2024 and 16 October 2024. In the post-Consultation Workgroup meetings, NESO representatives confirmed that working drafts of these proposed Methodologies (Gate 2 Methodology, Project Design Methodology and CNDM) were shared with Workgroup members for information only week commencing 28 October 2024. Final versions would be released for industry consultation, by NESO, to align with the CMP435 Code Administrator Consultation.

Element 2. Introducing a bi-annual application window and two formal gates, which are known as Gate 1 and Gate 2 (i.e., the Primary Process) – not part of the CMP435 solution, only part of the CMP434 Proposal

Element 3. Clarifying which projects go through the Gate 2 to Whole Queue Process (Primary Process)

The Proposer clarified which existing projects’ contracts (with NESO) are within the scope of this modification and therefore would be required to need to meet the Gate 2 criteria by the implementation date of Q2 2025 (which, at the time of publication of this report, is the understood date, if an Authority decision is received by Q1 2025) if they wished to become a Gate 2 project. There was further Workgroup discussion which allowed the Proposer to further clarify their position and a summary of all the existing transmission connecting projects that are in scope can be found in the Proposer’s solution, within Element 3.

²⁵ With a limited group of industry representatives.

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Workgroup members queried the situation for contracts which had been referred to Ofgem for Determination or were in the formal dispute process at the start of the Gate 2 batched assessment by the TOs and NESO. The Proposer confirmed that such projects would not be considered to be existing agreements and in the event the dispute/determination were in the favour of the developer and NESO would consider how to take the action(s) to comply with the outcome of the dispute/determination. The Proposer advised that in the event this outcome were known to NESO early in a gated process it could be possible to reincorporate the relevant project(s) in the design progress (if required by the outcome) or take other action(s) to mitigate the adverse impact on the project, but if not then the project would need to reapply in a later application window (and as a result would (a) have their existing confirmed connection location and connection date changed to an indicative connection location and connection date²⁶ and thus (b) have a later queue position than had the project been included within the earlier application window).

The Workgroup queried what would happen to those projects that have made an application under the current arrangements by the cutover date (i.e. the day prior to the implementation date, which is expected to be in Q2 2025, as per above) but that had not received an Offer under the current arrangements by such date, and those projects that have received an Offer under the current arrangements but not signed it prior to the cutover / implementation date. The Proposer advised that CMP435 would cover all customers that have contracted with NESO by the cutover date (i.e. the day prior to the implementation date, which is expected to be in Q2 2025, as per above ()), noting that all other connecting projects would fall within the contractual framework that is the subject of CMP434, or be covered by the Transitional Arrangements.

The Proposer advised that for transmission connected iDNO or DNO construction agreements for a new Grid Supply Point (GSP), the land and planning status of the new substation sits within TO's responsibilities, and those types of projects would therefore be out of scope of this CMP435 modification.

The Workgroup discussed how Directly Connected Generation, Directly Connected Demand, Interconnectors and Offshore Hybrid Assets, Large Embedded Power Stations and Relevant Small and Medium Power Stations are proposed to be within the scope of CMP435. It was also confirmed that the proposed solution is to change the existing frameworks agreements (for existing projects that are within the scope of CMP435) retrospectively, including Appendix G²⁷ (meaning those distribution connecting projects would also need to provide evidence, to the DNO/transmission connected iDNO, of meeting the Gate 2 criteria, by the requisite timeframe).

A Workgroup member suggested documentation be prepared containing possible scenarios to help developers establish whether they fall under the scope of CMP434 or CMP435, which the Proposer supported. However, this document has not been produced by the Proposer at the time of publication of this report.

²⁶ Other than all embedded Small and Medium Power Stations, who will not get an indicative connection location and date as they will not revert to a Gate 1 offer.

²⁷ Appendix G could be part of DNOs and transmission connected iDNOs' Bilateral Connection Agreement for capability of their connection sites, available GSP capacity and increased view of Embedded Generation levels.

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Exemptions

Initial Workgroup discussions focussed on the distinction between exemptions and inclusions and sought clarity; where ‘Relevant Small and Medium Embedded Generation’ was noted as ‘in scope’; as to what ‘relevant’ would be defined as (which the ENA’s Strategic Connections Group is exploring the thresholds for and which, at the time this report was published, has not been available for the Workgroup to consider).

A Workgroup member suggested consideration of large data centres as embedded demand projects were not seen as being in scope for CMP435. The Proposer confirmed that transmission connected demand, including data centres, was within the scope of CMP435 (and that embedded demand was therefore not within the scope of CMP435).

Another suggestion was made to be explicitly clear if a relevant embedded generator is exempt if it has gone through Statement of Works and is Part 1 or Part 2 of Appendix G. The Proposer agreed to make this clearer and did so in the table within Element 3.

A concern was raised to exclude projects in Part 1 and 2 of Appendix G as they could be blocking other projects below them in the queue that are more developed as, in the view of some Workgroup members, it would not make sense for such a project, that was being blocked for distribution works, to be further ahead in the transmission queue. The Proposer confirmed that projects included in Appendix G which are contracted but not yet connected (including in relation to capacity increases) are within the CMP435 solution (as included within the updated table in Element 3).

A Workgroup member raised concerns about the use of the Construction Agreement as the basis for exemptions as works may be ready early and TOs would have issues if those completed works were not included in the Construction Agreement. The Proposer noted this point and this feedback later informed the updated scope table in Element 3.

The CMP435 Workgroup were also asked if they believed there should be any justifiable exceptions for any groups of existing contracted customers from the CMP435 arrangements. On this topic, a Workgroup Member argued that Interconnectors that have agreed a ‘Cap and Floor’ arrangement with the Authority should not have their existing agreement turned into a pre-Gate 2 Offer (even if they won’t have met Gate 2 criteria as the ‘Cap and Floor’ arrangement is dependent on a firm location). However, the Proposer has not included this exception in their proposal (and no WACM, to facilitate inclusion of this exception, has been taken forward by the Workgroup).

When asked in the Workgroup Consultation, 42 respondents were in favour of this Element, whilst 12 disagreed.

- Positive sentiment was shared as to the scope of who will go through the Primary Process, to allow fairness and transparency.
- Concerns were also raised regarding the exclusion of embedded demand projects and unfair discriminatory effects on small/medium embedded generators.

The Proposer considered the feedback from the Workgroup Consultation; however, they did not think that a change was necessary to their Proposal as to what type of projects would be within scope of CMP435. The Workgroup sought confirmation that embedded demand would not be in scope (this was confirmed by the Proposer), and noted that large, embedded demand projects such as large data

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centres could apply via a DNO or a transmission connected IDNO route and cause delays. A Workgroup member questioned whether Element 3 would require a review based on whether projects are deemed 'needed'.

It was clarified during the Workgroup discussion of the legal text that Transmission Connection Asset replacement projects would not be part of the gated process as long as no other changes are requested to the project. This is because asset replacement is decided by NESO/TO and not triggered by the User (so is not 'stalling' the Connections queue). It was clarified that if an asset replacement notice is triggered for a project and the project requests a further change, then that could enter the project into the gated process as a result of the modification.

Element 4. Significant Modification Applications - not part of the CMP435 solution, only part of the CMP434 Proposal

The Proposer stated its view that Element 4 was not part of the scope of the CMP435 Original proposal.

Some Workgroup Members stated their view that Element 4 should be in scope of the CMP435 solution (and this may occur via an Alternative Request in due course), as it would apply to developers seeking to make changes to their existing offer when entering the Gate 2 to Whole Queue process. The Proposer confirmed that developers would not be able to change their existing project agreement as part of this process. However, some Workgroup Members suggested it would be reasonable and a more efficient process for a developer to be allowed to seek a reduction on their TEC capacity at this point (e.g., because they didn't have sufficient land acreage for their Transmission Entry Capacity and were content to give back some or all of this Transmission Entry Capacity).

In addition, Workgroup Members stated their view that there may need to be CMP435-specific arrangements in relation to Significant Modification Applications, for example what location changes would be allowed for existing projects when entering the Gate 2 to Whole Queue process.

Element 5. Clarifying any Gate 2 to Whole Queue differences for customer groups - not part of the CMP435 solution, only part of the CMP434 Proposal

Offshore in relation to Capacity Reservation

Workgroup members raised concerns regarding the possibility of potential discrimination from the proposed differential treatment of Offshore and Interconnector projects who do not meet Gate 2 if such options were not offered for onshore projects (i.e. capacity reserved for Offshore or Interconnector projects that have not met Gate 2 criteria if there is a detrimental effect on the network design/design recommendation pending a seabed leasing round outcome, or capacity and queue position held for Interconnectors until their longstop date). The Proposer responded that, in these instances, they are not trying to penalise projects that are progressing.

Workgroup members asked for the Proposer to provide examples of projects that would meet the requirements for Connection Point and Capacity Reservation.

A Workgroup member asked where the request for such offshore capacity reservation had originated, and for consideration to be made in the proposal for removing offshore projects that haven't met Gate 2, but have reinforcements due shortly after, which they felt was counterproductive to the purpose of the modification. The Proposer was keen to hear Workgroup and industry suggestions for how to protect network design in the context of implementing the modification.

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Several Workgroup members stated that they did not believe this Element of the modification was necessary, with some stating that the proposed Connection Point and Capacity Reservation goes against the spirit of the modification. The Proposer disagreed with these views.

Noting the *Request for Information* that NESO had issued (as the ESO in June 2024) to stakeholders (which closed a month or so prior to the Workgroup Consultation being published) a Workgroup member asked for a breakdown of the ~700 GW of applications in the existing connection queue, with respect to what percentages are expected to meet Gate 1 and Gate 2. The results of the Request for Information (RFI) were published prior to the Workgroup Consultation closing. A subsequent update on the high-level RFI data was shared in Workgroup 17 and a Workgroup member requested additional representations of the data, to explore for a potential Alternative Request, and this data was discussed at Workgroup 22.

When asked in the Workgroup Consultation, 37 respondents were in favour of this Element, whilst 15 disagreed.

- More Workgroup discussion was requested so the effect of this Element on offshore users/interconnectors is better understood. There were differing views expressed supporting the provisions for Interconnectors/OHAs versus. Others viewed that Interconnectors/OHAs are advantaged by getting confirmed connection points and capacity at Gate 1. There was agreement and disagreement with the proposed requirement for an Offshore Letter of Authority (LoA) (equivalent).
- One response noted that without clarity on this Element for developers to gather the necessary information, contract withdrawal could be a risk.
- Concerns for the treatment of embedded projects and DNO users (if they need to apply via a DNO and not self-certify) causing them to be disadvantaged, whereas other views acknowledged the need for different approaches for different groups.
- Multiple respondents noted the recent offshore leasing rounds and differences here to those processes. Several references were made to the Crown Estate/Crown Estate Scotland's involvement in the proposed process, such as their role and needing a mechanism to request provision for future leasing rounds.

Following the Workgroup Consultation and feedback from Interconnectors, OHAs and developers of other Development Consent Order (DCO) projects, the Proposer updated their proposal for Element 11 and 13. There were no further Workgroup comments made on this at this time.

Element 6. Setting out the process and criteria in relation to Application Windows and Gate 1, including introducing an offshore Letter of Authority equivalent as a Gate 1 application window entry requirement for offshore projects - not part of the CMP435 solution, only part of the CMP434 Proposal

Element 7 Fast-Track Disagreement Resolution Process – no longer part of the CMP435 solution (or CMP434 Proposal)

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Element 8. Longstop Date for Gate 1 Agreements - no longer part of the CMP435 (or CMP434) Proposal

The Proposer had advised that a longstop date would be incorporated into their proposal to replace their initial thinking of introducing (as part of CMP434 and thence CMP435) the concept of the Gate 1 capacity holding security. The longstop date was proposed to place a time limit between Gate 1 offer acceptance signing by the developer (which in the context of CMP435 would be the date upon which an existing connection agreement becomes a Gate 1 contract) and the signing, by the developer, of the Gate 2 offer acceptance for the project, with a forward calculated date of three years, with the ability for NESO to have the discretion to extend this time period. The Proposer clarified that the longstop date is being introduced to discourage existing (with CMP435) or new (with CMP434) projects from spending a long time in Gate 1, which has a detrimental impact on the anticipatory network planning undertaken by the TOs.

For CMP435, the longstop date would commence from the point at which the existing contract becomes akin to a Gate 1 contract and is therefore deemed to have been accepted by the developer for their project.

Several Workgroup members queried why the three years would apply from when a project becomes akin to a Gate 1 contract, noting that some existing contracted projects may have already spent significant amounts of time in the connection queue. The Proposer noted that it may be unfair to backdate it for existing projects and invited the Workgroup to suggest other ideas if they disagreed. One Workgroup member queried whether developers would resubmit their applications if they are removed from the connection queue after three years, noting that this could happen often if there is no financial disincentive.

Workgroup members noted that there could be a risk of legal challenge where the new arrangements could lead to termination of a developer's connection agreement. One member suggested consideration of using either the existing contractual Backstop Date which is in all Construction Agreements, or the recently introduced Queue Management milestone M3, as the basis of termination rather than a new arbitrary duration

When asked in the Workgroup Consultation, 43 respondents were in favour of this Element, whilst 13 disagreed.

- There was a mix of support for the proposal for this Element (e.g., to identify projects that cannot progress, having a forward-looking longstop date from the time an offer becomes a Gate 1 offer/is accepted) as well as counter points not supporting it for existing projects (e.g., retrospective application, needing a longer period for projects with compulsory purchase order involvement/challenges for land acquisition).
- Multiple respondents expressed concerns about the duration of the longstop not being effective for queue reduction.
- There was a mix of views expressed about the duration of the longstop – with some supporting the proposal or supporting longer / shorter periods for varying reasons relating to different circumstances.

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- Suggestions were made for regular reviews of projects affected, checks against network planning processes, and more than one respondent suggested use of the M1 date for compliance with Gate 2 criteria.
- Multiple respondents expressed support of NESO’s discretion for extension (with conditions applied – see responses 15, 16 for examples)
- A suggestion was made to investigate long term arrangements to avoid legal risk.

The Proposer considered issues raised as part of the Workgroup Consultation (on its construction, application and validity for an MVP solution) and removed the Longstop Date for Gate 1 agreements. Workgroup members raised concerns that this could create a pool of non-progressing projects in Gate 1 which would be an administrative burden for NESO. Workgroup members suggested the Proposer check with the CNDM team for any consequences of removing the longstop for network planning.

Element 9. Project Designation

The Proposer outlined that the project designation approach, to be introduced via [CMP434](#), but also utilised (via [CMP435](#)) for existing contracted projects, will prioritise connections for viable projects that:

- a) are critical to Security of Supply; and/or
- b) are critical to system operation; and/or
- c) materially reduce system/network constraints.

It was explained that the intended project designation approach will be set out in a proposed new Methodology (which, at the time of publication of this report, is expected to be consulted²⁸ upon, by NESO, in November 2024) setting out the criteria for how projects progress through Gate 2 with an enhanced queue position or TEC allocation. It was clarified, early on to the Workgroup that DESNZ declined to be the party exercising this designation power and, as a result, the Proposer intended that NESO will be the party that exercises the Project Designation powers.

Several Workgroup members raised concerns around the Proposer having these powers to prioritise certain projects for connection over other projects. The Proposer clarified that the Methodology for determining whether a project met the standard(s) for being designation under (b) and (c) above would likely be locational, and that for (c) above relevant examples would be large Demand projects or long duration storage located in a beneficial location in terms of materially reducing system or network constraints created by large volumes of generation.

One Workgroup member shared concerns that the rights of project designation should not be used broadly as it could prevent other legitimate projects in the queue from being brought forward in a

²⁸ The consultation on the Methodology, along with the other two other Methodologies, will be run as a separate consultation to the Code Administrator Consultation for [CMP435](#) and [CM096](#) (as well as [CMP434](#) and [CM095](#)).

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timely manner due to not meeting one (or more) of the project designation criteria. Another Workgroup member highlighted the need for a dispute process in relation to project designation whereby a developer's whose project was adversely affected by another project being designated could 'challenge' that designation to the Authority.

A Workgroup member flagged the need to consider the 'materially reduced system and network constraints' criteria and the possible interactions this could have with the Balancing Mechanism and prices.

In response to Workgroup questions, the Proposer stated that it was not the intention that project designation would make any offers, for any project (designated or not) worse. It was clarified that the Proposer did not foresee that list of designated projects to be fixed and that if circumstances warranted changes to the list could occur in the future.

The Workgroup expressed that they would want to see the list of designated projects published, with a Workgroup member suggesting that a rationale for rejected projects should also be publicly available. The Proposer confirmed that the list of designated projects could potentially be published as part of the CMP435 original solution. The Proposer confirmed that the rationale for rejected projects designated could potentially be published as part of the CMP435 original solution. However, at the time this report was published, the Original proposal does not include any requirement on NESO to publish either the list of designated projects or the rationale for each project's rejection of being designated.

The Proposer explained that the high-level concept of the project designation is proposed to be codified (via the [CMP434](#) legal text) but with the new Methodology itself to outline a governance process for approvals.

When asked in the Workgroup Consultation, 31 respondents were in favour of this Element, whilst 26 disagreed.

- Multiple respondents supported the principle of this Element but there was a need for more information and clarity on it (with concerns about the power afforded to NESO by it and the need for assurances that it won't be detrimental for other projects' offers or be open to future abuse).
- Justification was sought for transparency and fairness as it was felt that the proposal is currently too broad/undefined.
- Multiple respondents supported codification of this Element (or strict guidance was also suggested).
- Multiple respondents felt this Element sat outside of an MVP approach.
- A respondent noted that it would create discriminatory terms, suggesting legal advice be sought to check Electricity Regulation.

The Proposer considered the Workgroup Consultation feedback and decided to not alter Element 9, reiterating that the intention is for designated projects to be required to go through Gate 2. When

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asked about whether project designation is (or is not) also needed at distribution level, the Proposer advised that this would be covered in the proposed new Methodology.

Element 10. Connection Point and Capacity Reservation

The Proposer outlined that the STC currently has provision for substation bay reservation under STCP 16-1 4.3.4. They noted that they plan to expand and continue to use this right under these proposals, separate to the Gate 2 criteria, and under limited circumstances e.g., to facilitate Network Service Procurement (previously known as Pathfinders), future network competition processes, and offshore co-ordination activities.

Workgroup members queried what transparency and visibility stakeholders would have, and where the costs, associated with this reservation, would be recovered from. It was also queried how the reservation of bays would affect projects within the existing queue. Workgroup members noted that they thought connection point and capacity reservation should be codified to ensure that it is clear which projects will qualify for a reserved bay; they also highlighted risks involved for projects already in the queue. The Proposer clarified that this process would effectively allow equal access to the reserved bays for projects successful in leasing rounds or network competitions, rather than having NESO selecting specific projects for reserved bays in advance. Some Workgroup members advised that this part of the solution should be separate from Minimum Viable Product (MVP), noting that they thought further analysis should be undertaken by NESO which could impact on urgent timelines.

The Proposer responded to a query that reservations could favour certain technology types by noting that the Holistic Network Design and strategic network design would be involved in this process to reserve appropriately (and technologies would still have to meet the Gate 2 criteria to get a reserved bay).

Following the Workgroup Consultation, the Proposer made adjustments to the Original Proposal for Element 10 in CMP434 for a minimum agreement time period with an annual review. This would then apply to existing contracts too. Workgroup members stressed the need for transparency in this process and asked if there would be a limit to bay reservation set out in the Methodologies. The Proposer stated that limits were not expected to be set, but the criteria outlined in the relevant Methodology/Methodologies. A Workgroup member suggested CMP376 Queue Management milestones could be employed for determining Reservation periods or review points.

As part of the CMP435 legal text discussions for clause 18.13.4, NESO's legal representative pointed out to the Workgroup that where reservation was being considered, for critical Holistic Network Design (HND)/ Holistic Network Design Follow-Up exercise (HND FUE) projects, the User(s) involved would be notified by NESO as soon as possible (as there would be commitment to reach Gate 2 by a defined date within the Gate 1 agreement). It was reiterated that reservation is not a result of a request from the User, but was applied by NESO, however a User can notify NESO if they don't want to be reserved.

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Element 11. Setting out the criteria for demonstrating Gate 2 has been achieved and setting out the obligations imposed once Gate 2 has been achieved

- **Incorporate necessary amendments of M1 and M3 Queue Management milestones**

The proposed Gate 2 criteria are set out in [CMP434](#) but were also presented to the CMP435 Workgroup to assess if there should be any differences (from [CMP434](#)) for CMP435. The overall discussions are set out in [CMP434](#) but the following sections set out the specific discussions on CMP435.

11.1 Gate 2 Criteria, 11.2 Gate 2 – Ongoing Compliance

The only proposed difference for CMP435 is that it is not proposed to retrospectively apply the proposed 3-year minimum option requirements to those who have achieved a land option. Please note, there will still be an ongoing requirement for the developer of any currently contracted project(s) to keep the land under option by seeking further agreements with the landowner until the Completion Date for the project.

The Workgroup discussed the choices, that were explored by the Proposer, for when existing projects, that are within scope for CMP435, need to have a minimum length of land option dated from. These choices varied from the land option being needed from the point the CMP435 modification was raised (i.e. 19th April 2024), to the proposed implementation date for CMP435 (which, at the time this report was published, is now anticipated to be Q2 2025), to when Gate 2 Offers were accepted (which, at the time this report was published, is now anticipated to be late 2025/early 2026) or to have no minimum length of land option.

The Workgroup were invited to discuss the merits/objections of each of these choices. A request was made by a Workgroup member for the Proposer to outline the value of including a minimum land option length in relation to (i) helping the connection queue progress, (ii) supporting the TOs doing anticipatory investment and (iii) preventing the process being gamed. Some Workgroup members expressed the view that the point of an Authority decision on CMP435 (which, at the time this report was published, is now anticipated to be Q1 2025) or later would be more appropriate on a legal basis. One member suggested that where land options were entered into prior to the decision/implementation date of CMP435, NESO could be allowed discretion to decide.

Views were raised in favour of a minimum land option period to meet the objectives of the modification (in the absence of planning requirements) but also that land options take time/effort/cost so would not be taken out lightly by a developer (i.e. low expectations of poor-quality options), having options longer than necessary was inefficient and that as long as land options are checked there's no need for a minimum duration.

A suggestion was made to consider if it would be acceptable if a developer can evidence an original land option (from pre-19 April 2024, when the Connections Reform related modifications were first proposed by NESO) along with subsequent longer-length negotiated options. It was suggested that different types of projects were grouped, and a mapping exercise performed for which solutions best suited each group.

Some Workgroup members asked that for projects that are due to connect imminently, e.g., within 6 months; why a 3-year land option would be required as this would not be needed. The Proposer

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confirmed that in these cases, it would be acceptable to provide a land option for the time up to the Completion Date. However, the Proposer believes this is not a realistic scenario when coupled with the proposal that no minimum option is required for those projects at M1 or beyond.

Another Workgroup member noted that enough risk was required to avoid speculation.

One Workgroup member advised that not retrospectively applying a minimum option period for land could cause issues due to the potential for parties to sign short land option agreements to temporarily meet the criteria. Another Workgroup member commented that if the project misses Gate 2 at the end Q2 2025, it shouldn't have (with CMP435) any further pre-existing rights and it should be considered as a new application (as per [CMP434](#)).

Following this discussion, the Proposer's intended solution is that land options for existing agreements; that fall within the scope of CMP435; only need to meet [CMP434](#) requirements from the Authority Decision Date²⁹, so options for land already agreed before this date will not need a minimum option length. The intention is that this will be housed in the proposed new Gate 2 Criteria Methodology.

A table of all potential options under consideration which were posed to the Workgroup is included for reference (including the views of the Proposer):

Possible Options	Proposer Thoughts Discussed in the Workgroup
Options for existing agreements under the scope of CMP435 need to meet CMP434 requirements from date CMP435 was raised – <i>note that land options already agreed before this date will not need a minimum option length</i>	Difficult to make a coherent case for asking someone to re-negotiate an option for land with a minimum length when such minimum length wasn't known or more than a consideration for the proposed solution - not taken forward
Options for existing agreements under the scope of CMP435 need to meet CMP434 requirements from date the CMP435 Workgroup Consultation was published– <i>note that options already agreed before this date will not need a minimum option length</i>	Although it may be unclear until this time exactly what land option minimum length is approved (if any), it is arguably clear from now at least to the Workgroup that what is being proposed is a 3-year minimum land option length. Although there is an argument that developers should be working to that requirement from this date and this provides developers with the maximum time to meet this requirement, this may be the first time the wider industry are aware – not taken forward

²⁹ Which at time this report was written is expected to be Q1 2025, pending Authority approval.

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<p>Options for existing agreements under the scope of CMP435 need to meet <u>CMP434</u> requirements from date the CMP435 Workgroup Report is published³⁰ – <i>note that options already agreed before this date will not need a minimum option length</i></p>	<p>Although it may be unclear until this time exactly what land option minimum length is approved (if any), it has arguably been clear for 6-8 weeks to the industry that what is being proposed is a 3-year minimum land option length. However, the Proposer recognised there could different solutions proposed - not taken forward</p>
<p>Options for existing agreements under the scope of CMP435 need to meet <u>CMP434</u> requirements from the Authority Decision Date – <i>note that options already agreed before this date will not need a minimum option length</i></p>	<p>It will be clear at this stage what land option minimum length is required and by this time it would have been clear what the minimum land option length could be so arguably developers should be working to this. This provides the balance between a developer reasonably knowing the requirements to having a minimum land option length vs avoid creating an incentive (if later than the Authority Decision Date) for developers to negotiate short period options to avoid having to meet the land option minimum length - taken forward - preferred solution that Proposer intends to include in the Gate 2 Criteria Methodology</p>
<p>Options for existing agreements under the scope of CMP435 need to meet <u>CMP434</u> requirements from the Implementation Date³¹ – <i>note that options already agreed before this date will not need a minimum option length</i></p>	<p>It will be clear at this stage what land option minimum length is required but creates a rush between the Authority Decision Date and the Implementation Date for developers to negotiate short period options to avoid having to meet the land option minimum length - not taken forward</p>
<p>Time period from acceptance of Gate 2 Offer to “upgrading” Option to meet 3-year Minimum Period</p>	<p>There was talk at Workgroup of a 12 or 18 month rectification period and the Proposer can see merit in bringing CMP435 related projects into line with the <u>CMP434</u> requirements. However, wouldn’t propose to apply this to a project which has progressed to Milestone M1 or beyond. However, the Proposer does not think this is necessary and it would be difficult to establish what a suitable rectification period is - not taken forward</p>
<p>No minimum length</p>	<p>Ongoing land compliance requirements could suffice and requirement for a developer to keep the land under option by seeking further agreements with the landowner until the Completion Date. Therefore, there</p>

³⁰ At the time of publication of this report, this is currently anticipated to be Q2 2025, based the current proposed timeline for this modification.

³¹ Which is currently anticipated, at the time of publication of this report, to be Q2 2025.

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	<p>is merit in considering no need for a minimum land option length, but the concern is that Gate 2 is not sufficiently robust as evidence of project viability - not taken forward</p>
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The Workgroup discussed the CMP435 solution not including a Gate 2 criteria exemption for developers who need to obtain land via compulsory purchase order powers. The Proposer set out, ahead of the Workgroup Consultation, that they were open to considering options if raised via responses to that consultation.

11.3 Ongoing Gate 2 Compliance – Land Requirements

The Proposer’s solution for red line boundary compliance checks for projects; including allowing a percentage that can be built outside the boundary; are set out in CMP434. The Proposer asked the CMP435 Workgroup if the percentage being suggested for CMP434 should be different for CMP435. The discussion for CMP435 echoed the discussions at CMP434 on the need for red line boundary compliance by existing contracted projects and understanding of the calculation, referring to debates as to whether there would be a risk of gaming (if applicants can build outside an original boundary) and the alignment of boundary change rules with ENA and DNO / transmission connected iDNO parties (please also refer to CMP434 Workgroup Considerations).

As a result of the CMP435 deliberations no differences are proposed in the solution between CMP434 and CMP435 for how this is treated.

11.4 Ongoing Gate 2 Compliance – Planning

At CMP434, the Proposer requested feedback from the Workgroup on how long they would typically need from the project meeting the Gate 2 offer acceptance date to the project submitting, to the relevant Planning Authority, their application for planning consent, factoring in planning type and technology. The Proposer presented this to CMP435 Workgroup and specifically asked whether this should differ for CMP435.

One Workgroup Member commented that the relevant timescales for existing contracted projects (that fall within the scope of CMP435) should be shorter than that proposed for CMP434 as a developer has a contracted position with a known connection date and location and therefore should already be progressing their planning consenting work towards that. However, some Workgroup Members argued that in light of CMP376, that projects are already progressing to milestones that have only recently been agreed as part of CMP376 (Queue Management) and therefore these projects should not be now required (with CMP435) to submit their application for planning earlier than they would be required to under their existing contractual arrangements.

On M1 being forward-looking, the CMP435 Workgroup reiterated the concern raised at CMP434, as to whether it is reasonable to ask a developer to submit their project application for planning consent earlier than they would in their natural development cycle, noting the risk that any planning consent that was issued (based on an earlier than normal application) could expire and any extension (of that planning consent) from the Planning Authority is not automatic. Possible ways to mitigate this have been proposed in CMP434 and these equally apply to CMP435. These are set out for completeness below:

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- a. Forward-Looking M1 Milestone takes into account expected decision timelines and validity of such planning consent with the idea that planning does not expire before planning conditions are discharged.
- b. Consider using the 10% developer spend route that the Low Carbon Contracts Company use for CfD Contracts.
- c. Forward-Looking M1 Milestone time period only starts from when the TO have confirmed the location of their substation, where this is reasonably required for the developer to prepare and submit their planning application. Note this only applies in England and Wales as in Scotland, typically, the Transmission Owner consents the cable route.
- d. The M1 Milestone remains backwards looking from the Completion Date if a project's Completion Date is more than X years away.
- e. Include a rectification period for a developer to resubmit their application for planning (M1) if the permission expires before the Completion Date.

Some Workgroup members also expressed concerns that a connection point could still be a node, so a developer's ability to comply with forward-facing milestones is impacted as the developer doesn't know where the Transmission Owner's substation is located relative to their project. The Proposer responded that it would be less likely to be a node given the smaller contracted background, but there is no guarantee it won't be a node, and the location of the substation can only be confirmed once the Transmission Owner conducted their siting surveys. Some Workgroup members noted that this issue could subject a category of projects to an unfair risk of failure and the Workgroup agreed a solution to this point needed to be developed in the final proposal. Based on Workgroup Consultation feedback, the Proposer has introduced a discretionary milestone adjustment exception into Section 16 of the CUSC.

Under this exception, a User can evidence that the Forward-Looking M1 (if this is the earlier of the forward looking and backwards looking M1) would have a detrimental impact on developing their project. However, the Forward-Looking M1 agreed under this Exception cannot be later than what the backwards looking M1 would have been. It will be at NESO's discretion whether or not the evidence is sufficient to allow the M1 to move but not this is not automatically moved to what the backwards looking M1 is. This is set out in The Proposer's solution and accompanying legal text under CUSC Section 16. Further commentary including non-exhaustive examples of the circumstances where NESO could allow an adjustment to the Forward-Looking M1 will be set out in the Queue Management Guidance.

One Workgroup member highlighted the limited planning resource of specialists, such as fauna and flora surveyors, that are needed in order to make a planning application in the United Kingdom (UK) (as well as the planning officials, who consider the planning applications). They noted that entirely forward-looking milestones, for all the existing projects that met Gate 2, would put an unreasonable risk on developers as well as an additional burden upon the staff of the various Planning Authorities. They also asked for the Proposer to provide worked examples of how these forward-looking milestones would work, if CMP435 was approved, with staged offers both with the same technology and different technologies. Those examples are in **Annex 10**.

The Proposer also stated their view that the timelines for CMP435 should mirror those for CMP434. When asked in the Workgroup Consultation, 32 respondents were in favour of this Element, whilst 28 disagreed.

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- Support was expressed for the concept of Gate 2 criteria, but some respondents questioned whether it would generate the required impacts.
- Opposing views were expressed that Gate 2 criteria are not strong enough and Gate 2 criteria are too laborious to meet the objective.
- Multiple respondents referenced a preference for exclusion clauses, and concerns about planning timescales being short, with some noting the impact for projects involved with Compulsory Purchase Orders (and time needed for those).
- Multiple respondents noted the need for flexibility regarding the red line boundary.
- It was noted that there isn't detail yet to inform about the potential impact on the development of offshore wind.
- A respondent noted the risk of legal challenge.
- A couple of respondents referenced support of the use of a financial instrument.
- Multiple respondents referenced the use of the M1 milestone (as sufficient evidence for Gate 2 or agreement with it being calculated forward) but there were also multiple concerns raised that forward-looking milestones are not appropriate and could lead to further delays (suggesting alignment with connection dates).

Following the Workgroup Consultation, the Proposer made adjustments to Element 11 in relation to CMP434, but not for CMP435 (evidence of land rights still being needed, even if M1 has been reached, but no minimum option length needed if options are entered into prior to the date of the CMP435 Authority Decision). A Workgroup member suggested that the criteria for milestone adjustments should be shared as it appeared that a lot was being left to NESO's discretion.

Element 12. Setting out the general arrangements in relation to Gate 2 - not part of CMP435, only part of the CMP434 Proposal

Concerns were raised in the earlier Workgroups about the level of work required for all parties (including industry) to have the proposed process in place for a proposed implementation date (which, at the time this report was published, is anticipated to be Q2 2025) should the CMP434/CM095 and CMP435 modifications be approved (which at the time this report was published, is anticipated to be Q1 2025). It was discussed that the operational Go-live date (after the implementation date) should be inclusive of a reasonable time period post Authority decision to enable industry to be compliant with the final modification solution. Although fixed calendar dates could not be confirmed, following Workgroup discussion, the Existing Request Window was proposed to be defined in the CUSC with a start (window opening) date being not less than 4 weeks from the CMP435 Implementation Date and the duration of that window (the closing date) being not less than 2 weeks. Further Workgroup comment on this can be found in the section below relating to Element 19.

Concern was raised by National Grid Electricity Distribution (NGED) that the Proposer has not yet provided a deadline by which DNOs and transmission connected iDNOs should submit information received from embedded generators to NESO (after the Gate 2 application window has closed). DNOs and transmission connected IDNOs will be required to collate and process the data submissions from generators confirming that they have met the Gate 2 criteria. This timeframe has been confirmed for CMP434 should be possible to set a time period for CMP435. It is vital that DNOs and transmission connected IDNOs are given enough time to complete this work.

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Element 13. Gate 2 Criteria Evidence Assessment

The Proposer stated that the Gate 2 criteria evidence assessment will be set out in the proposed new Gate 2 Criteria Methodology, which would be subject to a separate consultation process³² (if that Methodology is taken forward, by the Authority, via changes to NESO’s Transmission Licence).

However, The Proposer presented to both CMP434 and CMP435 the evidence that the Proposer intends that developers will need to provide to NESO (or, in respect of Relevant Small and Medium Embedded Generation, to the DNO or transmission connected iDNO).

These are assessment process requirements, as discussed in CMP434, and there are no differences proposed between CMP434 and CMP435, except that on the Declaration Letter a developer can also identify (in this Declaration Letter) if they wish to advance the current contracted connection date for their project, and if so to which connection date if possible.

It was suggested by the Workgroup that the intended wording for (a) the Declaration Letter (that existing projects will need to submit to NESO by a deadline³³ if they wish to retain their existing contractual arrangements, noting these could still be amended by the proposed CNDM in the event the project has met the Gate 2 Criteria) and (b) the requirement to submit a planning application, are checked to ensure they reflect the jurisdictional requirements associated with land, seabed and the planning regime for (i) Onshore England, (ii) Onshore Wales, (iii) Onshore Scotland, (iv) Offshore England, (v) Offshore Wales, and (vi) Offshore Scotland, and the use of land/seabed law and planning specialists for this task should be considered.

A Workgroup Member questioned if seeking advancement of their project via the Declaration Letter should be a separate request from the developer to NESO, but the Proposer argued that having the information in one place is better for efficiency. Workgroup members suggested that the minimum percentage of applications sample checked should be defined by the Authority and should be consistent across Transmission and Distribution.

Some Workgroup Members felt that 100% of duplication checks (rather than a sample) should be done, which is the DNO approach, and for CMP434/CM095 and CMP435 checks could potentially be automated or checked/audited by other parties (including Artificial Intelligence options), uploaded to the application portal or notarised. The Proposer agreed to consider this, however noted that it would be dependent on whether the systems in place will enable red line boundaries to be overlaid on top of each other (with a Workgroup member supplying examples of this to be considered, e.g., onshore wind farms with solar generation on the same land).

There was some suggestion of a lighter touch process for this one-off Gate 2 checking exercise for CMP435. For example, a Workgroup Member suggested that NESO rely on Declaration Letter but that NESO or DNO/Transmission connected iDNO should have a time period after the cut over date

³² Which, at the time of publication of this report, is anticipated to be undertaken in November 2024.

³³ Which, at the time of publication of this report, is anticipated to be in Q2 2025 (after the anticipated implementation date in Q1 2025).

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to check all the Gate 2 evidence, otherwise there could be a different percentage of checking for CMP435 between NESO and DNO/Transmission connected iDNOs. Some Workgroup members advised that the percentage shouldn't be different between CMP434 and CMP435 modifications just because the sample size is different.

When asked in the Workgroup Consultation, 35 respondents were in favour of this Element, whilst 19 disagreed.

- Generally, there was support for the proposed process (most supporting the inclusion of red line boundaries). Some respondents had concerns for whether self-certification was sufficient.
- There was support for the flexibility afforded by allowing advanced projects to request queue advancement (clear definition of this was stressed as required).
- There was support given to both spot check options and high percentage levels of evidence checks.
- Some respondents expressed their wish to see the template documentation for further insight on the assessment and others wanted to see details of the Gate 2 criteria Methodology (some parties supporting codification of this).
- Concerns were expressed about duplication checks (in particular for co-located projects).

Following the Workgroup Consultation, the Proposer presented updates to the Element 13 solution for CMP435 to the Workgroup, proposing to allow a TEC or Developer Capacity reduction request as part of CMP435, as well as the intended option to request advancement. NESO agreed to ask the team developing the proposed CNDM whether it would be of use for queue ordering for the Declaration Letter template to also ask what stage a project is at (a Workgroup member suggested asking what Queue Management milestone had been reached). Upon questioning from the Workgroup, NESO agreed to check if TEC or Developer Capacity reductions would open existing contracted projects up to liabilities. It was discussed that specific contract details would determine whether removing technology would be permitted if it didn't cause a TEC or Developer Capacity reduction. A Workgroup member asked if the process to request connection date advancement (for an existing contracted project) would allow for optionality if there are different connection dates for different TEC or Developer Capacities. The Proposer said they would not want to hamper progression if capacity TEC or Developer Capacity can't be met.

The Workgroup discussed and supplied input on wording for the draft of the Declaration Letter.

In Workgroup 23 it was discussed and clarified by the Proposer that BEGA/BELLA projects applying for Gate 2 should have signed their DNO/transmission connected iDNO offer to do so (to be caught by CMP435 as an 'existing offer'). The Proposer confirmed that they will not check that agreements are signed, and this is a DNO/transmission connected iDNO responsibility. Responding to a question from a Distribution party, the Proposer also outlined that the proposed new Gate 2 Methodology would detail the process of how Distribution customers would be notified in the event of a duplication being identified during the submission checks.

In Workgroup 24 there was legal text discussions regarding the checking of evidence, with the legal text reflecting the proposed solution to check up to 100% of all the projects' statements/evidence set out in the 'Readiness' Declarations. Several Workgroup members asked for justification from the

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Proposer and queried why instead the legal text would not reflect that NESO would check all evidence with the addition of reasonable endeavours to protect NESO from falling short of this obligation due to potential resource constraint. The Proposer confirmed its position that the legal text remains as up to 100% to reflect the proposed solution but took an action to revisit this position. The Proposer later confirmed that the Proposal and the legal text has been updated to include reasonable endeavours to check all of the evidence unless set out in the proposed Gate 2 Criteria Methodology.

Following feedback from Workgroup members on the percentage check discussion, the Proposer confirmed that they had amended the wording in the legal text to reflect that NESO will use reasonable endeavours when checking Readiness Declarations. Some Workgroup members still felt that this was too lenient, with not enough accountability as this would still protect NESO if 100% checks were not undertaken. Other Workgroup members felt that the change was a reasonable mitigation to earlier discussions held in Workgroup 24.

Element 14. Gate 2 Offer and Project Site Location Change - no longer part of the CMP435 (or CMP434) Proposal.

The Proposer asked for Workgroup views on how a change in an existing contracted project's location between Gate 1 and Gate 2 facilitation could work as an option for developers to pause their Gate 2 obligations (e.g. if a connection point in a Gate 2 offer differs from what is indicative or requested in the Gate 2 to Whole Queue process) and whether such an option was necessary (i.e. to be allowed 12 months from acceptance of a Gate 2 offer to hold their newly contracted queue position (in the context of CMP435) to find a new location). This was to offer optionality to the developer of existing contracted projects and if a new location for their project could not be found in that time, the project's TEC would be reallocated.

The Proposer stated that the option was more relevant to future projects (to be covered by CMP434/CM095) rather than existing projects (covered in CMP435) and would only likely apply (in the context of CMP435) to the projects who would have met Gate 2 but did not have a confirmed connection date contracted. The Proposer acknowledged a Workgroup member's comments that often substations will be named within the project agreement signed with NESO but without a location (for that named substation). Workgroup members commented that the Project Site Location Change could therefore also be very relevant to existing projects that fall within the scope of CMP435 (i.e., contracted offers).

As the option was posed as non-reversible for developers that take it, a Workgroup member suggested NESO could provide a range of suitable alternative locations, and more effective information on locations in the earlier stages (e.g., the expected connection times).

It was noted by the Proposer that Grid Supply Points (GSPs) are out of scope for CMP435.

It was also noted by a Workgroup member that this option would not be available to Distribution-connected applicants and there could be a disadvantage to Distribution if, within a 12-month option, 3-6 months (of the 12) is needed to accept an offer and subsequently the distribution system design still has to happen. The Proposer felt this situation was less likely for embedded generation so therefore a rarer occurrence.

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Several Workgroup members noted that they did not believe this element was necessary and noted that it could lead to gaming of the application system (land being held or projects going through Gate 2 to then sell off land to the highest bidder lower in the queue). The Proposer acknowledged that there were risks but felt the cost of losing queue position if the option for a project ended without a new location was a significant deterrent. It was recognised by the Proposer that there was more Workgroup opposition to this than support.

When asked in the Workgroup Consultation, 32 respondents were in favour of this Element, whilst 22 disagreed.

- Some respondents expressed that this was a pragmatic/sensible approach and DNOs should follow suite (providing there are no conflicts with ENA Allowable Change guidance which would be disadvantageous to Distribution customers). Multiple respondents noted it as unnecessary/not MVP.
- Multiple respondents did not support this, finding it to be unworkable, introducing risk and contradicting the purpose of Gate 2. It was suggested that NESO publish queue data and Point of Connection availability for likelihood of getting Gate 2 offer before securing land rights.
- There was a concern as to its fairness to hold a queue position for 12 months as others reaching that point of connection later may be ready to progress sooner.
- Multiple respondents felt the 12-month timeframe was challenging.
- It was expressed that the choice of ‘first choice’ substation should be a provision for developers in the solution (with consideration that a re-location may be required at a later date).

Following the Workgroup Consultation, the Proposer acknowledged that there was not a technology-agnostic period for allowing a location change (12 months being seen as challenging in consultation feedback), and a location change was difficult for some technologies. As such, with the 12-month location change period being de-scoped (that is removed, from the Original proposal) Workgroup referenced the negation of a potential Alternative Request to take this action.

Element 15. Changing the offer and acceptance timescales to align with the Primary Process timescales (e.g., a move away from three months for making licenced offers) - not part of the CMP435 Proposal, only part of the CMP434 Proposal

Element 16. Introducing the proposed Connections Network Design Methodology (CNDM)

The Proposer outlined that the CNDM is the proposed document that will set out the process by which NESO and TOs will assess connection applications and define the roles and responsibilities of NESO and TOs in conducting these activities.

The Proposer also noted that the CNDM would (as well as setting out capacity allocation) also include a new process for “capacity reallocation”, under which available transmission capacity would no longer be allocated to the next project in the queue on a ‘first come, first served’ basis. Instead, capacity would be allocated according to criteria to be defined in the proposed three new Methodologies: namely the CNDM, the Gate 2 Criteria Methodology and the Project Designation Methodology. The Proposer presented some suggestions on how the capacity reallocation mechanism might work, although these suggestions will not be codified (in the CUSC) and are not included in this report.

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The Proposer initially noted that they believed that the following should be codified in relation to the CNDM:

- The requirement for NESO to have a CNDM;
- An obligation on NESO to publish the CNDM; and
- An obligation to engage with industry on the content of the CNDM.

The Proposer subsequently confirmed to the Workgroup that the requirements for CNDM needs to be first set out in NESO and TOs License and accordingly it was not intended to codify these three items at this moment in time.

The Workgroup supported these points being codified. In addition, part of the Workgroup noted that they believed it was a legal requirement, in respect of the terms and conditions for connections, to be codified as the Authority need to approve the content of the document.

The Workgroup expressed concerns about the Proposer's intention not to codify the proposed new capacity reallocation mechanism, instead including it in the proposed, non-codified, CNDM document.

One Workgroup member queried the possible consequences if the CNDM is not approved by the Implementation Date of CMP435 and a member noted the need for transparency and visibility for stakeholders of the process and practical application, by NESO and TOs, of the CNDM in the future (i.e., where costs, such as additional costs associated with delays incurred by developers, could be recovered from).

One Workgroup member noted that there would be changes required within the STC and STCPs to outline the proposed new CNDM requirements.

A Workgroup member asked for it to be noted that the Proposer's position is to not discuss the proposed new CNDM in CMP434/435 Workgroups going forward, in relation to the Connection Point and Capacity Reservation mechanism. Workgroup members stated they would like to understand more about the CNDM going forward (which the Proposer outlined will be subject to a separate consultation and Authority decision outside of CMP434/435). The Proposer stated that it is holding discussions with the TOs on content of the proposed new CNDM.

When asked in the Workgroup Consultation, 35 respondents were in favour of this Element, whilst 16 disagreed.

- Several respondents requested clarity on this important part of the process.
- Multiple respondents supported codification of the criteria and rules of the CNDM and some supported the Methodology approach of the Original solution as a SO/TO licence obligation.
- Several respondents expressed that that the CNDM should be transparent, fully consulted upon and approved by the Authority.
- Comments favoured the alignment required between transmission and distribution connection queue re-ordering.

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Following the Workgroup Consultation, the Proposer did not change Element 16 in their proposed solution but noted that the proposed new CNDM is expected to be needed to be in place prior to implementation of [CMP434](#) (and CMP435).

Element 17. Introducing the concept of a Distribution Forecasted Transmission Capacity (DFTC) submission process for Distribution Network Operators (DNOs) and Transmission connected Independent Distribution Network Operators (iDNOs) - not part of the CMP435 Proposal, only part of the CMP434 Proposal

Element 18. Set out the process for how DNOs and Transmission connected iDNOs notify NESO of Relevant Embedded Small Power Stations or Relevant Embedded Medium Power Stations which meet Gate 2 criteria - not part of the CMP435 Proposal, only part of the CMP434 Proposal

Element 19. Contractual changes

In the early stages of Workgroup discussion, members asked what definition of ‘contracted’ the CMP435 proposed solution was intended to be using, to which the Proposer confirmed that applicable projects would be those that have not yet completed or have not met the Gate 2 criteria by the set date (which, at the time this report was published, is anticipated to be in Q2 2025 (after the anticipated implementation date in Q1 2025)). For further clarity please see table in Element 3. The Proposer noted that legal advice was being taken on changing the existing contracts and other items such as connection dates (e.g., consideration of the existing variation clause in the Connection Agreement if any changes to the CUSC are made). For clarity, the Proposer’s solution for the definition of ‘contracted’ is that it covers holders of a signed Transmission and/or Distribution connection offer as at the Cutover date.

Workgroup members asked whether an existing contracted party not meeting the Gate 2 criteria (by not submitting the Declaration Letter to NESO as per Element 13, or the letter not being deemed competent by NESO by the defined due date) resulting in their contract converting to a Gate 1 agreement, will be treated the same as a new applicant (via [CMP434](#)) to Gate 1. The Proposer confirmed that the treatment for both will be the same in principle with, for example, both having an indicative (not a confirmed) connection location and connection date.

In Workgroup 10, the Proposer outlined the process to be applied to the four main groups of existing projects:

1. Those not submitting a Declaration letter for Gate 2 by the due date;
2. Those submitting a Declaration letter for Gate 2 by the due date with no advancement requested;
3. Those submitting a Declaration letter for Gate 2 by the due date and requesting advancement; and
4. Those submitting a Declaration letter for Gate 2 that hold a Transitional Agreement requesting a fully studied offer.

Workgroup members requested information about the timings for when the contract changes would be effective from (if CMP435 was approved) as well as information to help developers (whose projects

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fall within the scope of CMP435 – see the table under Element 3 above) understand their securities profiles for 2025 (and possibly early 2026).

An update was suggested to be shared by the ENA on the impact of this proposed change on the distribution system and distribution customers (re: queue re-ordering, project substitution and capital cost reallocation – although it was noted that some of these elements will be addressed via the proposed new CNDM). However, the Proposer noted that many issues specific to DNOs/Transmission connected iDNOs and their customers would have to be dealt with by the DNOs/Transmission connected iDNOs, for example through changes to the DCUSA, changes to ENA guidance, or through other routes. The Proposer notes that the ENA has set up a working group to specifically look the TMO4+ assessment and impacts. At the time this report was published, the Workgroup was not aware of any conclusions from this ENA work.

The Proposer agreed to take away and consider the request from the Workgroup for clarity on scenarios where TEC reductions are requested or needed.

A Workgroup member questioned the proposed approach to existing contracts that are moved to Gate 1 (where their existing contracted connection date and connection date, both of which are ‘confirmed’, revert to being ‘indicative’ in their Gate 1 Offer), which are proposing to use the provisions of the CUSC without issuing a contract variation (also known as an ‘Agreement to Vary’ or ‘AtV’). The Proposer’s legal representative noted the existing precedent and expected efficiencies from such a generic approach (i.e., a variation to the CUSC) to undo the active element of all the existing (in scope) agreements rather than adding in additional clauses into each of those (many) existing agreements. It was acknowledged that there was risk for an existing, secured, agreement to change to a Gate 1 Offer with indicative, rather than confirmed, connection location and connection date without an Agreement to Vary.

Workgroup members noted that this proposed approach (to the contract variation) is different to the approach taken for CMP376, under which Agreements to Vary were issued, by NESO, to customers to insert project Queue Management milestones into those existing agreements. Workgroup Members asked why the proposed approach here for CMP435 was different to that taken for CMP376.

The Proposer confirmed that under CMP376, the changes were not generic and required that a bespoke Appendix Q had to also be issued to the impacted parties, requiring an Agreement to Vary to introduce this, but do not foresee the need for any bespoke changes to be issued bilaterally under CMP435.

For existing staged agreements, it was discussed that there would be a hybrid legal front end to the agreement to cover where, for each stage, Gate 1 and Gate 2 was being triggered. If a future stage (of an existing, contracted project) did not meet the Gate 2 criteria it would receive an indicative Gate 1 connection date, for that stage only, for the same connection point as the initial stage (or as per the existing agreement, but at the time of publication it was not clear which of these would be the case for stages agreements in such circumstances).

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It was questioned whether the proposed Connection Point and Capacity Reservation approach for existing Interconnectors would be sufficient to satisfy Ofgem’s ‘Cap and Floor’ requirements. Ofgem considered this query and explained to the Workgroup that it does not expect the code modification(s) as proposed to have a negative impact for projects seeking a Cap & Floor. Should there be any reservations or concerns with the current proposals for OHAs, these views should be made known in the upcoming consultations so that these views can be properly heard/considered.

Further discussions covered:

- Recommendations for wide socialisation of these proposed changes to ensure smaller developers/CUSC parties are aware of the possible changes, arising from CMP435, to their existing contractual rights.
- How the CNDM will demonstrate timelines for advancement – the Proposer noted that CNDM will set out the assessments for whether advancement is possible (noting that the CNDM must be consulted on by NESO and approved by the Authority before go-live, which, at the time of publication of this report, is anticipated to be in Q2 2025 (after the anticipated implementation date in Q1 2025).
- When to update the existing contracts (e.g., pre-advancement or when those not advancing get a Gate 2 offer).

Securities and Liabilities: Compensation/Reconciliation Arrangements

The Workgroup discussed whether a reconciliation process or compensation arrangement is needed/in scope of this modification to reimburse securities if a project with a current offer is not deemed to have reached Gate 2 by the due date (and whether other legitimate costs incurred by a developer, such as a project’s de-activation/re-activation³⁴ costs, should be considered as part of this arrangement).

In discussion about the process to change existing agreements, the Proposer answered a Workgroup member’s question on the return of a project’s securities if a developer was not applying for Gate 2 by the due date, by confirming that a ‘reasonable timeframe’ for returning a project’s securities would be defined but it would not be left to expire.

The Proposer confirmed that in respect of legitimate development costs incurred by developers prior to Go-live, they were not proposing any payment/compensation in the event they have not met Gate 2.

In respect of how transmission securities and charges (e.g., capital contributions) are passed through to relevant Embedded Generators, this is not within the scope of CMP435 as this is related to distribution network charging arrangements (which are separately under consideration through the Connections Action Plan and the ENA’s Strategic Connections Group work programmes).

Securities and Liabilities: Fixed Options and Treatment of interest

³⁴ These being similar to the items forming part of the TO’s ‘delay charge’ (along with financing costs) that potentially could be levied upon Users whose project is delayed.

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There were Workgroup discussions on whether liabilities would have a fixed option and how securities are treated in terms of interest. A Workgroup member noted that in respect to connection charges, that if a charge is at risk of being treated as a security there is a judicial review precedent on how securities should be treated, by the network operator (that holds the said security) in terms of paying interest (to the developer).

Securities and Liabilities: Regarding I/DNOs

A TO Workgroup member sought clarity on connection charge liability and capital contributions from Transmission connected iDNOs. They questioned whether DNOs or Transmission connected iDNOs were submitting actual funds to NESO to satisfy liabilities or whether CUSC permits a level of flexibility on letters of credit for parent company guarantees (meaning liability for securities was notional and subject to NESO having to intervene). This was not confirmed by either the DNOs or Transmission connected iDNO parties.

A Workgroup member noted that the DNO or Transmission connected iDNO decides how to split liabilities across their customers so with distribution connecting projects dropping out/being terminated there would be fewer customers to split any transmission related liabilities across but accepted that work in this area, on the distribution side, would be out of scope of this CMP435 modification.

Securities and Liabilities: Relating to advancement

The Proposer clarified in response to Workgroup members' questions on securities in relation to advancement/progression, that:

- Projects meeting the (new) Gate 2 from the Go-live date but with no updated contract yet would still have a connection date (this would come from the project's original contract) so in the interim period these projects would need to still secure (as now).
- It's not expected that securities will change if an existing contracted project is not seeking advancement.
- If an existing contracted project is seeking advancement, then the securities and liabilities for that project could change.
- If a project has met Gate 2, from the Go-live date, but not sought advancement and other projects have dropped out ahead (of them) and works are no longer needed whether the securities, for such projects, should change - the Proposer noted that this would be undertaken after the Gate 2 to Whole Queue process so contracts and securities profiles could change (but it was not the primary focus of this modification).

In relation to DNOs/Transmission connected iDNOs and queue management, a Workgroup member raised that projects remaining after other projects are removed (from the queue, by virtue of not meeting the Gate 2 criteria by the due date for the Declaration Letter submission) will need to pick up a variation in the project's securities, unless the DNO or Transmission connected iDNOs takes security liability. Also, projects advancing may be under new terms and conditions and securities in the new (post CMP435 approved) arrangement.

When asked in the Workgroup Consultation, 39 respondents were in favour of this Element, whilst 12 disagreed.

- There was some support for the sensible approach proposed, with it showing a level of consistency and pragmatism.

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- Suggestions were made that a transitional offer has no fee/no fee greater than a current application fee (a fee only for requesting advancement) as none were charged for the ESO's/NESO's 5-point plan/Expression of Interest process. A suggestion was for a fee to be charged after NESO has agreed advancement can be delivered for a requesting customer.
- Concerns were raised for how quickly contractual changes could be issued, by DNOs in particular and concerns about how this would help reduce the queue for Gate 2.
- Multiple respondents would support an Agreement to Vary (AtV) for each offer. One respondent noted that it would be unreasonable to expect developers / Users to understand that the meaning of their contracts has been changed without receiving a varied contract (and suggested Outage Conditions (ConsAg App D) and Inter-trips (ConsAg App F) be assessed).
- Several respondents had timing concerns - for industry to understand the scope of the mod in terms of the timings being suggested and for existing parties to work to said timings, which would create uncertainty on Users and introduce legal risk.
- A respondent showed strong support for a hybrid agreement for staged offers.

Following Workgroup Consultation, the Proposer acknowledged the industry feedback that the previously proposed implementation approach needed revision. The Proposer noted that the updated contractual timings will be shared with the Workgroup when the revised reform programme timings have been agreed (discussions being held with the Authority to co-ordinate the different facets of this). In Workgroup discussions relating to legal text, the definition of the Existing Agreement (EA) Request Window was proposed to be defined in the CUSC as having a start (opening) date not being less than 4 weeks from the CMP435 Implementation Date and the duration (that is the window closing) being not less 2 weeks in lieu of fixed calendar dates. The Workgroup were very keen to have sight of timings, including the intended CMP434/435 'swim lanes', as soon as possible.

Contractual changes for transitional/cut over projects

Regarding legal text discussions, Workgroup members debated whether Transitional Arrangements or Cutover projects should follow the CMP434 or CMP435 process. The Proposer noted that accepted Transitional Arrangement or Cutover offers will have a process outlined as part of Element 19 and took an action to confirm whether the CMP434 or the CMP435 processes would be applied to these types of offers, and how the Transitional Arrangement or Cutover offers are treated differently for Gate 1 and Gate 2 (in other words, how the treatment of CMP435 projects will differ from any project(s) in the first batch in CMP434). The Proposer noted that this was being considered as part of the Transitional Arrangements and Cutover arrangements in the Phase 2 discussions³⁵ as well (which, at the time of publication of this report, have not concluded). Timings and the associated details for Phase 2 of the Transitional Arrangements are still to be confirmed.

In discussions relating to the criteria permissible under CMP435 to request changes to an existing agreement (such as advancement or reduced TEC or Developer Capacity), the Authority representative noted that any 'ModApps' with a full standard offer received before the start of the Transitional Arrangements would be treated as if they would have been before the Transitional Arrangements took effect. It was noted that the Transitional Arrangement Phase 2 letter was in

³⁵ That NESO is undertaking with the TOs and DNOs.

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development by NESO which would include an approach for 'ModApps' which would be submitted for an Authority decision (which, at the time of publication of this report, has not been published).

Treatment of GSPs for contracts

A Workgroup member noted that Grid Supply Points (GSPs) would not be included in existing BCA agreements as part of the CMP435 Original proposal and asked if that was defined as generation-triggered or generation-associated supply points. The Proposer responded that, in simple terms, an application would go through the process as either a generation or a demand connection application but acknowledged that this is being looked at already to clarify what happens if categorisations change, or an application deals with generation and demand. The Workgroup member noted that discussions were ongoing with the Proposer about new GSP(s) and Small/Medium Embedded Generation with future progressions and whether such scenarios will be captured by the reforms or not (suggesting the generation could be applied for at the same time as the supply point).

In a later discussion, a Workgroup member asked whether a new GSP, that would later become associated with embedded generation/power station, would be captured under the proposed legal text wording in either Section 17 or Section 18 of the CUSC. NESO's legal representative noted that if there was a subsequent modification (post-EA request), they would be covered by Section 17 (which is proposed to be introduced by [CMP434](#)).

When discussing the draft legal text in Workgroup 21, NESO's legal representative referenced that confirmation was still pending for the point at which a new GSP/modification is triggered by a power station, but it was not a point for the legal text.

Contractual changes and timings of processes

In Workgroup 17, NESO's legal representative noted the current thinking that existing agreements would continue as they are until a new status is assigned (which is of particular interest in relation to the moment in time that securities and liabilities may fall away). The list of key milestones to be allocated, in terms of timings, was shared with the Workgroup and it was noted that NESO's designation and NESO's reservation processes would need to outline the process for how either designated and / or reserved projects would be dealt with in terms of their Gate 2 status.

In Workgroup 20 a Workgroup member asked for any updates on the sequencing of the implementation approach after the Authority decision³⁶. While the Authority representative could not confirm when the decision would be at that point, NESO's representative outlined the likelihood of a period of time for a decision to be understood (which could be overlapped by the License consultation) before a window would open (and which, after a period of time notified by NESO to stakeholders, would then close) for CMP435 Gate 2 applicants to submit their Gate 2 criteria evidence³⁷ in accordance with the Gate 2 Criteria Methodology.

³⁶ Which, at the time of publication of this report, is anticipated to be in Q1 2025.

³⁷ Which, at the time of publication of this report, is anticipated to be either appropriate land rights or DCO submission acceptance in respect of readiness (confirmed via a declaration/application), and potentially an additional requirement in relation to CP30 alignment (but at this time of writing this was unclear pending the anticipated consultation by NESO on the three Methodologies, planned for Early-November 2024).

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In Workgroup 22, the Workgroup expressed the need for certainty, for stakeholders, about the timeframes after an Authority (i.e., expressed in ‘Business Days’) around how the process would work (in particular, for the key milestones and user activities), even if actual calendar dates weren’t possible³⁸. This would allow industry to assess the viability of the solution in the Code Administrator Consultation. The Proposer explained that a number of other influencing factors on timings had prevented timeframes being confirmed to date, however they agreed a ‘no less than [X] days/weeks’ approach would be taken in the legal text to offer some certainty for industry (with ‘X’ later being confirmed within the legal text). Another Workgroup member expressed the need for the proposed implementation approach to be clear in terms of when stakeholders will need to take action, and when offers will be made. The Proposer referenced the intention to start making Gate 2 offers in late 2025. A Workgroup member reiterated that NESO’s planning, and decisions were required urgently to confirm when offers will be made, so industry can plan accordingly.

Process and mechanism to change the status of an agreement (including advancement).

Responding to clarification questions from the Workgroup in meeting 22, the Proposer confirmed that an Existing Agreement request is in relation to a project that has an Existing Agreement and if there is more than one project in said agreement, more than one EA is required.

On questioning from a Workgroup member, NESO’s legal representative and the Proposer confirmed that project advancement would need to be applied for via a ‘ModApp’ (requiring the payment of a fee). It was discussed that this was reverting to a previously existing process, so the fee was applicable. The Proposer stated that any advanced connections offered via the ESO’s/NESO’s 5 Point Plan were only part of a one-off process, and that justified not applying a ‘ModApp’ fee in that scenario.

NESO’s legal representative noted that there will be confirmation, as soon as reasonably practicable but no later than the within the Gate 2 offer (noting that this means that a developer may not be aware of whether advancement, of their project, is possible until the Gate 2 Offer is made), that advancement of a project’s connection date is possible (but different to a standard ‘ModApp’ as it will not be certain that an advanced date will be granted). The Proposer confirmed that irrespective of whether advancement is possible the application fee, paid by the project, would not be returned, except to the extent it is reconciled through the normal fee reconciliation process.

A Workgroup member noted that if project advancement hasn’t been requested, and a fee not paid, a project (that met the Gate 2 requirements) would go into the CNDM with their existing contracted date(s). The Proposer said it was possible for dates/works to be changed by the CNDM at that point if necessary, but the intention was for minimal updates to contracts, if any, for any project(s) moving to Gate 2. The Workgroup member emphasised the importance of making such consequences clear to stakeholders.

Workgroup members expressed concern with how the process for project advancement would work and whether it was creating the right incentives. An applicant applying for advancement of their project would have to relinquish their current BCA (with its confirmed connection point and confirmed connection date) before seeing the results of the network assessment and their advancement offer.

³⁸ Because of the uncertainty, in calendar day terms, about when the Authority decision would be issued.

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However, this ‘advancement’ could also, depending on the approach taken within the proposed CNDM (which the Workgroup had not seen at the time of publication of this report), be accompanied by a change in both the connection point, which may make the project unviable, and the connection date (which may be to push the connection date out, rather than advanced, as the developer had requested). Coupled with an intention to charge a fee for this advancement application, the risk associated with such activity is significant. The Proposer flagged that they are exploring how they would engage with applicants asking for advancement prior to the application being made, to minimise this outcome. They believed that the probability of an advanced connection being obliged to change the point of connection was very unlikely, however they cannot commit that it would not happen. Workgroup members felt, given the risks, that it was not an option that many applicants would choose. It was felt that this seemed to be detrimental to the proposal in that it was not incentivising ready and needed projects to advance their connection dates and support delivery of the aims of CP30.

It was presented to the Workgroup, by the Proposer, that the ability to apply for project advancement would also apply to BEGAs and BELLAs, and to the DNO or transmission connected iDNO applying on behalf of Small/Medium/Large Embedded Generators (requiring a corresponding request in the ENA window for the Distribution system). The Proposer reiterated that the transmission connected iDNO or DNO will need to request advancement on behalf of their contracted embedded generators. Such generators will need to work with the DNO or transmission connected iDNO to see if advancement is possible on the Distribution system. The Proposer addressed a Workgroup member’s call for clarification on whether DNO or transmission connected iDNO connecting schemes that don’t have a BEGA/BELLA therefore don’t have the right to request project advancement, with confirmation from the Proposer that such a request to advance would need to be via a transmission connected iDNO or DNO.

There was concern from Workgroup members about how this would be enforced and whether obligations could be put onto transmission connected iDNO or DNOs to submit any such requests on behalf of relevant Embedded Generators in a timely manner. This was deemed (by the Proposer) to be within the remit of the ENA, rather than the CUSC, and while a Workgroup member did raise whether the CUSC could feature such obligations, there were objections to that from other Workgroup members concerned with the precedent for introducing obligations in CUSC for parties ‘downstream’ of the contracts. It was discussed that the relevant network License could be a better place to place such obligations and any penalties on transmission connected iDNOs or DNOs. In a subsequent meeting a Workgroup member suggested CUSC 6.2.2 could be utilised (to place such an obligation) which NESO’s legal representative agreed to consider but felt it would be a complicated route. For more discussions on this topic see the ‘Obligations on transmission connected iDNO or DNO and embedded generation parties’ section later in this document.

At the time of publication of this report, little progress had been reported to the Workgroup from the ENA/SCG updates as to the potential impacts on the Distribution system for the project advancement request process. The Proposer did contact the ENA representative for updates to be shared. The Workgroup was taken through the approach and outcomes for Existing Agreement Requests from a DNO, for a Large Embedded Power Station and Small/Medium Embedded Generation. The Workgroup noted that prior to identification of which Projects had met the Gate 2 Criteria, it may not be possible for the DNO or transmission connected iDNO to know whether Advancement would be possible. Therefore, a more integrated approach would be needed with NESO, TOs and DNO/iDNOs working together to ensure that Advancement was offered to those embedded Projects who could take advantage of it. This was acknowledged and it was confirmed that work on how to coordinate

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advancement of Embedded projects is planned with NESO/DNOs and transmission Connected iDNOs/TOs after the conclusion of this Workgroup.

It was noted by a Workgroup member that more work needed to be done to confirm how requests for advancement for individual projects in batched projects would work. The Proposer suggested that a transmission connected iDNO or DNO may have multiple projects in a 'wrapper' agreement where not all the projects can/want to progress (see approach outlined in 'Staged Agreements' section below). It was discussed that a transmission connected iDNO or DNO would need to make an EA request to NESO per each project in an agreement, and for large BEGAs/BELLAs (who make the EA request, to NESO, themselves) there would be an acknowledgement needed from the transmission connected iDNO or DNO to NESO. The Proposer noted that they were working with the TOs and transmission connected iDNOs and DNOs on this process (which was likely to be included in either the implementation guidance or the proposed new Gate 2 Criteria Methodology). In Workgroup 23, some Workgroup members asked the Proposer to consider how individual embedded projects could advance their connection date (if they wished) even if projects that do and do not want to advance are part of the same project progression.

A Workgroup member asked whether there were any existing guidelines for how transmission connected iDNOs and DNOs manage changes to Appendix G, to which NESO's legal representative noted that Appendix G would go through the normal CMP434 Gated process. A workgroup member noted that the supporting Compliance Process is currently under review, with drafting ongoing within the ENA. It was referenced that the Proposer was considering potential impacts on Technical Limits from project advancement and conversations were happening with TOs on Appendix G to ensure the process works.

Updates on this were given in Workgroup 22 to clarify that AtVs for Appendix G, technical limits, relocation etc., under the Transmission Interface Agreement (TIA) and project progression process were not caught by the CMP435 legal text. A Workgroup member asked whether codified obligations on the contracted party (i.e., the transmission connected iDNO or DNO) were needed to notify embedded generators of this, so embedded generators could be clear whether necessary clauses applied to them. NESO's legal representative noted that contractual arrangements/obligations between transmission connected iDNOs and DNOs and embedded generation parties are outside the remit of the CUSC (as they are separate to the network operator-system operator contract). This is also referenced in the 'Obligations on transmission connected iDNO and DNO and embedded generation parties' section later in the document.

In Workgroup 21, NESO's legal representative and Workgroup members expressed the need to have a diagram to illustrate the process. In Workgroup 22, reference to a diagram being included in the legal text was to be removed, with process timetables to be established, by NESO, as soon as practical (but, at the time of publication of this report, this has not been provided).

When asked by a Workgroup member about securities, when a project is applying to advance, NESO's legal representative outlined that they would be dealt with implicitly via the offer, so a standard 28-day process would apply for returns. Another Workgroup member supported telling developers about the securities implications ahead of applying for advancement to inform their decision (as to whether they wished to seek advancement, or not). After discussions the Proposer amended the solution such that the security is to be returned as soon as reasonably practicable and no later than 6 weeks after the Gate 1 AtV (or equivalent) is signed and becomes effective.

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For checks of the declaration letter, a Workgroup member asked how projects will be chosen to be rejected if there is a duplication, and it was confirmed that the CMP435 legal text will refer to the relevant document which will outline this (namely. the Gate 2 Criteria Methodology, supported by the amended Queue Management Guidance document). A Workgroup member asked what happens if there is disagreement, on the part of the developer(s) and NESO, with regards to checks not being passed, and it was stated by the Proposer that this is outlined in the proposed legal text (at 18.16) with a general provision for disagreements via the normal CUSC dispute routes including arbitration³⁹. In response to a Workgroup question, it was confirmed in Workgroup 22 that only those sending EA requests directly to NESO (including large BEGA/BELLA requests) would be checked by NESO, all others would be checked by the transmission connected iDNO or DNO.

Outcome for existing agreements after the Gate 2 process

In Workgroup 17, NESO's legal representative noted the current thinking that existing agreements would continue as they are until a new status is assigned (which is of particular interest in relation to the timing in terms of when securities and liabilities may fall away). In subsequent discussions it was clarified that the existing agreement will continue 'in accordance with their terms' until amended by CMP435 and the Proposer were also intending that further clarification be added to the relevant legal text clause(s) to be clear that for Gate 1 Offers there would be no obligations on the project developer going forward from the point at which the contract variation is accepted, and for Gate 2 Offers those terms may have been changed in that Gate 2 Offer.

A Workgroup member suggested that, in addition to the proposed options to confirm as Gate 2 by AtV (with or without advancement), that an agreement could be confirmed as Gate 2, with no project advancement requested, but with updates to the M1 milestones that are currently in that agreement. It was discussed that explanatory text for what could change in an existing agreement should be outlined in the proposed new CNDM (suggested by a Workgroup member to reference changes to the existing connection date, connection location, outage conditions and any possible impacts on Appendix D and F if necessary). Workgroup members presumed that the legal text should reflect this, however due to the recent 'first ready, first needed' policy change, the Proposer was not in a position⁴⁰ to specify whether it would be seeking to change connection dates etc., via the contractual changes.

It was discussed and clarified by the Proposer that if Gate 2 isn't met, or a Gate 2 Offer is not accepted, then a project will be given a Gate 1 Offer and the opportunity to terminate if they wish.

There was Workgroup discussion on the Proposer's position for a project to be allocated Gate 1 status if a developer rejects an advancement Offer after applying for one (whether rejection is on the basis of the date offered or a different connection point being offered). There was concern from the Workgroup that this introduced the risk of losing the existing project queue position when applying for project advancement. This was justified in a subsequent Workgroup by the Proposer on the basis that if a project advancement request is processed, but not taken up, there is then additional work (for the TO and NESO) and processing required in the design process.

³⁹ A Workgroup member noted that in their view the existing statutory disputes process, involving a referral to The Authority, was available, rather than the arbitration disputes route.

⁴⁰ At the time of publication of this report.

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It was acknowledged that the Workgroup had concerns about a project reverting to Gate 1 status if an advancement Offer is rejected due to a different connection point being offered (from that set out in that project’s existing contractual arrangements, pre-CMP435). The Proposer noted that a connection point move would be highly unlikely, but possible in some cases, e.g., if a node is no longer being built. The Proposer also wanted this position to prevent projects gaming CP30 by requesting to advance where there’s ‘spare’ capacity, getting through Gate 2 on that basis and then rejecting the advancement (by virtue of rejecting the Offer).

The Proposer noted that the declaration letter would allow for a preferred connection point to be specified with any project advancement request (to aid the design process), with the caveat that it may not be accommodated. While the risk of a location change is lower for near-term projects where TOs are working on locations, the expected rare occurrences where a connection point change would be required means that the guarantee of the connection point, for an existing contracted project, cannot be 100%.

While the specifics would fall under the relevant Methodology, some Workgroup members supported Guidance and customer engagement, on the part of NESO, to manage industry expectations about such requests, to be clear about the potential consequences (for a project) of a project advancement request, namely that they may not see as favourable an outcome as they currently have (such as possible additional securities, or an unfavourable new connection date, or changes in outage conditions, or changes in connection point, or a change in bay for an existing sub-station for an advanced offer) in the existing project connection agreement(s).

A Workgroup member suggested early dialogue between the TO design process team and a project if a connection point change is being considered (which NESO agreed to pass on to the team drafting the proposed new CNDM).

The Proposer outlined the proposal for it be very clear in the proposed new CNDM that there is a risk (to a project) for a GSP move, including via an advancement request, if the GSP will no longer exist (due to other network / project changes that arise during the design phase undertaken by the TO). The Proposer noted that the legal text already accounts for this risk in a broader sense.

It was also confirmed by the Proposer that the current intent is that if a project met the Gate 2 requirements and the CP30 criteria, it would not have its connection date taken by an advancing project, but this remains subject to the proposed new CNDM. However, if a project had not met the CP30 criteria (on the assumption that this becomes part of the Gate 2 criteria), then the absent project receiving ‘NESO designation’ would be given a Gate 1 status and receive a Gate 1 Offer accordingly.

Please note: At the time of the Workgroup consultation (in July 2024), the understanding was that if a project met the Gate 2 criteria (and did not seek project advancement) then their existing contractual date and connection location would be maintained. However, this has now (November 2024) changed: an existing contracted project that meets the Gate 2 Criteria may receive an offer which is connecting at a different date, and possibility connection location (in the event of both NESO and the TOs complying with proposed new CNDM resulted in this outcome). The Workgroup was concerned about this change as it introduces a significant risk for any affected projects (whilst being mindful that the Proposer indicated that these situations were expected to be rare occurrences).

Consequently, the Workgroup asked whether a full list of scenarios could be provided where existing project contracts could be changed as a result of the Gate 2 to Whole Queue process (inclusive of

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requesting advancement and the impact of the three proposed new Methodologies and the indicated CP30 processes) – i.e. what could a project developer expect for their project and what processes would affect the project receiving that expected outcome in their updated agreement. The Proposer noted that this wouldn't be feasible until the CP30 and the three proposed new Methodologies had been confirmed and as such it would not be done in time for inclusion within this Report. The Workgroup questioned the Proposer's intent to vary the BCA and whether the criteria for this would feature in either the CUSC legal text or the proposed three new Methodologies, to which the Proposer noted that the CUSC would acknowledge the CNDM, as part of the process, but not detail the Methodology contents within the CUSC itself (which would be a separate, standalone document).

Further legal text discussions for the development of clause 18.5 involved the clarification of what changes can be requested, by a project, via the Existing Agreement request process. The Proposer outlined that dropping technologies (e.g., from a multi-technology project) during this process was not included in the CMP435 solution, and if the minimum acreage (as per the [CMP427](#) energy density table) was not met for each technology listed in an existing project's an agreement (separate to a staged agreement, see below), then a project would not be deemed to have met Gate 2, and so the existing contracted project would not progress into the CP30 assessment phase and, as a result, the existing contracted project would be given a Gate 1 Offer. Some Workgroup members were unaware of this and felt it should be made clear to industry. The Proposer felt it was clear that the minimum acreage (for each technology) was clearly within the CMP435 solution and was also referenced in [CMP434](#). The Proposer noted that the detail of the process would be outlined in the proposed Gate 2 criteria Methodology.

The Proposer noted that the intended CMP435 process was to get all existing contracted connection projects a new agreement (via either a Gate 1 Offer or Gate 2 Offer) after which a modification can be made (by the project) which would need to go through the next gated process in the next gate window (which, at that time, would be in accordance with [CMP434](#), not CMP435). The only exceptions to this position were to allow requests for project advancement or notifications of reduced TEC or Developer Capacity to projects in a position to progress. Some Workgroup members expressed the view that they had not been aware of this aspect of the CMP435 solution with regards to the limitations on project changes being possible with an EA. There was a request from Workgroup members for a timeline under which an existing agreement would be able to receive a Modification Offer. At the time of publication of this report, the Proposer confirmed that Modification Applications could continue to be submitted by developers until if and when developers are impacted by any further changes in relation to Transitional Arrangements (as described in Element 20). Beyond that point and after the implementation date for [CMP434](#) Modification Applications would need to be submitted under the arrangements being proposed under [CMP434](#), including in relation to 'Significant Modification Applications'.

It was discussed that 'installed capacity' would be requested as part of the declaration for Gate 2 submissions, and the Proposer considered whether 'installed capacity' could be reduced at Gate 2, with the Workgroup discussing the implications for Appendix O and the relationship between 'installed capacity' and 'TEC' or 'Developer Capacity'. In Workgroup 22, the Proposer confirmed that the proposal would allow TEC or Developer Capacity reduction within any project application/declaration, and having developers confirm their projects' installed capacity separately as part of that process essentially meant that developers would be able to remove a technology type from an existing project agreement if they chose to do so; i.e. by only providing the installed capacity value(s) and Gate 2 criteria evidence in respect of the particular technology type(s) they wished to proceed with into the (Gate 2) gated design process under CMP435. A Workgroup member noted that the ability for a

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project to do this will be determined on the structure of the original agreement(s), as entered into pre CMP435.

It was discussed by the Workgroup that ‘installed capacity’ would be useful to define in the legal text with clarity on what changes, by a project, would or would not be permitted under CMP435 at Gate 2 application submission (without needing a subsequent ‘ModApp’). It was stated by the Proposer that the need for a project to provide its ‘installed capacity’ would feature in the proposed new Gate 2 Criteria Methodology. The Proposer confirmed that ‘installed capacity’ will be codified for this purpose and after being submitted in the EA request, will be in the updated Gate 2 agreement for the purpose of ongoing project compliance (see the proposed wording in Section 16 of the legal text). A Workgroup member also suggested text be provided to support developers submitting this value for the first time.

In response to a Workgroup member’s question about multi-technology EA requests and TEC reduction, the Proposer noted that the only way TEC would reduce with an EA request would be if the ‘installed capacity’ for all technologies became lower than the TEC set out in the agreement.

It was discussed by the Workgroup that a cut-off date would be needed for all those project connection agreements that will be classed as an ‘existing agreement’ (for the purposes of CMP435), after which ‘ModApps’ would need to be submitted, by any projects, and these would need to go through the gated process following the initial Gate 2 application. The Proposer explained that as part of the Gate 2 application or declaration, developers can only request project advancement and/or a reduction in the project TEC or Developer Capacity as appropriate, as well as providing evidence that the project has met Gate 2 criteria.

The Workgroup requested the timeframes of the process be mapped out so industry could understand the earliest time they could expect to get an offer, from NESO, if they wished to ‘ModApp’ after the Transitional Arrangement period (in contrast to submitting a ‘ModApp’ within the Transitional Arrangement period). The Proposer pointed out to the Workgroup that if TEC or Developer Capacity is reduced by a project within its Gate 2 submission, a cancellation charge would be applicable.

The Workgroup were offered the opportunity to include any other key changes needing to be noted in the draft legal text for changes to Existing Agreements at Gate 2 (see clause 18.14.2 in the legal text).

Staged agreements

A Workgroup member highlighted the risk that later stages of projects may not progress (and thus jeopardise the Gate 2 process) if it’s not clear how they will be treated. This was noted by NESO’s representative as a point for the CNDM, acknowledging that the treatment of staged projects would be referenced clearly in the CMP435 solution.

The Workgroup questioned the consequences of one or more technologies, in a project with a multi-technology agreement, not meeting the Gate 2 criteria. The Proposer responded that it would depend on how the existing agreement was structured, but if multi staged, then only the stage meeting the Gate 2 criteria would go through. If a stage contained multiple technologies, then all those technologies would need to meet the minimum acreage and have sufficient land⁴¹ for the stage to progress if the agreement so staged. A Workgroup Member asked if this could mean that a project under construction could be converted to a Gate 1 Offer, if it was only progressing one of the

⁴¹ Expected to be evidenced in terms of ownership or lease or option (as per Gate 2 Criteria Methodology).

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technologies in that stage of its connection Offer. The Proposer confirmed that no, this was not a risk, as a project could drop any technologies that had not met the Gate 2 Criteria, by providing an Installed Capacity figure aligned to the remaining technology or technologies.

NESO's legal representative proposed that if there are multiple stages of User works, one 'wrapper' agreement could be created to progress those stage 1 works meeting the Gate 2 criteria, with subsequent stages given Gate 1 status and defined as being conditional to them subsequently meeting the Gate 2 criteria (in the same manner as for any other Gate 1 agreements). This approach was supported by a Workgroup member as easier to manage than creating separate agreements for different stages.

Process to change an existing agreement to Gate 1 status

In Workgroup 22, it was discussed that the current obligations on NESO to continue works on a project seeking to connect would (if CMP435 is approved) not apply once Gate 1 status was given to that project. It was confirmed that obligations would remain for Gate 2 projects. The Proposer took an action to confirm that securities and liabilities would be held at the same level for Gate 1 projects and not increased. The Proposer confirmed that the legal text doesn't hold liability and security figures between the point in which a project becomes a Gate 1 project and the point where a Gate 1 AtV is signed and effective. However, the Proposer also confirmed that the expectation is that NESO can manage this risk in other ways.

The Proposer outlined the conditional clause being drafted to state that, if CMP435 is approved, the rights and obligations (in all existing transmission related connection agreements) would have no effect until a Gate 2 Offer is accepted by a project (and that some of those right and obligations would be amended to reflect the CMP435 requirements⁴²). A Workgroup member suggested having codified timescales for applicants to respond and trigger NESO's right to sign on their behalf. The Proposer stated that any NESO action of that sort would not be taken lightly and only to provide a clear point for the CMP434 process to start. Due notice would be given, by NESO, about when an agreement needed to be signed (for a project) with ample opportunity for the applicant to sign themselves. Another Workgroup member suggested that if an offer is given adequate time to be reviewed, it could be terminated instead of NESO signing to relieve an administrative burden (and possible factor in network planning). The Proposer highlighted that this would be a dramatic step to take, but it could be proposed by a Workgroup member as an Alternative, if the right balance was found.

A Workgroup member sought confirmation of any consequential release of User Commitments, i.e., a refund of any securities or liabilities that have been paid to date, should an existing agreement be given Gate 1 status. The Proposer stated that one consequence of the change of project status, to Gate 1, would be that a security or liability would not need to be provided by the project, but the question remains as to what happens to what has been provided, by that project, to date. This would need to be clarified, either in the legal text, or via another mechanism. Another Workgroup member suggested that to retain a Gate 1 position and be accounted for in network planning, an option could be for securities/liabilities to not be paid back (only returned if terminating). The Proposer

⁴² And which will give rise to needing to provide securities in respect of the 'Capacity Commitment fee' as outlined, by NESO, at the Special TCMF meeting on 11 October 2024 [PowerPoint Presentation \(neso.energy\)](#) (which is to be set out in a separate CUSC Modification that is expected to be raised by NESO later in 2024).

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acknowledged the challenge of holding securities without transmission works in the Gate 1 agreement (which is part of the reason this is not required in the CMP435 proposal) but welcomed the Workgroup to consider this if they wished. A Workgroup member requested that the release of any Gate 1 projects' securities / liabilities is codified to be returned in 'no more than a month' from Gate 1 status being assigned to a project. The Proposer agreed to this to an extent but stated it would be a maximum of 6 weeks from when the Gate 1 AtV was signed/effective, and the legal text was accordingly changed.

When discussing the proposed draft legal text, a Workgroup member asked if there was a reason why it couldn't be an obligation on parties to apply to be given Gate 1 status rather than them waiting to be given Gate 1 status. The Proposer noted that during the CMP435 application window, a project can choose to seek either a Gate 1 or Gate 2 status, with the overall aim being to get projects to Gate 2 where applicable. If a project elected to be Gate 1 and be relieved of securities/liabilities earlier than waiting to be given Gate 1 status, that would be a natural incentive to request Gate 1 status earlier. The Proposer had preferred not to make the process more onerous for industry by employing a unilateral policy to terminate existing contracted projects and enforcing a positive opt-in which would be a bigger step-change (although if Workgroup felt differently comments were welcomed). Whatever the process, the Proposer noted that it would need to be the same for applying to Transmission and Distribution, with DNOs and transmission connected iDNOs needing to then be proactive with their customers. A Workgroup member noted that they would have no objection to the option if the same rule applied to all (including GSPs etc.).

NESO's legal representative asked the Workgroup for views on whether the data etc., in the existing contract appendices were needed in a Gate 1 Offer (if disappplied/irrelevant) or if they were best to be removed. A Workgroup member expressed the view that removal of any disappplied text was preferable, otherwise the Gate 1 Offer could be presented as a full (Gate 2) Offer in error. Another Workgroup member felt the removed data could be of use to 'invest and connect' projects (e.g., Appendix F5 containing site specific technical conditions is used prior to Gate 2 in order to support project design and procurement activities) but other members of the Workgroup expressed the view that as legacy data that information will be available (to the project developer) in the original (pre CMP435) version of the agreement(s) if needed. NESO's legal representative suggested that in newer agreements, Appendix O or P (depending on the agreement's age and if it is for a project in England and Wales or Scotland), could contain more information and data relevant to the Gate 1 Offer. When asked whether there would be a need to apply data linked to Data Resignation Code (DRC)s, NESO's legal representative took this away to check – full DRC data having been submitted in the original application and for any ongoing compliance for Grid Code - and confirmed back to the Workgroup that it could be possible to agree to further populate additional reservation specific appendix information on a case by case basis if aspects (e.g. site specific technical information) were essential to project development in the case of Gate 1 Projects with Reservation'.

Where existing projects are given Gate 1 Reservation through a Gate 1 AtV, any pre-existing User obligations within existing Connection Agreements should be closed off on a case-by-case basis e.g., where projects are currently asked and agree to secure consent for TO works (which is then no longer practical for projects that have already submitted their DCO consent application to meet the Gate 2 Criteria).

In the Workgroup deliberations, where the draft legal text was discussed, it was stressed by the Proposer that any Gate 1 AtV will be given sufficient time to be questioned and returned, by a project,

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with reminders sent for its return before NESO exercised the power to sign the AtV as a last course of action.

It was confirmed by the Proposer in Workgroup 22 that if a project was confirmed as not being put through the Gate 2 design process, then the standard CUSC dispute process could be employed if there was disagreement on that decision⁴³.

Reservation (also see Workgroup considerations relating to Element 10)

The Proposer outlined, in relation to the legal text, that it would be possible for NESO to reserve capacity etc., either for a specific project or generically (not for a specific project or projects). This is set out in 19.1 to 19.3 of the legal text. The Workgroup discussed that it needs to be clear when reservation would be offered, by NESO, in the process. The Workgroup, noting the need for transparency (in order to maximise the network benefits and minimise the cost to consumers) believed that NESO should notify industry when reservation has (a) been asked for (by NESO) (b) been allocated (by the TO) and (c) been allocated (by NESO to a specific project or projects) so that those not directly involved; i.e. the specific project(s); are clear that this has occurred. Workgroup members noted that being aware of this information, about reserved capacity etc., would allow stakeholders to question if that reservation was appropriate and, if relevant to them, they might seek to challenge NESO's approach (to reservation) directly with the Authority or via the CUSC dispute process (if they disagreed with a reservation matter).

The Proposer confirmed, in respect of items (a)-(c) above, that there is nothing in the Proposal that would obligate NESO to make this information available to all stakeholders as part of the CMP435 proposal. A Workgroup member also noted that it would be relevant to clarify how any costs (including the payment of any User Commitment prior to its allocation to a specific project) associated with reserved capacity for non-specific projects, would be allocated if, subsequently, that reserved capacity was then allocated to a specific project. The Proposer confirmed that liability and security for User Commitment / Final Sums associated with this reserved capacity for non-specific projects, would be allocated, subsequently, to any specific projects that utilised the reserved capacity from the point at which they accepted a Gate 2 Offer, and prior to that point the risk would effectively be socialised through the existing User Commitment / Final Sums arrangements. A Workgroup member noted that this could, as a result, potentially render those User Commitment / Final Sums non-cost reflective.

Conditional clause (Schedule 2 Exhibit 3, Part One and 3A)

NESO's legal representative discussed what the purpose of the clause is namely to define key aspects of the Construction Agreement in relation to CMP435 and made the suggestion to include it in all agreements, rather than just the Construction Agreement only. Accordingly, versions will be created for BEGAs, BELLAs and BCAs where projects with those agreements get a Gate 1 Offer, with iterations without reservation (where everything in the agreement is superseded with an indicative connection date and connection point until a Gate 2 Offer is accepted, by the project, at which point this may have changed the indicative information) or with reservation (giving commitment that the connection date and connection point, for the project, will be the basis of a Gate 2 Offer, which is given if the project meets the Gate 2 criteria prior to the reservation expiry date).

⁴³ A Workgroup member noted that in their view the existing statutory disputes process, involving a referral to The Authority, was available, rather than the standard CUSC dispute process.

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Legal compliance of the approach

In response to Workgroup questioning⁴⁴ about the legal basis on which NESO could propose changes; to the contractual obligations for parties seeking to connect; via the proposed three new, non-codified, Methodologies, the Proposer noted that they were not aware of a legal barrier to this as the terms and conditions, for connection to the transmission system are set out in the CUSC and all changes, to those terms and conditions, have to be Authority-approved. Acknowledging the need to act responsibly and transparently, as per European Regulation, they noted that variation clauses were standard practice in all contracts⁴⁵ and the need for clear, published Methodologies (which will be Authority-approved, as will all changes to those Methodologies in the future) was also the intention. The Workgroup also discussed the options for legislative changes, with emergency legislation being raised as a possibility within the intended reform timescales (of early 2025) for designation of licence changes by the Secretary of State (using the Workgroup’s work for CUSC changes this way).

In relation to the above, the Proposer stated that the codes and the way NESO operates has to reflect the various statutory duties and licence requirements NESO are going to have and the proposals recognise that changes are needed to align with the ambitions of the Connections Action Plan and the expected Government Clean Power Plan 2030, which together set the direction of travel for the future of the connections process.

A Workgroup member recommended the removal of Section 18 at a suitable point in the future once the one-off process is complete and any legal text relating to it is redundant. The Proposer confirmed that there isn’t anything in the legal text that removes Section 18 in a point in time in the future.

Element 20. Cutover arrangements

The Proposer outlined the differences in the Transitional Arrangements and the Cutover processes and periods, noting that the Transitional Arrangements period and process was not part of the CMP435 modification but would be explained for context – this was later clarified again in Workgroup 18. The Cutover date was originally proposed to be 10 Business Days after the Authority decision date on this code modification. In Workgroup 18, clarifications were given as to what distinguished the Cutover period from the (out of scope) Transitional Arrangements period, i.e., it is relating to a ‘to be determined’ period prior to the Gate 2 to Whole Queue application window. The Proposer confirmed that whilst the Cutover date is defined within the legal text it does not include a specific calendar date and the actual dates, for the Cutover date, would be shared with stakeholders when determined following the agreement of wider programme dates by the Authority in due course, and in any event at the time of the Authority’s decision to approve this modification (if that occurs).

In Workgroup discussions, members raised the wish to understand how staged projects would be affected in the Transitional Arrangement and Cutover periods and the continuation of works during these periods. The Proposer confirmed that in respect of a project with an existing agreement which is staged, where one stage has met the Gate 2 criteria, but the remaining stage(s) have not, a

⁴⁴ By reference to Article 36 (6) (a) of Directive 2009/72 (which is retained law in GB).

⁴⁵ A Workgroup member noted however, that such a standard variation clause would not permit the terms and conditions, for connection to be changed without Authority approval of that change, as per Article 36 (6) (a) of Directive 2009/72.

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hybrid agreement will be provided for through the Gate 2 Modification Offer, as further described within Element 19 and the legal text (in relation to staged agreement).

When asked if there were planned changes to the securities and liabilities for Offers currently being made or the next run, the Proposer said that discussions were ongoing internally (these details are not directly in scope for CMP435). A Workgroup member requested a step-through for existing users on how their security obligations were intended to be calculated in 2024 and 2025, along with 2026.

When asked in the Workgroup Consultation, 38 respondents were in favour of this Element, whilst 8 disagreed.

- Several respondents expressed support for the principle of this Element.
- Suggested clear communication to industry to be fully aware of this Element (including derogation outcomes).
- There was a concern as to its fairness with risks seen for embedded projects.
- It was noted that there was limited detail available for which modifications/projects the Element will apply to (such as project progressions, BEGA, BELLA), plus further detail was needed for securities and liabilities, invoicing and payment arrangements.
- Respondents wanted clarity on the timeline, with concerns about delays to the timeline by this Element.
- A respondent asked about applicability to new iDNO/DNO points (disadvantaging those who would have to secure on Final Sums at this point without a concurrent generation application) and another referenced the uncertainty this introduces to the existing distribution queue.
- Case study examples were requested by a respondent for how final offers would affect different parties and the impact of meeting/missing key deadlines.

As per Element 19, the Workgroup were advised by the Proposer that the timings for further updates to the Element 20; to acknowledge industry's feedback for a more realistic implementation; are pending and are subject to NESO discussions with the Authority on the holistic Reform programme. The Workgroup were assured, by the Proposer, that the timings for the Cutover arrangements would be shared when available as the Workgroup emphasised the importance of this for developing the legal text. For the avoidance of doubt, at the time this report was published, the timings for Element 20 (and Element 19) were not known to the Workgroup, other than in respect of the minimum periods set out within the legal text and implementation approach.

In the post-Workgroup Consultation discussions, NESO, upon questioning from the Workgroup, expressed the view that they were comfortable with the legal standing of the Cutover period.

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Other options/Alternatives

Following the Workgroup Consultation, a number of Alternative Requests were submitted by consultation respondents and, subsequently, by Workgroup members. These Requests set out the case as to why the party or Workgroup member who submitted them wished to amend parts of the Original Proposal (and outlined what their amendment was).

The Workgroup reviewed all of these Requests and the table below provides an overview of each Request (and who raised it) along with its status as to whether it was (a) withdrawn (by the party / Workgroup member who raised the Request) or (b) was voted upon by the Workgroup with those that received a majority support (of those Workgroup members eligible to vote) proceeding forward as a formal 'WACM'⁴⁶ with those that failed to obtain majority support not proceeding forward (and thus not becoming a WACM).

Alternative Number	Proposer Organisation	Overview	WACM / Comment
1	EDF	This Alternative proposes to implement a transition period of 6 months from the implementation period in order to allow the Gate 2 criteria to be achieved by existing contracted parties with viable projects.	Alternative Request received 06 Aug, presented and took WG questions in WG16, updated version shared with WG 23 Sept. Voted on in WG20 - voted to not proceed as a WACM.

⁴⁶ "Workgroup Alternative CUSC Modification", which is defined, in Section 11 of the CUSC, as "*an alternative modification to the CUSC Modification Proposal developed by the Workgroup under the Workgroup terms of reference (either as a result of a Workgroup Consultation or otherwise) and which is believed by a majority of the members of the Workgroup or by the chairperson of the Workgroup to better facilitate the Applicable CUSC Objectives than the CUSC Modification Proposal or the current version of the CUSC.*"

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2	Low Carbon	This Alternative Request would require NESO to implement changes to existing agreements via Agreements to Vary.	Formally withdrawn 02.09.24
3	Q-Energy Sustainable Investments Ltd	Remove Element 14 from the proposed solution to ensure focus on the project and land requirements at application stage and ensure applicants are subject to requirements at Gate 2.	Formally withdrawn 18.09.24
4	Orron Energy	The proposal intended a fairer and more balanced approach that will ensure a reduction of TEC Queue, whilst also enabling a sensible transition period to enable roll-out of viable renewable energy projects in order to reach the UK Net Zero targets.	Not proceeding as a submission – intelligible as Proposal not clearly defined for CMP435 only.
5	Epsilon	The Alternative suggests applying a 12 month grace period to move red line boundaries after gate 2 acceptance to achieve that, while still maintaining the commitments to ongoing project progression milestones.	Alternative received 25.09.24. Critical Friend check completed. Updated version pending from Proposer to share with WG for discussion/vote Proposer contacted prior to Workgroups concluding. Presumptive withdrawal.
6	Electricity North West Limited	To introduce a (significant) Financial Instrument to the Gate 2 Criteria, potentially in the form of a £/MW non-refundable deposit.	Formally withdrawn 18.09.24
7	SSEG	(In association with a twin CMP434 Alternative Request) Retention of pre-reform contracts/agreements for existing	Alternative Request received 11.09.24, presented and took WG questions in WG19.



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		<p>projects, with exemptions for i) projects with a connection/accepted offer prior to 02 Sept 2024 and a secured Government Support Contract, or ii) offshore wind projects with a connection/accepted offer prior to 02 Sept 2024 that are necessary to deliver Government plans. Acknowledgement of an Application Window and replacement of Gate 2 criteria with <u>CMP376</u> Queue Management (QM) milestones and financial commitment.</p>	<p>Update circulated to WG on email 25.09.24, voted to not proceed as a WACM.</p>
8	Muir Mhor Offshore Wind Farm Ltd	<p>In addition to land requirements, projects entering Gate 2 should receive a grid offer date based on completion of local works only, and from go-live have either submitted planning or post additional security up to planning submission.</p> <p>Full TEC would be awarded at the FID milestone – with CFD budgets and awards tailored to available Connect and Manage capacity and government priorities on technology mix</p>	<p>Alternative Request received 17.09.24. Presented in WG19, updated version shared with WG for discussion and voting in WG21. Formally withdrawn 03.10.24</p>
9	ENSO Energy	<p>Results of the Gate 2 compliance check should be published immediately – including any revised Transmission Entry Capacity (TEC) or technology change requests</p> <p>A 2- to 4 week pause should be implemented for Gate 2 qualified applicants to assess the viability of their projects in light of updated competitor information, to understand</p>	<p>Alternative Request received 17.09.24. Presented in WG19, discussed and voted upon in WG20 - voted to become WACM1.</p>



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		<p>the Clean Power Plan for 2030 (CPP30)CP2030 regional technology quota proposals that we understand will emerge, and any NESO project designation activity that has been undertaken.</p> <p>Parties could then choose to submit an application for capacity advancement, keep their project as is or withdraw (with no penalty)</p> <p>The TO/NESO network investment would then proceed as under the original proposal, but in our view with a much more credible portfolio of generation projects which will reduce the risk of stranded assets and consumer costs.</p>	
10	Statkraft	Inclusion of planning submission or permission as a valid entry point to Gate 2 alongside Land Option so that a greater pool of projects can be considered for delivery under CP2030 technology influence.	Initial Alternative Request received 24 Sept. Updated version circulated ahead of WG20. Discussed and voted to not proceed as a WACM.
11	NGED	To change the proposal in Element 12 for the time that DNOs and transmission connected IDNOs have to submit the evidence to demonstrate that projects connecting to their networks have met the Gate 2 criteria (and also the full technical data submission required for a project progression) from 10 working days to 20 working days	Proposal received 26.09.24. Critical friend check with the Proposer and an updated version received 01 Oct. Formal withdrawal received 25.10.2024



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12	Q-Energy Sustainable Investments Ltd	Requiring NESO to check 100% of Gate 2 Evidence submitted by Users. The Original does not require 100% checks, and the level of checks is proposed to be defined in the Gate 2 Criteria Methodology	Changes to the Original solution were made prior to the Alternative Request being presented to the Workgroup. Formally withdrawn 04.11.2024
13	Electricity North West Limited	Clarifying the definition of embedded schemes that will follow the “Gate 2 to Whole Queue” process which appear in Elements 3 and 5. Schemes to be defined by capacity, replacing “Relevant Small and Medium Embedded” with “Category 1 Embedded” and replace “Large” with “Category 2 Embedded”.	The Alternative Request was raised to mirror a WACM in CMP434 . It was agreed in CMP434 Workgroup discussions that changes to Section 18 in the CMP435 legal text would negate the need for an Alternative solution for CMP435. Formally withdrawn 04.11.2024



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WACM Discussions

WACM 1 was discussed, which seeks to add a "Pause" for Gate 2 qualified applicants to assess the viability of their projects in light of updated competitor information. The Proposer of the WACM explained that introduction of a pause for market self-regulation would allow NESO/TO's to make investment decisions based on a more credible generation background, allowing market fundamentals to determine the most efficient and economic projects to progress.

Workgroup members were generally supportive of this WACM, although several Workgroup members did note the reliance on applicants to behave rationally, which is not always the case. The Proposer of the WACM acknowledged the concerns but felt that those applicants are in the minority and therefore would not be detrimental to the function of the WACM.

The WACM 1 legal text, which was shared and discussed at Workgroup 24, adds to Section 18 (18.18). Initial considerations where it was determined that a structured time period would need to be established in the legal text to be able to reflect the proposal that after the publication of the agreed information, applicants would have 10 business days for withdrawal or advancement.

In Workgroup 26, an updated version of WACM 1 legal text was presented which featured two new definitions: EA Information and EA Register. There was a question raised on why the EA Register was being used over the TEC Register and it was stated that the EA Register would be better to be able to capture the relevant information at a specific point in time and that the TEC register would only be updated to determine if a project is Gate 1 or Gate 2. Workgroup agreed therefore that the EA Register was most appropriate for the intent of WACM 1.

There was further discussion on how the timeline and the proposed "Pause" worked across CMP434 and CMP435. Clarity was sought, confirming that there are two gated processes that will happen which would occur sequentially rather than in parallel and that the legal text reflected this.

Discussions were had around accounting for DNOs obtaining consent from Third Parties to comply with their obligations before sharing the additional data that would be required under this WACM. However, it was not felt appropriate for this to be included within the WACM legal text.

Legal text

The legal text for this change which was consulted on for the Code Administrator Consultation can be found in **Annex 7**.

Legal Text Discussions

Initially, expectations of where in the CUSC the proposed CMP435 legal text changes were intended to be, fell to Section 10 or a new section to outline how an existing connection contracted project⁴⁷ enters into the new process (i.e., to outline a parallel process to CMP434, but with exceptions). Post-Workgroup Consultation, the Proposer explored whether the necessary changes would feature in Section 10 alone or at the end of a relevant section (such as Section 17) or in a newly created section.

It was acknowledged that the legal text had the potential to change the status of an existing agreement, held by a project, for CMP435 (and consequently this warranted Workgroup scrutiny as to the consequences for industry of such a retrospective change to the contract, for existing projects),

⁴⁷ That is those that fall within the scope of CMP435, as set out under Element 3 of the Proposer's Solution.

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and therefore the legal text needed to outline the process for updating the existing contracts to either a Gate 1 agreement or a Gate 2 agreement.

The legal enforceability of the proposed three new Methodologies on parties who are not subject to the Licence changes for Connection Reform was discussed. It was highlighted that there is nothing in the legal text binding certain groups, i.e., Interconnector/Generator/Demand/Embedded iDNO etc. to comply with these three Methodologies, whereas NESO does need to comply, with it being in their Licence. Clarity was provided that despite this, parties are contractually obligated to comply do so, as the legal text places an obligation to comply with the proposed three new Methodologies on those not subject to the Licence changes.

Discussions on the legal text for specific Elements feature under relevant Elements of the Workgroup Considerations section of this document.

Consideration of topics which are not directly part of/are no longer part of the Proposal:

Advancement process (i.e., specifics of the process, not application for advancement which features in Workgroup Considerations as part of the solution)

Workgroup members raised the question as to whether queue advancement for projects required a separate process, with caution raised by a Workgroup member as external stakeholders are expecting appreciable advancement of existing projects as part of the introduction of the proposed Connection Reform modifications such as this CMP435 proposal (re: House of Commons Environmental Committee Report).

A Workgroup member advised care with the terminology used in terms of the projects' continuation on existing contracted terms vs the advancement in the project's queue position. A Workgroup member suggested that consideration was made for Gate 1 and Gate 2 to be implemented prior to offering advancement for existing contracted projects.

A Workgroup member from Distribution engaged with the Proposer to discuss the process if customers (connecting at Distribution) drop out of a multi-customer application in terms of the effect on cancellation/advancement. Summary of the key points discussed:

- EG projects not progressing can result in additional costs being shared across remaining EG projects.
- This is a current issue and not new to TM04+.
- How costs are allocated across EG's is decided by DNO and transmission connected iDNO⁴⁸
- Process for how charges, liabilities and securities are calculated and charged between NESO and transmission connected iDNO are not being reviewed as part of TM04+. Current processes will apply.

⁴⁸ Details can be found by contacting the relevant DNO or transmission connected IDNO.

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- TM04+ is proposing disapplying liabilities and securities on DNO and transmission connected iDNO associated with embedded generators where those embedded generators do not meet the Gate 2 Criteria.
- Scale of impact on DNOs, and transmission connected iDNO and EG hard to quantify as it relates to how many EG projects do not meet Gate 2 (which may include CP30 now)
- T/D boundary charging is a wider issue than TM04+ and out of scope.
- There is an existing group within the ENA which is currently working on Transmission/Distribution boundary charging.
- Further to discussion with NGED on 18 October they have asked it to be noted that CP30 places a greater importance on the impact of current Transmission Distribution charging processes.

In Workgroup 10, a Workgroup member asked about the process with a DNO and batch project progression (if some existing projects want to proceed and other existing projects do not). The Proposer expressed a view that the DNO would be the party seeking advancement (from NESO) and so embedded projects would need to discuss progression with the relevant DNO or Transmission connected iDNO.

Applications for advancement for projects with BEGAs were also referenced, with the Proposer agreeing to work up an example, **Annex 11**, but expected advancement would need to be sought via the project's agreement with the NESO's and linked to what the DNO or Transmission connected iDNO could offer.

A Workgroup member asked how the re-arrangement of the transmission connection queue would be managed if projects that were offered advancement (by the NESO) do not accept the Offer to advance. The Proposer responded that this would be part of the CNDM work (and therefore out of scope for CMP435). The consequences for the Offer were discussed in Workgroup 21 and 22 (See Element 19 Workgroup Considerations in this document).

A Workgroup member suggested a 'detrimental impact' test at Gate 1 to prevent unnecessarily large capacity being set at Gate 1 then being dropped for Gate 2 (A Workgroup member suggested this be part of the proposed CNDM work).

Separate to the CMP435 (and [CMP434](#)) work, NESO undertook a number of engagement sessions with stakeholders to discuss the proposed new CNDM and the other two proposed new Methodologies. These sessions were held on 16 September 2024, 7 October and 16 October, and links to the material can be found at [\[Customer Connection events | National Energy System Operator\]](#). In Workgroup 23 the Proposer agreed to update the Proposal section to be clear that the CMP435 solution would allow the mechanism to update an existing connection agreement as a result of the CNDM. The Workgroup discussed their concerns that this introduces uncertainty in terms of the effect of this on Existing Agreements (including embedded generation, including batched projects) because the detail of the Methodology is, at the time of publication of this report, not clearly available to the Workgroup to discuss in the context of CMP435.

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Unintended Consequences of Applying Gate 2 to the Whole Queue (the one-off initial process vs the enduring process)

Workgroup members warned that, if too stringent, these proposed changes could restrict strategic or novel projects from being able to connect and suggested input from the Authority and/or DESNZ would be helpful. The Authority Representative confirmed that DESNZ does not want the modification to include provisions that would allow DESNZ or the Secretary of State to be able to designate projects in respect of those projects' connection arrangements/status.

Considerations were raised in the Workgroup about the resources required to get projects through from Gate 1 to Gate 2, with impacts on modelling and planning.

A Workgroup member noted that to qualify for a CfD bidding round, projects need a signed grid connection offer for the relevant delivery years. An existing contracted project applying to NESO for project advancement in 2025 won't receive a signed advancement offer from NESO until end of 2025/beginning of 2026, so qualification with an advanced date will not be possible until the CfD rounds held in 2026 onwards, i.e., projects seeking an advanced date won't be able to qualify for the planned CfD Allocation Round 7, which is due to be held in 2025.

Application Fees

Workgroup members advised on the potential legal implications (and thus of possible legal challenge) of amending existing obligations or placing new obligations on developers with existing contracts due to those parties having already paid an application fee. It was also raised for consideration that any changes to the treatment of application fees would warrant changes to Section 14 of the CUSC.

Throughout the Workgroup discussions, clarity was sought for when, with [CMP434](#) and CMP435 (if applicable), application fees and/or other fees would be required to be paid by developers, considering different scenarios (e.g., if they missed Gate 2/don't have evidence for it, if they meet Gate 2 but want to re-work an Offer, such as changes in connection dates) and where any associated costs and liability sits due to the reason for the charge (i.e. which party causes the need for a fee) in order to ensure cost-reflectivity.

Workgroup members supported the process being mindful of avoiding discrimination against certain users (especially in the event of batch assessment), and a consideration of whether applications will surge after implementation to avoid costs from applying in the transitional period.

As application fees are a sunk cost (i.e., the cost related to the reasonable costs of NESO and TOs in processing an application), the Proposer confirmed that applying Gate 2 to the Whole Queue will not result in any refund/rebate of those application fees already paid historically by existing contracted projects. However, reconciliations, where not undertaken by the Cutover date for CMP435⁴⁹, would still be undertaken.

- Application Fee scenarios, in relation (which set out the intention of the Proposer but do not form part of the CMP435 proposal) to the Cutover:
 - **Existing contracted projects which do not meet Gate 2 at Cutover** (that is they fail to provide a valid Declaration Letter to NESO by Q2 2025) and therefore need to apply

⁴⁹ Which, at the time this report is published, is anticipated to be Q2 2025, based on an anticipated Authority decision in Q1 2025.

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via a future Gate 2 window/batch will need to pay the prevailing application fee for that Gate 2 process at that time.

- **For those existing contracted projects which submit a valid Declaration Letter to NESO by Q2 2025 (at the time this report is published) to demonstrate they have met Gate 2 and wish to remain with their existing contracted connection date and connection point⁵⁰** there will be no application fee.
- **For those existing contracted projects which do not submit a valid Declaration Letter to NESO by Q2 2025 (at the time of this consultation) to demonstrate they have met Gate 2** there will be no application fee (however, their existing contracted arrangements, in terms of connection date and connection point, will no longer be confirmed but these will, instead, be indicative and contained in a Gate 1 agreement).
- **For those existing contracted projects which submit a valid Declaration Letter to NESO by Q2 2025 (at the time of this consultation) to demonstrate they have met Gate 2 and wish to advance their connection date** there is proposed to be an application fee. In Workgroup 10 the Proposer indicated their view was that a fee would be appropriate as further work would be needed, by the TO, to restudy the advancement (i.e., a requested rather than a natural advancement). If in the event that the developer does not sign the Offer, they will still need to pay for the costs incurred in developing such an Offer as per current process. Workgroup members asked how advancement in this case would differ from;
 - (i) the current process where projects drop out ahead – with projects being potentially offered an earlier connection date without being required to pay an additional application fee; and
 - (ii) The Expressions of Interest that NESO requested from customers as part of the 5-Point Plan (the process has been known variously as the “transmission works review” and the “review of construction planning assumptions”). The Workgroup members’ understanding was that, in this case, projects could be offered an earlier connection date without having to pay an additional application fee. Workgroup members suggested a common approach, to application fees, across all areas of Connection Reform would be helpful, which NESO took away to consider (and which did not form part of this CMP435 proposal).

⁵⁰ Additional Gate 2 Criteria are required to be applied by the NESO, in order to align with the Clean Power 2030 plan, which will be defined in the proposed three new Methodologies. The application of this criteria could mean existing projects, that meet Gate 2; and subject to the content of the Methodologies (which have not been seen by the Workgroup at the time of publication, and which have not been finalised) and the approach taken within those Methodologies; could nevertheless have their existing contracted transmission connection point, transmission connection date and transmission queue position detrimentally changed. This would be in their Gate 2 Offer, and even be if the project has requested advancement of the connection date, due to the relative queue position changing; in the event other projects are brought forward (when NESO aligns connections with CP30) ahead of the project and thus the project moves down the transmission queue).

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Members also asked whether it was appropriate to charge an application fee for seeking project advancement given that, due to the proposed capacity reallocation mechanism in the CNDM, developers may not know how likely their project is to receive project advancement.

When reviewing the Proposer’s intended process overview in Workgroups 4 and 5, clarity was sought on how the application fees would affect the ordering of the transmission connection queue and whether spaces released from a project either being removed or dropping-out would be offered to another project that hadn’t paid an application fee (that project just being next in the connection queue). The Proposer stated that any projects not seeking advancement (and therefore not paying an additional application fee) would not be offered an earlier connection date. In addition, the Proposer stated that, under the proposed CNDM, TEC or Developer Capacity would no longer automatically be allocated to the next project in the transmission connection queue.

A Workgroup member questioned the situation with inter-trips and publicising when projects fall out ahead in the transmission connection queue. The Proposer agreed to consider this as part of the exercise with the TOs on the proposed new CNDM.

The Proposer took note of questions on its rationale for a 3 month wait for NESO paying refunds (to developers) relating to the Workgroup that, in the view of the Proposer, refunds would not be appropriate if fees would be lapsing in due course (this was subsequently updated in Workgroup 10 to note that a ‘reasonable timeframe’ for refunds would be defined).

A Workgroup member raised concerns that if application fees (that were paid by developers for an existing project) weren’t returned, but an existing contracted project was then put back contractually to a different status/level (as a result of CMP435) and required to pay another application fee (to end up back at the same place, in terms of status/level, with a confirmed connection date and connection location), the project would be paying twice as well as possibly being double securitised.

There was a discussion in relation to the Gate 1 application fee and the rationale behind the proposed new Methodology.

In Post-Workgroup Consultation discussions, the situations where application fees would be required were clarified by the Proposer, including for ‘ModApps’, on the basis that if work was required to be undertaken, by the TOs and / or NESO, for studies etc., on the application, then a fee would be required. A Workgroup member questioned why these fees were applicable to ‘ModApps’ under this proposal when they were not applicable to ‘ModApps’ submitted under the 5 Point Plan. NESO confirmed that the 5 Point Plan was an exemption to the standard process as a one-off initiative, and therefore ‘ModApps’ submitted through the CMP435 process would incur an application fee.

Capital Contributions

Workgroup members noted that the CMP435 proposed change would see existing contracted projects having their contractual status changed, with those who meet the Gate 1 status going from having a ‘confirmed’ connection date, connection location and connection queue position to having an ‘indicative’ connection date, connection date and no connection queue position. Given this, Workgroup members were concerned to understand what (for those projects whose contractual status changed) would be the position in terms of the Capital Contributions that those affected parties (i) had

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made to date⁵¹ and (ii) were expected to make going forward according to their existing contract(s) with NESO.

The Proposer outlined the need to discuss capital contributions with TOs for potential cashflow implications, in particular for existing contracted projects that had not met Gate 2 by the required date (which, at the time this report is published, is anticipated to be Q2 2025), and consumer impacts as a result of any rebates. The Proposer confirmed that following those discussions with the TOs, that any existing projects which were given a Gate 1 Offer would not have any relevant Capital Contributions, that had been paid to date, rebated. In addition, those projects would not be expected to make any Capital Contributions going forward according to their existing contract with NESO (from the point it becomes a Gate 1 agreement). The Proposer noted that the impact/implications of this would be kept under review once it becomes clearer which projects are becoming Gate 1 projects and the extent to which those agreements include capital contributions which have been paid under existing agreements.

A call between the Proposer and TOs was suggested by a Workgroup member to discuss 2024 data available for assessment of an approach to take in the ‘transitional’ period. Other Workgroup members supported the need for these discussions to be shared with the Workgroup at an appropriate point and it was suggested that DNO and Transmission connected iDNO parties could identify where risks lay for them. As Capital Contributions prior to a projects’ connection are optional the Workgroup discussed that there could be the possibility of rebate for pre-connections projects (i.e. to align with the proposed approach for User Commitment liability and security relief for projects which have not met Gate 2 by the required date – namely that these liabilities and securities would not be applied to Gate 1 projects, once their Offer had been accepted).

Following initial discussions with the TOs, the Proposer gave an update that they were assessing the size of the challenge to know how to tackle it to avoid double-charging of Capital Contributions. Until all information is gathered on parties who have not met the Gate 2 criteria, the Proposer and TOs are currently unable to assess the scale of this potential issue, so a modification in 2025 may be suitable to address it.

Concerns were shared by the Workgroup regarding those developers that have already paid a Capital Contribution for their project(s) and the uncertainty around the Capital Contribution rebate.

A Workgroup member asked how Capital Contributions applies to DNOs and Transmission connected iDNOs (see the Element 18 section of ‘Workgroup considerations’).

Other Development Costs

In respect of development costs incurred by developers for existing contracted projects prior to the Cutover date, the Proposer outlined to the Workgroup that they are not proposing any refund payment / compensation in the event those projects have not met Gate 2 (and thus revert to Gate 1 when the Gate 1 Offer is accepted).

⁵¹ This being the date the project’s status changed, which at the time of this consultation is anticipated to be Q2 2025.

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Transitional Arrangements (note separate to Cut Over arrangements – Element 20)

In Workgroup 6, it was explained that the Transitional Arrangements (covering the treatment of any new connection applications received by NESO prior to an Authority decision on CMP435 – which, at the time this report is published, is anticipated to be Q1 2025) is out of scope for CMP435 but the Cutover and the implementation period (Q1 2025 to Q2 2025, at the time this report is published) is in scope for this CMP435 modification.

Scenarios for the treatment of new projects, during this transition period, which are at various different points in their journey, which were posed by Workgroup members in the query log, and were addressed in the meeting slides.

The Proposer confirmed that while conversations with TOs were ongoing, there were not expected to be any Transmission Owner Construction Offer (TOCO)s received, by NESO, from the TOs, in the transitional period.

The Workgroup asked whether liabilities and securities would be required to be in-place for new applicants during this period, to which the Proposer noted that such costs were intended (for those new projects that apply during the transition period) to be as close to the Gate 1 Offer (being introduced by CMP434 / CMP435) as possible. Accordingly, application fees, for these newly applying projects, will remain the same as they currently are but developers that choose a variable fee will only be charged for the amount of work undertaken to produce the Offer.

Questions were raised by an Interconnector Workgroup member about how Interconnectors and OHAs applications that are submitted during the transition period are addressed in terms of the Offer they would receive (a query agreed to be logged, and discussions held with the Proposer).

It was noted that there would be a timing risk introduced if the Declaration Letter process for evidencing applications (of projects having met the requirements of Gate 2) was significantly changed away from the proposed process. An ENA representative answered a Workgroup member question to note that there shouldn't be differentiation in evidencing by DNOs or Transmission connected iDNOs and NESO, and they will work together on this.

A Workgroup member raised the possibility of a moratorium period (where, for a period of time, no new applications would be permitted) as compared to a derogation to transition into an unapproved process. The Proposer noted that a moratorium option would not be something that they would be proposing due to its impact on the markets. The Proposer discussed the fallback plan if the proposed four modifications⁵² are not approved, explaining that if that were to occur then NESO would revert any transitional Offers (that had been issued up to that date) back into standard Offers to ensure the Offers are consistent with those that customers would receive currently.

A Workgroup member asked what a Gate 1 Offer will look like for those receiving them in this transition period stage, to which the Proposer explained that it would look like a full Offer but with most of the appendices amended; i.e. many aspects within the appendices would be blank (with those

⁵² CMP434/CM095 and CMP435.

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appendices only being fully populated if a Gate 2 Offer was issued, once a project had met the Gate 2 criteria) .

It was clarified by the Proposer in Workgroup 10 that, in light of further considerations, the transition period was still proposed to apply from 21 August 2024 but only for new applications for directly connected customers, and it would not apply to (i) project progressions, or (ii) BEGAs/BELLAs or (iii) ModApps. The Proposer outlined the key elements to be included/not included in these transitional period Offers (CMP435 Workgroup 10 Meeting Papers meeting slides, page 12). The transitional period was originally proposed to include projects that clock started from 31 July 2024 for ModApps or 01 August 2024 for New Apps up to the introduction of TM04+. However, at the time this report was published, NESO and the TOs had not sent a formal letter to the Authority covering the proposed Transitional Arrangements for Mod Apps.

The Workgroup were informed that the Authority was written to, by NESO, seeking a Derogation/Letter of Comfort regarding the use, by NESO, of transitional Offers for new applications (and also regarding a Cutover period which will form part of the second version of the letter, sent by NESO, seeking a Derogation that would be sent to the Authority at a later date to also include ModApps, project progressions, BEGAs and BELLAs). Clarification was sought by Workgroup members as to which body the letter, from NESO, have/will be sent to (i.e., Ofgem or the Gas & Electricity Markets Authority) so the Workgroup could understand that any requests made, and responses received, will be legally robust. The Proposer confirmed that the letter was sent to the Authority. A Workgroup member suggested a Derogation may be appropriate on the basis of a proposed lower upfront cost (the Proposer confirmed a standard application fee will be charged for a transitional offer but then reconciled down).

Questions were raised by Workgroup members about the impact of the transitional period dates on the industry's ability to raise alternatives to this CMP435 Modification and whether the Authority would be invited to agree to a Derogation in relation to fees to be applied to applications received by NESO during the transition period.

A Workgroup member asked if these Transitional Arrangement suggestions had been discussed in any other industry forums with confirmation, from the Proposer, that these details had been shared at NESO's Customer Connection Forums in June 2024 and are to be shared again in July 2024. The Proposer confirmed they have also been discussed with the DNO's through the ENA and at both the Connections Process Advisory Group (CPAG) and the Connections Delivery Board (CDB).

A Workgroup member said they were considering an Alternative Request to CMP435 that would be based on the longstop date on QM milestone M3 but was concerned that this might be prejudiced by the proposed Transitional Arrangements. The member would discuss their concerns with NESO.

It was noted that the Proposer did not intend that the new Connection Point and Capacity Reservation would be part of the Transitional Arrangements.

Workgroup members expressed concerns in relation to ModApps and project progressions not being included, within the Transitional Arrangements, as this appeared to be keeping/pushing back dates via a transitional Offer and the process of installing a transitional period (i.e., with Derogations being needed from the right parties versus Letters of Comfort). The Proposer explained that there is a need to reduce the amount of time ModApps and Project Progressions are put into the intended transitional

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process due to them being live agreements and the knock on impacts it has to other processes, i.e., BEGAs and BELLAs.

Specific points were raised by the Workgroup about:

- The effect of this Transitional Arrangement for DNOs and transmission connected iDNOs applying for changes, now countering the intent of reform.
- Whether this will encourage transitional Offers to be requested to ‘bank’ a queue position – the Proposer said it would be no more an option than it is now.
- How ‘ModApps’ will be treated if a project does not apply before 02 September 2024 – the Proposer responded that dates for ModApps and Project Progressions would be slightly behind the 02 September 2024 date and updates were due shortly⁵³.
- Whether the ‘ModApps’ arising during the transition period could cause delays in the connection queue if ‘ModApps’ were continued to be treated as they currently are.

Support for the intended Transitional Arrangements was raised by a Workgroup member to capture projects with an assigned position for when Connection Reform starts.

A rationale as to the benefit of this intended transitional approach for August, September, October 2024 was requested, and it felt that more information/exploration/discussion was needed on this topic. However, at the time this report was published, that rationale was not available to the Workgroup.

In Workgroup 18, the Proposer again clarified the distinction between the transitional period and the Cutover period (Element 20). The Phase 1 transitional period (starting 02 September 2024) was approved by the Authority on 21 August 2024 via a direction and applies only to new, directly connected, transmission Offers. The Phase 2 transitional period is due to be addressed via a separate letter to be sent to the Authority in October 2024 with the (provisional) rollout in November 2024, subject to Authority approval. However, at the time this report was published, the letter had not been sent by NESO and therefore no Authority decision, in respect of the Phase 2 Transitional Arrangements, had been issued. A Workgroup member asked how legally robust the Authority direction, for Phase 2, would be should there be challenges to it, and NESO believed it to be sound due to advice received from NESO’s legal team, TOs and DNOs.

Queue Management – Appendix Q

The Proposer outlined to the Workgroup that once Gate 2 is met, a populated Appendix Q will be included, by NESO, into the existing agreement issued to a developer for their project with any necessary updated forward-facing Queue Management milestones. For any agreement that has Queue Management milestones included, but where the project does not meet Gate 2 by the required date (which, at the time this report was published, is anticipated to be Q2 2025), then the Queue Management milestone clauses will remain in the project agreement. However, these Queue Management milestones will no longer be relevant with them having been disapplied. Forward-looking Milestones were explored by the Proposer who included a forward-looking M1 milestone into the proposed solution (see Element 11.2 and Element 11.4 of the Proposer’s solution). If the CMP435

⁵³ Note: at the time of publication of this report, the updates were not available to the Workgroup.

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Original is approved, NESO will update the CUSC and Queue Management Guidance to reflect this in the future.

As part of the legal text discussions in later Workgroups, NESO's legal representative outlined to the Workgroup that in clause 18.12.3 it would be clear that Queue Management does not apply once a Gate 1 AtV is entered into (although this is also self-evident from the conditional clause changes). It was highlighted to the Workgroup that Appendix Q (and Section 16) would need to be adjusted in respect of a Gate 2 Offer to reflect a changed milestone profile if an agreement is advanced.

Gate 1 Financial Instrument

The Proposer stated in their initial proposal that they would keep the use of financial instruments at Gate 1 under consideration. In the phase of work ahead of the Workgroup Consultation (held in July 2024), the Proposer presented the concept of a Gate 1 Capacity Holding Payment; a £/MW payment to (i) incentivise timely progression between Gate 1 and Gate 2, (ii) discourage multiple speculative applications and (iii) encourage only viable projects to enter and remain in the transmission connections process.

The Proposer further developed the Capacity Holding Security as a potential solution (in terms of a financial instrument) and explained to the Workgroup that this would secure against any Anticipatory Investment, that was undertaken by the TOs, based on the pool of Gate 1 projects.

Several Workgroup members raised concerns with the Capacity Holding Security, with some noting, for example, that the flat rate cost would be disproportionate to different projects and could be prohibitive for some projects whilst other Workgroup members noted that, according to the Transmission Licence, such an instrument would need to be cost reflective (and it was not clear that this would be the case here). Several Workgroup members noted that they thought this should be included in a separate modification to CMP435 to allow time to develop the detail of the change and to assess the impacts.

In light of this feedback, the Proposer decided to remove the Capacity Holding Security from their proposed solution and instead considered proposing a 'longstop' date in relation to Gate 1. The Proposer also noted that they would keep financial instruments under review and could potentially raise a separate code modification at some point in future after further consideration.

Gate 2 Financial Instrument

In the initial proposal, the Proposer stated they would keep under consideration the use of financial instruments at Gate 2 to (if required) further strengthen the Gate 2 criteria (e.g., in addition to User Commitment, introducing some form of capacity holding securities from Gate 2 through to connection) to encourage only viable projects to remain in the connections process.

After further consideration, and ahead of the Workgroup Consultation (held in July 2024), this was not developed as an option (which would be in addition to the proposed Gate 2 criteria). The Proposer believed, at that time, that the Queue Management milestone(s), forward calculated from the Gate 2 Offer acceptance date, would encourage timely progression of projects. This context was shared with the Workgroup, and the Workgroup agreed there should not be an additional financial instrument introduced (via the CMP435 Modification) at this stage of the process. The Proposer also noted that

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they would keep financial instruments under review and could potentially raise a separate code modification at some point in future, after further consideration.

In light of the deliberations at the Connections Delivery Board in July 2024, the Ofgem blog of August 2024, and Ofgem’s September 2024 Open Letter, NESO informed the Workgroup in meeting 15 that it was considering raising a subsequent modification relating to Financial Instruments. NESO subsequently outlined to the Transmission Charging Methodologies Forum (TCMF) on 11 October 2024 its thinking regarding a possible financial instrument’s modification. However, at the time this report was published, no Connections Financial Instruments modification has formally been raised.

Although it would be in a separate modification, a Workgroup member noted that a possible financial instrument would need to fit into Section 18 (i.e., to say when it would be due and the implications, for a project, if not paid). NESO’s representatives (including legal) expected legal text for that modification would work into a number of locations in Section 18, if necessary, as part of that modification (which, for the avoidance of doubt, would be separate from this CMP435 proposal).

Gate 1 and Gate 2 fast dispute process

The Proposer advised that there will be a process for addressing situations where project developers disagree with NESO’s application (to the developer’s project) of the new Gate 1 and/or Gate 2 process. The Proposer developed several worked examples, of the approach it would use to address these disagreements and a proposed timeline for this, noting that disagreements concerning clerical errors would be dealt with using competency checks.

Several Workgroup members requested another deadline for changes to applications, to allow clerical errors to be resolved. One Workgroup member queried why an applicant would use this disagreement process rather than the current disputes process (as set out in Section 7⁵⁴ of the CUSC). The Proposer clarified that this disagreement resolution process would not be codified and was being introduced as a NESO process to fast-track disagreements but noted that applicants could still use the existing disputes process in the CUSC. Another Workgroup member asked if the disagreement resolution process could involve a shorter window, so all applicants get the same time to resolve any disagreements. After discussion with the Workgroup, the Proposer decided to remove the fast-track process from the proposal and instead rely on the existing, codified, dispute process. However, an optional and informal fast-track disagreement resolution process will continue to be developed to optionally supplement the additional codified process. The Proposer acknowledged a Workgroup Member’s suggestion to rename the process (to ‘disagreement resolution’ rather than ‘dispute’) to distinguish it from the formal, existing, CUSC dispute process.

Timeline updates

Concerns were raised in several Workgroup meetings and the Workgroup Consultation as to the planned timeline for the programme of works for the TMO4+ modifications, heightened by the interdependencies between the various elements of the Connection Reform package, such as the four code modifications, and the three proposed new Methodologies. Workgroup members referenced

⁵⁴ [CUSC - SECTION 7 \(nationalgrideso.com\)](https://www.nationalgrideso.com)

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the strain on all parties involved in attending so many Workgroup meetings over the period of the four modifications⁵⁵. By way of example, at the time of publication of this report, the total number of Workgroup meetings held (between May 2024 and November 2024) is 63. Workgroup members were invited to share concerns regarding the timescales of the modification process with Code Governance to escalate within NESO.

In Workgroup 14, NESO’s Head of Connections Change Delivery updated the Workgroup with news of an extended timeline being planned, which would see the Authority decisions on the code modifications and the three proposed new Methodologies (alongside any associated Licence changes) in Q1 2025, and implementation / Cutover of CMP435⁵⁶ in Q2 2025. The Workgroup was given notice of the open letter from Ofgem in September 2024, which confirmed that the Authority would review and decide upon the package of Connection Reform measures (CMP434, CMP435, CM095, CM096 (subsequently withdrawn), the Licence changes and the proposed three new Methodologies) collectively in Q1 2025.

When discussing the legal text for this proposal, a Workgroup member sought clarification on the timelines post-Authority decision, considering the package of decisions CMP435 will be part of. It was explained that a plan for sequencing of the decisions, along with the implementation and application windows opening (and then, subsequently, closing) was needed as soon as the timings for the Authority decisions were clearer, with the proposal to reference start/end dates, based on Business Days (rather than set calendar dates⁵⁷) after an Authority decision. A Workgroup member stressed the importance of clarity on sequencing in the legal text. While it couldn’t be confirmed that set calendar dates would be set out in the code, or the three proposed new Methodologies, or the Licence, NESO acknowledged industry’s need for information as soon as possible to understand when the change would be applicable from to allow industry participants to prepare for action.

First ready, first connected policy position change (Summer 2024)

In light of the UK Government’s ‘Clean Power (Plan) 2030’ (also known as ‘CP30’) initiative announced in the summer of 2024, the general approach to electricity connections in GB is moving from a position of ‘first ready, first connected’⁵⁸ to ‘first ready and needed, first connected’. The Workgroup expressed concerns from Workgroup 15 onwards about the increased risk to project investment if projects will be subject to this additional ‘needed’ classification. Workgroup members asked for assurances about existing connection points remaining unchanged for their contracted background due to this policy change. However, NESO was not in a position to offer such assurances at that time (late August, early September 2024). A Workgroup member also asked NESO to outline how they would provide the UK Government with options for their capacity mix plan (for the

⁵⁵ CMP434/CM095 and CMP435/CM096 – prior to the withdrawal of CM096.

⁵⁶ Plus, the three other related Modifications - CM095, CMP434 and CM096 (CM096 was subsequently withdrawn).

⁵⁷ By way of example, changes to Section 14 of the CUSC (which relates to charges) are generally implemented on ‘01 April 202x’ as charging years start on 01 April.

⁵⁸ Which was the stated position when CMP435 was first raised in April 2024.

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determination of what will be deemed ‘needed’) as per the [Secretary of State for Energy and Net Zero’s letter](#) published 29 August 2024. NESO held a number of events with stakeholders (including CMP435 Workgroup members) to brief them on CP30 and its interactions with Connection Reform. These were held on 7 October and 16 October and the associated material can be found at [Customer Connection events | National Energy System Operator](#).

It was expected that as a result of the UK Government policy change, in terms of CP30, that the proposed new CNDM would, practically, determine the connection Offers to be made by NESO, rather than the CMP435 legal text developed by the Workgroup (with NESO acknowledging the Workgroup/industry needing to understand this CP30 revised process). A Workgroup member asked whether following this CP30 revised process (when NESO was making future connection Offers) would be consistent with NESO’s legal obligations under current law and / or be allowable under the CUSC. NESO representatives stated that the question of legality (of NESO following this CP30 revised process when it was making future connection Offers) was one for DESNZ and not NESO.

In later Workgroups discussing the process for existing agreements (EA) requests, a Workgroup member asked how the EA request process aligned with the three proposed new Methodologies and the intended CP30 assessment (as outlined, by NESO, on 7 October and 16 October) to understand if paying a project advancement request fee was worthwhile (if it didn’t later pass the CP30 assessment). The Proposer confirmed their understanding that the likelihood was that the CP30 assessment would be an additional assessment to the Gate 2 criteria and that the process would depend on the CP30 approach taken. If the ‘filtered’ approach to CP30 was taken, then a project would know if it was classified as a Gate 1 project, according to CP30, before going into the gated design process as the project would receive a Gate 1 Offer. If the ‘prioritised’ approach to CP30, was taken, it would need more consideration, and NESO’s CP30 team were being engaged on this. At the time this report was published, no feedback, from the CP30 team, had been received by the Workgroup.

It was noted that Workgroup members required clarity on how CP30 interacted with the CMP435 process in order to understand the proposed codified obligations (from CMP435) and how other influences (e.g., CP30) will impact those obligations.

In response to a question from a Workgroup member, the Proposer referenced that there were ongoing discussions on how the Distribution networks (namely DNOs and transmission connected iDNOs) would be affected by the intended CP30 processes.

In Workgroup 23, it was discussed whether CP30 could be separated from the CMP435 discussions. The Proposer noted that CP30 was developing concurrently with CMP435 and the impacts of it would be mostly felt in the three proposed new Methodologies, and whilst CP30’s effect was significant across the Connection Reform package, it resulted in little change to the CMP435 legal text. Workgroup members expressed concerns that the impact of CP30, on CMP435, was integral to the Workgroup considerations as it meant that existing contractual arrangements, relating to the CUSC, could be changed (albeit in rare circumstances) due to reasons set out in other documents and thus the guarantees of the final contractual arrangements, for existing connection contracted projects, fell elsewhere. As such discussions had begun to cover the consequences of the totality of the

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Connection Reform changes as well as any consequences of just CMP435. It was noted by Workgroup members and the Proposer that the three proposed new Methodologies would be consulted upon, but it was also noted that this would be occurring (time wise) alongside several other substantial, and related, consultations requiring industry feedback.

Impact Assessment and Request for Information for Current Queue Customers

The Proposer outlined to the Workgroup that due to the lack of data on how many existing contracted projects could (would likely) proceed through Gate 2 by the first due date⁵⁹ (as proposed) it was difficult to model the impact, but the Proposer confirmed that they were working with stakeholders to consider how they can improve the available data.

A RFI was published (by NESO) on 28 May 2024 to request information back from developers to support the development of a cost-benefit analysis of the CMP434/CM095 and CMP435/CM096⁶⁰ proposals as part of the future decision-making process. According to NESO, the RFI derived information was only planned to be used to develop their thinking related to (and inform on aspects of) the code modification process and was not planned to be used for other purposes, such as in respect of Gate 2 evidence in the future.

The RFI received responses covering 2,576 projects that are contracted and within the current queue to connect at transmission or distribution.

In Workgroup 17, the Proposer presented a high-level view of the RFI data which was welcomed by the Workgroup. This included high-level statistics and graphical representations of the responses' split across Distribution and Transmission, technology split, respondents' ability to meet Gate 2/provide evidence/demonstrate options, the impact of non-responders and a top-line comparison against Future Energy Scenario (FES) data. Updated slides on this topic were included in Workgroup 18 papers with minor adjustments included. A Workgroup member requested additional representations of the data to review for a potential Alternative Request.

In Workgroup 22 NESO representatives referenced the possibility of an industry discussion on data and impact assessment of the TMO4+ package in early November 2024, or possibly a later webinar, noting this could be after the CMP435 Code Administrator Consultation. Upon questioning from a Workgroup member, NESO's representative noted that there were no new requirements on developers/industry (further to the initial request to complete the extended RFI) for parties that hadn't responded to the previous RFI. It was clarified that the scope of the impact assessment discussed would be for the broader TMO4+ package, and not CMP435-specific. When a Workgroup member referenced the three proposed Methodologies and CP30 plans being required for a full impact assessment, an Authority representative noted that they would review NESO's submission and communicate accordingly if they were satisfied that it could facilitate the necessary decisions.

As a result of the RFI information and following deliberations at the July Connection Delivery Board, Ofgem set out in a Blog (in mid-August 2024) that NESO should examine a possible additional step

⁵⁹ Which, at the time of the RFI being issued to stakeholders was anticipated to be January 2025.

⁶⁰ CM096 was subsequently withdrawn.

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for projects seeking to connect to demonstrate their viability, via a Financial Instrument - as discussed above.

In relation to Element 18 - Set out the process for how DNOs and Transmission connected iDNOs notify NESO of Relevant Embedded Small Power Stations or Relevant Embedded Medium Power Stations which meet Gate 2 criteria (not part of the CMP435 solution)

The Proposer advised how the impacts of CMP435 aligns with current Distribution and Transmission Network operations, noting the need for any changes to fit into existing frameworks to avoid disruptions.

The Proposer noted that they do not have a direct contractual relationship with Distribution customers (unless those customers also hold a BEGA or a BELLA), explaining that they will have a direct contractual relationship with DNOs and Transmission connected iDNOs. The Proposer noted that CMP435 will have impacts on cost allocation, operational procedure and regulatory compliance and there will be elements that DNOs and Transmission connected iDNOs need to manage/mitigate with their connecting customers.

It was noted that DCUSA, Licences (issued by the Authority) for Transmission and Distribution and ENA guidance changes at this level must be driven by DNO/ENA. NESO will continue to provide input and support. The core concern was felt to be the issue of capital costs being reallocated across fewer existing contracted projects if others do not meet the Gate 2 criteria by 31 January 2025 (date proposed at the time of this consultation). Workgroup members stated that enabling promotion of existing contracted projects into vacancies (i.e., those left in multi-customer Transmission contracts when one or more customers fails to meet Gate 2 criteria by the date noted above) would promote those 'ready to connect' projects and reduce costs to then be reallocated.

One Workgroup member expressed concern that important features of the new arrangements affecting both DNOs and iDNOs were being developed in ENA working groups which include DNOs but do not have any formal representation by iDNOs. The Proposer notes that the ENA has engaged the INA to discuss and seek feedback on the development of DFTC within the ENA. The ENA has offered further discussions with the INA to ensure any concerns raised are resolved.

One Workgroup member noted that awareness is needed that Transmission connected iDNOs may not be as able as DNOs are to absorb the capital costs associated with this modification, which could have competition implications. The Workgroup member also advised that, considering planning expiry dates, Transmission connected iDNOs need to have a mechanism to reorder their individual connection queues and that needs to be the same across all DNOs and Transmission connected iDNOs. A Workgroup member identified challenges in reordering these connection queues based on what comes from the Transmission side and work being required between the ENA Strategic Connections Group, transmission connected iDNOs and NESO on any revision of Distribution queue milestones.

One Workgroup member commented that if there is a change to transmission charging or the application of transmission charges, a new CUSC modification will need to be raised to address the issue.

One Workgroup member noted the need for harmonised rules across all DNO areas was discussed to facilitate trade, ensure system security, and integrate renewable sources. Harmonisation is legally required to increase competition and efficiently use the network for consumer benefit.

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Obligations on DNOs, transmission connected iDNOs and embedded generation parties.

It was discussed in later Workgroups where obligations on transmission connected iDNOs and DNOs best sat so that actions required on behalf of embedded generators were fulfilled, or embedded generators were sufficiently aware of areas of the solution/legal text that they needed to be aware of for this process.

As noted in the 'Contractual changes and timings of processes section' of the Element 19 Workgroup Considerations, NESO's legal representative noted that contractual arrangements/obligations between transmission connected iDNOs and DNOs and embedded generation parties are outside the remit of the CUSC (as they are separate to the network operator-system operator contract).

Discussions required confirmation via the ENA's SCG and related to:

- Proposed clause 18.5.7 and projects to be classed as Existing Agreements with a transmission connected iDNO /DNO
- The obligation for transmission connected iDNO/DNOs to submit EA requests on behalf of their contracted parties (see the 'Contractual changes and timings of processes' section in Workgroup Considerations of Element 19).
- The obligation (not via the CUSC) for large BEGAs/BELLAs to inform the transmission connected iDNO/DNO of them submitting an EA request and a need for transmission connected iDNO/DNO to acknowledge, to NESO, that a large BEGA/BELLA has submitted an EA request to NESO directly themselves.
- Transmission connected iDNOs/DNOs reducing capacity on the Distribution side if reduced for Transmission.
- Ongoing compliance for RLB and QM via the ENA process.
- Reservation mirroring for Distribution (GSP being referenced as the site of connection for Transmission).
- Timeframes and notification processes for the return of securities to embedded generation from transmission connected iDNOs/DNOs if made Gate 1 projects.

A Workgroup member suggested that CUSC Section 6.2.2, relating to third party rights could be applied, however NESO's legal representative was exploring this as rights would have to be assigned and it was not a straightforward process.

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What is the impact of this change?

Proposer's assessment against Code Objectives

Assessment of the Objectives has been updated by the Proposer following the Workgroup stage.

Proposer's assessment against CUSC Non-Charging Objectives	
Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	<p>Positive</p> <p>Introduces an application based and gated connections process that is able to prioritise readier and/or more viable projects enabling us to help the government to meet its net zero targets and is future proofed to support more strategic network planning activities. Currently, project developers are waiting too long to connect, and this is hindering progress to deliver net zero. This new process will support a broader change to deliver better outcomes.</p> <p>Application windows allow a more coordinated network design closely aligned with NESO's current and future strategic planning activities and that facilitate anticipatory investment to ensure transmission works are delivered efficiently. A one-off exercise to apply Gate 2 to the Whole Queue will provide the foundation for the improved enduring process but also provide greater clarity for network companies and industry parties on a new queue made up of readier and more viable projects relative to the status quo.</p>
(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;	<p>Positive</p> <p>Contributes to facilitating quicker connections for readier and more viable projects which are needed to deliver net zero (as above), especially by removing speculative and stalled projects from the connections queue). Currently, project developers are waiting too long to connect, and this is hindering progress to deliver net</p>

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	zero. Allocating connections dates and locations to Gate 2 projects is expected to result in more and earlier connections.
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency*; and	Neutral
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	<p>Positive</p> <p>The more coordinated and efficient network design for connections also delivers benefits for customers and consumers as allocates capacity more efficiently to projects that are ready to proceed and studying connections applications in batches should lead to lower overall costs (including through the Gate 2 to Whole Queue exercise). The Gate 2 to Whole Queue process also provides industry participants, including network companies, with greater structure and ability to plan through only providing full/confirmed offers to readier and more viable projects through the new arrangements i.e. by reducing the size of the current queue allowing readier and/or more viable projects to access earlier connection dates, and by slowing the rate at which new projects can enter the queue relative to current arrangements.</p>
<p>*The Electricity Regulation referred to in objective (c) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.</p>	

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Workgroup vote

Proposer’s assessment against CUSC Non-Charging Objectives

The Workgroup met on Monday 04 November 2024 to carry out their Workgroup Vote. The full Workgroup Vote can be found in **Annex 8**. The table below provides a summary of the Workgroup members view on the best option to implement this change.

The Applicable CUSC (non-charging) Objectives are:

CUSC non-charging objectives

- a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;
- b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;
- c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and
- d) Promoting efficiency in the implementation and administration of the CUSC arrangements.

*The Electricity Regulation referred to in objective (c) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.

The Workgroup concluded by majority that the Original and WACM1 better facilitated the Applicable Objectives than the Baseline.

Option	Number of voters that voted this option as better than the Baseline
Original	22
WACM1	21

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on 08 November 2024, closed on 26 November 2024 and received thirty-nine non-confidential responses including three late responses. There were four confidential responses that were also received. The full, non-confidential responses can be found in **Annex 13**. A summary of the non-confidential responses can be found in the table below, and **Annex 14**.

Code Administrator Consultation summary

Question: Do you believe that the CMP435 Original Proposal or WACM1 better facilitate the Applicable CUSC Objectives?

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The following numbers of respondents noted that the Original and WACM1 better facilitate the CUSC non-charging objectives:

CUSC non-charging objectives				
	a)	b)	c)	d)
Original	32	29	8	28
WACM1	30	28	8	24

The following numbers of respondents indicated a preferred proposed solution (Please note, several respondents had multiple preferred solutions, so the total number in this table does not add up to the total number of respondents):

Solution	Number of respondents indicating this as their preferred solution
Original	19
WACM1	18
Baseline	2
No preference	4

Question: Do you support the proposed implementation approach?

Twenty-eight respondents supported the proposed implementation approach, while nine did not support it.

In addition to this, one respondent left no response to the question and another noted that they neither agreed/disagreed with the approach as they believed CMP434, CMP435 and CM095 implementations should be considered together.

- Responses generally supported the proposed implementation approach but emphasised the need for clear calendar dates for realistic implementation timelines and a coordinated program involving Ofgem, NESO and the network companies to allay industry and investor uncertainty. There were concerns noted about the ambitious timelines proposed and the need for legal certainty, adequate notice periods and preparation time for industry parties.
- The importance of a smooth transition and the need to avoid overlaps between different implementation phases were emphasized.
- The gated process was appreciated for prioritising feasible projects, aiding in efficient queue management and supporting timely connections, as well as aligning with CP30 and net zero goals.

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- There were concerns about the complexity and administrative burden of the implementation approach, with interdependencies between various modifications, methodologies and potential legislative changes.
- Calls were made for exemptions for well-advanced projects and clarity, prior to implementation, on DNO queue re-ordering.

Question: Do you have any other comments?

Support for Reform and the CMP435 Proposals:

- Many respondents agreed that the need for reform and the CMP435 proposals are essential to address (or contribute to addressing) the inefficiencies in the current connections process.

Concerns About Methodologies and Codification:

- Several respondents expressed concerns about the reliance on methodologies and guidance documents that are not codified within the CUSC but integral to delivery of the reform being introduced by the CUSC modifications.
- Numerous responses referenced the need for legal certainty and codification of methodologies within the CUSC to avoid potential changes impacting project development risk.
- There were calls for more transparency and the need for these methodologies to be subject to robust governance and industry input.

Project Designation and Capacity Reservation:

- There were mixed views received on the inclusion of Project Designation and Capacity Reservation powers for NESO. Some believed these powers are necessary for strategic planning, while others feared they could lead to unfair advantages and market distortions.

Embedded Generation and DNO Processes:

- There were significant concerns expressed about the impact of the proposed changes on embedded generation projects and the role of Distribution Network Operators (DNOs).
- Respondents called for clearer processes and obligations for DNOs to ensure that embedded generation projects are not disadvantaged.

Queue Management and Milestones:

- Views were expressed that the current process and milestones should be sufficient for accelerating existing projects/excluding speculative projects.
- Some respondents suggested that the queue management process needs to be reviewed and potentially revised to align better with the new proposals.

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Support for WACM1:

- For those supporting WACM1, it was seen as beneficial to providing additional data for developers to make informed decisions, and for introducing a pause for market self-regulation.
- For those not supporting WACM1, it was seen as unnecessary and/or an added complication which could risk delays.

Need for Continuous Improvement and Flexibility:

- There was a recognition that the proposed changes are a step in the right direction, but there was also a call for continuous improvement and flexibility to adapt to future needs and challenges.
- It was emphasised that learning from the implementation and refining the processes based on feedback and practical experience would be important.

Impact on Investor Confidence:

- Responses expressed concerns that the Proposal risks jeopardising existing Generation Users and the potential impact on investor confidence due to the uncertainty and changes introduced by the proposed reforms.
- Ensuring transparency, clear communication, and minimising disruptions to existing projects was seen as critical to maintaining investor confidence.

Potential areas of legal challenge

- A small number of respondents referenced questions raised by the Proposals which could allow for potential legal challenge following implementation of the reform package. These included the impact on having clear Terms and Conditions from the use of the related methodologies, possible delays due to potential misalignment of the methodologies with CMP435, a lack of Government/Authority mandate or supporting legislation for the proposals and consequences of DNOs' limited time to re-order the Distribution queue and notify Distribution customers.

Alignment with Clean Power 2030 and Net Zero Targets:

- Many respondents highlight the importance of aligning the proposed reforms with the Clean Power 2030 and Net Zero targets.

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- There is support for prioritising projects that are ready and needed to meet these targets, but also concerns about the potential for delays and the need for exemptions for well-advanced projects.

Legal text issues raised in the consultation

A summary of the legal text queries raised through the Code Administrator Consultation along with the NESO responses can be found in **Annex 15**. The final legal text can be found in in **Annex 16**.

EBR issues raised in the consultation

Thirty-four respondents agreed with the Workgroup’s assessment that the modification does not impact the Electricity Balancing Regulation (one of these respondents noted that they agreed with the assessment but that the modification may not comply with other legislation such as retained law relating to clear terms and conditions). One respondent felt that they were unable to respond to the question on EBR as the consultation period was extremely short. One respondent felt that they were unable to respond to the question on EBR as they were not well placed to do so.

Two respondents left no response or no comment in response to the EBR question.

One respondent disagreed, noting that they believe the modification will delay progressive users to get on the system to manage the balancing of the system with clean energy.

NESO response to EBR issues raised in the Code Administrator Consultation

The Workgroup reviewed whether there was an EBR impact as part of their Terms of Reference and concluded that there was no impact. CUSC Exhibit Y shows mapping of CUSC Sections to the EBR Article 18 Terms and Conditions for Balancing Services Providers and Balancing Responsible Parties to the CUSC. No legal text sections identified within the CUSC Exhibit Y mapping table are impacted as part of CMP435.

Panel Recommendation Vote

The Panel met on the 20 December 2024 to carry out their recommendation vote.

They assessed whether a change should be made to the CUSC by assessing the proposed change and any alternatives against the Applicable Objectives.

Panel comments on Legal text

Ahead of the vote taking place, the Panel considered the legal text amendments proposed as part of the Code Administrator Consultation and determined that they were either typographical or not required. A summary of the legal text changes made can be found in **Annex 15**.

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Panel comments on EBR impacts

The Panel did not raise any concerns around the NESO response to the comments on EBR impacts when they met on the 20 December 2024 to carry out their recommendation vote.

Vote 1: Does the Original or WACM1 facilitate the Applicable Objectives better than the Baseline?

Panel Member: **Andy Pace, Consumers' Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Y	Y	-	Y	Y
WACM1	Y	Y	-	Y	Y

Voting Statement

CMP435 applies the connection reforms retrospectively to existing sites within the current connection queue. Given the size of the existing connection queue, the proposed connection reforms under CMP434 would have minimum impact unless the new criteria being implemented is applied to the existing queue. As we support the new connection reforms we also support this modification to apply the reforms to the existing queue. We have assessed this modification against the non-charging objectives as follows:

(a) This change effectively streamlines the current connection queue and will allow those sites that are ready and able to connect to move ahead of sites which are not ready and effectively holding up the connection process. We therefore assess this mod as enabling the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence by improving the efficiency of the connection process.

(b) CMP435 will allow more sites to connect to the transmission system in a more timely manner. Enabling more connections will create more competition in generation and supply to the ultimate benefit of consumers. We therefore assess this mod as positive against noncharging objective (b) by facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.

(c) Neutral

(d) Applying the connection reforms retrospectively will result in a more efficient connection process and therefore promotes efficiency in the implementation and administration of the CUSC arrangements.

We assess WACM1 as better meeting the non charging objectives for the same reasons as the original proposal. The key differences from the alternative is that it introduces the

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requirement for the results of the Gate 2 compliance check to be published and implements a 2–4-week pause for Gate 2 qualified applicants to assess the viability of their projects in light of updated competitor information, to understand the Clean Power Plan for 2030 (CPP30) regional technology quota proposals that will emerge, and any ESO project designation activity that has been undertaken at that point. Given the material impact CMP435 will have on a large number of potential connectees, it seems sensible to allow time for impacted parties to assess the implications of the Gate 2 compliance check. We therefore prefer WACM1 over the original proposal.

Panel Member: **Binoy Dharsi, Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	N	N	-	-	N
WACM1	N	N	-	N	N

Voting Statement

CMP435 in isolation will not deliver an outcome better than baseline. There is a requirement to be supported by additional methodologies and licence conditions outside of this modification process which are being progressed separately. As these additional methodologies are not yet finalised and could also be subject to further change in the future, on balance, it is not possible for me to support this modification at today's vote. To be absolutely clear, the decision to vote against the modification is solely because the vote has come before this methodology clarity. Should the methodologies resolve some of risks such as 1) in-flight project impact 2) less robust change processes 3) distribution code interactions, as we expect them to do so, and sufficient confidence given by Ofgem that these would be adopted then I would have supported this modification.

Panel Member: **Daniel Arrowsmith, NESO Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Y	Y	-	Y	Y
WACM1	Y	Y	-	Y	Y

Voting Statement

The Original Proposal overall better facilitates the applicable objectives (a), (b) and (d) and NESO therefore consider it to be better than the current baseline. The Original Proposal

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establishes a new queue composed of more prepared and viable projects, aiding in the achievement of the government's net zero targets. By eliminating speculative and stalled projects from the connections queue, the proposal further facilitates quicker connections for those most ready and viable projects. The one-time application of Gate 2 to Whole Queue lays the groundwork for an improved, enduring process, fostering the development of a coordinated and efficient network design for connections, ultimately benefiting both customers and consumers.

WACM 1 aims to introduce an additional step by incorporating an industry pause for market self-regulation. While NESO acknowledges that this could provide some transparency and potentially facilitate competition, we believe that overall, WACM 1 would extend the process and add unnecessary complexity to the Original Proposal. Therefore, although NESO considers WACM 1 to be an improvement to the baseline, we do not believe it surpasses the Original Proposal.

Panel Member: **Garth Graham, Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Y	Y	-	Y	Y
WACM1	Y	Y	-	Y	Y

Voting Statement

In my CMP434 voting statement I have made a number of comments that have direct read across / relevance to my CMP435 voting (whilst noting that I undertook both votes separately) which, for the sake of brevity, I have not repeated here - thus my CMP434 voting statement (in the context of CMP435) should be read alongside this CMP435 voting statement.

Turning to the two CMP435 options (the Original and the WACM) I wish to make the following general observations, which pertain to the Original. However, as the WACM is based upon the Original (with differences) these general observations are also relevant to the WACM as well.

Legal conformance

I am mindful that significant aspects of the totality of the changes, to the terms and conditions for connection (at transmission and distribution) are, it is intended (by the Proposer of CMP435 - and CMP434) to be contained within the three proposed new methodologies (as listed, in the Proposer's part of the Workgroup report).

As I noted to the Workgroup at some of the initial meetings, there is a requirement to be mindful of the legal framework within which the CUSC and the NESO Transmission Licence

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operates and, in particular, I am referring to the Third Package and the European Network Codes. My experience and knowledge of this topic is set out in the WACM1 aspect of my CMP434 voting statement.

I have also set out further thoughts in my CMP434 voting statement (alongside this CMP435 voting statement) as to the legal uncertainties (and the legal compliance concerns that DESNZ, the Authority and the NESO have recently publicly expressed).

Suffice to say I have concerns, as to the possible legal uncertainty of the proposed approach; especially with respect to the housing of terms and conditions for connecting parties (primarily generation, demand and interconnectors) within the methodologies, and the Gate 2 Criteria in particular; that I have detailed in my CMP434 voting statement.

In this respect I also note the wording in the third paragraph of the CMP435 Workgroup report draft issued on 1st November, starting “The legal enforceability....”, and especially the statement, in the last sentence that “parties are contractually obligated to ...comply with the Methodologies”. I am not certain, within the wider European Network Codes framework, that this is legally correct.

Capital contributions – It is not clear what, if anything is to be refunded (and, if so, when such a refund would take place: for example, upon acceptance of the Gate 1 Offer?). It is important to note that parties have paid, in good faith, what was due to be paid (contributed) not least because without such payment then their connection application / contractual agreement would not be progressed by the NESO / TO.

This has created a legitimate expectation, on the part of the generators etc., and it would, of course, be of concern if those relevant capital contributions (for defined / known assets) were not to be refunded in a timely manner where the User’s existing contract was changed to a Gate 1 Offer / Accepted agreement.

10th December Open Letter

I am also very mindful that on 10th December 2024 the NESO published an ‘Open Letter on Connections Reform’ ([download](#)) which was, therefore, after the Code Administrator Consultation for CMP434 (and CMP435) closed.

This is set out, in the middle of page 2, as following:

“In summary, the below categories of projects will be deemed to have met the strategic alignment element of the Gate 2 criteria, so long as they can provide evidence of the following by the close of the Gate 2 to whole queue evidence submission window (currently estimated as end May 2025):

- *have submitted an application for planning consent before the date at which we submit our final connections methodologies proposals to Ofgem (currently estimated as 20 December 2024) and have secured planning consent by the close of the Gate 2 to whole queue evidence submission window; or*
- *have been awarded a Government Contract for Difference3 ; or*

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- *have been awarded a Capacity Market contract by NESO; or*
- *interconnector or Offshore Hybrid Asset projects that have been awarded an Ofgem cap and floor or merchant route regulatory approval.*

*For the avoidance of doubt, we propose that projects in the above categories would continue to be required to demonstrate that they have met the 'readiness' element of the Gate 2 criteria. These projects would also still be eligible to request advancement and be subject to reassessment as outlined in the Connections Network Design Methodology. **This is NESO's proposal** and will be subject to final approval by Ofgem as per the wider connections methodologies, licence changes and **code modifications**." [emphasis added]*

Given the proposed legal text (in, for example, Section 11 and the new Section 17, for CMP434 and Section 18 for CMP435) for the Original and all seven WACMs I struggle to see (absent a change to the legal text for CMP434/CMP435) how it is possible for the NESO to require the information from Users (and how the User can provide that information) for their projects in terms of having met one, or more, of these four items listed above without, for example, any consultation on this with Users as to how etc., this information gathering / providing will be undertaken.

This concern (which I outlined in my email to the Panel on 11th December) is further reinforced by reference, firstly, to the statement, from the NESO, in the reply of 11th December (to my email of the earlier that day) that "projects will still submit the readiness declaration" - which seems to ignore the 'compliant application' aspects set out in the draft legal text for CMP434/435.

I am mindful of the fact that all four items were, at various times, considered by the Workgroup as possible Alternatives (or variation(s) to the Original) which were, subsequently, not taken forward by the Workgroup (or the Proposer, namely the NESO) as WACMs and yet now, without consultation, are (it would seem) to be applied.

The approach adopted by the NESO in its 10th December Open Letter, coupled with the NESO's response on 11th December to my Panel email, I think reinforces the concerns that respondents to the Code Administrator had as to the lack of open governance with respect to contractual changes applied to Users (by the NESO) without consultation.

I note, in this regard, that according to the 10th December Open Letter the NESO will be submitting, on 20th December, its proposed Methodologies to GEMA.

These will include the four items noted on page 2 of the NESO's letter – in so doing, as there will have been no stakeholder consultation undertaken on the addition of these aspects into the Methodologies, the Authority (when making its decisions on these matters) will be deprived of any stakeholders consultation responses as to the suitability (or otherwise) of this material change to the Gate 2 Whole Queue application process in terms of what, exactly, projects will need to submit in their readiness declaration(s); as respondents to the Code Administrator Consultation (as well as the Methodologies consultation, if the NESO's view of where these four items should reside is correct) will not have expected the inclusion (of these four items) when they responded to that consultation.

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In passing I note that the approach I outlined, in my email to the Panel on 11th December, could have ensured that the Authority had access to stakeholders consultation responses as to the suitability (or otherwise) of this 10th December material change to the Gate 2 Whole Queue application process.

Panel Member: **Joe Colebrook, Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Y	Y	-	Y	Y
WACM1	Y	Y	-	Y	Y

Voting Statement

I agree that the Original is better than the Baseline and is positive for Objectives a), b) and d). However, the ability to understand the full impact of CMP435 has been made difficult due to the lack of visibility of the Three Methodologies the NESO is proposing to introduce. It has been confirmed that the Authority will consider CMP435 together with the final Methodologies which should ensure any misalignment is fully considered.

Objective a) - Currently, project developers are unable to progress viable projects promptly, and this is hindering progress to deliver net zero. The CMP435 solution will enable a connections process that can prioritise readier and/or more viable projects, enabling the industry to help the government meet its net zero targets and is future-proofed to support more strategic network planning activities. A one-off exercise to apply Gate 2 to the Whole Queue will provide the foundation for the improved enduring process but also provide greater clarity for network companies and industry parties on a queue made up of readier and more viable projects relative to the status quo.

Objective b) - The Original facilitates quicker connections for readier and more viable projects which are needed to deliver net zero, especially by removing projects without land and other nonviable and stalled projects from the connections queue. Currently, project developers are waiting too long to connect, and this is hindering progress to deliver net zero. Allocating network capacity and connection locations to Gate 2 projects is expected to result in more and earlier connections. The changes proposed in the Original should increase the number of generators connecting each year and bring forward the connection of many viable projects. There is a risk that the implementation timeline pauses investment in projects for 12 months which could reduce the competitiveness of electricity supply in the short term. These changes will improve the competitiveness of the generation and supply of electricity.

Objective c) - No identified impact on compliance with Electricity Regulation or relevant EU decisions.

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Objective d) - The Gate 2 to Whole Queue process provides CUSC Parties, including network companies, with greater clarity and ability to plan by providing full/confirmed offers to readier and more viable projects. Fewer industry resources will be invested into facilitating connections for projects which will not be built.

For the reasons outlined above I believe WACM1 will be better than the Baseline and will be positive for objectives a) b) and d). WACM1 facilitates CMP434 WACM7 and therefore I believe WACM1 is better than the original only if CMP434 WACM7 is approved, but in all other scenarios, the Original is better than WACM1.

Panel Member: **Joseph Dunn, Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Y	Y	-	Y	Y
WACM1	Y	-	-	Y	Y

Voting Statement

The original proposal provides a viable solution to address the defect and is an improvement on the baseline. With the need for significant change to the connections process, the original proposal provides an appropriate structure, which can facilitate the further changes required to achieve the ultimate aims of TMO4+. Noting that: the detailed processes and procedures that will sit within the new structure will be housed within the methodologies, and as such are not being assessed as part of this consultation.

WACM1 has benefits within the CMP435 process in ensuring transparency of the potential queue, allow users to make more informed investment decisions. It will also minimize wasted efforts by NESO and the network businesses by facilitating the reduction of the queue at an earlier stage, and prior to the gated design process.

Panel Member: **Kyran Hanks, Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	-	Y	-	Y	Y
WACM1	-	Y	-	Y	Y

Voting Statement

Having greater visibility at the Gate 2 stage seems sensible.

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Panel Member: **Paul Jones, Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Y	Y	-	Y	Y
WACM1	Y	Y	-	Y	Y
Voting Statement					
<p>New CMP434 arrangements being applied to the existing queue too should help to ensure that the most ready projects are prioritised when connection offers are made. This should assist competition in the wholesale market, and for the provision of balancing and ancillary services. WACM1 is an improvement by providing transparency of other connection applications and the potential this has to allow participants to further optimise the queue by taking appropriate decisions on whether or not to proceed.</p>					

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Vote 2 – Which option best meets the Applicable Objectives?

Panel Member	Best Option	Which objectives does this option better facilitate? (If baseline not applicable).
Andy Pace	WACM1	a),b) and d)
Binoy Dharsi	Baseline	N/A
Daniel Arrowsmith	Original	a),b) and d)
Garth Graham	WACM1	a),b) and d)
Joe Colebrook	Original	a),b) and d)
Joseph Dunn	WACM1	a) and d)
Kyran Hanks	WACM1	b) and d)
Paul Jones	WACM1	a),b) and d)

Panel conclusion

The Panel recommended by majority that the Original and WACM1 better facilitated the Applicable CUSC Objectives.

By majority the Panel recommended that WACM1 (5 out of 8 votes) best met the Applicable CUSC Objectives.

When will this change take place?

Implementation date into the CUSC

Q2 2025 (Assumed to be 56 Calendar Days after the Authority decision).

Date decision required by

Q1 2025

Implementation approach

If this Code Modification is approved by the Authority⁶¹ (which, at the time of publication, is anticipated to be in Q1 2025), then the associated legal text changes to the code would come into effect in Q2 2025.

From this implementation date, all the existing connections agreements (by reference to a Cutover date⁶²) with NESO, as required according to the CUSC for in scope projects (these are summarised

⁶¹ Ofgem confirmed that the decision for CMP435 would be taken alongside CMP434, CM095, associated STCPs, submitted Methodologies and proposed Licence changes.

⁶² Which will be notified to stakeholders in due course by NESO.

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in the table at the start of Element 3 shown within the Proposer’s solution – see page 13), will be amended after the implementation date. The process for each User’s agreement(s) will vary depending on the type of existing agreement in place and whether the project has or has not met the Gate 2 criteria – further information on this is set out in Element 19.

After the implementation date, the application window, for Users with existing agreements, will open no earlier than 4 weeks after the implementation date and once opened the application window will close no less than 2 weeks after it opened. NESO will publish a more detailed timetable/programme, prior to the implementation date, for the application window (and any other relevant dates).

As a result of the changes (introduced into the CUSC by this CMP435 Modification), then any of the Users that have a project with an existing contracted connection date and connection point⁶³ (along with a transmission queue position) will need to submit, within the application window (and in any event, before the application window closes⁶⁴), to NESO (or DNO or Transmission connected iDNO, as appropriate), amongst other things, a Gate 2 Declaration Letter (evidencing that the project has met the Gate 2 criteria⁶⁵) if they wish to be taken forward, by NESO, for consideration for receiving (currently anticipated to be in late 2025) a Gate 2 Offer, as per the process set out in Element 19.

If the relevant information (i.e. as set out in Element 19 and within the Gate 2 Criteria Methodology) has not been submitted, by the User (for their project) by that application window closing deadline (or if prior to that deadline the project confirmed/notified it wished to be a Gate 1 Project) then the existing connection date and connection point (along with, if relevant, transmission queue position) will be changed, by NESO, to ‘indicative’ (from ‘confirmed’) via an Agreement to Vary.

This ‘indicative’ status would only be changed (to ‘confirmed’) when; firstly, a Gate 2 Declaration Letter (evidencing that the project concerned has met the Gate 2 criteria) was submitted, by the User, to NESO (or DNO or Transmission connected iDNO, as appropriate) in the future, i.e. via the Gate 2 Process proposed under CMP434; secondly, NESO then issues, to that project, a Gate 2 Offer; and then, thirdly, that that Offer is accepted, by the User, for the project (and, if applicable, any fees / securities / liabilities are paid / lodged for the project).

Note, in this scenario, it is highly unlikely that the current connection date and or connection point (along with, if relevant, the transmission queue position) for all Users with existing contracted projects⁶⁶ would be maintained - any such parties should be cognisant of this risk to their project(s).

Where the Users for such projects have submitted a Gate 2 Declaration Letter to confirm they have met the Gate 2 criteria by the required application window closing deadline (as above), then their

⁶³ This would include any accepted Offers that have been issued by NESO that arises from the Transitional Arrangements that came into effect on 2 September 2024 as set out in Element 19).

⁶⁴ Which will be no earlier than 6 weeks after the implementation date of this CMP435 Modification.

⁶⁵ This being set out in the Gate 2 Criteria Methodology.

⁶⁶ These are summarised in the table at the start of Element 3 shown within the Proposer’s solution – see page 13.

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existing project connection agreements will be updated after the Gate 2 to Whole Queue network design exercise as set out within Element 19 above, when the Users will receive a Gate 2 Offer (which is anticipated, at the time this report is published, as being issued to Users towards the end of 2025 calendar year).

The above is on the basis that the implementation date is in Q2 2025, and this assumes that the relevant (and necessary) changes to NESO’s Transmission Licence, and the three new Methodologies⁶⁷ (mentioned in this CMP435 Modification – see Element 1), have been approved by the Authority and within timescales which allow this to occur from that implementation date.

Although there has been wide consultation and engagement on Connections Reform, it is imperative that there is a suitable period to enable stakeholders to fully understand how the new reformed transmission connection process will apply to them. As such, supporting guidance will be issued, by NESO, once a decision has been made to bring stakeholders up to speed with the new transmission connection process prior to the implementation date.

Interactions

<input type="checkbox"/> Grid Code	<input type="checkbox"/> BSC	<input checked="" type="checkbox"/> STC	<input type="checkbox"/> SQSS
<input type="checkbox"/> European Network Codes	<input type="checkbox"/> Electricity Balancing Regulation (EBR) Article 18 Terms and Conditions (T&Cs) ⁶⁸	<input checked="" type="checkbox"/> Other modifications	<input checked="" type="checkbox"/> Other - DCUSA, Transmission Licence Changes

There are also interactions with the modifications addressing Application of Gate 2 criteria to existing contracted background: [CMP434](#) and [CM095](#).

At the outset of considering CMP435, there was a possibility of consequential changes to the DCUSA because of this modification. The ENA’s SCG have been engaged and involved in CMP435 Workgroups, providing updates in ENA forums and to the CMP435 Workgroup. For the avoidance of doubt, at the time of publication of this report, no DCUSA change proposal has been raised with respect to CMP435 (or [CMP434](#)).

Changes will be required to NESO’s Licence to facilitate this modification; NESO have been engaging with the Authority regarding this. Ofgem confirmed that they will be undertaking a statutory consultation on those licence changes in due course.

⁶⁷ As listed in Element 1, on page 12.

⁶⁸ If the modification has an impact on Article 18 T&Cs, it will need to follow the process set out in Article 18 of the Electricity Balancing Regulation (EBR – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.

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The Proposer and the Workgroup confirmed there was no need for Grid Code changes as a result of this CMP435 proposal (or the other two⁶⁹ code changes).

Acronyms, key terms and reference material

Acronym / key term	Meaning
AtV	Agreement to Vary
BEGA	Bilateral Embedded Generation Agreement
BELLA	Bilateral Exemptible Large Licence Exempt Generator Agreement
BCA	Bilateral Connection Agreement
BD	Business Days
BSC	Balancing and Settlement Code
CAP	Connections Action Plan
CATO	Competitively Appointed Transmission Owner
CES	Crown Estate Scotland
CfD	Contract For Difference
CMP	CUSC Modification Proposal
CM	Code Modification (STC)
CNDM	Connections Network Design Methodology
ConsAg	Construction Agreement
CP30	Clean Power 2030
CSNP	Centralised Strategic Network Plan
CUSC	Connection and Use of System Code
DCUSA	Distribution Connection and Use of System Agreement
DCO	Development Consent Order
DESNZ	Department for Energy Security and Net Zero
DFTC	Distribution Forecasted Transmission Capacity
DNO	Distribution Network Operator
DRC	Data Registration Code
EA	Existing Agreement
EBR	Electricity Balancing Regulation
EG	Embedded Generation
ENA	Electricity Networks Association
ESO	Electricity System Operator
FID	Future Investment Decision
GB	Great Britain
Go-Live Date	The date at which the new process in the legal text goes live, on or after the implementation date
GSP	Grid Supply Point
GW	GigaWatt
iDNO	Independent Distribution Network Operator

⁶⁹ [CM095](#) and [CMP434](#).

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INA	Independent Networks Association
HND	Holistic Network Design
HNDFU	Holistic Network Design Follow-Up exercise
LoA	Letter of Authority
M1	Queue Management milestone M1
M2	Queue Management milestone M2
M3	Queue Management milestone M3
M4	Queue Management milestone M4
M5	Queue Management milestone M5
M6	Queue Management milestone M6
M7	Queue Management milestone M7
M8	Queue Management milestone M8
MW	MegaWatt
NESO	National Energy System Operator
NGED	National Grid Electricity Distribution
NSIP	Nationally Significant Infrastructure Project
OHA	Offshore Hybrid Assets
QM	Queue Milestone
RFI	Request for Information
SSEP	Strategic Spatial Energy Plan
STC	System Operator Transmission Owner Code
STCP	System Operator Transmission Owner Code Procedures
SQSS	Security and Quality of Supply Standards
TIA	Transmission Interface Agreement
TEC	Transmission Entry Capacity
TCE	The Crown Estate
TMO4+	The Reformed Connections Process Proposals
TO	Transmission Owner
TOCA	Transmission Owner Construction Agreement
TOCO	Transmission Owner Construction Offer
T&Cs	Terms and Conditions
UK	United Kingdom

Annexes

Annex	Information
Annex 1	CMP435 Proposal Form
Annex 2	CMP435 Terms of Reference
Annex 3	CMP435 Urgency Letters
Annex 4	CMP435 Workgroup Attendance Record
Annex 5	CMP435 Workgroup Consultation Responses (non-confidential)
Annex 6	CMP435 Workgroup Consultation Response Summary
Annex 7	CMP435 Code Administrator Consultation Legal Text

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Annex 8	CMP435 Alternative and Workgroup Vote
Annex 9	CMP435 Workgroup Alternative Requests and WACM Proposals
Annex 10	Impact of Forward-Looking Queue Management Milestones
Annex 11	Illustrative Example of Gate 2 to Whole Queue Process for Large BEGA or BELLA
Annex 12	CMP435 Action Log
Annex 13	CMP435 Code Administrator Consultation Responses
Annex 14	CMP435 Code Administrator Consultation Response Summary
Annex 15	Summary of Legal Text queries raised through Code Administrator Consultation and actions taken
Annex 16	CMP435 Final Legal Text