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## Review of the consultation and feedback processes

Transpower appreciates the opportunity to respond to the Authority's issues paper *Review of the consultation and feedback processes* published 31 January 2023.

The paper covers four related, but discrete, consultation areas. This main submission responds to three of the four areas: the advisory group proposal, consultation charter and code amendment process. The appendices provide comment on the code drafting for system operation documents (appendix A) and response to the questions (appendix B).

### Decision made on a new advisory group

The Authority has decided there will be a new "*Electricity Authority Advisory Group (EAAG)*" to support the Authority's initiatives.<sup>1</sup> The proposed model infers the new group as inside the Authority's own processes and meetings as "ad hoc."<sup>2</sup> While the proposed meeting frequency and means captures the recent hybrid ways of working, the group's autonomy appears likely to be less independent than the existing model.

Currently, each advisory group has a work programme of its own which it decides on and progresses independently (albeit subject to approval by the Authority), supported by an Authority-led Secretariat and budget.

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<sup>1</sup> Para. 5.3 *The current prioritised initiatives include the Wholesale Market review, Future Security and Resilience programme, and Updating the Regulatory Settings for Distribution Networks.*

<sup>2</sup> Para 5.19 "*instead of having its own work programme, EAAG would likely be updated on the Authority's work with members providing their own input through the lenses of industry participants of varying sizes with at least one member representing the interests of ground-level consumers and one member representing the interests of Māori*" [Review of the consultation and feedback processes](#)

If the EAAG is to work on the priorities of the Authority, then we consider the Authority's own appropriations process needs to include the opportunity for industry to provide input and views on those priorities. By the time of the appropriations consultation (usually November / December) the priorities have been set. An input step would need to occur earlier, around September / October.

We consider Transpower should be an observer, or both a member and observer, in the new group. The Authority recognises Transpower - as system operator and grid owner - has a unique position in industry, with its interaction with many participants<sup>3</sup> (and potential future participants). Transmission grid capability and electricity system operation are central to a competitive wholesale market, secure system operation, grid resilience, and participant market access. For market design/policy issues a grid owner representative may be the only party without a direct commercial interest in the outcome, and the expertise the SO observer brings is invaluable to finding solutions that can work in practice.

Following the additional statutory objective for the Authority towards consumers, we acknowledge the intent for the EAAG to include consumer representation. Under that objective the Authority is charged to protect the interests of domestic consumers and small business consumers under its *"activities in relation to the dealings of industry participants with domestic consumers and small business consumers."*<sup>4</sup> We agree that a consumer representative should be involved in the EAAG, but note that the role for the consumer representative in that group needs to be well considered and articulated given the overall industry make-up of the EAAG.

## We propose additions to the consultation charter

The Authority's consultation on the consultation charter and Code amendment principles are aimed at shortening and clarifying rather than any consideration of the efficacy of the principles or the charter more generally.

For the Code amendment principles in the charter, we consider over a decade of Code changes should provide evidence for what principles were applied (if any) to those changes. This evidence could help streamline the principles by removing ones that may never have been applied.

### **Consultation charter should provide for accessibility and process steps**

We consider the charter should set expectations on the Authority for how it makes its consultations accessible to stakeholders and to indicate good practice process steps such as:

- consulting early on the problem definition (as a project is initiated and scoped)
- routinely allowing for cross-submissions to better support transparent and constructive stakeholder engagement
- how quickly submissions (and cross-submissions) are posted
- questions and answers are published transparently and in a timely way

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<sup>3</sup> [Review of the consultation and feedback processes](#) Para. 6.16

<sup>4</sup> [Electricity Industry Act 2010 No 116 \(as at 31 December 2022\), Public Act 15 Objectives of Authority](#)

- consultation material routinely produced in pdf and in word, to support submitter analysis. In particular, the questions should be issued in Word (more below about questions).

The Authority's practice of collating all questions at the end (which we support) could be improved for readability and understanding by ensuring each question stands alone. For example in this consultation the first question reads "Q1. For your preferred option, do you prefer option 1, 2, or 3?" The question is not intelligible without context. A standalone approach would say "Q1. For the form of the proposed advisory group membership do you prefer option 1 (A small core group that co-opts other expertise as needed), option 2 (A full size group that can set up smaller working groups of interested members as needed) or option 3 (A large member pool with a stronger focus on breakout groups...as needed).<sup>5</sup> The stand-alone approach means submissions *could* be made only via questions, and those questions convey sufficient information for the submission points to be understood by others.

The Authority should reinstate the Consumer and Regulatory Managers meetings (physical and online). The regular meetings were an important mechanism to discipline Authority processes and communications, and the presentations included a forecast calendar for consultations and Board decisions to support industry preparations for engagement. The meetings would also provide an avenue for consumer representatives to meet with industry participants and the Authority.

### Support proposals for the Code amendment process

An Authority function is to make and administer the Code. "Make" and "administer" are separate functions: "make" to create new Code from new or revised policy, and "administer" to ensure the existing Code is up-to-date and improves understanding and efficient application. While the Authority has been focussed on the "make" aspect through its policy projects we consider it has been less able to satisfactorily perform its function to administer the Code.

We support the proposed changes to the Code change process that provides a repeatable route for parties to raise Code maintenance and substantive proposals. The revised process should be designed for transparency and good communication. We consider that every Code change proposal, be it for Code maintenance or more substantive, should be published – including who proposed it (Authority/participant/person) - alongside the Authority's decision for its treatment. To that end the Code Amendment Proposal register should be continued (not discontinued as indicated) for the existing reasons in the consultation charter to:

- *"provide a mechanism for the Authority to centrally record and monitor proposals for amendments to the Code; and*
- *provide transparency to proposers of Code amendment proposals as to the status of their proposals. "*

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<sup>5</sup> Para. 5.21 – 5.23 [Review of the consultation and feedback processes \(ea.govt.nz\)](#)

- To which we add *provide transparency about the type (T&NC or substantive) of Code change proposal and who proposed them.*

The existing model worked until it was broken under Covid-19 and lack of resource and attention. Now past those constraints, the previous process had good qualities and those should be retained. We consider Transpower's proposed bespoke process should also be made transparent via the Code amendment guidelines.

The Authority is able to amend the Code without a regulatory consultation for (inter alia), technical and non-controversial changes (clause 39 Electricity Industry Act 2010). The Authority should outline in the charter what it considers would be captured under "technical and non-controversial" Code change route. Code maintenance proposals to "*improve clarity, reduce ambiguity*" (these seem the same end) and *correct errors* would be included, and could be expanded to allow keeping legislation up to date e.g. updating standards, and to consequentially amend operational parameters in the Code due to physical changes in grid parameters such as the HVDC transfer limit.

For good practice consultation, participants should be asked to provide views on the extent of any problem / opportunity for them and the role of criteria (if any) to select options, before they have been applied to present the Authority's conclusion on the preferred option(s).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Joel Cook', written in a cursive style.

Joel Cook

Head of Regulation

## Appendix A - proposed Code for six system operation documents

Proposed Code clause	Transpower response
<p><b>7.1 Contents of this Part</b> This Part provides for—</p> <ul style="list-style-type: none"> <li>(aa) a reasonable and prudent <b>system operator</b> standard; and</li> <li>(a) high level, output focussed performance obligations of the <b>system operator</b> in relation to the real time co-ordination and delivery of <b>common quality</b> and <b>dispatch</b>; and</li> <li>(b) the functions of the <b>system operator</b> in relation to <b>demand</b> and supply forecasting, security of supply, and supply emergencies; and</li> <li>(c) review of the <b>system operator's</b> performance under the <b>Act</b>, this Code, and the relevant <b>market operation service provider agreement</b>; <u>and</u></li> <li><u>(d) requirements for the amendment or replacement of system operation documents.</u></li> </ul>	<p>Transpower response</p> <p>Agree that the Code-obliged publications are a defined set. Making the documents a defined set means the proposed process does not apply to other publications from the system operator and grid owner.</p>
<p><b><u>7.14 Process where participants request amendments</u></b></p> <p><b><u>(1) If a participant requests an amendment to a system operation document to the system operator, the system operator must decide to—</u></b></p> <ul style="list-style-type: none"> <li><u>(a) consider the amendment as part of the next review under clause 7.15; or</u></li> <li><u>(b) consider the amendment outside of a review; or</u></li> <li><u>(c) decline to consider the amendment.</u></li> </ul> <p><b><u>(2) The system operator must advise the Authority and the participant that requested the amendment of its decision, including its reasons, within 1 month of receiving the request.</u></b></p>	<p>This process does not currently exist for five of the six documents (it exists for the Policy statement under 8.11A(2)).</p> <p>The CBA does not account for the transactional costs of managing this process for the other five documents.</p>

Proposed Code clause	Transpower response
<p><b>7.15 Review of system operation documents</b></p> <p><u>(1) The system operator must review each system operation document at least once every 2 years to identify whether the document should be amended.</u></p> <p><u>(2) At the conclusion of the review the system operator must either—</u></p> <p>15704709_1</p> <hr/> <p><u>(a) propose an amendment to the system operation document to the Authority following consultation where required by clause 7.20, after obtaining consent as required by clause 7.16; or</u></p> <p><u>(b) advise the Authority that the system operator does not consider that the system operation document requires amendment and provide the Authority with a written report describing the process carried out for the review, the system operator’s decision, and the reasons for the decision.</u></p>	<p>Currently only the Policy Statement and Procurement Plan have mandated two yearly review cycles. This need exists because of the dynamic nature of the power system, changes to transmission and other connected assets, and changes to market design. The same need does not exist for the Security of Supply policies and the AUFLS Technical Requirements Report. Requiring two yearly reviews of these policies would incur a significant cost on system operator resources that has not been captured in the CBA.</p> <p>Also the timeframe is unclear. We suggest the Authority introduces clarity around the review cycle into the Code – for example, the review cycle timeframe starts from gazetting the latest version of the system operator’s document and ends when the system operator submits its first draft of changes to the Authority.</p>

Proposed Code clause	Transpower response
<p><b><u>7.16 Authority must consent to consultation before system operator consults on proposal to amend system operation document</u></b></p> <p>(1) <u>The system operator must obtain the Authority’s consent before consulting on a proposal to amend a system operation document.</u></p> <p>(2) <u>The purpose for the Authority consenting to consultation is to enable the Authority to identify to the system operator any issues with—</u></p> <p>(a) <u>the proposal that may cause the Authority to not issue a notice to adopt the amendment under section 131B(2) of the Act or to not progress the amendment as a Code amendment under section 38 of the Act, as the case may be; and</u></p> <p>(b) <u>the system operator’s proposed consultation process and the information to be provided with the proposal for consultation under subparagraph 7.18(2)(a).</u></p> <p>(3) <u>When requesting the Authority’s consent, the system operator must provide the following information to the Authority:</u></p> <p>(a) <u>the consultation information in subparagraph 7.18(2)(a); and</u></p> <p>(b) <u>the proposed consultation period in subparagraph 7.18(2)(b); and</u></p> <p>(c) <u>the system operator’s proposed consultation process; and</u></p> <p>(d) <u>a list of the persons the system operator proposes to consult with.</u></p> <p>(4) <u>The Authority must within a reasonable period time after receiving the system operator’s request for consent either:</u></p> <p>(a) <u>consent to the consultation and notify the system operator accordingly; or</u></p> <p>(b) <u>raise any issues it has identified under sub-clause (2) with the system operator</u></p>	<p>If the decision is “no consent” the Code should oblige the Authority to provide its reasons in writing. This will allow the system operator to determine what, if any, changes should be made to its proposals.</p> <p>The clauses referred to 7.18 (2)(a) and 7.18 (2)(b) do not exist, should the references be to 7.20.</p> <p>Remove “a list of the persons.” as not relevant to the need for obtaining consent. The Authority does not list who it intends to consult with for its own consultations and this clause is creating a higher consultation standard for a participant than that for the Regulator.</p>

**7.20 Consultation on proposed amendments**

- (1) The system operator must consult on any proposed amendment of a system operation document with persons that represent the interests of those persons likely to be affected by the proposed amendment.**
- (2) The system operator must, at least, carry out the following steps as part of consultation on a proposed amendment:**
- (a) make the following information available to the persons it is consulting with:**
    - (i) a draft of the proposed amendment;**
    - (ii) a statement of the objectives of the proposed amendment;**
    - (iii) an evaluation of the costs and benefits of the proposed amendment;**
    - (iv) an evaluation of alternative means of achieving the objectives of the proposed amendment (if any);**
  - (b) provide a reasonable period of time to the persons it is consulting with to consider the information provided under paragraph (a) and to make submissions;**
  - (c) consider any submissions.**
- (3) The system operator must provide a copy of each submission received under subclause (2) to the Authority.**

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- (4) Despite subclause (1), consultation is not required if the system operator satisfies the Authority, on reasonable grounds, that—**
- (a) the nature of the amendment is technical and non-controversial; or**
  - (b) there is widespread support for the amendment among the persons likely to be affected by it;**  
**or**
  - (c) there has been adequate prior consultation so that all relevant views have been considered; or**
  - (d) it is necessary or desirable in the public interest that the proposed amendment be made urgently.**

Consultation should be with *“affected participants or participants that represent the interests of affected persons, as reasonably identified by the system operator.”*

Should include that the CBA evaluation can be qualitative if quantitative is not appropriate.



Proposed Code clause	Transpower response
<p><u><b>7.22 Authority to prescribe timeframes</b></u> <u>From time to time the <b>Authority</b> may prescribe reasonable timeframes that the <b>system operator</b> must comply with in completing any steps in clauses 7.16 to 7.21.</u></p>	<p>Consider this clause is redundant, the timeframes are already a part of the consent process under 7.16.</p>

Appendix B – Response to questions

Question	Transpower response
Q1. For your preferred option, do you prefer option 1, 2, or 3? [for the make-up of the proposed EEAG]	We consider Transpower should be an observer, or both a member and observer, in the new group, whatever size it is. The Authority recognises Transpower - as system operator and grid owner - has a unique position in industry, with its interaction with many participants <sup>6</sup> (and potential future participants). Transmission grid capability and electricity system operation are central to a competitive wholesale market, secure system operation, grid resilience, and participant market access. For market design/policy issues a grid owner representative may be the only party without a direct commercial interest in the outcome, and the expertise the SO observer brings is invaluable to finding solutions that can work in practice.
Q2. Are there any key stakeholders that have been left out of these proposed options? [in the make-up of the proposed EEAG]	See above.
Q3. Do you have any comments on the proposed membership	The operation of the proposed EAAG as “inside the tent” suggests participants with their own lenses (i.e. partisan) and who may eventually be submitters will both have a head-start on, and be influential to, the Authority’s thinking before the consultation process enables additional views. If so then the group needs to represent as many different types of participant as possible to reduce the asymmetry of information and potential effects on competition, and ensure cross-industry perspectives.
Q4. Do you have an alternative suggestion? If so, please provide details	For the “independent advice” as required under the Electricity Industry Act (clause 21), the existing model may be more compliant.

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<sup>6</sup> [refer]

<p>Q5. Do you have any comments on the proposed changes to the draft documents in Appendices C and D?</p>	<p>See main submission for proposed additions to the consultation charter plus</p> <ul style="list-style-type: none"> <li>• Retain, not remove as proposed, the <i>Code amendment register</i> with information about what was proposed, when and by whom, and the Authority's treatment of the proposal</li> <li>• Para 2.3. of the consultation charter should be under "functions of the Authority," not objectives.</li> <li>• Charter principle 2 "Benefits are quantified". This principle will be a barrier or at least may not be often applied. Many of the Authority's proposals via its omnibus Code reviews<sup>7</sup> and for which needed a regulatory statement, do not quantify benefits, instead both costs and benefits are qualitative. Suggest "<i>benefits are quantified when possible, otherwise benefits can be expressed qualitatively</i>"</li> <li>• The consultation charter should include how <i>Technical &amp; Non - Controversial</i> is characterised, to support participant proposals under this avenue</li> <li>• Consultation with Commerce Commission – the two regulators have <i>some</i> (not total as could be implied) overlap in their respective jurisdictions.</li> </ul>
<p>Q6. Do you agree with the overall assessment of the Code amendment proposal? If not, what alternative assessment would you make and why?</p>	<p>Only the Policy Statement and Procurement Plan need to be on a mandated review cycle, mirroring existing settings. No case has been made for a regular review cycle for the other documents. The additional processes will increase the transactional costs on the system operator and participants and these have not been accounted for in the cost benefit analysis.</p> <p>Taking account of these increased costs could adversely affect the conclusion that the proposal is net beneficial.</p>

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<sup>7</sup> For example, the omnibus consultation [Review of metering and related registry processes](#)