

Reorienting advisory groups

Decision

17 January 2017



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1 Decision

1.1 The Electricity Authority (Authority) has decided to:

- (a) establish two new advisory groups:
 - (i) the Innovation and Participation Advisory Group (IPAG), focussing on issues specifically related to new technologies and business models, and consumer participation
 - (ii) the Market Development Advisory Group (MDAG), focussing on further evolving the 'machinery' of the electricity markets
- (b) replace the current Charter for Advisory Groups (charter) with a new version
- (c) create a single terms of reference document (terms of reference) covering all advisory groups, namely the Security and Reliability Council (SRC), IPAG and MDAG.

1.2 The Authority intends issuing a call for nominations for each advisory group early in the new year, seeking membership as follows:

IPAG

- (a) the IPAG will have a target membership of between five to eight members, including an independent Chair, however the Authority may appoint more or less members
- (b) membership will ideally have a diverse array of backgrounds, and will comprise people with an interest and experience in:
 - (i) the electricity sector; and
 - (ii) evolving technologies and business models; and/or
 - (iii) consumer choice and competition.

MDAG

- (a) the MDAG will have a target membership of between five to eight members, including an independent Chair, however the Authority may appoint more or less members
- (b) membership will comprise people with expertise and interest in the electricity sector, particularly in relation to:
 - (i) pricing and cost allocation
 - (ii) risk and risk management
 - (iii) operational efficiencies.

1.3 The Authority has finalised the charter and terms of reference in response to submissions and its own further consideration of these documents. Particularly, the Authority decided to proceed with only one terms of reference document covering all advisory groups. Apart from restructuring the documents, the Authority has adopted a number of revisions from the versions included with the public consultation paper. These revisions are primarily aimed at:

- (a) ensuring the charter and terms of reference are consistent with the decisions the Authority has made, as set out in this decision paper

- (b) improving readability and aiding stakeholders' understanding of the content
 - (c) further reducing duplication and the potential for inconsistency between the charter and the terms of reference
 - (d) removing the prospect of inconsistencies between different terms of reference emerging over time
 - (e) ensuring IPAG and MDAG have a high degree of flexibility to fulfil their respective roles, while maintaining appropriate coordination and control by the Authority, consistent with its statutory objective and functions under the Electricity Industry Act 2010 (Act).
- 1.4 In particular, many submitters wanted advisory groups to be permitted to undertake various activities which the current arrangements already allow. Accordingly, rather than prescriptive provisions in the terms of reference, each advisory group will be encouraged to establish its own procedures for how it wishes to conduct meetings, undertake projects on its work plan and engage with stakeholders and relevant experts.
- 1.5 The Authority acknowledges its reoriented work programme and the establishment of IPAG and MDAG mark the beginning of a new phase in its market development activities. It expects the arrangements will continue to evolve over time as advisory group members, Authority staff, and stakeholders gain experience with the new work programme and advisory group regime.

2 Background

- 2.1 The Authority is an independent Crown entity. It has a statutory objective to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.¹ Under the Act, the Authority must have at least one advisory group in addition to the SRC.²
- 2.2 To date, much of the Authority's market development work has reflected the traditional demarcation between the retail market, the wholesale market, and transport activities in the electricity sector. The Authority's work programme has been broadly structured around these activities, as have its two standing advisory groups, WAG and RAG.
- 2.3 The Authority has found the advice of its existing advisory groups invaluable in supporting its market development activities. However, it considers evolving technologies and innovative business models are increasingly blurring the traditional demarcation between retail, wholesale, and transport, making it less relevant or useful to organise its activities around those categories.
- 2.4 On 9 August 2016, the Authority published a consultation paper seeking submissions on its proposals to reorient its advisory groups by replacing the existing WAG and RAG with the proposed IPAG and MDAG. The consultation paper also included proposals for an updated charter, updated terms of reference for the SRC, and new terms of reference for IPAG and MDAG.
- 2.5 This paper sets out the Authority's decision to establish IPAG and MDAG and to adopt the associated key documents (charter and terms of reference). This paper also gives the Authority's reasons for its decision.

¹ Refer to section 15 of the Electricity Industry Act 2010.

² Refer to section 21(1) of the Electricity Industry Act 2010.

- 2.6 More information about the Authority's reorientation of advisory groups is available from the Authority's website at: <http://www.ea.govt.nz/about-us/corporate-projects/administrative-changes-to-advisory-groups/consultations/#c16158>.
- 2.7 The Authority has prepared a summary of submissions, which will be published on the Authority website.

3 Why the Authority made this decision

The new advisory groups will align with the Authority's statutory objective and its reoriented work programme

- 3.1 Until recently, the Authority's work programme was structured around traditional retail/wholesale activities. However, to account for the implications of evolving technologies and innovation in the electricity sector, the Authority has reoriented its 2016/17 work programme. That document was published on 28 June 2016.³
- 3.2 The 2016/17 work programme draws a more direct link between the Authority's strategic focus and how that is implemented. The Authority's projects are now oriented around five market development programmes as follows:
- (a) **Evolving technologies and business models:** This programme covers initiatives to reduce barriers to development and use of evolving technologies and business models across the supply chain. This includes barriers that secondary networks and distributed generation experience when dealing with distributors.
 - (b) **Consumer choice and competition:** This programme covers initiatives to promote competition and empower consumer choice through the retail market.
 - (c) **Pricing and cost-allocation:** This programme covers initiatives to promote efficient pricing in markets, and for monopoly services.
 - (d) **Risk and risk management:** This programme covers initiatives to promote efficient management of capacity and energy risks through the spot market for electricity, markets for ancillary services, and the hedge market for electricity (including the market for financial transmission rights).
 - (e) **Operational efficiencies:** This programme covers initiatives to improve the operation of the electricity markets not covered in the above programmes.
- 3.3 The new advisory groups have been designed to support the Authority's statutory objective, and help the Authority to implement its reoriented work programme.
- 3.4 After considering all submissions on the proposal, the Authority believes its decision to establish IPAG and MDAG will support its statutory objective because it will ensure the Authority:
- (a) gets the best interactions from parties that can assist it in supporting its statutory objective and reoriented work programme
 - (b) can quickly identify and work to remove any inefficient barriers that might inhibit innovation in how electricity is generated, stored, transported, and purchased.

³ See <http://www.ea.govt.nz/dmsdocument/20821>

- 3.5 The Authority considers its decision to adopt an amended charter and new terms of reference will facilitate the effective functioning of the SRC and other advisory groups, and the provision of high quality advice to the Authority.
- 3.6 The Authority's view on how the decision supports each limb of its statutory objective (competition, reliability, and efficiency) is described further in the following section.

The proposal's benefits are greater than its costs

- 3.7 The Authority has qualitatively assessed the benefits and costs of its decision, and expects it to deliver a net benefit.
- 3.8 The Authority considers establishing IPAG and MDAG has benefits in terms of:
- (a) improved competition, because the proposed advisory groups will allow the Authority to receive advice from parties with the collective knowledge and expertise necessary to:
 - (i) quickly identify and remove any inefficient barriers that might inhibit innovation in how electricity is generated, stored, transported, and purchased
 - (ii) identify development opportunities that will facilitate greater innovation, participation, and consumer choice
 - (iii) continue to evolve the electricity markets to reduce barriers, improve price signals, and improve the ability to effectively manage commercial risks
 - (b) improved reliability, because the new advisory groups will allow the Authority to receive advice from parties with the collective knowledge and expertise necessary to:
 - (i) analyse and mitigate new risks to system security, particularly those arising from increased reliance on information technology (eg, data security) and more dispersed investments and decision making (eg, effects of new technologies on demand profiles and generation capability)
 - (ii) continue to evolve arrangements for managing system security
 - (c) improved efficiency, because the new advisory groups will allow the Authority to receive advice from parties with the collective knowledge and expertise necessary to ensure the continued pursuit of operational efficiencies in electricity markets.
- 3.9 The Authority considers its proposal to replace the charter and each advisory group's terms of reference with updated and streamlined versions will have efficiency benefits. These arise because the proposal will ensure clear and appropriate arrangements are in place concerning governance and operation of all groups providing advice to the Authority.
- 3.10 The Authority has not identified any material costs associated with either of its proposals, as they are administrative in nature.
- 3.11 The Authority acknowledges some minor administrative costs may arise from implementing the decision. In particular, there may be some minor short-term costs to participants if they wish to seek nomination to the new advisory groups.
- 3.12 While the overall magnitude of the costs and benefits is difficult to assess, the Authority's view is the benefits of the decision outweigh the minor costs.

4 How the Authority made its decision

- 4.1 In June 2016, the Authority initiated a review of the current advisory group structure, including the charter and each advisory group's terms of reference. The Authority's reoriented 2016/17 work programme was a key driver for the review. The Authority was also mindful WAG and RAG themselves had highlighted to the Authority in March 2016 that their respective tasks were increasingly overlapping, and the wholesale/retail split was becoming less fit-for-purpose.
- 4.2 The Authority published a consultation paper seeking submissions on its proposals to reorient its advisory groups by replacing the existing WAG and RAG with the proposed IPAG and MDAG. The consultation paper also included proposals for an updated charter, updated terms of reference for the SRC, and new terms of reference for IPAG and MDAG.
- 4.3 The consultation paper was published on 9 August for a six-week period. It is available from the Authority's website at <http://www.ea.govt.nz/dmsdocument/21122>
- 4.4 The Authority received 19 submissions from a variety of stakeholders (Table 1). The Authority has considered those submissions. In broad terms:
- (a) of the 19 parties that made submissions, 14 broadly supported the Authority's proposal to establish IPAG and MDAG, although some suggested slightly different interpretations (eg, roles of each group, size of IPAG, how the groups conduct themselves)
 - (b) the other five submitters proposed alternative models (eg, use of ad hoc advisory groups for specific projects, a single advisory group, an advisory steering committee, generic standing advisory groups)
 - (c) there was general support for the proposed charter and terms of reference, although some submitters provided drafting comments.
- 4.5 The Authority also notes no submitter raised any concerns with the Authority's decision to disestablish WAG and RAG.
- 4.6 All submissions and a summary of submissions can be found on the Authority's website at <http://www.ea.govt.nz/about-us/corporate-projects/administrative-changes-to-advisory-groups/consultations/#c16158>.

Table 1 List of submitters

Submitter	Category
Allen Davies	Individual
Consumer NZ	Consumer representative
Contact Energy	Generator/Retailer
Cortexo	Energy services and technology
Electricity Networks Association (ENA)	Lines company representative
EnerNOC	Energy services and technology
Genesis Energy	Generator/Retailer
John Hancock	Individual
Mercury	Generator/Retailer

Submitter	Category
Meridian Energy	Generator/Retailer
Major Electricity Users' Group (MEUG)	Consumer representative
Orion NZ	Lines company
Pioneer Energy	Generator/Retailer
Powerco	Lines company
Transpower NZ	Grid owner
Trustpower	Generator/Retailer
Unison Networks	Lines company
Vector Advanced Metering Services (Vector AMS)	Metering service provider
Wholesale Advisory Group (WAG)	Authority advisory group

5 Matters the Authority considered in making this decision

- 5.1 The Authority has considered the issues raised by submitters. Based on the nature and content of the submissions, the issues raised have been collated into seven subject areas:
- (a) the number and structure of standing advisory groups
 - (b) the use of ad hoc advisory groups and working groups
 - (c) the role of advisory groups generally, and the relationship with the Authority's work programme
 - (d) approach to appointing members, providing advisory groups with specialist expertise and perspectives, and stakeholder engagement
 - (e) the role, membership, and approach of IPAG
 - (f) the role, membership, and approach of MDAG
 - (g) the draft charter and terms of reference documents.
- 5.2 Each of these sets of issues is discussed below.

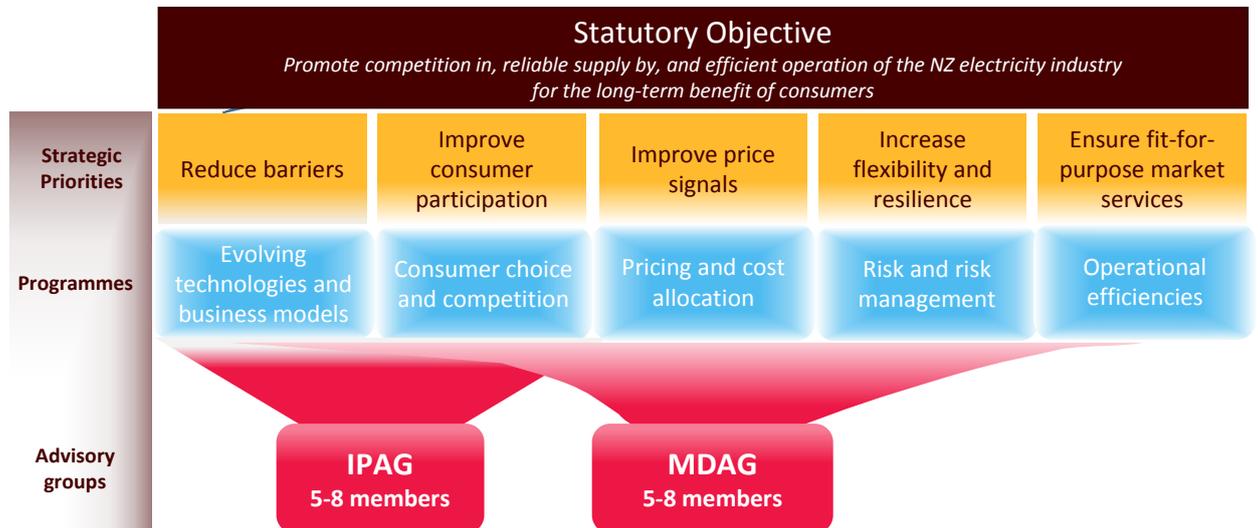
Matter (a): The number and structure of standing advisory groups

What the Authority proposed

- 5.3 The Authority proposed replacing WAG and RAG with two new standing advisory groups:
- (a) **IPAG**, focussing on issues specifically related to new technologies and business models, and consumer participation
 - (b) **MDAG**, focussing on further evolving the 'machinery' of the electricity markets.

- 5.4 Both groups would cover the entire electricity supply chain and future innovations across it. Figure 1 shows how IPAG and MDAG would map to the Authority's reoriented 2016/17 work programme and support the Authority's statutory objective.
- 5.5 The consultation paper also recorded the Authority's intention to disestablish the existing WAG and RAG once each has completed its existing work plan.

Figure 1: How IPAG and MDAG map to the Authority's work programme and support statutory objective



Submitters' views

- 5.6 No submitter disagreed with the Authority's decision to disestablish WAG and RAG. A number specifically supported the decision.
- 5.7 Submitters expressed mixed views on the Authority's proposal to establish IPAG and MDAG, and these views are considered here.
- 5.8 Some of the issues are closely related to differing views on other aspects of the Authority's proposal separately discussed in subsequent sections of this decision paper, including in particular:
- (a) the use of ad hoc advisory groups (or working groups)
 - (b) the approach to providing advisory groups with specialist expertise and perspectives
 - (c) the role and scope of IPAG and MDAG, and how each maps to the Authority's work programme.
- 5.9 Many submitters supported the proposed MDAG and IPAG in broad terms, although some suggested slightly different interpretations on how the groups might operate (eg, size of IPAG, roles of each group, how they conduct themselves, formation of ad hoc working groups underneath the advisory groups). These are discussed in later sections of this paper.
- 5.10 Trustpower considered the Authority should utilise the services of both **standing and ad hoc advisory groups** to provide it with the required level of independent and impartial expert advice. Trustpower did not object to the establishment of IPAG and MDAG as standing advisory groups, but considered these should operate alongside ad hoc

advisory groups, with a specific section of the charter developed for ad hoc groups.⁴ In particular, Trustpower submitted:

- (a) the core feature of advisory groups is they include subject matter experts who take the time to understand and debate proposals in depth
- (b) a smaller group of experts is recommended for an advisory group; research into the effectiveness of group decision-making suggests an optimal number of seven⁵
- (c) ad hoc groups (advisory groups and/or working groups) should be formed to *“provide specialist advice and recommendations for significant issues that go beyond the core knowledge and experience of an advisory group, rather than expand the size of an advisory group to try to capture a wide range of knowledge”*
- (d) the Authority should develop a stand-alone Part 3 of the charter which would apply to ad hoc groups
- (e) having this framework in place will encourage and incentivise the Authority to establish ad hoc groups when required, rather than diluting the knowledge of the standing advisory groups.

5.11 Two submitters (Genesis and Powerco) proposed **a single standing advisory group** with ad hoc groups formed from it for different projects, augmented with additional experts on a case by case basis:

- (a) Genesis submitted, as illustrated by the Authority’s own diagram, the lines are still not clear cut between the proposed IPAG and MDAG. Genesis urged the Authority to consider the time and resource cost for senior Authority representatives to support two advisory groups, also noting there are significant costs involved for stakeholders to participate in two groups (or to participate in one at the expense of the other). Genesis submitted a single advisory group would, amongst other things:
 - (i) be both time and cost efficient
 - (ii) have a clear line of sight and mandate, and reduce cross over between groups
 - (iii) allow quicker identification of operational efficiencies within the market
 - (iv) allow sharing of ideas and constraints, and promote diversification of views
 - (v) ensure equal importance is placed on the views of traditional and ‘non-traditional’ participants
 - (vi) be able to include specific subject matter experts (SMEs) for specific topics
- (b) Powerco also supported a single advisory group that takes on the combined responsibilities of IPAG and MDAG. Powerco submitted the Authority’s proposal may not fully address the ‘overlapping’ problem, because IPAG and MDAG appear to have competing mandates in some areas. For example, MDAG would focus on ‘improving price signals and enhancing risk management markets’, but these must be issues of relevance to emerging technologies and consumer participation and

⁴ A number of other submitters also suggested ad hoc advisory groups and/or working groups in certain circumstances, and these views are discussed in the next section.

⁵ Trustpower cited research papers in support of this.

could therefore also be seen to fall under the responsibilities of IPAG. Powerco submitted a single advisory group:

- (i) could have a relatively large membership, with members selected to focus on particular projects that meet their expertise
- (ii) would provide a more flexible approach that would ensure each issue is considered by the best mix of group members.

5.12 Mercury proposed a single 'Advisory Panel' which it describes as a **Steering Committee** of senior level stakeholder individuals that oversees / has reporting to it a number of working groups on different projects. Mercury submitted:

- (a) It agrees with the Authority a whole of industry approach is important to ensure appropriate oversight of industry change. However, the Authority's suggested structure of two advisory groups could potentially work against this objective:
 - (i) Given the wider constitution of IPAG there is potential for highly divergent and oppositional viewpoints, particularly where participants have strong commercial drivers to favour particular frameworks or models. The risk is IPAG is unable to reach a supportable consensus on proposals and provide clear direction to the Authority or MDAG.
 - (ii) MDAG will be constituted by more traditional industry participants. The immediate potential conflict Mercury envisaged is MDAG will be requested to consider implementation for proposals they have had no oversight or input into developing (assuming IPAG is able to reach a consensus). This has the potential to undermine the implementation process.
- (b) The Authority should consider implementing a single, widely constituted advisory panel, effectively a steering committee model:
 - (i) membership of the panel would comprise parties that will have a primary role in implementing any supported changes
 - (ii) the group would comprise more senior level individuals but for efficiency this could include representatives from consumer and industry associations.
- (c) Underneath the advisory panel, a number of working groups would be established to provide advice to the panel on new innovations and consumer engagement models and to identify any perceived barriers that might need to be addressed. These would comprise individuals with greater levels of technical and operational knowledge, providing senior stakeholder steering committee with deeper technical, operational, and practical knowledge of issues.
- (d) Shifting to a steering committee model is likely to mitigate the risk of participants reverting to a very narrow focus on commercial outcomes.
- (e) The steering committee would also be best placed to ensure appropriate control of theoretical or unsupported assessments, and would be able to provide consistent support for product implementation and operate without competitive conflict.

5.13 Orion proposed a different model: a small number of **standing generic advisory groups** (two initially), each with a broad range of participants, and each able to take on a project from across the entire spectrum of the Authority's functions. The Authority would assign the next priority project to the next available advisory group. Orion submitted:

- (a) In proposing two groups, IPAG and MDAG, the Authority may not have adequately taken into account the potential for an increasing workload as implied by its 2016/17 statement of performance expectations.
- (b) Overlap and blurring across the Authority's work programmes resulting from emerging technology is precisely the problem the Authority is trying to resolve by disestablishing WAG and RAG and establishing IPAG and MDAG. While the Authority's proposal is a positive step to addressing the issue of emerging technology, it does not remove overlaps or the potential for silos.
- (c) Standing advisory groups could, with the Authority's agreement, establish ad-hoc groups to report to them and provide advice on specific issues where more detailed expertise would be needed. These ad-hoc advisory groups or working groups could be specific customer groups or industry specialists or a mix.
- (d) If the workload becomes too great for the number of standing advisory groups then more could be established, but a limiting factor would be the industry ability to resource the working groups and also to respond to consultations.

The Authority's decision

5.14 The Authority considers the establishment of IPAG and MDAG is the option that:

- (a) best supports its statutory objective
- (b) is most aligned with its reoriented work programme.

5.15 The Authority acknowledges the issues raised by stakeholders favouring a single advisory group or steering panel structure, and Orion's preference for multiple generic standing advisory groups. However, the Authority considers IPAG and MDAG are quite different in terms of membership and focus. Having the two distinct groups will ensure the Authority captures advice from parties 'at the coal-face' of evolving technologies and business models, and members with a deep understanding of the traditional aspects of the sector, while catering to their respective interests and expertise. Size constraints also mean two groups will be more effective than one group at fulfilling the Authority's desire to draw on a more diverse range of views.

5.16 The Authority also notes the Board largely acts as "the steering group" proposed by some submitters. The Authority believes it is important the Board retains this role to ensure appropriate management of strategic issues and maintain momentum on progressing these where necessary.

5.17 The Authority accepts there is a potential for some overlap between the groups, but considers this is a reflection of the reoriented work programme. The Authority considers any potential overlap is manageable (refer discussion beginning at paragraph 5.52 below), and may have some benefits. For example, it provides the opportunity to examine projects from different perspectives.

5.18 The Authority additionally notes both IPAG and MDAG will be able to propose ideas along with potential design and implementation paths. There is no intention for one group to be solely focused on proposing ideas and the other to focus on proposing design and implementation of ideas.

5.19 The Authority acknowledges Trustpower's preference for more extensive use of ad hoc advisory groups. In response, the Authority notes the revised charter specifically contemplates both standing and ad hoc advisory groups. Accordingly, establishing ad

hoc advisory groups remains an option for the Authority to consider if circumstances warrant. The Authority would need to assess, on a case-by-case basis, the increased costs associated with establishing and servicing an additional group against the benefits the ad hoc group could deliver for the project in question.

Matter (b): The use of ad hoc advisory groups and working groups

What the Authority proposed

5.20 The Authority's consultation paper was focused on the proposal to establish IPAG and MDAG. It did not specifically consider ad hoc advisory groups or working groups. However, the proposed charter provided for the Authority to:

- (a) Establish ad hoc advisory groups to provide specialist advice and recommendations for significant issues that go beyond the knowledge and experience of any standing advisory group (clause 6.3).
- (b) Establish working groups, forums, workshops or other types of group to provide technical and specialist input to the work of advisory groups. Working groups may also assist with an advisory group's workload, if directed by the Authority. Working groups can be standing or ad hoc, and may be functional or project-specific, depending on the advisory group's requirements (clauses 10.1 to 10.3).

Submitters' views

5.21 A number of submitters (particularly ENA, Genesis, Mercury, Orion, Powerco, Transpower, Trustpower, and Unison) supported more extensive use of ad hoc advisory groups and/or working groups. Several submitters expressed views that can be summarised as:

- (a) establishing an ad hoc advisory group enables more targeted membership, expertise, and perspectives to be assembled for specialised topics/projects for issues that may not sit well in the ambit of a standing advisory group such as IPAG or MDAG
- (b) the workload from the Authority's upcoming work programme may be too great for two standing advisory groups
- (c) working groups provide a better forum, and greater flexibility, for considering technical or specialist matters and making specific recommendations on matters of detail.

5.22 For those submitters favouring a single advisory group or steering group (Genesis, Mercury, and Powerco), the role of sub-groups and/or working groups was central to the model they proposed. The establishment of ad hoc advisory groups and working groups was also an integral feature of the model Trustpower proposed. These views are set out in the previous section, but are relevant here also.

5.23 Submitters' comments on advisory group access to subject matter experts and consumer input are closely related to this discussion. Those submissions are summarised later, beginning at paragraph 5.68 below.

5.24 Other specific comments and the role and benefits of ad hoc advisory groups, sub-groups, and working groups include:

- (a) A large standing advisory group focused on innovation will not work. A better approach will be a smaller group of members, where each one is responsible for chairing a working sub-group focused on building the different aspects of more market flexibility to under-pin the changes in our renewable electricity market (EnerNOC).
- (b) A smaller group of core members (approximately 7 or 8 members) would be appropriate for IPAG. Wider expertise could be drawn on for particular research projects and reports (eg, for a particular working group), similar to the 'expert' input/feedback the RAG often procured, either from consumer engagement or subject experts (Unison).
- (c) The Authority proposed in the consultation paper any new ad hoc groups established would will not be subject to the provisions in the new charter (para 6.3). In the absence of an explanation from the Authority as to its rationale for this change, the ENA submitted any new ad hoc groups established by the Authority should remain subject to the provisions in the new charter.
- (d) The Authority should develop a standalone Part 3 of the charter which would apply to ad hoc advisory groups (Trustpower).

The Authority's decision

- 5.25 The charter specifically provides for the Authority to establish ad hoc advisory groups, and for working groups, forums, workshops, or other types of group to assist advisory groups.
- (a) **Ad hoc advisory groups:** At this stage the Authority does not see the need to establish an ad hoc advisory group alongside IPAG and MDAG, but this remains an option open to it in the future. The Authority would need to assess, on a case-by-case basis, the increased costs associated with establishing and servicing an additional group against the benefits the ad hoc group could deliver for the project in question. The Authority considers at this stage ad hoc advisory groups would operate in the same manner as standing advisory groups.
 - (b) **Working groups:** The Authority would be happy to consider a proposal from IPAG or MDAG to establish a working group, forum, workshop or other type of group if this can add value to the project concerned.
- 5.26 The Authority agrees the charter should apply to all advisory groups, including ad hoc groups. Accordingly, the proposed charter will be amended to reflect this.
- 5.27 Given it sees ad hoc advisory groups operating similarly to standing advisory groups, the Authority does not consider it necessary at this time to create a part of the charter specific to ad hoc advisory groups.

Matter (c): The role of advisory groups generally, and the relationship with the Authority's work programme

Role of advisory groups generally

What the Authority proposed

- 5.28 The consultation paper was focused on the Authority's proposal to establish IPAG and MDAG, setting out the specific roles for each. The paper did not explore the role of

advisory groups in more general terms, as the Authority was not proposing any material changes to the role of advisory groups.

Submitters' views

- 5.29 Several submitters commented on the role of advisory groups generally, drawing from the Authority's consultation material, the Act, and the existing charter.
- 5.30 Trustpower, in particular, expressed strong views about the role of advisory groups, drawing on relevant literature. Trustpower submitted the benefits of advisory groups include:
- (a) enabling parties to understand the positions of other industry participants
 - (b) providing independent and impartial expert advice
 - (c) going beyond the statutory requirements of consultation and aligning procedures with regulatory best practice
 - (d) enabling regulators to assist regulated entities to manage change by:
 - (i) facilitating the sharing of notice and good information on contemplated regulatory changes, to avoid shock and provide reasonable tractability
 - (ii) providing stakeholders with an opportunity to negotiate or suggest alternatives.
- 5.31 Similarly, Transpower considered advisory groups have an important role to play in informing and advising the Authority's exercise of its statutory functions. In particular, Transpower submitted advisory groups can offer value by:
- (a) helping identify and articulate whether there is a problem, ie, is there a market failure and, if so, can this be resolved through regulation?
 - (b) relatedly, helping establish whether new Code might be an output (and where it should not)
 - (c) assessing the nature and role of 'evidence' in a policy development when 'history' is not a guide to the future
 - (d) seeking and seeing opportunities for operational efficiencies.

The Authority's decision

- 5.32 The Authority agrees with the points raised by submitters and notes the new charter and terms of reference documents accommodate the suggestions outlined above.

Relationship between the Authority's work programme and advisory group work plans, advisory group remit, and addressing overlaps between IPAG and MDAG

What the Authority proposed

- 5.33 The Authority mapped IPAG and MDAG to its statutory objective, strategies for market development, and (reoriented) work programme (refer Figure 1 above). The focus of each group was described as follows:
- (a) IPAG would focus on issues that directly affect consumers. Specifically, it would focus on issues inhibiting the entry and participation of evolving technologies and new business models in the electricity industry. It would also focus on enhancing consumer participation and choice.

- (b) MDAG would focus on further evolving the ‘machinery’ of the electricity markets. This would include issues such as improving price signals and enhancing risk management markets, including the ancillary service markets.
- 5.34 The consultation paper also set out the Authority’s intention that both groups would cover the entire electricity supply chain and future innovations across it.
- 5.35 The terms of reference set out provisions relating to how the group’s work plan is established. In particular, the work plan would be:
- (a) developed by the Authority in discussion with the group’s chairperson
 - (b) presented to the group for its consideration and input before being finalised
 - (c) developed with regard to the Authority’s limited budget
 - (d) consistent with the Authority’s overall work programme, priorities and timeframes
 - (e) updated regularly to account for developments that occur in the course of the group’s investigation.
- 5.36 The terms of reference also:
- (a) allow members to suggest items to be included in the work plan, but those items will be included at the Authority’s discretion
 - (b) note the Authority will actively engage with an advisory group when setting work plan priorities, and will seek to achieve “buy-in” to the priorities from a majority of the members
 - (c) allow the Authority to assign work plan items to other parties (such as Authority staff or external experts) if the group and the Authority are unable to agree on the group’s work plan, including timeframes.
- 5.37 If projects in the group’s work plan overlap with projects being considered by other advisory groups, the terms of reference state the Authority will:
- (a) make every effort to coordinate the advice from the other advisory groups
 - (b) interact with the relevant advisory groups on those projects (for example, by conducting joint meetings and workshops)
 - (c) facilitate timely updates to each relevant advisory group on the status of those projects.

Submitters’ views

- 5.38 A number of submitters commented, directly or indirectly, on:
- (a) the relationship between the Authority’s work programme and advisory group work plans
 - (b) the remit advisory groups ought to have regarding their work plan projects
 - (c) addressing overlaps between advisory groups.

Some submitters commented on advisory groups generally, while other comments were more specifically related to IPAG.

- 5.39 Orion drew the Authority’s attention to the criteria for establishing advisory groups the Authority set out in its original 2010 consultation on advisory groups:

- (a) having closely interconnected issues overseen by a single advisory group minimises duplication and overlap across advisory groups, making it easier for the Authority to allocate issues and hold each advisory group accountable for achieving its work programme
 - (b) the workload for each advisory group needs to be commensurate with the time members can be expected to allocate to advisory group business
 - (c) the size of each advisory group needs to be manageable whilst bringing the full spectrum of views and Code-making skills to the table.
- 5.40 Orion recommended the Authority consider the number and scope of any new advisory group against its own existing evaluation criteria and that any review of advisory groups specifically addresses the issues of how it will prevent creating silos between advisory groups (if more than one) when allocating projects from its work programme. While the Authority's proposal is a positive step to addressing the issue of emerging technology and addresses, to some extent, the potential for advisory groups to be silos along the value chain, there is still the potential to create silos across the work programmes.
- 5.41 Orion and ENA both noted the overlap and blurring across the Authority's work programmes resulting from emerging technology is precisely the problem the Authority is trying to resolve by disestablishing WAG and RAG, and establishing IPAG and MDAP. Yet MDAG is specifically expected to overlap the work of IPAG.
- 5.42 Other submitters also commented on the assignment of projects to advisory groups and the potential for overlaps between IPAG and MDAG. In particular:
- (a) Trustpower submitted there should be greater alignment between advisory groups' work programmes and the Authority's medium term-strategy.
 - (b) Pioneer observed, based on the projects currently allocated to IPAG, it appears IPAG is focused on transactional detail, and MDAG is more strategic.
 - (c) Contact supported clause 6.6 of the IPAG and MDAG terms of reference which requires advisory groups to coordinate activities where appropriate. A cohesive approach to removing barriers inhibiting innovation in how electricity is generated, stored, transported, and purchased will be in the best long-term interests of consumers.
- 5.43 The WAG noted the formality of the charter and terms of reference documents means the existing advisory groups are only able to work on projects on the Authority's work programme, or those the Authority explicitly seeks the group's advice on. Although the current advisory groups can suggest projects for the Authority's work plan, this can take years. WAG noted the consultation paper proposed a similar arrangement for IPAG.
- 5.44 In light of this aspect of the proposal, WAG and other submitters expressed concern advisory groups, particularly IPAG, may be adversely constrained by the Authority's work programme.
- (a) WAG submitted:
 - (i) Regulating innovation may be an oxymoron, but using the experience of innovators to detect and then break down barriers could be an effective means to the Authority's end. This would be particularly effective if the proposed IPAG has some discretion to identify and pursue topics for its work, provided they are consistent with the Authority's statutory objective.

- (ii) This would suggest IPAG should have a considerably freer remit than the consultation paper proposes: examining operational efficiency issues across the sector's supply chain in its entirety. This would entail a focus on making the operational aspects of the market simple and nimble, considering issues new entrants will find frustrating to face (such as data exchange protocols and system operator tools) and prioritising them for resolution. Often these issues will be largely associated with freeing operating arrangements from the practical constraints of the 1990s operations under which the rules were written.
 - (iii) This reoriented focus would be driven by participant concerns while potentially encompassing feedback from non-participants, such as consumers and potential new entrants. Such responses would provide the proposed IPAG with a sound basis to review alternatives against the Code.
- (b) EnerNOC submitted IPAG cannot be innovative if the agenda is going to be set by the Authority's internal annual planning cycle and availability of resources. It should be set by issues arising from the market and dealt with in a timely manner.
- (c) Pioneer considered the Authority's goal of "*quickly identifying and removing any inefficient barriers that might inhibit innovation in how electricity is generated, stored, transported and purchased*" is commendable. However, it questioned whether IPAG would be too constrained by the Authority's narrow statutory objective and work programme timeframes to be effective. In particular:
- (i) The Authority can only ask an advisory group to work on a topic on the Authority's work programme. Developing a work programme is a process extending over many months and this timeframe may impact the effectiveness of the advisory group investigating / responding to innovation.
 - (ii) Innovation with emerging technologies will converge regulated and unregulated markets. It will be difficult to determine "inefficient barriers" in early stages of technology adoption, without consideration of wider government policies. Does this goal and the terms of reference for the advisory groups give the Authority the mandate to make changes to the rules impacting innovations during their early adoption stage? In other words, are the Authority or advisory groups going to be involved in picking winners?
 - (iii) The Authority's statutory objective is narrow compared with Government's "Big P" policy. New innovations may straddle the electricity sector and other parts of the economy or parts of Government policy – for example electric vehicles which use electricity and are a key plank of the Government's "Big P" transport and climate change policy. If inefficiencies arise in the electricity sector due to electric vehicles, how will the advisory groups and Authority take into account the Government's "Big P" policy objectives?
 - (iv) There are useful precedents in the way the Smart Grid Forum had a clearly defined objective not limited by a narrow focus on economic efficiency.

5.45 Pioneer would prefer a cross-agency advisory group for IPAG, providing advice that informs both the Authority and Commerce Commission. This would ensure closer alignment and consistency between regulators on matters that might impede innovation or efficiency.

- 5.46 Orion also commented on cross-agency issues for the Authority and all its advisory groups:
- (a) Orion considers the Authority's objective of better accounting for evolving technologies cannot be achieved by the Authority acting alone. Emerging technologies, new business models, and consumer behaviours are interrelated with policy and regulations affecting market structure (eg, separation between electricity generation/retailing, distribution/transmission and other energy-related services), conduct (eg, pricing and investing), and performance (eg, profitability). These issues cross the boundaries of regulators and policy makers.
 - (b) Orion also noted, while the Authority has an important role in the regulation of the electricity industry, the Commerce Commission is the primary economic regulator of the transmission and distribution sectors. In the same way emerging technology can blur the boundaries between the wholesale, transport and retail sectors of the industry, it can also blur the regulatory regimes and the policy drivers that led to the existing regulation. The issue of emerging technology has also been well articulated by the Commerce Commission in its *Input Methodologies Review draft decisions - Topic paper 3: The future impact of emerging technologies in the energy sector: 16 June 2016*.
- 5.47 Orion recommends the Authority should consider how its advisory groups will provide advice to the Authority to allow it to interact constructively with other regulators and policy makers. Orion also recommends all advisory groups established by the Authority (as opposed to just the proposed IPAG):
- (a) specifically consider the impact of emerging technologies on the work programme they are advising on, together with the various interrelationships between the different regulatory agencies and the wider environment
 - (b) advise, where necessary, the issue be coordinated with the Commerce Commission and Ministry of Business, Innovation and Employment (MBIE) or some other party.
- 5.48 ENA suggested some caution should be exercised that Authority proposals do not give rise to situations where the Authority extends its policy development activities, as informed by recommendations from the proposed new advisory groups, into areas outside its overall ambit.

The Authority's decision

- 5.49 The Authority has considered the views expressed in submissions regarding advisory group work plans, but is not persuaded to move away from the arrangements reflected in the charter and terms of reference.
- 5.50 In particular, the Authority must deliver its work programme in an effective and efficient manner, and therefore must retain decision rights over advisory group work plans. This is because the Authority, not the advisory group, is the only body able to progress changes and give them legal force. This means it is counterproductive for an advisory group to work ahead of the Authority on a project the Authority has not approved for inclusion on the group's work plan. An advisory group project needs to be integrated within the Authority's work programme, because ultimately the Authority must progress any Code amendments or market facilitation measures.

- 5.51 However, the Authority emphasises advisory groups are welcome to suggest items to be added to their work plan. The Authority will carefully agree work plans with advisory groups to minimise inefficient duplication. The Authority believes the nature of change in the industry means any splitting of scope between two groups will lead to some overlap, but this can be embraced effectively with proactive management. A more fluid structure also helps ensure gaps do not arise between groups.
- 5.52 The Authority acknowledges there is potential for overlaps between IPAG and MDAG, but believes this can be managed:
- (a) the Authority will consider potential overlap issues when suggesting possible projects to an advisory group
 - (b) the primary focus of the groups and primary purpose of the projects will be a major consideration when assigning projects to groups
 - (c) co-ordination will be facilitated by the Authority representative and advisory group chairs.
- 5.53 The Authority also considers the potential overlap may have benefits. For instance, it provides the opportunity to examine projects from different perspectives.
- 5.54 The initial allocation of projects to IPAG and MDAG will also assist with setting the precedent for future work plans.
- 5.55 The Authority maintains close working relationships with other regulatory agencies. These are often formalised through a memorandum of understanding and ensure the Authority updates these agencies as necessary.
- 5.56 Accordingly, the Authority is open to a senior staff member from the Commerce Commission observing IPAG meetings if considered beneficial by the advisory group chair and Authority representative.
- 5.57 In response to the concern the Authority and/or its advisory groups may stray outside the Authority's ambit, the Authority considers the Act, charter, and terms of reference collectively provide appropriate constraints on the Authority and its advisory groups.

Role of advisory groups in advising on Code amendments and market facilitation measures

What the Authority proposed

- 5.58 The charter sets out an advisory group may provide recommendations to the Authority about developing Code and market facilitation measures (clause 9.7). The Authority has statutory responsibility under the Act to make and administer the Code and to undertake market facilitation measures.⁶ The charter (clause 9.8) makes it clear:
- (a) the Authority will make the final decision on any proposals to amend the Code and on any recommendations on market facilitation measures
 - (b) the Authority's final decision on any matter will reflect the conclusions it reaches and may differ from the outcome preferred by a particular advisory group.
- 5.59 The charter also sets out certain requirements if an advisory group proposes Code amendments or market facilitation measures, such as ensuring consistency with the Authority's statutory objective and adhering to its Code amendment principles

⁶ Refer to sections 16(1)(b) and 16(1)(f) of the Electricity Industry Act 2010.

(clause 9.9). The charter obliges the Authority to keep the relevant advisory group informed about its progress when considering an advisory group's recommendations on Code amendment proposals or market facilitation measures (clause 9.12).

- 5.60 The Authority has responsibility for delivering its work programme in an effective and efficient manner. This includes deciding how best to develop proposals for possible Code amendments and market facilitation measures. Accordingly, the Authority proposed it would seek advisory group advice on Code amendments and market facilitation measures where necessary. The Authority expects both IPAG and MDAG will have a role in advising on Code amendments and market facilitation measures.

Submitters' views

- 5.61 Several submitters expressed views on this point. In particular:

- (a) Trustpower noted the Act sets out Parliament's expectation the Authority will use advisory groups *"to provide independent advice to the Authority on the development of the Code and on market facilitation"*. It also noted section 19(1) of the Act states the Authority's advisory group charter needs to set out how and when it will consult with advisory groups on material Code changes.
- (b) Trustpower also noted the Authority's existing consultation charter says it intends to use advisory groups as the primary means of developing Code amendment options for significant and non-urgent matters. Yet the proposed advisory group charter states the Authority may, in its discretion, consult an advisory group on Code amendment proposals. Trustpower recommended the wording of this clause is changed to instil a presumption an advisory group will be consulted on Code amendment proposals, as this would better align with the intention in the Act. For example, *"The Authority will consult with an advisory group on material changes to the Code and on market facilitation measures, unless the Authority deems such consultation will not promote the achievement of the Authority's statutory objective"*.
- (c) Transpower also drew attention to the Authority's changed intentions for advisory groups over time and questioned the Authority's current intent. Transpower submitted that, in retrospect the Authority's stated intention advisory groups *"be a primary means for developing Code amendment options for significant and non-urgent matters"*, does not appear to have been applied consistently in practice. For example, Transpower queried why, given the significance of the Authority's review of the distributed generation pricing principles, and distribution pricing work, advisory groups were not used. Similarly, while an advisory group was initially used for transmission pricing it was disbanded before the Authority was able to benefit from the group's input and advice during its own review of the transmission pricing methodology.
- (d) Orion submitted combining the statutory function of an advisory group (other than the SRC) with the statutory function of the Authority on market facilitation suggested the purpose of any advisory groups (other than the SRC) be limited to, *"providing independent advice to the Authority on the development of the Code and on market facilitation (such as providing education, guidelines, information, and model arrangements)"*.
- (e) Unison submitted the following text should be added to paragraph 9.12 of the charter, *"The Authority will seek feedback from the relevant advisory group if the*

Authority proposes to deviate from the recommendations in a material way". Unison noted RAG made a similar recommendation in the last review of the charter. Unison considered the inclusion of this additional wording would:

- (i) ensure final decisions by the Authority are considered through advisory group feedback
- (ii) reinforce the value of the advisory group function and the groups' role as a key 'sounding board' the Authority uses to test proposed regulatory change.

The Authority's decision

- 5.62 The Authority is required to efficiently achieve its statutory objective, which encompasses responsibility for delivering its work programme in an effective and efficient manner. Accordingly, it is the Authority that needs to decide if/when to seek advisory group advice on Code amendments and market facilitation measures.
- 5.63 As set out in the consultation charter, the Authority intends advisory groups to be one of the important inputs for developing Code amendments as may be appropriate depending on the subject matter. The Authority believes current procedures around the agreement of an advisory group work plan give sufficient consideration to whether advisory group advice should be sought on Code amendments and market facilitation measures.
- 5.64 The Authority does not believe a requirement to consult with advisory groups if the Authority deviates from their recommendations is necessary as this could unnecessarily delay progress. The Authority notes in practice it communicates regularly with advisory groups as their projects progress on the Authority's work programme.

Advisory group appointment process

What the Authority proposed

- 5.65 The charter and terms of reference provide for IPAG and MDAG members to be appointed by the Authority after considering nominees against prescribed criteria.

Submitters' views

- 5.66 Two submitters commented on the advisory group appointment process:
- (a) The ENA submitted, in assessing and appointing members to the proposed new advisory groups, it would be beneficial to expand the appointments panel to include non-Authority members. For example, useful organisations to include would be MBIE, EECA, and the Commerce Commission. Broadening the appointment panel is consistent with the Authority's overarching strategy to diversify and expand advisory group membership and reorientation of its work programme. It would equally be sensible to include organisations that can represent the views of consumers. The ENA urged the Authority to amend the proposed charter to allow for a broadened appointments panel.
 - (b) Vector Advanced Metering Services submitted there should be non-Authority members on the appointment panel for IPAG and MDAG to help ensure broad and non-bias selection of members.

The Authority's decision

- 5.67 The Authority is not persuaded to formally move to an appointment panel including non-Authority members, as this would dilute the Authority's accountability for its advisory groups.

Matter (d): Providing advisory groups with specialist expertise and perspectives, and stakeholder engagement

- 5.68 A number of submitters commented on the appropriate approach to ensuring advisory groups (and/or working groups) have access to the appropriate subject matter expertise and perspectives (including from inside the Authority). These have been grouped with submitters' comments on consumer representation, stakeholder engagement, and sharing of advisory group papers before meetings, and considered in this section of the decision paper.
- 5.69 Submitters' comments addressed in other sections of this paper are also relevant:
- (a) the use of ad hoc advisory groups and working groups to expand access to the expertise required for a particular project
 - (b) IPAG and MDAG membership and modus operandi.

Specialist expertise and support

What the Authority proposed

- 5.70 Historically, WAG and RAG have received specialist expertise from a mix of secretariat, stakeholder engagement, and local/offshore experts. This occurs through a mix of direct engagement, workshops, meeting attendance, surveys, discussion papers, and presentations co-ordinated by the advisory group chair and secretariat (with prior Authority approval if additional cost is involved).
- 5.71 The consultation paper did not set out specific proposals for how IPAG and MDAG would have access to specialist expertise and perspectives. The paper did, however, set out the Authority's expectations regarding areas or expertise and perspective the Authority might draw upon when appointing members of IPAG and of MDAG, given the intended role of each group.
- 5.72 The proposed charter and terms of reference also included relevant provisions. In particular, the charter (clause 8.5) sets out:
- (a) Authority staff will, where possible, undertake any required analysis
 - (b) the Authority's representative has the discretion to engage any external expertise that may be needed to assist the advisory group
 - (c) an advisory group may recommend external expertise to Authority staff it considers necessary to perform its function.
- 5.73 Furthermore, the terms of reference specifically allow IPAG and MDAG to decide the extent and type of feedback it seeks, including how it will interact with interested parties to seek such feedback (clause 6.8(c)).
- 5.74 The consultation paper sought submitter views on how each group should operate to best achieve its purpose.

Submitters' views

- 5.75 Key comments on this matter included the following:
- (a) Cortexo submitted disruptive technologies evolve incredibly fast, something those used to building hydro dams or transformer stations sometimes struggle to come to terms with. Some of the likely target "disruptors" are probably still in the garage phase or part of an academic research paper, so having an IPAG member with

their finger on the pulse of innovation would be an advantage. Cortexo suggested close liaison with Callaghan Innovation, New Zealand Trade and Enterprise, and regional development agencies (including industry groups like the NZ Software Association, Canterbury Tech, and Technology Taranaki, and other technology groups which would encompass more physical innovation) may well expose very significant work in areas the electricity industry might consider “disruptive”.

- (b) Cortexo also proposed some IPAG members should act as a conduit to parties with wider perspectives and/or expertise.
- (c) Genesis considered there is a need for the Authority to continue to obtain meaningful and actionable advice from sector representatives to deliver its work programme, and draw on SMEs to deliver value to the end consumer. The Authority must draw on a wider pool of stakeholders for advice, while maintaining stability and security of supply. The Authority should establish pools of SMEs that [Genesis’ proposed single Advisory Group] can draw on. This will restrict the cost of involvement for stakeholders (ie, can choose which issues, rather than which group, to invest the time and resource). Genesis believed this will enhance industry engagement.
- (d) Mercury submitted, to ensure transparency, any individual or bodies with an interest in the development of the industry should be able to attend meetings in the capacity of observers.
- (e) Pioneer suggested the Authority should also try to access more international expertise to advise both advisory groups.
- (f) Pioneer also suggested there are useful precedents in the way the Smart Grid Forum was able to engage organisations that are not direct participants in the electricity sector, and it organised many presentations from international experts which were open to the public.
- (g) WAG noted the Authority intends IPAG and MDAG to advise on the entire supply chain. It submitted relying on individual members’ personal expertise needs to be reinforced with visits to participants’ sites, presentations from stakeholders, and direct interaction with the Authority’s Board.

5.76 Two submitters commented on the Authority’s structure, skills, and expertise in light of the proposed new advisory groups:

- (a) Unison suggested the Authority should consider its organisational structure and staff skill sets to ensure the secretariat support provided to IPAG and MDAG aligns with the groups’ new format and focus. The advisory groups rely on and value this support and expertise, and it is critical to ensure the Authority’s support for the groups has aligned skill-sets, knowledge, and competencies.
- (b) The ENA submitted, as the range of skills and expertise within the membership of the advisory groups are broadened, the Authority should monitor the extent to which its own internal expertise complements this. This is not to suggest Authority staff do not have the necessary skills and expertise, merely should the advisory groups (in particular IPAG) move into non-traditional areas for the Authority, it is important Authority staff are reasonably conversant with the subject matter.

The Authority's decision

- 5.77 The Authority considers the proposed arrangements provide a high degree of flexibility while maintaining appropriate co-ordination and control.
- 5.78 The Authority considers many of the ideas put forward by submitters could be (or are already) accommodated under the current regime, in discussion with the Authority staff and advisory group chairs. For instance:
- (a) the Authority already encourages advisory group members to act as conduits to parties with wider perspectives and/or expertise, provided the information being shared is not confidential
 - (b) observers have attended advisory group meetings in the past, at the invitation of the relevant chair
 - (c) advisory groups have requested assistance from SMEs as required.
- 5.79 Accordingly, the Authority intends continuing with the proposed arrangements.
- 5.80 The Authority does not see a pressing need to allow uninvited observers to attend advisory group meetings. Interested parties are able to engage with advisory group members directly or through the chair, group materials can be viewed online, and interested parties can ask the chair if they wish to attend a meeting in person.

Consumer representation and input

What the Authority proposed

- 5.81 As set out in the charter, the Act requires every advisory group to include members whom the Authority considers have appropriate knowledge of, and experience in, the electricity industry and consumer issues. Furthermore, as outlined in the previous section, the charter and terms of reference contain provisions relating to advisory groups:
- (a) engaging external expertise (which could include consumer expertise)
 - (b) interacting with interested parties (which could include consumers and their representatives).
- 5.82 The consultation paper set out the Authority's expectation IPAG members would need to have a consumer-centric view of issues, but this did not mean all members would need to come from organisations representing consumers. The Authority noted IPAG could gain the necessary insight into consumers' views through surveys, focus groups, and targeted consultation.

Submitters' views

- 5.83 There was strong support amongst submitters for consumer representation and/or input on Authority advisory groups.
- 5.84 A number of submitters commented on approaches to providing consumer representation and consumer input on advisory groups and working groups. Comments included:
- (a) Consumer NZ submitted there needs to be a core group of members involved in every [IPAG] project, including representatives from an organisation representing consumers. As New Zealand's leading consumer organisation, Consumer NZ considered it would be well-placed to fill this role.

- (b) While Consumer NZ agreed with the consultation paper proposal where IPAG should make use of surveys, focus groups, and targeted consultation to gain the necessary insight into consumers' views, it submitted these should be complemented by a permanent member serving as the dedicated consumer representative.
- (c) Genesis submitted the Authority should investigate whether a consumer advisory group exists which could be approached for issue specific advice and to support the consumer representative/s on [Genesis'] proposed single advisory group.
- (d) Orion suggested additional consumer input could be obtained from ad hoc advisory groups or working groups reporting to the main standing working group. It submitted appropriate funding for consumer representatives would need to be provided.

The Authority's decision

5.85 The Authority considers the proposed arrangements enable appropriate consumer representation and input for advisory groups generally, and for IPAG and MDAG specifically. This would mean consumer representation and input is delivered through a combination of the following:

- (a) consumer representation is considered as part of the Authority's advisory group appointment and selection process in accordance with the Act, charter, and terms of reference
- (b) the charter and terms of reference provide for advisory groups to:
 - (i) engage external expertise on consumer issues
 - (ii) interact with interested parties that represent consumers' interests
 - (iii) establish working groups that could include consumer representation.

5.86 The Authority is not persuaded each advisory group should have a permanent member serving as the dedicated consumer representative. It considers the Act sets out the appropriate requirements, ie, "every advisory group ... include members whom the Authority considers have appropriate knowledge of, and experience in, the electricity industry and consumer issues" (emphasis added).⁷

5.87 The Authority notes it and its advisory groups can, and do, engage with a range of consumer groups for issue-specific advice. The Authority also believes the range and substance of consumer viewpoints is continuously evolving, which makes it difficult to expect an individual person to fully understand/represent the diverse view of all consumers. This makes it preferable for the consumer perspective to be represented by a range of people.

Stakeholder engagement by the Authority

What the Authority proposed

5.88 The consultation paper was focussed on the proposal to establish IPAG and MDAG. The paper and attached charter and terms of reference contemplated the groups would engage with stakeholders in a variety of traditional (eg discussion papers, workshops) and non-traditional (eg, webinars, facilitated workshops, and on-line discussions) means.

⁷ Refer to section 21(2) of the Electricity Industry Act 2010.

It sought stakeholder views on, amongst other things, how the groups might operate to as to best achieve their purpose, including how the groups might engage with stakeholders. The consultation paper did not address stakeholder engagement by the Authority.

Submitters' views

- 5.89 Some submitters commented on issues relating to stakeholder engagement by the Authority and/or by advisory groups in general terms. Comments focused more specifically at IPAG and MDAG engagement are discussed at paragraphs 5.129 and 5.158 respectively in this decision paper.
- 5.90 Key comments included:
- (a) Cortexo suggested it would be in the interest of the Authority to provide, either itself or via an existing training organisation, basic workshops that give an understanding to how the electricity industry works in New Zealand and how to interact with it. These workshops would make visible to the Authority some of the work going on around the edge of the grid by drawing interest from those new disruptive companies.
 - (b) John Hancock suggested, in forming IPAG, it would be helpful for the Authority to talk to people who have joined the industry recently. They will have relevant ideas about how best others like them can be brought up to speed with the way things work now and why the rules exist. Not all of the rules can be changed however much we might want to remove constraints to innovation and participation.
 - (c) Trustpower submitted advisory groups are a form of consultation, but do not supersede the need for other forms of consultation. The Authority should engage in a variety of communication channels with stakeholders but also recognise the need to delve deeply into issues with a small team of subject experts. The Authority should continue to hold events to increase stakeholder engagement, such as conferences, forums, workshops, streaming presentations online, and providing regulatory briefings.

The Authority's decision

- 5.91 The Authority notes it has an existing education programme in place, but will also try to give effect to other suggestions to the extent budgetary and resource constraints allow.
- 5.92 The Authority will continue to hold events to increase stakeholder engagement, as submitted by Trustpower.

Sharing advisory group papers prior to meetings

What the Authority proposed

- 5.93 The terms of reference included with the consultation paper provide, "*the Authority, in its capacity as the secretariat, will... ensure that non-confidential meeting materials are published on the Authority's website as soon as practicable after the relevant meeting*".

Submitters' views

- 5.94 MEUG and Transpower commented on the benefits of sharing advisory group papers prior to meetings.
- 5.95 MEUG's comments can be summarised as follows:

- (a) MEUG noted the terms of reference are silent on whether advisory group members can circulate non-confidential agenda papers ahead of an advisory group meeting. MEUG interpreted this as allowing members to circulate non-confidential agenda papers, in whole or part, at their discretion, to allow those members acting in a personal capacity to improve their contribution to advisory group meetings. In other words, there is no prohibition of non-confidential agenda papers becoming public ahead of meetings. MEUG submits if this is not the intention, then clauses should be included in the terms of reference to that effect.
 - (b) MEUG also noted this raises the question of how the Authority can enforce advisory group members not circulating confidential agenda papers within their affiliated organisations. MEUG suggested the inclusion of confidential papers in advisory group agenda papers should be kept to a minimum because of the Authority's weak ability to enforce selected parties and affiliated organisations having access to information before other parties in the market.
 - (c) MEUG went on to submit if advisory group agenda papers are, or could be, widely available before an advisory group meeting (because there is no prohibition on members circulating papers), then they should be published as soon as practicable after they have been circulated to members. That is, non-confidential agenda papers should be published before a meeting.
- 5.96 Transpower suggested, drawing from practice in other jurisdictions such as Pennsylvania, Jersey and Maryland (PJM), it may benefit the groups' consideration process if (non-confidential) papers are made publicly available at the time they are provided to the advisory group. This would allow interested parties to offer any relevant information to the group's assessment.

The Authority's decision

- 5.97 The Authority believes where appropriate, each group should be given flexibility to determine its own procedures, including whether it shares papers prior to meetings through publication on the Authority's website. The Authority does not object to groups sharing papers with other groups where this facilitates joint efforts on a particular project.

Matter (e): The role, membership, and operation of IPAG

Role and scope of IPAG, and possible initial projects

What the Authority proposed

- 5.98 The Authority's consultation paper set out its expectations for IPAG's role, scope, and possible projects.
- 5.99 IPAG would be responsible for advising the Authority on matters relating to evolving technologies and business models; and consumer choice and competition. IPAG would provide independent advice to the Authority (whether in the form of findings or recommendations) based on evidence and consistent with the Authority's statutory objective.
- 5.100 The proposed scope of IPAG's activities would be the projects under the Authority's following two programmes:
- (a) evolving technologies and business models
 - (b) consumer choice and competition.

- 5.101 This means IPAG would consider initiatives to:
- (a) reduce inefficient barriers to the development and use of evolving technologies and business models across the supply chain
 - (b) promote consumer participation through the whole supply chain.
- 5.102 The Authority suggested projects in its 2016/17 work programme that could be assigned to IPAG might include:
- (a) *Data and data exchange*: The electricity market relies on the exchange of information, particularly financial information, between participants and service providers. The Authority wants to make sure data and data exchanges deliver the highest long-term benefits for consumers, particularly given the potential for more, and more diverse, participation in electricity markets, including by ‘prosumers’.
 - (b) *Barriers to mass-market participation in electricity markets*: Participation in electricity markets requires a set of relationships between parties. For example, a ‘prosumer’ wanting to sell electricity directly into the wholesale market will have relationships with the distributor and with the clearing manager and related service providers. The Authority wants to remove or minimise barriers to small scale providers of distributed energy resources or demand response.
- 5.103 The Authority considers these projects could be appropriate for IPAG because:
- (a) they are in the initiation phase
 - (b) the issues relate to the potential for a transition away from the traditional ‘bulk supply’ of electricity, to a distributed approach involving many, diverse, and small suppliers.

Submitters’ views

- 5.104 A number of submitters made comments on the role and scope of IPAG, and on possible initial projects. Comments included:
- (a) Cortexo expressed the view the Authority has had difficulty in identifying the scope and scale of innovation occurring outside the established industry players. There is a tendency for the industry incumbents to believe they are the only ones with the knowledge and ability to develop new services and business models. The electricity industry tends to work like a walled garden surrounding silos of information. The Authority must be able to see outside the rigid walls of the mainstream. Cortexo believed IPAG may assist that process.
 - (b) John Hancock noted falling costs and improving capabilities of energy management and sensing technologies mean there will be increasing opportunities for the economic automation and dynamic response of devices of all sizes from industrial plant to home appliances. These opportunities will rely as much on access to and participation in elements of the electricity markets as new models of commercial generation, storage, transportation, and sale.
 - (c) John Hancock suggested the reference to innovation in IPAG’s name is potentially confusing as it is clearly not the intention market innovation happens in the group - rather it reduces barriers and improves consumer participation so people can innovate in the industry. It might be clearer to call it something like the ‘market access and participation’ advisory group.
 - (d) MEUG supported the proposed scope as illustrated in the Authority’s Figure 1.

- (e) Orion submitted, combining the statutory function of an advisory group (other than the SRC) with the statutory function of the Authority on market facilitation, suggests the purpose of any advisory groups (other than the SRC) be limited to *“providing independent advice to the Authority on the development of the Code and on market facilitation (such as providing education, guidelines, information, and model arrangements)”*.
- (f) Orion also noted the scope of IPAG is set out in the terms of reference for IPAG and limits IPAG to providing advice on a limited subset of the Authority’s work programme. This limitation means the intent of the proposal IPAG would look at the entire electricity supply chain and future innovations will not be achieved. Orion considered limiting IPAG to a subset of the Authority’s work programmes risks creating silos. The scope of the advisory groups should be reconsidered, with advisory groups looking at the entire Authority work programme.
- (g) Powerco noted the current draft of the IPAG terms of reference states the Authority may seek IPAG’s advice on *“initiatives to reduce inefficient barriers to development and use of evolving technologies and business models across the supply chain”*. If IPAG is established [Powerco advocates a single advisory group model], it should have a less presumptive objective. Powerco submitted the proposed objective seems unnecessarily pejorative, ie, it assumes there are (or will be) inefficient barriers within the supply chain. Starting with this objective could make IPAG’s work unnecessarily controversial if it actively tries to find ‘inefficient barriers’. A better objective would be something like, *“providing advice on initiatives to improve the development and use of evolving technologies and business models across the supply chain, where these are efficient”*.
- (h) Powerco expressed the view the IPAG objective regarding *“initiatives to promote consumer participation through the retail market”* is reasonable. However, it assumed these initiatives to promote participation would only be promoted where they are efficient, and suggested this should be clearly stated in the terms of reference.
- (i) Transpower observed the criteria for membership of both advisory groups are the same except in one respect: MDAG has an additional criterion strategic, commercial, and regulatory expertise. If the omission from the IPAG criteria is deliberate it suggests its role may be viewed more as a think-tank than a body with specific tasks in a regulatory setting, more aligned with ‘market facilitation’ perspectives, rather than ‘development of the Code’. The group could be an avenue to bring ideas for investigation and possible development to the Authority.
- (j) Unison submitted the Authority should not lose sight of the need to ensure the integrity of the electricity market/system is not compromised in the face of the evolving technologies. While this has not occurred to date, and the Authority has a role to play in making sure the market can accommodate different technologies and business models, it is also important regulatory and market settings are based on sound technical and commercial/economic principles. For example, the concept of peer-to-peer trading and the interface with Code requirements is likely to be an area of interest, but any Code adjustments to enable effective trading must still be consistent with the real physical and technical requirements of the electricity system.

5.105 Genesis commented on the specific projects the Authority identified for IPAG:

- (a) *Data and data exchange*: Genesis did not believe the focus on data and data exchange will deliver value given the current state of the market. It may inadvertently inhibit innovation, as IPAG membership will need to be restricted in some way to deliver advice, and new ideas may be missed. This project is something [Genesis' proposed single] advisory group could look at once the wider emerging technology framework is better established
 - (b) *Barriers to mass market participation*: Genesis considered these will need to be considered across agencies (MBIE and the Commerce Commission). Genesis supported the involvement of the [single] advisory group if the Authority is coordinating this work programme between the agencies.
- 5.106 Genesis supported the group providing project specific advice to the Authority on pricing and cost allocation, operational efficiencies, and risk management – each is likely to require SME advice and be working group specific.
- 5.107 Consumer NZ suggested the following should be added to IPAG's scope:
- (a) establishing clear principles for pricing and the relationship with the distributor/clearing manager so potential prosumers can make informed decisions on the long-term economics of investing in distributed generation
 - (b) ongoing development of new distribution pricing structures, and how best to educate the public about new distribution pricing arrangements.

The Authority's decision

- 5.108 The Authority notes submitters' views on the role and scope of IPAG and on its possible projects.
- 5.109 The Authority believes the existing group name of IPAG is appropriate as it indicates the group will be advising on improving these areas, rather than actually attempting improvements themselves.
- 5.110 The Authority acknowledges Powerco's submission on altering the objectives of IPAG and has amended the terms of reference to reflect the feedback.
- 5.111 IPAG, as with all Authority advisory groups, will be strongly focused on contributing to the achievement of the Authority's statutory objective. The Authority considers a project focused on data and data exchange can assist with this, and is a suitable contender for the IPAG work plan.
- 5.112 The Authority notes IPAG has full discretion to accept or reject projects the Authority suggests for inclusion in its work plan. Additionally, IPAG will be provided with an opportunity to comment on and suggest changes to their proposed work plan once they have been formed.
- 5.113 With regard to the involvement of other regulatory agencies, the Authority has addressed this in paragraphs 5.55 and 5.56 above.
- 5.114 The Authority believes the primary focus of IPAG and the primary purpose of the projects will help to refine the role and scope of IPAG as it progresses work on various projects.

Membership, size and structure of IPAG

What the Authority proposed

- 5.115 The Authority proposed IPAG would operate in quite a different way from the Authority's existing advisory groups. It suggested IPAG would have a membership comprising people with an interest and expertise in:
- (a) the electricity sector; and
 - (b) evolving technologies and business models; and/or
 - (c) consumer choice and competition.
- 5.116 However, IPAG's membership may be significantly broader than RAG and WAG, whose members have tended to come from the "traditional" aspects of the electricity market. IPAG would be more likely to achieve its purpose if its members had a more diverse array of backgrounds. Members could be drawn from:
- (a) information technology firms interested in the electricity sector
 - (b) technology firms supplying consumers with electricity-related products and services, such as whitegoods or home energy management systems
 - (c) researchers, either at universities or firms
 - (d) electricity generators, retailers, and distributors
 - (e) aggregators of demand response and distributed energy resources.
- 5.117 Members would need to have a consumer-centric view of issues. However, the Authority noted this does not mean all members would need to come from an organisation that represents consumers. IPAG could gain the necessary insight into consumer's views through surveys, focus groups, and targeted consultation.
- 5.118 The Authority noted in the consultation paper it did not yet have a view about the appropriate number of members for IPAG. It may be IPAG's purpose would be best achieved by a group of 10–15 people who contributed to all topics. Alternatively, it may be better served by a larger pool of members from a variety of backgrounds, who contributed to specific projects on a case-by-case basis (ie, an advisory panel-type approach).
- 5.119 The Authority invited stakeholder views on IPAG's membership. In particular, it sought views about how the Authority could motivate people who have not traditionally been part of the electricity sector to be involved in the group.

Submitters' views

- 5.120 Almost all submitters commented on IPAG's membership:
- (a) Consumer NZ submitted membership should be significantly broader than RAG/WAG, with a larger pool of members from a variety of backgrounds; researchers, innovative technology firms and people who have not traditionally been part of the electricity sector should all have a voice on IPAG depending on the issue under consideration. There needs to be a core group of IPAG members involved in every project, including representatives from an organisation that represents consumers. As New Zealand's leading consumer organisation, Consumer NZ considered it is well-placed to fill this role.

- (b) Contact supported promotion of diversity and consumer-centric views, noting there are also innovators in traditional retailers.
- (c) Cortexo submitted IPAG needs to include those individuals who have specific knowledge and community feedback to support the objective of increased participation by new entrant suppliers as well as end users. Cortexo also expressed the concern the Authority doesn't create another group of the "same old suspects". Cortexo believed some market participants use these forums as a way to keep up with what their competitors are doing, or to pour cold water on anything that might threaten their current operations. It recognised the obvious experience provided by individuals in the industry but considered it would be better to use these participants more as "expert witnesses".
- (d) ENA submitted, while expanding the expertise of those individuals in the proposed new advisory groups, it is important across the advisory groups as a whole there remains a reasonable level of knowledge of the fundamental operation of the NZ electricity system – in particular its constraints.
- (e) EnerNOC considered the key will be to get the right mixed membership of people and a balance between incumbents across the supply chain and new thinking from entrants from the merging of transport (with electric vehicles) and the business intelligence worlds (Internet of Things) coming into the electricity sector. The best people will be those who have the enthusiasm for being part of an advisory group, along with a vision for change and a sound understanding across the total system in terms of the impact on the affordability of electricity, security of supply, and the carbon emissions from the sector.
- (f) Meridian supported broad membership for IPAG with a diverse array of backgrounds. Meridian considered the nomination process will produce appropriate nominees from which the Authority can then appoint parties that will ensure IPAG can achieve its purpose.
- (g) MEUG agreed IPAG should have a larger, more diverse membership than the current advisory groups, with flexible engagement to maximise opportunities for IPAG members to contribute.
- (h) Orion submitted, at a minimum, the advisory group needs to include industry representatives from across the value chain that have a sound engineering and economic background together with customer representatives. The Authority will need to carefully consider how it encompasses representatives of the mass market. Additional consumer input could be obtained from ad-hoc advisory groups or working groups reporting to the standing group.
- (i) Pioneer re-iterated its support for a cross-agency (ie, Authority and Commerce Commission) approach: this would attract more diversity of views, including consumer and technologies markets experience. Membership would be most useful working through a cross-agency IPAG, to ensure alignment and consistency with all government policy and regulated and unregulated rules.
- (j) Transpower supported broadening IPAG's membership to include people with an interest and expertise in the electricity sector, evolving technologies, and business models, and/or consumer choice and competition.
- (k) Trustpower submitted the core feature of advisory groups is they include subject matter experts who take the time to understand and debate proposals in depth. In

other words, the members need to do a considerable amount of work, and have a considerable amount of expertise.

- (l) Unison urged the Authority to keep its key focus on the requirements of advisory groups, as set out in section 21(2) of the Act. The core skills of any member of IPAG should therefore be “*knowledge of and experience in the electricity industry and consumer issues*”. This does not rule out members in other sectors, but the Authority needs to ensure the core knowledge and experience of the electricity industry and consumer issues is a key appointment criteria.
- (m) Vector Advanced Metering Services noted the consultation paper did not specifically mention metering equipment providers (MEPs) as possible members. However, the technical domain which the MEP operates in is evolving very quickly, with a range of new communications technologies enabling innovations within the metering/sensor space. MEP participation in IPAG may help facilitate and support earlier uptake of such technologies and opportunities for the exposure of new ideas and concepts to the wider market.

5.121 WAG made several comments on IPAG's membership, drawing on its own experience:

- (a) WAG suggested the Authority's advisory groups would be most effective if they had a relatively mixed membership consisting of both new and traditional participants. These members could be drawn from a pool of traditional industry participants, technology experts, innovators, related utility industries (such as telecommunications and data service providers), and international experts.
- (b) WAG also noted a particular challenge for new entrants to the sector is they have ideas which do not necessarily mesh with the realities of the mechanics of the industry. The key value of the proposed IPAG will be in identifying evolutionary rather than revolutionary developments. This requires a group of people who understand the orthodoxies of the existing arrangements, but have insight into their limitations and can hence identify how to modify the arrangements to support greater innovation and participation.
- (c) WAG suggested there are very few people in the industry who can cover the full supply chain. Most people in the industry have more expertise in particular areas (upstream / downstream aspects of the energy sector or experience in other industries). A mixed membership would ensure broad expertise that spans the full supply chain. WAG has found the diverse backgrounds of its members to be invaluable in supporting in-depth conversation and robust recommendations.

5.122 The views on membership expressed by Genesis and Mercury were predicated on their preference for a single advisory group:

- (a) Genesis proposed the Authority form a single advisory group encompassing IPAG and MDAG, with expanded membership and consumer representation, with support from a pool of SMEs.
- (b) Genesis also expressed the view individuals with deep experience of the electricity sector must be part of “IPAG” or an overarching advisory group. The market does not operate in isolation. It is important innovation and the market ‘machinery’ align. If not, it is highly likely the new ideas of IPAG will simply fall flat as there may be potential issues restricting or preventing implementation in the market in the manner proposed by IPAG. The same is applicable vice-versa: the market must be able to adapt and support new technology and innovation.

- (c) Mercury submitted it would be appropriate to constitute a single advisory panel with more senior level individuals, but for efficiency this could include representatives from consumer and industry associations. Membership should also include MEPs. This would be more of a steering committee model with expert working groups established.

5.123 There was a diversity of views on the appropriate size of IPAG:

- (a) Allen Davies submitted 10 members with an industry background, meeting face to face seemed to be the right answer.
- (b) Some submitters disagreed with the Authority's proposal of 10–15 members, instead favouring a smaller group for IPAG:
 - (i) Trustpower was concerned with the Authority's proposal to dilute important advisory groups to 10–15 people or larger will not result in the detailed level of analysis which advisory groups are intended to provide. If the Authority needs to access particular expertise, then it should do this by forming bespoke ad hoc groups, rather than diluting independent advice amongst an omnibus group which will end up being a discussion forum on the Authority's proposals, rather than a working group developing independent thinking. A smaller group of experts is recommended for an advisory group, noting research into the effectiveness of group decision-making which suggests an optimal number of seven.
 - (ii) Similarly, Unison considered a smaller group of core members (approximately seven or eight members) would be appropriate for IPAG. Wider expertise could be drawn on for particular research projects and reports (eg, for a particular working group), similar to the input/feedback the RAG often procured, either from consumer engagement or subject experts.
 - (iii) Orion submitted the size [of the standing advisory groups proposed by Orion] needs to be carefully managed to avoid them becoming unmanageable.
- (c) Several submitters proposed a more flexible approach, varying on a project-by-project basis:
 - (i) Consumer NZ supported a larger pool of members from a variety of backgrounds, all with a voice on IPAG depending on the issue under consideration. There needs to be a core group of IPAG members involved in every project, including representatives from an organisation that represents consumers.
 - (ii) Cortexo proposed membership should be dynamic. It suggested a permanent core of five or six forward looking people with good knowledge of the current industry and future trends and who can, as individuals (not company spokespeople), see how new and emerging technologies may affect the regulatory framework and industry. Their job would also be to act as a conduit between the current and emerging technology companies as well as existing participants that can then "pull in" those individuals who will add value to the specific projects under discussion. Members also need to be able to bring forward the issues inhibiting new entrant and end-user participation.

- (iii) EnerNOC submitted a large standing industry group focused on innovation will not work. A better approach will be a smaller group of members, where each one is responsible for chairing a working sub-group focused on building the different aspects of more market flexibility to under-pin the changes in our renewable electricity market. These working sub-groups would deliver results from work streams to bring out the issues and barriers which have to be addressed by the Authority through rule changes. Each sub-group is set up to complement the development of smart grid or smart power and takes forward the benefits of more demand response, more energy storage and the integration of smarter controls.
- (iv) Meridian submitted it had no firm views on whether a 10–15 member IPAG or a larger group would be more appropriate, but considered the larger group, individuals from which contribute on specific projects in an advisory panel-type approach, may better serve the aims for IPAG.
- (v) Vector Advanced Metering Services supported the group being a larger pool of members from a variety of backgrounds, who contribute to specific projects on a case-by-case basis (ie, an advisory panel-type approach). However, it could benefit from a small core group to help maintain consistency across projects.
- (vi) WAG members note their participation in the group has required a reasonable commitment of time in order to consider all meeting materials, be available for all-day meetings every six to eight weeks and to accommodate offline conversations and emails. This has entailed a sustained responsibility for each member over their two-year term. This kind of obligation is unlikely to be attractive to time-poor innovators. Furthermore, a standing group focused on innovation is something of a contradiction because the parties innovating will be changing all the time. It may therefore be more appropriate to assemble a pool of members for the proposed IPAG before setting up technical sub-committees to tackle particular issues on a short-term basis.

5.124 Some submitters responded to the Authority’s query about how it could motivate people to be involved in IPAG:

- (a) Busy commercial people find policy development processes to be slow-moving and frustrating – if the intention with IPAG is to engage entrepreneurs and potential new entrants to the sector it may be better to focus the group on activities rather than creating documents – the form of the group’s outputs might be more in the form models, pictures and prototypes than conventional papers (John Hancock).
- (b) IPAG types of people will have fresh perspectives but may have a less strong incentive to dedicate time to the group so it may be necessary to find ways of allowing them to engage without having to travel to Wellington every month or so or review papers between meetings. Collaboration technologies may be helpful here (John Hancock).
- (c) Full participation in an advisory group is a significant commitment from individuals and their employers. Employers (especially in the industry) will generally be willing to permit and support participation by their employees as it is in their interest to ensure its regulator is well informed. Motivating participation by individuals is more nuanced. In addition to practical matters such as availability and complexity of material, there are two related considerations (i) the extent to which participation

provides direct benefit from participation (this may be non-financial, ie, reputation) and (ii) how enjoyable and satisfying participation is. The latter point will be significantly influenced by the Authority's approach to, use, and treatment of advisory groups. The Authority could survey current and previous Advisory Group members, and possibly potential members, to seek their views on what they found most (and least) rewarding from participating in advisory groups (Transpower).

- (d) A strong incentive for WAG members to participate in the existing group has been the ability to influence energy market design and operation. It is clear to members the Authority Board gives weight to the advice they provide and is strongly influenced by consensus recommendations. Changes to the prudential security requirements and the introduction of the net pivotal rules are particular examples where WAG's influence has been readily apparent. This formal link between the advisory group and the rule maker differentiates the Authority's advisory groups from other industry groups like the Smart Grid Forum who have a less direct relationship with the agencies with the power to change rules and legislation (WAG).
- (e) WAG members have found the advisory groups to be a constructive environment for shared learning. Working on detailed issues with other people from an assortment of backgrounds has helped build individual knowledge to the great benefit of each member (WAG).

The Authority's decision

- 5.125 The Authority notes the diversity of views on IPAG size. On balance, the Authority considers it would be appropriate for IPAG to have a target membership of between five to eight members, including an independent Chair, but the Authority should retain the flexibility to appoint more or less members.
- 5.126 The Authority considers IPAG's membership will ideally have a diverse array of backgrounds, and will comprise people with an interest and expertise in:
 - (a) the electricity sector; and
 - (b) evolving technologies and business models; and/or
 - (c) consumer choice and competition.
- 5.127 The Authority's view is potential members will be motivated by the opportunity to be at the forefront of technologically driven changes to the electricity industry and the resulting ability to influence outcomes in the electricity market.
- 5.128 The Authority believes the revised charter and terms of reference are flexible and allow IPAG to operate largely as they wish, including the option of suggesting use of a working group. The Authority acknowledges there were good ideas suggested, but intends to let the group form and then learn the best way of operating through its own experience.

How IPAG should operate

What the Authority proposed

- 5.129 The Authority set out in its consultation paper it did not yet have a firm view on how IPAG should operate. While the Authority has allowed advisory groups to establish their own procedures to some degree, groups have generally operated through formal face-to-face meetings.

- 5.130 However, the Authority envisioned IPAG may need to operate in a less formal and more dynamic way. Specifically:
- a) a larger group might require more flexibility regarding where and how it meets, possibly relying more heavily on technology to interact with each other and share ideas, eg, it may decide it is best to develop its advice via facilitated workshops, webinars, or online discussions
 - b) IPAG may need to interact with stakeholders in innovative, immediate, and technology-driven ways to seek feedback from less traditional industry participants.
- 5.131 The key consideration will be how to easily and effectively allow IPAG members to contribute to the group's activities.
- 5.132 The Authority invited stakeholder views on how IPAG should operate to best achieve its purpose.

Submitters' views

- 5.133 Many submitters responded to the Authority's invitation, and commented on how IPAG should conduct itself, hold meetings, and interact with stakeholders.
- 5.134 Comments on IPAG engagement and interaction with stakeholders included:
- (a) Consumer NZ agreed IPAG will need to operate in a less formal and more dynamic way to effectively consult with less traditional industry participants. In particular, Consumer NZ supported the use of video conferencing to seek feedback from overseas experts from countries where evolving technology, like solar photo-voltaic (PV) systems or electric vehicles, has had a greater uptake than in New Zealand.
 - (b) Consumer NZ submitted it can make a valuable contribution to IPAG through provision of the results of its regular surveys and investigations relating to the energy sector. This could include its annual energy satisfaction survey, and its investigations into new, evolving technologies such as solar PV and electric vehicles.
 - (c) Cortexo acknowledged real innovation is also occurring within the current industry and their experiences, problems and insight are valuable. The difficulty arises with their willingness to engage with others; however, the Authority already has established and confidential channels to peruse that knowledge. Cortexo considered it is unfortunate there is such a focus in the industry on exclusivity and confidentiality; these entrenched positions tend to inhibit innovation.
 - (d) Mercury suggested, to ensure transparency, any individual or bodies with interest in the development of the industry should be able to attend [meetings of the proposed steering committee] in the capacity of observers. If meetings are limited to members and invitees it further creates a potential for perception of competitive advantage. It is also likely to diminish industry engagement in the development process particularly from smaller or new entrant participants. Allowing observers may also provide the Authority and industry a potential "succession plan" for fresh representatives when incumbents' terms of tenure expire.
- 5.135 Several submitters commented on alternative ways for IPAG to conduct itself:
- (a) John Hancock made several comments:

- (i) Busy commercial people find policy development processes to be slow-moving and frustrating – if the intention with IPAG is to engage entrepreneurs and potential new entrants to the sector it may be better to focus the group on activities rather than creating documents – the form of the group’s outputs might be more in the form models, pictures and prototypes than conventional papers.
 - (ii) IPAG may open the door to an entirely different way of working – bursts of activity on particular issues in which all the resources required to understand and solve a problem are available within the event with no pre-work or follow-up required. Heavily-facilitated "scan-focus-act" workshops with deep on-site analytical support can achieve this in a day or less. They are expensive and time consuming to organise but can achieve as much in a day or two as conventional processes do in months which is more engaging and time-efficient for all participants. The approach has worked well for similar initiatives in other industries.⁸
- (b) Meridian suggested workshops, webinars, and other alternatives to traditional chairperson-led roundtable discussion are all worthy of consideration. Ultimately this should be a matter for the IPAG Chair.
 - (c) Orion considered it is unlikely consensus outcomes will result, therefore advice to the Authority should include the majority and minority views together with the reasoning behind them. This is not a problem as it is the Authority that has to make the final decision after weighting the advice given by its advisory groups.
 - (d) WAG made several suggestions:
 - (i) WAG has found even straightforward issues can take around two years to progress from a suggested project to an implemented rule change. This kind of prolonged process would not meet the needs of innovators, who would rely on the operational framework of the market keeping pace with technological evolution. The Authority should consider whether and how the development process could be managed to better suit a group like the proposed IPAG. For example, there might be opportunities to fast track ‘low-hanging fruit’ developments.
 - (ii) Other industries such as the pharmaceuticals industry have used intensive workshops to accelerate investigations to the point of achieving agreement and decision making within a matter of days rather than months. These span no more than three days and seek to identify a solution to a given problem within that timeframe. Participants are generally not required to undertake any prior work and are given all the information to appreciate the issues at the workshop. Between sessions, participants have the opportunity to discuss, contemplate and test ideas with each other as well as their colleagues while the secretariat has the opportunity to conduct further analysis to help inform the group’s further consideration. The Authority could draw inspiration from this approach to fashion an arrangement which obtains the most value from time-poor people seeking rapid alterations. If a similar

⁸ For example, GS1 – the standards organisation that develops and maintains standards for supply and demand chains such as barcodes - one participant talked about how the topic “had spun around in industry forums for 3 years with a high degree of polarisation without any consensus or conclusions” and that this approach brought it to global consensus within 12 weeks.

approach could be used for the proposed IPAG, it would also be conducive to participation by international experts and parties outside the energy sector.

5.136 Several submitters commented on the approach to meetings:

- (a) John Hancock suggested IPAG type people will have fresh perspectives but may have a less strong incentive to dedicate time to the group so it may be necessary to find ways of allowing them to engage without having to travel to Wellington every month or so or review papers between meetings. Collaboration technologies may be helpful here.
- (b) Genesis supported greater flexibility in the way the [proposed single advisory] group can meet. Genesis suggested, as a minimum, the group meets face-to-face bi-annually to encourage engagement and develop rapport within the group, particularly with the entrance of 'non-traditional' members.
- (c) WAG noted it has experimented with webinars and teleconferences in the past. While these have generally served their purpose, there are significant benefits to face-to-face interaction.
- (d) Unison submitted regular (bi-monthly) face to face meetings should still be the main way the group should operate.
- (e) Conversely, Vector Advanced Metering Services suggested regular face to face meetings may not always be the most efficient use of time, and better use of technology should be adopted.

The Authority's decision

5.137 The Authority believes providing IPAG with flexibility to determine how it operates, particularly when it comes to the form of meeting and of stakeholder engagement, will deliver the most efficient outcomes.

5.138 The Authority believes the revised charter and terms of reference provide IPAG with a high degree of flexibility to fulfil its role, while maintaining appropriate co-ordination and control by the Authority, consistent with its statutory objective and functions under the Act. IPAG will be encouraged to establish its own procedures for how it wishes to conduct meetings, undertake projects on its work plan and engage with stakeholders and relevant experts.

Matter (f): The role, membership, and operation of MDAG

Role and scope of MDAG, and possible initial projects

What the Authority proposed

5.139 The Authority's consultation paper set out MDAG would be responsible for advising the Authority on matters relating to the 'machinery' of the electricity markets. This would include issues of pricing and cost allocation, risk and risk management, and other issues supporting operational efficiencies. MDAG would provide independent advice to the Authority (whether in the form of findings or recommendations) based on evidence and consistent with the Authority's statutory objective.

5.140 The Authority proposed MDAG's scope would primarily relate to activities under the following programmes:

- (a) pricing and cost allocation

- (b) risk and risk management
 - (c) operational efficiencies.
- 5.141 This means MDAG would generally be considering initiatives to:
- (a) promote efficient pricing in markets and for monopoly services
 - (b) promote efficient management of capacity and energy risks
 - (c) increase the efficiency of electricity market operations.
- 5.142 Some of the issues under its consideration would inevitably have some relationship to innovation and participation in the electricity sector. When considering such issues, MDAG would be expected to maintain a view of the potential effects of, and for, innovation, participation, and consumer choice. However, it would not be primarily focused on facilitating innovation, participation, or consumer choice.
- 5.143 The Authority suggested projects in its 2016/17 work programme which could be assigned to the MDAG might include:
- (a) *Dispatchable demand: conforming nodes.* Dispatchable demand has been taken up by Norske Skog) at a conforming node. Other parties have shown an interest in bidding dispatchable demand, but some changes to the Code may be required to facilitate this for non-conforming nodes. A specific change under consideration would be to allow demand aggregators to aggregate load over several nodes and several retailers.
 - (b) *Review of wholesale market trading arrangements.* Part 13 of the Code relates to wholesale market trading. This includes the spot market, scheduling, offering, dispatch, pricing, hedge market, and FTR trading. The initial phase of this project would be to establish at a high-level an improved approach to structuring Part 13. This would include identifying any problem areas, considering whether it would be appropriate to make this Part of the Code less prescriptive and more outcomes based (without losing accuracy, certainty, and timeliness), and whether it would be advantageous to shift some of the detail into schedules, for example. It might also be appropriate to shift other parts of the Code into Part 13. One important consideration is to ensure the wholesale trading arrangements do not contain any unnecessary barriers to new technology.
- 5.144 These specific projects could be appropriate for MDAG because:
- (a) they are in the initiation phase
 - (b) they relate to improvements in the existing machinery of the electricity market.

Submitters' views

- 5.145 Submissions on the role and scope for MDAG include:
- (a) EnerNOC suggested MDAG is better aligned to handle the Authority's existing work programme and could follow somewhat the formal structure of the present advisory groups. It should have the ability to recommend the acceleration through the regulatory process of non-controversial changes to the Code benefiting consumers.
 - (b) John Hancock made several comments:

- (i) If MDAG is to focus on efficient pricing, capacity and energy risk management, and electricity market operations, some of the areas it is asked to advise on will be highly material to market participants. The Authority's experience with the Transmission Pricing Advisory Group (TPAG) is material winner-loser issues such as changes to sunk transmission cost allocation do not lend themselves to collaborative consensus-based processes such as these. Experience with WAG has been participants will work hard to find consensus on material issues if they believe their consensus advice will have more influence on rule changes than special pleading as individual companies. It will be important not to give projects to MDAG with material winner-loser characteristics so the group is able to gain similar confidence in its superiority as a means of influencing rule-making in order to be motivated to find common ground on divisive issues.
 - (ii) Membership of MDAG is likely to be similar to WAG and RAG – incumbents have the strongest incentives to participate in longer-term projects around market efficiency. Members are appointed for their individual expertise and experience and expected to provide impartial and independent advice, but the group's durability requires the wider industry to accept it is a more effective means of influencing the Board than special pleading. Given the potential materiality of the issues MDAG will investigate, it is important members are senior enough to be able to reassure colleagues and peers in the industry about the compromises the group has made to achieve consensus solutions
 - (iii) The Authority Board has been consistent in generally accepting consensus recommendations from WAG and RAG consistent with its statutory objective. This track record is profoundly important in motivating members to find common ground on issues when making recommendations – even more so when the Board accepts recommendations that are not the same as its preliminary views on those issues.
- (c) Meridian supported the purpose and scope of MDAG as proposed by the Authority.
 - (d) MEUG submitted the Authority should also explicitly include in MDAG's scope the promotion of efficient consumer participation in cost allocation and pricing for monopoly services. MEUG's rationale for this included its observation that consumer participation in relation to the existing and emerging competitive business models is covered in the proposed scope of IPAG, but IPAG does not cover consumer participation for monopoly services and the pricing of those services. Consumer participation for pricing of monopoly services is ad hoc – Part 12A of the Code requires consultation by distributors with traders on proposed changes to tariff structures but not directly with consumers. There is no requirement on traders in turn to consult with consumers. The Commerce Commission Electricity Distribution Business Information Disclosure Determination requires distributors to have sought the views of consumers on pricing methodologies.
 - (e) Orion submitted, combining the statutory function of an advisory group (other than the SRC) with the statutory function of the Authority on market facilitation, suggests the purpose of any advisory groups (other than the SRC) be limited to: *“providing independent advice to the Authority on the development of the Code*

and on market facilitation (such as providing education, guidelines, information, and model arrangements)”.

- (f) Orion expressed the view if the Authority goes ahead with establishing groups based on its proposal, then MDAG should oversee all IPAG output to ensure it is consistent with the other areas of the work programme.
 - (g) Transpower observed the criteria for membership of both advisory groups are the same except in one respect: MDAG has an additional criterion of strategic, commercial, and regulatory expertise. Its membership criteria seem more closely aligned with policy development that may end in Code change. It makes more sense projects for MDAG are those which could influence Code development.
 - (h) Unison submitted the purpose and scope of MDAG seems sound and looks to fit well with the focus of IPAG.
 - (i) WAG suggested the proposed MDAG would be responsible for higher-level projects involving large, economically complex issues such as cost allocation. This would provide a clear division of responsibility when compared to the purpose and scope of the proposed IPAG. Such a division would also mean the MDAG would align more closely to the Authority’s work programme with a work plan similar in structure to RAG and WAG.
- 5.146 The views on membership expressed by Genesis and Mercury were predicated on their preference for a single advisory group:
- (a) Genesis did not support the establishment of a separate market development group. This will perpetuate the ‘cross-over’ issue currently existing between the advisory groups, and may not ensure the relevant SMEs are providing advice on issues which they are qualified to opine because they are linked with the wrong group.
 - (b) Mercury submitted it would be appropriate to constitute a single advisory panel encompassing IPAG and MDAG areas, with more senior level individuals and form a number of working groups to provide advice to a single panel.
- 5.147 Pioneer commented on the Authority’s list of possible projects for MDAG:
- (a) MDAG is the ‘strategic’ advisory group. The Authority should be focused throughout on creating a rules environment that is neutral or benign to new technologies or business models. The rules should enable an open platform for anyone to participate or innovate across the entire supply chain. This should be the overriding objective for any changes to the Code.
 - (b) Further, there must be a durable regulatory environment for existing and new investors. This means the Authority should focus on simplifying the rulebook. The Authority previously had a project to review the entire rulebook. This project should be put back on the work programme, and be a priority for the newly formed MDAG.

The Authority’s decision

- 5.148 The Authority notes the points raised in submissions, but remains of the view the following programmes in its work programme will provide the main focus for MDAG:
- (a) pricing and cost allocation
 - (b) risk and risk management

- (c) operational efficiencies.
- 5.149 The Authority believes the primary focus of MDAG (and IPAG), and the primary purpose of the projects will help to refine the role and scope of MDAG as it and IPAG progress work on various projects.
- 5.150 The Authority additionally notes both groups are on an equal footing and will not be asked to oversee the work of the other. There is also no presumption a particular group will be more likely to consider Code developments than the other.
- 5.151 At this stage, the Authority does not consider MDAG's scope to require the explicit inclusion of promotion of efficient consumer participation in cost allocation and pricing for monopoly services. This does not prevent these matters from being considered when they arise as potential projects for inclusion in the MDAG work plan.
- 5.152 The Authority also notes requests for projects to be added to the Authority's work programme fall outside the scope of this consultation. These requests can be submitted when the Authority releases its annual consultation on its work programme.

Size, structure, and membership of MDAG

What the Authority proposed

- 5.153 The Authority anticipated MDAG would operate in a similar way to RAG and WAG. It would normally have a membership of 10 people, with deep experience and interest in the electricity sector.

Submitters' views

- 5.154 Submissions included the following key points:
- (a) John Hancock observed human dynamics are equally important to the effective operation of any group such as this – having the time and opportunity to work with and gain respect for colleagues is important if members are going to compromise in order to find common ground. On WAG, it has been particularly helpful for members' terms to rotate out of phase with one another so there is always a core of members who know one-another well and new members enter a constructive environment in which it is clear all contributions are valued.
 - (b) Meridian supported the membership of MDAG as proposed by the Authority.
 - (c) Trustpower noted the core feature of advisory groups is they include subject matter experts who take the time to understand and debate proposals in depth. In other words, the members need to do a considerable amount of work, and have a considerable amount of expertise. A smaller group of experts is recommended for an advisory group, noting research into the effectiveness of group decision-making which suggests an optimal number of seven.
 - (d) Vector (Advanced Metering Services) suggested, depending on the topics and projects MDAG considers, metering equipment providers should be considered as potential members as they also play an important part in the electricity supply chain.

The Authority's decision

- 5.155 The Authority notes the views expressed in submissions.

- 5.156 The Authority considers it would be appropriate for MDAG to have a target membership of between five to eight members, including an independent Chair, but the Authority should retain the flexibility to appoint more or less members.
- 5.157 The Authority considers MDAG's membership will comprise people with deep experience and interest in the electricity sector.

How MDAG should operate

What the Authority proposed

- 5.158 The Authority suggested MDAG would operate in a more 'traditional' manner, largely relying on face-to-face meetings. However, the group would continue to be able to set its own procedures, and the Authority would allow reasonable flexibility around this. In particular, the Authority would support the group in making greater use of technology to meet and share ideas where effective.

Submitters' views

- 5.159 WAG submitted there would be benefit in the Authority exploring new mechanisms for MDAG to engage with participants and stakeholders.
- 5.160 To that end, submitters' comments on possible approaches for IPAG to undertake its work may also be relevant here.

The Authority's decision

- 5.161 The Authority believes providing MDAG with flexibility to determine how it operates, particularly when it comes to the form of meeting and of stakeholder engagement, will deliver the most efficient outcomes.
- 5.162 The Authority therefore intends ensuring the revised charter and terms of reference provide MDAG with a high degree of flexibility to fulfil its role, while maintaining appropriate co-ordination and control by the Authority, consistent with its statutory objective and functions under the Act. MDAG will be encouraged to establish its own procedures for how it wishes to conduct meetings, undertake projects on its work plan and engage with stakeholders and relevant experts.

Matter (g): The draft charter and terms of reference documents

What the Authority proposed

- 5.163 The Authority included a draft charter and draft terms of reference for the SRC, IPAG, and MDAG as appendices to the consultation paper.

Submitters' views

- 5.164 The Authority received and considered comments from submitters suggesting specific drafting changes. Some of these comments have been addressed in earlier sections of this paper.
- 5.165 Given the range and nature of comments on this issue, the Authority will not respond to each comment. The Authority's decisions are summarised in the next section.

The Authority's decision

- 5.166 The Authority has largely retained the content of the documents as attached to the consultation paper, but has decided to restructure the documents to improve readability and reduce duplication.

- 5.167 In addition to the charter, there will now only be one terms of reference document. This will contain in one location provisions common to all the groups, provisions common to MDAG and IPAG, and provisions specific to each group.
- 5.168 Based on internal suggestions and submitter comments, the following changes were made to improve the content of the documents:
- (a) to avoid duplication, the process concerning the resignation of a member has been clarified in the charter and removed from the terms of reference
 - (b) to retain consistency with the Act, the charter has been amended to confirm its provisions will apply to ad hoc advisory groups
 - (c) to facilitate flexibility, the charter and the IPAG and MDAG sections in the terms of reference have been reworked to make clear an advisory group will agree its work plan with the Authority representative
 - (d) to simplify the structure of the documents, the section in the charter on working groups has been shifted into the terms of reference
 - (e) to address the issue of whether an advisory group member can become a member of a working group assisting their advisory group, a clause has been inserted into the terms of reference to allow the Authority to make a determination
 - (f) to give the Authority flexibility in determining the reporting line of a working group, the terms of reference have been revised
 - (g) to avoid confusion, a clause stating references to the Authority are references to the Board has been deleted from the terms of reference
 - (h) to reframe the scope of IPAG more positively as suggested by Powerco, the IPAG section of the terms of reference has been reworded
 - (i) to give the groups freedom to determine procedures concerning the publication of their meeting materials, the IPAG and MDAG sections in the terms of reference have been modified
 - (j) to reinforce minutes of meetings should be published after their confirmation, the terms of reference have been altered
 - (k) to clarify how the Authority will manage overlaps between advisory group projects, the IPAG and MDAG sections in the terms of reference have been amended
 - (l) to provide for more practical arrangements, the SRC will meet with the Authority as and when necessary, instead of being expected to do so annually.