



CMC\_15\_22 – Introduction of New Remedial Action to Enable Extensions due to  
Planning and Permitting Delays  
Capacity Market Workshop

## Modification Background

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- This modification is a successor to CMC\_10\_22 which was rejected by the SEM Committee.
- The SEMC rejected CMC\_10\_22 on the basis that it was too broad and had not accounted for contingency in projects.
- This modification has been refined to apply only to delays associated with challenges to planning or permitting decisions.
- The duration of the extension granted has also been more clearly defined.

## Modification

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- This modification extends the Long-Stop Date and capacity duration on a day-for-day basis to align with delays associated with challenges to planning and permitting decisions.
- Extensions granted under this modification will be equal to the window of time between when an appeal window for a planning decision closes, and when a final decision pertaining to any challenge closes.
- Examples of how this modification should apply are provided at the end of this presentation.
- The purpose of this modification is to avoid the termination of much-needed New Capacity which faces delays which are likely to jeopardise the feasibility of projects.
- The SEMC may reject an application for extension if deemed frivolous.
- This modification will not apply where the Substantial Completion date of a project is achieved, regardless of any delays to planning.
- Payments should not extend beyond ten years. Any extension granted will acknowledge this. If a participant is awarded an extension and delivers their project ahead of the extended deadline, the extension will be reduced to reflect the updated delivery date.

## Modification - Rationale

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- The extension of a capacity contract duration is essential for this modification to function as intended. Failure to account for contract erosion will still leave projects exposed to delays which will result in financial loss for projects.
- This will result in the NPV of projects being reduced to a point where they become economically infeasible, resulting in terminations.
- While the SEMC commented that projects should account (in contingency) for some delays. This is simply not possible for many projects within the current delivery timeframe. For example, a CCGT with a T-4 contract would have contract award in March. With a three-year build time, any contingency given to construction would effectively make it impossible to include contingency for planning and permitting.
- The extensions granted under this modification are designed to accurately and fairly reflect the delays which projects may be exposed to due to third-party challenges.
- We have received comprehensive legal advice assuring us that this modification is legally robust and sound and would not constitute a retrospective change.
- We believe that SEMC concerns around unintended consequences are outweighed by the likely alternative of blackouts.

# Modification - Drafting

## J.5.3 Extension Due to Challenges to Planning and Permitting Decisions

*J.5.3.1 Where the achievement of the Substantial Completion Milestone is delayed as a result of a challenge to a project's planning and permitting decision(s), a Participant or an Enforcing Party (on behalf of a Participant) may apply to the Regulatory Authorities for an extension to the Maximum Capacity Duration and Long Stop Date associated with the relevant Capacity Market Unit.*

*J.5.3.2 The application under paragraph J.5.3.1 shall include:*

*(a) reasons for the request in sufficient detail to enable the Regulatory Authorities to consider the request, together with sufficiently detailed supporting evidence; and*

*(b) the duration of the extension required. This should equal, in number of days, the period between (i) the date when the challenge window for a planning and permitting decision closes and (ii) the date when any court or statutory body upholds the planning and permitting decision which enables the project to proceed.*

*J.5.3.3 Applications made under paragraph J.5.3.1 shall be granted by the Regulatory Authorities in the absence of due cause not to do so.*

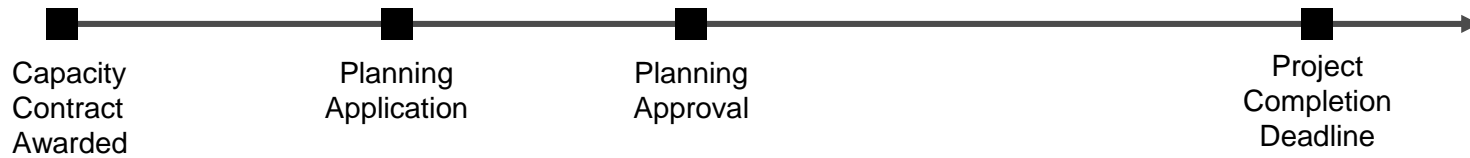
*J.5.3.4 Where a request for extension under J.5.3.1 is approved, the relevant Maximum Capacity Duration and Long Stop Date must be extended on a day for day basis in accordance with the approved extension.*

*J.5.3.5 The Maximum Capacity Duration shall be limited to 10 years from the date of Substantial Completion.*

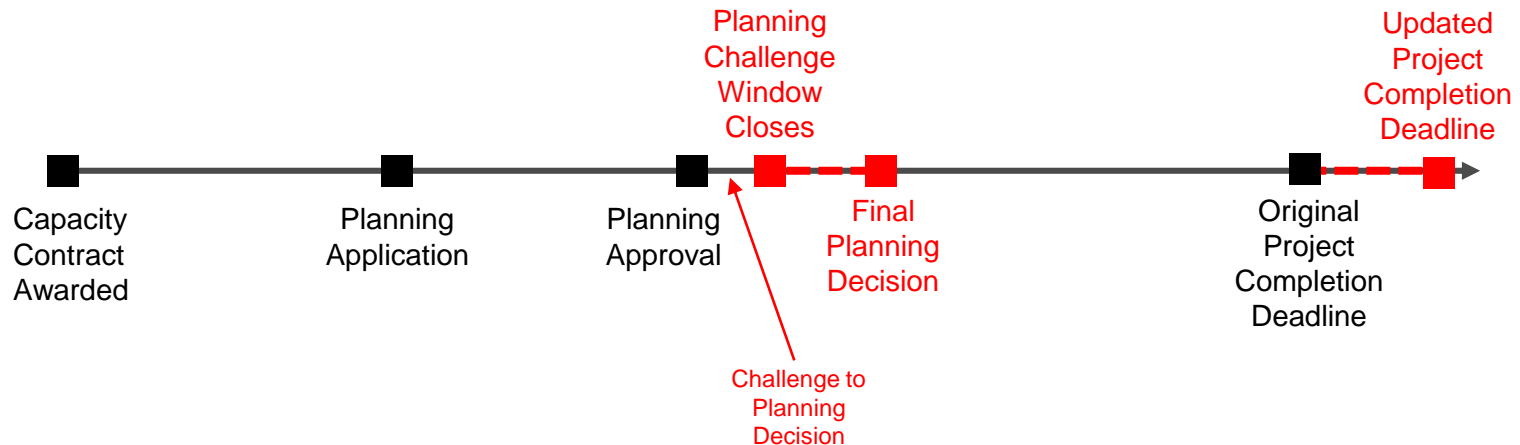
- We have since been made aware that it is not the *Maximum Capacity Duration* which should be extended but rather the Capacity Quantity end date which needs to be extended.

# Modification – Example 1 – Challenge to Planning Decision

## Project Timeline



## Actual Timeline



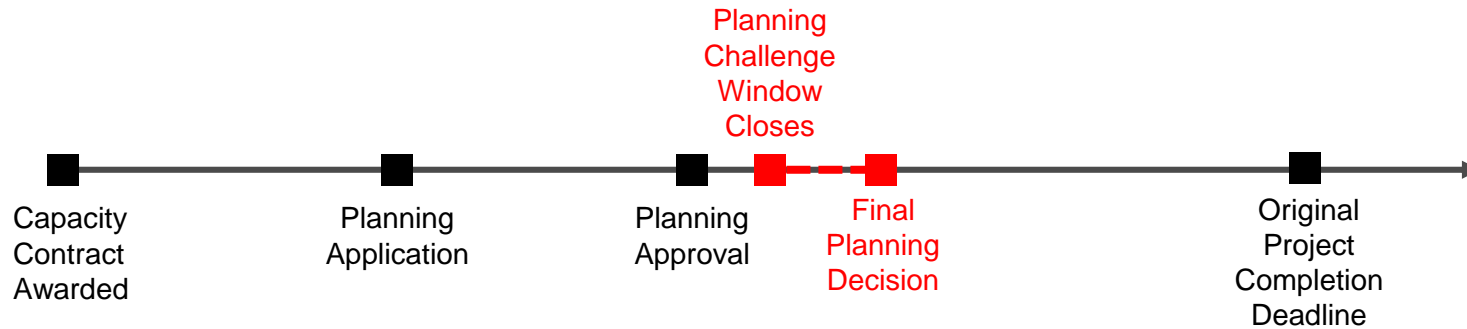
- Extension only applicable where the original deadline for the project will be missed.

# Modification – Example 1 – No Challenge

## Project Timeline



## Actual Timeline – No Challenge



# Modification – Example 2

## Project Timeline



## Actual Timeline

