

Updates to the Consultation Charter and the Code amendment request process

Decision paper

27 February 2024

Executive summary

Government, industry and consumer expectations of the regulator have changed. A modern regulator operates on behalf of the people it serves and in doing so, must engage well and often with regulated and interested parties, including consumers.

We need to ensure our key supporting documents enable the Electricity Authority Te Mana Hiko (Authority) to respond to shifting expectations and deliver well informed decisions on behalf of consumers.

The Authority has changed the Consultation Charter and the Code amendment request process to support greater transparency of, and participation in, our decision-making processes. This decision paper details the changes, including the reasons for the changes and how feedback has informed the Authority's decisions.

We consulted on four discrete but related subjects of our Consultation Charter in November 2023. As a result of the consultation, the Authority decided to progress four workstreams to advance the proposals:

- Code changes for system operation documents
- Code amendment request (CAR) process
- Changes to the Consultation Charter
- Proposed changes to advisory groups.

We completed a Code change for system operation documents in July 2023. We are also progressing work on the new advisory groups and next steps will be communicated in early 2024.

The Consultation Charter has been simplified

In the consultation paper, the Authority proposed updates to simplify the Consultation Charter and make it more accessible. Key themes raised in the submissions on the proposed updates to the Consultation Charter were:

- general agreement with changes to simplify the charter to make it more accessible
- some disagreement with the changes to the Code amendment principles with concerns that changes could potentially dilute regulatory certainty and investor confidence
- the need for proactive and different forms of engagement (such as forums, collaborative discussion), as well as increased transparency on project progress and the work programme.

Following participant feedback, the Authority has decided to proceed with the proposed changes to update the Consultation Charter with minor amendments to respond to feedback.

The Authority has also modified the CAR process

In consultation, the Authority proposed updates to streamline the CAR process provided for in the Consultation Charter, and to provide a bespoke process for Transpower to propose

Code amendments. Feedback on the proposal was mixed. Two key themes were raised in the submissions on the CAR process:

- (a) the need for more transparency in the CAR process, including more information about how to make a CAR and the Authority's process when it receives a CAR
- (b) concern that the proposals would disproportionately prioritise some CARs over others.

Following participant feedback, the Authority has decided to proceed with a modified version of its proposal to update the CAR process, and not implement all the originally proposed changes.

The Authority has decided to make two key changes to the original proposal to update the CAR process:

- There will continue to be a single process for all requests to amend the Code (including more complex or major policy proposals and requests from Transpower).
- The Authority will provide greater clarity on the CAR process through the publication of guidelines detailing:
 - the information to include in a CAR
 - the Authority's process following receipt of a CAR, including the categorisation of CARs as minor, medium or complex
 - the implications of categorisation on the prioritisation and likely implementation timeframes for CARs.

The Authority's decision to update the CAR process with these modifications will help identify areas for Code development to achieve the Authority's objectives through ensuring a timely and transparent process for all participants.

The new Consultation Charter and Code amendment guidance document have been published on our website.

The updated documents have effect from 27 February 2024.

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1. Purpose

- 1.1. This paper provides industry and stakeholders with the Authority's findings and decisions relating to its review of the Consultation Charter and CAR process. This follows consultation on proposed updates to the Consultation Charter and the CAR process outlined in the Authority's 2023 consultation paper: *Review of the consultation and feedback processes* (consultation paper).

2. The Authority has decided to update the Consultation Charter

- 2.1. The Authority has decided to largely make the changes to the Consultation Charter as consulted on, including to the Code amendment principles. We have made some minor changes in response to feedback. Submitters were generally supportive of the proposed updates to the Consultation Charter to make it simpler and more accessible. Some submitters disagreed with the proposed changes to the Code amendment principles, and some proposed further changes to these principles.
- 2.2. Some submitters disagreed with removing reference to advisory groups being a primary means for developing Code amendments. The Authority considers the role of advisory groups to be more appropriately dealt with in the charter for advisory groups.¹ We have made a minor change to the Consultation Charter to recognise that advisory groups can still be a source of Code amendment proposals. Work on the charter for advisory groups is continuing in a separate workstream.
- 2.3. Feedback on the CAR process is dealt with separately in this paper. We have decided to remove the CAR process information from the Consultation Charter and provide it in separate guidance.
- 2.4. We would like to thank all those who submitted on the proposed changes to the Consultation Charter. The submissions were of a high quality and would have taken significant time and effort to prepare. The submissions contained helpful observations on how the Authority can improve its consultation processes and engagement.
- 2.5. We have responded to this feedback by making small but important changes throughout the charter. We will consider this feedback in our work going forward, even where this feedback did not result in changes to the charter.
- 2.6. The new Consultation Charter is attached in Appendix A and is published on our website (Appendix B shows the changes to the original Consultation Charter). It will come into effect on 27 February 2024. Section 5 below explains submitters' views on the proposed updates and the Authority's response in more detail.

¹ Under section 19 of the Act, the Authority must make a charter for advisory groups that sets out how it will establish and interact with such groups, when and how they will be consulted on material changes to the Code, and how they must operate.

3. The Authority has decided to keep a single Code amendment request process and provide greater clarity on the categorisation and prioritisation of requests

- 3.1. Following participant feedback, the Authority has decided to proceed with a modified version of its proposal to update the CAR process. Not all changes, as originally proposed in the consultation paper, will be implemented.
- 3.2. There are two key changes to the original proposal:
 - (a) There will be a single process for all requests to amend the Code (including more complex or major policy proposals and requests from Transpower).
 - (b) The Authority will provide greater clarity on the CAR process through the publication of guidelines detailing the:
 - (i) information to include in a CAR
 - (ii) Authority's process following receipt of CAR, including the categorisation of CARs as minor, medium or complex
 - (iii) implications of categorisation on the prioritisation and implementation timeframes for CARs.
- 3.3. The Authority's decision to update the CAR process with these modifications will help identify areas for Code development to achieve the Authority's objectives through ensuring a timely and transparent process for all participants.
- 3.4. The new Code amendment request Guidelines are attached in Appendix C and come into effect on 27 February 2024. Section 6 below explains submitters' views on the CAR process and the Authority's response in more detail.

4. Background

The Consultation Charter and CAR process were created in 2010 and now need a refresh

- 4.1. The Consultation Charter was first created in 2010 when the Authority was established. The Authority is required to publish a Consultation Charter that includes guidelines, not inconsistent with the Electricity Industry Act 2010 (Act), relating to the processes for amending the Code and consulting on proposed amendments.² The current Consultation Charter is divided into two parts:
 - (a) Part 1 sets out processes for amending the Code, including:
 - (i) the Code amendment principles that the Authority and its advisory groups will adhere to when considering Code amendment matters,
 - (ii) the role of advisory groups, and
 - (iii) the CAR process.

² Electricity Industry Act 2010, section 41.

- (b) Part 2 sets out processes for consulting on proposed amendments to the Code.
- 4.2. The CAR process sets out how CARs may be proposed and progressed. It allows any person to propose an amendment to the Code that complies with section 32 of the Act, which describes the permitted content of the Code.
- 4.3. The current charter contains a highly prescriptive process for stakeholders to submit, and for the Authority to process CARs. When the Authority was created in 2010, it benefited from the sector's input to help identify and prioritise areas for ongoing Code development. The CAR process enabled a vehicle for the submission of proposals from the industry.
- 4.4. There is no restriction on the scope of CARs. Requests can range from correction of minor typographical errors through to major market policy changes.
- 4.5. The Consultation Charter requires an initial assessment of each CAR received and, depending on the outcome, a substantive analysis of the CAR and preparation of a regulatory statement. This assessment process has been time and resource intensive for the Authority. Some of this was driven by CARs that were not easy to assess due to lack of sufficient analysis and information. This left the Authority to flesh out the proposal for assessment or decide whether to progress or decline the CAR based on limited information.
- 4.6. During the process, proposers have limited access to information on the status of their CAR and the timeframes for implementation. For accepted CARs, unless there is a related project under way or scheduled, the CAR is usually assigned to the 'pending' list and may stay on that list for several years with no further updates to the proposer. This limits the transparency of the process.

The consultation paper proposed changes to the Consultation Charter and CAR process

- 4.7. We proposed changes to the Consultation Charter and the CAR process in the consultation paper.³
- 4.8. The changes proposed in the consultation paper included:
 - (a) updating the Consultation Charter to reflect the Authority's new consumer protection objective and function, introduced by the Electricity Industry Amendment Act 2022
 - (b) simplifying the Consultation Charter, including the Code amendment principles, to make it more accessible to a wider audience, especially to non-industry participants such as small businesses and domestic consumers
 - (c) removing the prescriptive CAR process from the Consultation Charter in favour of a more streamlined process accommodating of consumers and industry
 - (d) limiting the scope of CARs to 'basic Code maintenance' for existing Code clauses and associated operational policy, with more complex or major policy

³ The paper is available on our website: <https://www.ea.govt.nz/documents/1961/Consultation-paper-review-of-consultation-and-feedback-processes.pdf>

proposals required to be made in the relevant consultations for a related project, or in the Authority's annual appropriations consultation

- (e) changing the assessment and project assignment process, so that CARs would undergo basic initial assessment and, if accepted, would be added to the candidate list for the regular Code Review Programme (CRP)
- (f) establishing a bespoke annual process for Transpower to submit CARs.

4.9. The Authority received 20 submissions on the consultation paper. Submissions are available on our website.⁴

5. Submitters' views on the Consultation Charter and the Authority's response

5.1. Submitters generally supported the proposed changes to simplify the Consultation Charter to make it more accessible to a broader range of people. This is particularly important with the inclusion of the Authority's additional objective in the Act to protect small consumers.⁵

5.2. The new Consultation Charter has been drafted to recognise that there may be greater engagement with consumers in addition to industry participants in future. This is particularly when a Code amendment engages the Authority's additional objective. This has already been the case with the recent consultation on our Consumer Care Guidelines where we received an overwhelming number of responses from consumers and consumer advocacy groups.

5.3. The Consumer Advocacy Council was pleased that the Consultation Charter would be simplified. FinCap submitted that the changes 'appears to lower technical barriers for residential users to raising a need for change'. MEUG submitted that it 'supports the move to a simplified, 'plain English' approach to make the Consultation Charter more user-friendly for non-industry participants and consumers'.

5.4. FinCap, however, considered the 'guidelines still read as rigid and limited to one aspect of the EA's [Authority] work, rather than a firm commitment to engaging the community by the whole organisation'. FinCap suggest:

"a one-to-two-page higher-level engagement framework or Consultation Charter for all of the organisation's work. To build trust in the electricity system and its regulator, principles that should be committed to in such a framework or charter are genuine, inclusive and transparent consultation that continuously improves, based on learnings in past consultation."

5.5. Several submitters objected to the simplification and/or removal of one or more of the Code amendment principles. Some submitters proposed additional or reworded principles. This is discussed below.

⁴ See: <https://www.ea.govt.nz/projects/all/review-of-our-consultation-and-feedback-processes/consultation/consultation-charter-code-amendment-process-and-new-advisory-group/>

⁵ The additional objective was inserted into section 15(2) the Act by the Electricity Industry Amendment Act 2022 and requires the Authority to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers. Section 15(3) states that the additional objective applies only to the Authority's activities in relation to the dealings of industry participants with domestic consumers and small business consumers.

- 5.6. Several submissions discussed the need for proactive and different forms of engagement (such as forums, collaborative discussion), as well as increased transparency on project progress and the work programme. Meridian for example submitted that:
- “On the topic of consultation and ways of engaging with the Authority, we would also like to encourage the Authority to be more transparent and proactive in publishing information about the forward regulatory work programme. Having a sense of the forthcoming consultations and reviews is enormously helpful for sector stakeholders, including businesses such as Meridian”.*
- 5.7. We have included an additional statement in the ‘Good practice consultation’ section of the Charter to reflect this feedback (new paragraph 6.9(a)).
- 5.8. Some submitters indicated that engagement with the Authority at the ‘problem identification/definition stage’ would be appreciated rather than the Authority seeking feedback only when a proposed solution was already developed. Transpower submitted that:
- “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).”*
- 5.9. We have included an additional statement in the ‘Good practice consultation’ section of the Charter to reflect this feedback (new paragraph 6.9(b)).
- 5.10. Further detailed feedback was received from several submitters and fell more-or-less in line with the three main components of the current charter:
- (a) Code amendment principles
 - (b) the role of advisory groups
 - (c) the CAR process.
- 5.11. The CAR process is dealt with in the following section. The other two matters are dealt with below.

Code amendment principles

- 5.12. Several submitters provided detailed feedback on the proposed changes to the Code amendment principles.
- 5.13. The submissions were primarily concerned that:
- (a) the principles had been overly simplified
 - (b) some of the reworded principles were unclear
 - (c) changing the principles from being mandatory to discretionary would be detrimental, for example by undermining investor confidence.
- 5.14. We have made some minor further changes to the principles to make them clearer, and reinstated some of the original wording that emphasises the importance of investor confidence. However, we have mostly kept the proposed changes to principles. We remain of the view that simplified wording is more accessible to a wider audience.
- 5.15. Some submitters objected to the simplification of new Principle 1 (former Principle 2) to remove the reference to market or regulatory failure. The new Principle 1 only

referred to the need for there to be a clear case for regulation. We have retained the revised wording. In our view, the additional details that were included in the former principle are now unhelpful. This is because they gloss over the Authority's statutory requirements that must be met by the Authority when it considers amending the Code, particularly in light of the additional objective. The requirements the Authority must meet are contained in section 32(1) of the Act.

- 5.16. Some submitters objected to the proposed change to new Principle 2 that net benefits are quantified (former Principle 3).
- 5.17. Vector submitted that it may not be consistent with the Act to not conduct cost benefit analysis. It pointed to the requirement in section 39(2)(b) to include in a standard Code amendment proposal 'an evaluation of the costs and benefits of the proposed amendment'.
- 5.18. The proposed change to Principle 2 was to soften the expectation that a quantified cost benefit analysis would be provided by the Authority, reflecting that the Authority is not required by the Act to provide quantification of costs and benefits. This position was recently upheld in the courts.⁶ It was not to suggest that a cost benefit analysis would not be conducted. We have further amended the principle to remove all reference to quantification. Instead, we restate the Act's requirement to provide an evaluation of the costs and benefits of the proposed amendment (which could include qualitative or quantitative analysis). We also provide an assurance that a summary of this evaluation will be provided to ensure the information is accessible to a wider audience.
- 5.19. We have carefully considered the other feedback received on the principles. We have not made any further changes in response.

The role of advisory groups

- 5.20. Some submitters disagreed with the removal of the reference to advisory groups being a primary means for developing Code amendment options for significant and non-urgent matters. Contact Energy on the other hand supported the removal.
- 5.21. The Authority has proceeded with this change.
- 5.22. The Authority notes the charter for advisory groups required by section 19 of the Act sets out how the Authority will consult advisory groups on material changes to the Code. We consider this document to be the appropriate place for the detail of how the Authority works with advisory groups. This document is being updated as part of the review of the advisory groups. The Authority intends to publish a decision on advisory groups in February 2024.

6. Submitters' views on the Code amendment request process and the Authority's response

- 6.1. We received 15 submissions on the proposed changes to the CAR process.⁷

⁶ Paragraphs 120-122 of *Manawa Energy Limited v Electricity Authority* [2022] NZHC 1444 (20 June 2022), and paragraph 54 of *Nova Energy Limited v Electricity Authority* [2023] NZCA 275 (3 July 2023).

⁷ The Authority received 20 submissions on the consultation paper and 15 submissions addressed the proposed changes to the CAR process.

- 6.2. Five submitters opposed the proposed changes, while three submitters were in support. Seven submitters did not explicitly state whether they supported or opposed the proposed changes, but they provided feedback on aspects of the proposed changes.

Two key themes of transparency and prioritisation and the Authority's response

- 6.3. Submitters raised two key themes: the need for more transparency in the CAR process and concern that the proposals would unduly prioritise some.
- 6.4. We discuss both themes below, along with the Authority's response.

Transparency of the CAR process

- 6.5. Some submitters wanted a more transparent process related to completing the CAR form and the assessment criteria the Authority applies when assessing CARs.

New guidelines, updated CAR form and maintenance of register

- 6.6. The Authority has decided to provide more information to support the preparation of CARs through publishing new guidelines on the CAR process and updates to the CAR form. Please see the new guidelines and updated form in Appendix C and Appendix D.
- 6.7. We encourage anyone preparing a CAR to complete as much of the form as possible. If not enough information is provided, the Authority will return the CAR to the requestor for further clarification before we register and progress the request.
- 6.8. The Authority will continue to use and update the Code amendment proposal register with CARs received and decisions made. We publish the register on our website⁸.

New categories and criteria for CARs

- 6.9. The Authority has decided the updated process will be the same for all requests to help promote transparency of the CAR process, regardless of who requests them.
- 6.10. The Authority will review all CARs when they are received and will categorise them into one of the following three categories, which will determine how the request will be assessed:
- (a) minor
 - (b) medium
 - (c) complex.
- 6.11. To improve transparency of the CAR process, we have developed criteria for these categories, information requirements and the Authority's prioritisation of CARs (appended to the guidance document in Appendix A). The criteria will inform submitters of the level of information they may be required to supply when submitting a CAR.

⁸ <https://www.ea.govt.nz/code-and-compliance/code/amendments/>

- 6.12. Once the Authority completes its initial review, we will notify the submitter of the category their CAR is assigned and will confirm the urgency of the request.
- 6.13. The CAR category initially assigned is a guide only and can change as work is further scoped. The Authority will notify proposers if the category of their request changes.

Prioritisation of CARs

- 6.14. Some submitters expressed concern with the proposals to establish a bespoke process for Transpower to submit CARs, and to limit the CAR process to Code maintenance proposals only. The Authority acknowledges these concerns, and the perception of an imbalanced approach to CARs this could create.
- 6.15. The Authority also understand that a separate process for Transpower could create another layer of administration and complexity. The Authority has therefore decided that all CARs (including those submitted by Transpower) will go through the same initial review process. The Authority will consider proposals on their merits once enough information has been provided.
- 6.16. CARs will be processed for assessment through one of the following five assessment options:
 - (a) incorporation into the current CRP
 - (b) inclusion on the CRP candidate list, for incorporation into future CRPs
 - (c) incorporation into an existing project (if the proposal relates to an existing project)
 - (d) prioritised for future work
 - (e) standing up a new project.

Other suggestions

- 6.17. Some submitters suggested standing up a technical or working group to assess CARs. The Authority has decided not to progress with this suggestion. Technical/working groups will add time to the review process and reduce efficiency. We consider the updated CAR process will have appropriate resourcing to process and assess CARs in a timely manner with due transparency of the process.

7. The changes promote our statutory objectives

- 7.1. The Authority's main statutory objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers. The Authority's additional objective is to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers.
- 7.2. The updates to the Consultation Charter will enable people to more clearly understand the processes the Authority uses to amend the Code and how it consults on proposed amendments. This will benefit the Authority's Code making activities in service of its statutory objectives.
- 7.3. The updates to the CAR process will help identify areas for Code development to achieve the Authority's objectives by ensuring a timely and transparent process. This process is open to any person who wants to submit a CAR, whether they are

an industry participant or not. The Authority considers the updates to the CAR process will deliver long-term benefits to consumers as a result.

8. Next steps

- 8.1. The new Consultation Charter and Code amendment guidance document have been published on our website.
- 8.2. The updated documents have effect from 27 February 2024.

9. Attachments

- 9.1. The following appendices are attached to this paper:

Appendix A New Consultation Charter

Appendix B Changes to the Consultation Charter

Appendix C Code amendment request guidelines

Appendix D Revised Code amendment request form

Appendix A New Consultation Charter

Consultation Charter

27 February 2024

Consultation Charter

1. Purpose of this Charter

- 1.1. This consultation charter (Charter) sets out the guidelines relating to the processes for amending the Electricity Industry Participation Code 2010 (Code) and consulting on amendments.¹
- 1.2. The Code is secondary legislation made and administered by the Electricity Authority Te Mana Hiko (Authority) under the Electricity Industry Act 2010 (Act).

2. Objectives of the Authority

- 2.1. The Authority is New Zealand's electricity industry regulator. The Authority's main objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.
- 2.2. The Authority also has an additional objective: to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers.²
- 2.3. It is a function of the Authority to make and administer the Code.³

3. What the Code can contain

- 3.1. The Code may contain any provisions that are consistent with the objectives of the Authority and are necessary or desirable to promote any or all of the following:
 - (a) competition in the electricity industry
 - (b) the reliable supply of electricity to consumers
 - (c) the efficient operation of the electricity industry
 - (d) the protection of the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers
 - (e) the performance by the Authority of its functions
 - (f) any other matter specifically referred to in the Act as a matter for inclusion in the Code.⁴

4. Code amendment principles

- 4.1. Investment in the electricity industry is important and benefits the long-term interests of consumers. Unpredictable and ill-founded amendments to the Code could undermine investor confidence, and thus deter investment to the detriment of consumers.

¹ This Charter is made in compliance with section 41 of the Act.

² This additional objective applies only to the Authority's activities in relation to the dealings of industry participants with domestic consumers and small business consumers.

³ Section 16(1)(b) of the Act.

⁴ Section 32(1) of the Act.

- 4.2. To provide greater predictability about decision-making on Code amendments the Authority applies the following principles:
- Principle 1 – Clear case for regulation: The Authority will only consider amending the Code when there is a clear case to do so.
 - Principle 2 – Costs and benefits are summarised: The Authority is required to include with any Code amendment proposal an evaluation of the costs and benefits of the proposed amendment.⁵ The Authority will also include a summary of this evaluation.
- 4.3. The Authority will also apply the following additional principles where analysis demonstrates a clear benefit to a Code amendment proposal, but there is no clear best option in terms of a solution:
- Principle 3 – Preference for small-scale ‘trial and error’ options: The Authority will prefer options that are initially small-scale, and flexible, scalable and relatively easily reversible with relatively low value transfers associated with doing so. The Authority will monitor the implemented option and reject, refine or expand that solution in accordance with the results from the monitoring.
 - Principle 4 – Preference for greater competition: The Authority will prefer options that have larger pro-competition effects, because greater competition is likely to be positive for economic efficiency, reliability of supply and, ultimately, for the long-term benefit of consumers.
 - Principle 5 – Preference for market solutions: The Authority will prefer options that directly address market failure so as to facilitate efficient market arrangements. The Authority will discount options that subdue or displace efficient market structures.
 - Principle 6 – Preference for flexibility to allow innovation: The Authority will prefer options that provide industry participants with greater freedom and lower compliance costs, unless more restrictive options are justified such as where it may be more efficient to use a ‘one size fits all’ approach (for example, uniform standards).
 - Principle 7 – Preference for non-prescriptive options: The Authority will prefer options that specify outcomes required of industry participants rather than prescribe what they must do and how they must do it, unless the benefits of prescription outweigh an outcomes-based approach.

5. How amendments are identified

- 5.1. The Authority will identify any changes that it considers need to be made to the Code through the performance of its functions, which is based on the Authority’s assessment of how to best meet its objectives, statement of intent, current statement of performance expectations, and any statements of government policy under section 17 of the Act. The Authority’s advisory groups may also identify potential Code amendments (and at times assist the Authority to consult on them).
- 5.2. People are welcome to notify the Authority to any perceived issues with the Code or suggest where it might be improved. Any such notifications will be considered by the Authority at its discretion, in accordance with its objectives, functions, statement of intent, and current statement of performance expectations.

⁵ Except in limited circumstances, see paragraphs 6.4 and 6.5.

- 5.3. Guidance on how to request a Code amendment, and how amendments are prioritised, is available on the Authority's website: [Amendments to the Code | Electricity Authority \(ea.govt.nz\)](https://www.ea.govt.nz).

6. The process for amending the Code and consulting on amendments

- 6.1. The Act sets out requirements relating to how Code amendments are made.

Standard Code amendments

- 6.2. To amend the Code the Authority ordinarily needs to publicise a draft of the proposed amendment, prepare and publicise a regulatory statement, and consult on the proposed amendment and the regulatory statement.⁶
- 6.3. The regulatory statement required for a proposed amendment to the Code must include a statement of the objectives of the proposed amendment, an evaluation of the costs and benefits of the proposed amendment, and an evaluation of alternative means of achieving the objectives of the proposed amendment.

Exceptions to the standard Code amendment process

- 6.4. The Authority does not need to prepare and publicise a regulatory statement, or consult on a proposed amendment and regulatory statement, if it is satisfied 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 people likely to be affected by it; or
 - (c) there has been adequate prior consultation so that all relevant views have been considered.
- 6.5. Technical and non-controversial amendments could include, for example, Code maintenance proposals to improve clarity, correct typographical and editorial errors, and to keep the Code up to date (such as updating references to external standards).

Urgent amendments

- 6.6. The Authority also has the power to amend the Code urgently, without complying with any consultation requirements, where it considers that this is necessary or desirable in the public interest.⁷
- 6.7. Urgent amendments of this kind expire nine months after they come into force, unless revoked earlier⁸ or the Authority in the interim makes those amendments permanent by using the standard Code amendment process including meeting the consultation requirements.

⁶ Section 39 of the Act.

⁷ Section 40 of the Act.

⁸ Section 40A of the Act.

Code consultation requirements

- 6.8. The Code may also contain consultation requirements that apply to making amendments relating to specific matters. Where this is the case, the Authority will ensure these requirements are met.

Good practice consultation

- 6.9. Consultation has many benefits. It enables informed decision-making, improved communication and relationships with stakeholders, better quality regulatory outcomes, reduced implementation risk, and improved compliance.
- 6.10. As well as meeting the consultation requirements in the Act and the Code (if applicable), the Authority will ensure that any consultation adheres to good practice. This includes:
- (a) providing information about the Authority's work programme, including planned consultations, in advance where practicable
 - (b) providing all people interested in or affected by a proposed Code amendment have an opportunity to be heard — this means that, as well as publicly notifying any proposed amendment and the reasons for it on the Authority's website, the Authority may reach out to those that are particularly affected by an amendment or who may have relevant expertise
 - (c) considering the use of workshops, opportunities for oral submissions and other engagement methods (in addition to the usual written submission process) to encourage effective input of those particularly affected by a Code amendment proposal
 - (d) providing adequate information to allow people to understand the intended purpose of the proposed amendment so that they may make meaningful submissions — this may include the Authority presenting information orally through forums or similar in order to explain amendments
 - (e) giving people sufficient time to submit on any proposed amendment — consultation timeframes will be adapted to reflect the level of complexity of the proposed amendment and other relevant considerations
 - (f) receiving the views presented to the Authority with an open mind and giving those views, in making a decision, due consideration
 - (g) publishing questions and answers received during a consultation in a transparent and timely way
 - (h) consulting again on an amended proposal if, following consultation, the Authority decides to make substantial changes to a proposed amendment
 - (i) considering running multi-stage consultations that include opportunities for people to cross-submit on the submissions of others where amendments are particularly complex, there is potential for large financial implications for consumers or industry participants, or the issue is likely to be contentious.

7. People interested in or affected by Code amendments

- 7.1. People interested in or affected by Code amendments include:

- (a) domestic and small business consumers, and groups representing consumers including a Small Electricity Consumers Agency established under section 22A of the Act
- (b) industry participants (such as generators, distributors, and retailers)
- (c) Transpower (as grid owner and system operator) and other market operation service providers
- (d) the Authority's advisory groups (please refer to the Advisory Group Charter for more information)
- (e) the Commerce Commission.

Consultation with the Commerce Commission

- 7.2. The Authority and the Commerce Commission are the primary economic regulators of the electricity system in New Zealand. The Commerce Commission's jurisdiction is set out in Part 4 of the Commerce Act 1986. Part 4 provides for the regulation of the price and quality, and information disclosure requirements, for goods or services regulated under the Commerce Act, including electricity lines services.⁹
- 7.3. Section 54V of the Commerce Act 1986 provides that the Authority must consult with the Commission before amending the Code in a manner that will, or is likely to, affect the Commission in the performance of its functions or exercise of its powers under Part 4.

8. Publishing submissions and confidential information

- 8.1. The Authority's standard practice is to publish all submissions it receives on its website as soon as practicable after the consultation period closes.
- 8.2. Where a person wants to submit confidential information, this may be arranged by agreement with the Authority. However, reliance the Authority places on any confidential information may be diminished if the confidentiality affects the Authority's ability to verify or test the information. Where the Authority agrees to treat certain information as confidential, the submitter may be asked to provide a non-confidential version for publication.
- 8.3. The Authority may decide not to publish some submissions or parts of submissions if it considers that is necessary to protect the privacy of individuals.
- 8.4. Note that the Authority is subject to the Official Information Act 1982 and other laws which may require the disclosure of submissions or parts of submissions that the Authority does not publish.

9. Publishing the final decision

- 9.1. When the Authority decides to amend the Code, the decision and the reasons for it will be published on the Authority's website along with a copy of the amendment. The Authority will also give notice of any Code amendments in the New Zealand Gazette.
- 9.2. The Authority maintains a consolidated version of the Code that includes all amendments. This is available on the [Authority's website](#).

⁹ Part 4, subpart 9 of the Commerce Act 1986.

**Appendix B Redlined version of the Consultation Charter
showing further changes after consultation**

Consultation Charter

27 Febraury 2024

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1. Consultation Charter

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1. Purpose of this Charter

- 1.1. This consultation charter (Charter) sets out [the](#) guidelines relating to the processes for amending the Electricity Industry Participation Code [2010](#) (Code) and consulting on amendments.¹
- 1.2. The Code is secondary legislation made and administered by the Electricity Authority [Te Mana Hiko](#) (Authority) under the Electricity Industry Act 2010 (Act).

2. Objectives of the Authority

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- 2.1. The Authority is New Zealand's electricity industry regulator. The Authority's main objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.
- 2.2. The Authority also has an additional objective: to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers.²
- 2.3. It is a function of the Authority to make and administer the Code.³

3. What the Code can contain

- 3.1. The Code may contain any provisions that are consistent with the objectives of the Authority and are necessary or desirable to promote any or all of the following:
 - (a) competition in the electricity industry
 - (b) the reliable supply of electricity to consumers
 - (c) the efficient operation of the electricity industry
 - (d) the protection of the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers
 - (e) the performance by the Authority of its functions
 - (f) any other matter specifically referred to in the Act as a matter for inclusion in the Code.⁴

4. Code amendment principles

¹ This Charter is made in compliance with section 41 of the Act.

² This additional objective applies only to the Authority's activities in relation to the dealings of industry participants with domestic consumers and small business consumers.

³ Section 16(1)(b) of the Act.

⁴ Section 32(1) of the Act.

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4.1. Investment in the electricity industry is important and benefits the long-term interests of consumers. Unpredictable and ill-founded amendments to the Code could undermine investor confidence, and thus deter investment to the detriment of consumers.

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4.2. To provide greater predictability about decision-making on Code amendments the Authority applies the following principles:

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- Principle 1 – Clear case for regulation: The Authority will only consider amending the Code when there is a clear case to do so.
- Principle 2 – Costs and benefits are summarised: The Authority is required to include with any Code amendment proposal an evaluation of the costs and benefits of the proposed amendment.⁵ The Authority will also include a summary of this evaluation.

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4.3. The Authority will also apply the following additional principles where analysis demonstrates a clear benefit to a Code amendment proposal, but there is no clear best option in terms of a solution:

- Principle 3 – Preference for small-scale 'trial and error' options: The Authority will prefer options that are initially small-scale, and flexible, scalable and relatively easily reversible with relatively low value transfers associated with doing so. The Authority will monitor the implemented option and reject, refine or expand that solution in accordance with the results from the monitoring.
- Principle 4 – Preference for greater competition: The Authority will prefer options that have larger pro-competition effects, because greater competition is likely to be positive for economic efficiency, reliability of supply and, ultimately, for the long-term benefit of consumers.
- Principle 5 – Preference for market solutions: The Authority will prefer options that directly address market failure so as to facilitate efficient market arrangements. The Authority will discount options that subdue or displace efficient market structures.
- Principle 6 – Preference for flexibility to allow innovation: The Authority will prefer options that provide industry participants with greater freedom and lower compliance costs, unless more restrictive options are justified such as where it may be more efficient to use a 'one size fits all' approach (for example, uniform standards).
- Principle 7 – Preference for non-prescriptive options: The Authority will prefer options that specify outcomes required of industry participants rather than prescribe what they must do and how they must do it, unless the benefits of prescription outweigh an outcomes-based approach.

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5. How amendments are identified

5.1. The Authority will identify any changes that it considers need to be made to the Code through the performance of its functions, which is based on the Authority's assessment of how to best meet its objectives, statement of intent, current statement of performance expectations, and any statements of government policy under section 17 of the Act. The Authority's advisory groups may also identify potential Code amendments (and at times assist the Authority to consult on them).

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5.2. People are welcome to notify the Authority to any perceived issues with the Code or suggest where it might be improved. Any such notifications will be considered by the

⁵ Except in limited circumstances, see paragraphs 6.4 and 6.5.

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Authority at its discretion, in accordance with its objectives, functions, statement of intent, and current statement of performance expectations.

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- 5.3. [Guidance on how to request a Code amendment, and how amendments are prioritised, is available on the Authority's website: Amendments to the Code | Electricity Authority \(ea.govt.nz\).](#)

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Suggestions that fit into current Authority strategic projects: People will be asked

6. The process for amending the Code and consulting on amendments

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Minor or technical changes: People are asked to make these suggestions using

- 6.1. The Act sets out requirements relating to how Code amendments are made.

Standard Code amendments

- 6.2. To amend the Code the Authority ordinarily needs to publicise a draft of the proposed amendment, prepare and publicise a regulatory statement, and consult on the proposed amendment and the regulatory statement.⁶

Deleted: <#>form prescribed by the Authority and these will be considered as part of the Authority's omnibus Code change process (which will generally progress such amendments every year or two);¶
Changes proposed by Transpower as grid owner or system operator: Transpower in its capacity as grid owner and system operator has unique insight into the practical implementation of the Code. The Authority has a specific arrangement with Transpower to respond to any

- 6.3. The regulatory statement required for a proposed amendment to the Code must include a statement of the objectives of the proposed amendment, an evaluation of the costs and benefits of the proposed amendment, and an evaluation of alternative means of achieving the objectives of the proposed amendment.

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Urgent changes: Any suggestions that require an urgent response will be

Exceptions to the standard Code amendment process

- 6.4. The Authority does not need to prepare **and** publicise a regulatory statement, or consult on a proposed amendment and regulatory statement, if it is satisfied 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 people likely to be affected by it; or
 - (c) there has been adequate prior consultation so that all relevant views have been considered.

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Suggestions for broader regulatory changes, including Code amendments: The Authority's annual consultation

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- 6.5. [Technical and non-controversial amendments could include, for example, Code maintenance proposals to improve clarity, correct typographical and editorial errors, and to keep the Code up to date \(such as updating references to external standards\).](#)

Urgent amendments

- 6.6. The Authority also has the power to amend the Code urgently, without complying with any consultation requirements, where it considers that this is necessary or desirable in the public interest.⁷
- 6.7. Urgent amendments of this kind expire **nine** months after they come into force, unless [revoked earlier](#)⁸ or the Authority in the interim makes those amendments permanent by using the standard Code amendment process including meeting the consultation requirements.

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⁶ Section 39 of the Act.

⁷ Section 40 of the Act.

⁸ Section 40A of the Act.

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Code consultation requirements

6.8. The Code may also contain consultation requirements that apply to making amendments relating to specific matters. Where this is the case, the Authority will ensure these requirements are met.

Good practice consultation

- 6.9. Consultation has many benefits. It enables informed decision-making, improved communication and relationships with stakeholders, better quality regulatory outcomes, reduced implementation risk, and improved compliance.
- 6.10. As well as meeting the consultation requirements in the Act and the Code (if applicable), the Authority will ensure that any consultation adheres to good practice. This includes:
- (a) providing information about the Authority's work programme, including planned consultations, in advance where practicable
 - (b) providing all people interested in or affected by a proposed Code amendment have an opportunity to be heard — this means that, as well as publicly notifying any proposed amendment and the reasons for it on the Authority's website, the Authority may reach out to those that are particularly affected by an amendment or who may have relevant expertise
 - (c) considering the use of workshops, opportunities for oral submissions and other engagement methods (in addition to the usual written submission process) to encourage effective input of those particularly affected by a Code amendment proposal
 - (d) providing adequate information to allow people to understand the intended purpose of the proposed amendment so that they may make meaningful submissions — this may include the Authority presenting information orally through forums or similar in order to explain amendments
 - (e) giving people sufficient time to submit on any proposed amendment — consultation timeframes will be adapted to reflect the level of complexity of the proposed amendment and other relevant considerations
 - (f) receiving the views presented to the Authority with an open mind and giving those views, in making a decision, due consideration
 - (g) publishing questions and answers received during a consultation in a transparent and timely way
 - (h) consulting again on an amended proposal if, following consultation, the Authority decides to make substantial changes to a proposed amendment
 - (i) considering running multi-stage consultations that include opportunities for people to cross-submit on the submissions of others, where amendments are particularly complex, there is potential for large financial implications for consumers or industry participants, or the issue is likely to be contentious.

7. People interested in or affected by Code amendments

7.1. People interested in or affected by Code amendments include:

- (a) domestic and small business consumers, and groups representing consumers including a Small Electricity Consumers Agency established under section 22A of the Act

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- (b) [industry participants \(such as generators, distributors, and retailers\)](#)
- (c) [Transpower \(as grid owner and system operator\) and other market operation service providers](#)
- (d) [the Authority's advisory groups \(please refer to the Advisory Group Charter for more information\)](#)
- (e) [the Commerce Commission.](#)

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Consultation with the Commerce Commission

- 7.2. The Authority and the Commerce Commission [are the primary economic regulators of the electricity system in New Zealand](#). The Commerce Commission's jurisdiction is set out in Part 4 of the Commerce Act 1986. Part 4 provides for the regulation of the price and quality [and information disclosure requirements, for goods or services regulated under the Commerce Act, including electricity lines services](#).⁹
- 7.3. Section 54V of the Commerce Act 1986 provides that the Authority must consult with the Commission before amending the Code in a manner that will, or is likely to, affect the Commission in the performance of its functions or exercise of its powers under Part 4.

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8. Publishing submissions and confidential information

- 8.1. [The Authority's standard practice is to publish all submissions it receives on its website as soon as practicable after the consultation period closes.](#)
- 8.2. Where a person wants to submit confidential information, this may be arranged by agreement with the Authority. [However, reliance](#) the Authority places on any confidential information may be diminished if the confidentiality affects the Authority's ability to verify or test the information. Where the Authority agrees to treat certain information as confidential, the submitter may be asked to provide a non-confidential [version](#) for publication.
- 8.3. [The Authority may decide not to publish some submissions or parts of submissions if it considers that is necessary to protect the privacy of individuals.](#)
- 8.4. Note that the Authority is subject to the Official Information Act 1982 and other laws which may require the disclosure of [submissions or parts of submissions that the Authority does not publish](#).

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9. Publishing the final decision

- 9.1. [When](#) the Authority [decides](#) to amend the Code, the decision and the reasons for it will be published on the Authority's website along with a copy of the amendment. [The Authority will also give notice of any Code amendments in the New Zealand Gazette.](#)
- 9.2. The Authority maintains a consolidated version of the Code that includes all amendments. This is available on the [Authority's website](#).

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⁹ [Part 4, subpart 9](#) of the Commerce Act 1986.

Appendix C Code amendment request Guidelines

Code amendment request guidelines

27 February 2024

Code amendment request guidelines

1. Purpose

- 1.1. The Electricity Authority Te Mana Hiko (Authority) is responsible for administering the Electricity Industry Participation Code 2010 (Code).
- 1.2. Anyone can propose an amendment to the Code. We are publishing this guidance to support the preparation of a Code amendment request (CAR). It sets out the information the Authority expects to be included in a CAR and the standard process the Authority typically follows on receipt of a CAR, including the Authority's criteria for categorising and progressing consideration of CARs.

2. Making a Code amendment request

The Code amendment request form

- 2.1. All CARs should be submitted using the form available on the Authority's website¹. This ensures CARs are clearly identifiable and requestors know what information should be provided so the Authority can review and assess the request.
- 2.2. We encourage any person making a CAR to complete all relevant sections of the form with as much information as possible. If insufficient information is provided, the CAR will be returned to the submitter for further clarification before registering and progressing the request.

Information to include in a Code amendment request

- 2.3. The information to include in a CAR is listed below and reflects the statutory requirements for amending the Code under the Electricity Industry Act 2010 (Act). The information to include in a CAR is divided into two sections in the CAR form:
 - (a) **information to include for all requests:** this section should be completed for all Code amendment requests
 - (b) **information to include for standard Code amendments:** this section is relevant to standard Code amendment requests and does not need to be completed if one of the stated exceptions to the standard Code amendment process applies.
- 2.4. The Authority's Consultation Charter² explains the distinction between standard Code amendments and exceptions to the standard Code amendment process. Exceptions include technical and non-controversial amendments, amendments that have widespread support, and amendments that have had adequate prior consultation. Urgent Code amendments are also treated differently under the Act.

Information to include for all requests

- (a) Objective of the proposal – including the problem the proposal seeks to address. This will help the Authority to assess whether the proposal raises a valid issue and what priority it should be given.

¹ Electricity Authority. 2023. Code amendment request form. Available at: [Amendments to the Code | Electricity Authority \(ea.govt.nz\)](#)

² Electricity Authority. 2012. Consultation Charter. Available at: [Amendments to the Code | Electricity Authority \(ea.govt.nz\)](#)

- (b) Self-assessment of the category of the request – whether the proposal is considered minor, medium or complex (applying the criteria discussed below). This will help the Authority to decide how the proposal should be progressed.
- (c) Clause(s) of the Code to which the proposal relates.
- (d) A description of the proposal or draft wording of the proposed Code amendment. This helps the Authority to better understand the problem the requestor wants addressed, and the extent to which the requestor considers the Code needs to be amended.
- (e) How the proposal will promote competition in, reliable supply by, and/or efficient operation of, the electricity industry for the long-term benefit of consumers. This helps the Authority to assess whether the proposal is consistent with the Authority's main statutory objective.
- (f) Whether the proposal relates to the dealings of industry participants with domestic consumers and small-business consumers and, if so, how it protects the interests of those consumers in relation to their supply of electricity. This helps the Authority to assess whether the proposed amendment is consistent with the Authority's additional objective.
- (g) How the proposal complies with section 32 of the Act (which describes the permitted content of the Code). This helps the Authority to assess whether the proposal raises a valid issue.
- (h) Identification of parties likely to be substantially affected by the proposal.
- (i) Whether the proposed amendment is considered urgent. This helps the Authority to decide whether it is necessary or desirable to make the proposed Code amendment urgently (under section 40 of the Act).
- (j) Whether an exception to the standard Code amendment process applies. The Authority does not need to prepare and publicise a regulatory statement or consult on a proposed amendment and regulatory statement in certain situations. To understand whether one of these situations may apply, requestors are asked to identify whether they consider that:
 - (i) for minor proposals, the nature of the amendment is technical and non-controversial, or
 - (ii) there is widespread support for the proposal among those likely to be affected, or
 - (iii) there has been adequate prior consultation so that all relevant views have been considered.

Information to include for standard Code amendments

- (a) Analysis of the costs and benefits of the proposal. This information should be provided to a level in proportion with the categorisation of the CAR and considering the requestor's ability to provide this information. This information will support the Authority's evaluation of costs and benefits, which it must prepare and publish for all standard Code amendments.
- (b) Analysis of alternative means to achieve the proposal's objective. Whenever the Authority proposes a standard Code amendment it must also evaluate alternative means of achieving the objectives of the proposed amendment.³ A CAR should therefore include, to the extent practicable, an analysis of any alternatives identified.

³ Section 39(2)(c) of the Act.

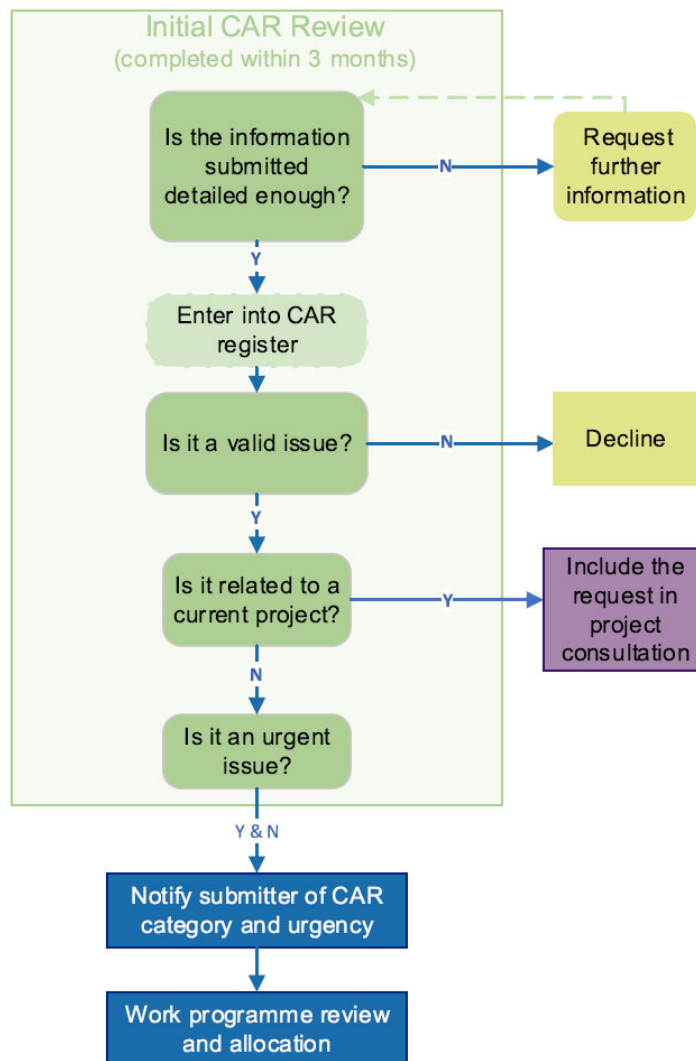
3. Authority process following receipt of Code amendment requests

- 3.1. The Authority's process following receipt of a CAR typically involves the following stages:
 - (a) initial CAR review
 - (b) substantive assessment of the CAR
 - (c) consulting on amendments and amending the Code (if appropriate).
- 3.2. These guidelines address the first two stages. The Authority's processes for amending the Code and consulting on amendments (paragraph (c) above) are the same for all Code amendments and are discussed in the Authority's Consultation Charter⁴.

Initial CAR review

- 3.3. The Authority's initial review process is illustrated in Diagram 1 below.

Diagram 1: initial CAR review process



⁴ Electricity Authority. 2012. Consultation Charter. Available at: [Amendments to the Code | Electricity Authority \(ea.govt.nz\)](#)

- 3.4. If enough information has been supplied in the CAR, the Authority will enter it into the Authority's Code amendment register on our website⁵, and consider the following questions.

Does the CAR raise a valid issue?

- 3.5. In deciding whether the CAR raises a valid issue, the Authority will consider whether it relates to a matter that may be included in the Code,⁶ and if it should proceed to the substantive assessment stage. This will involve consideration of the CAR's merits (including the nature and significance of the problem identified), assessed against the Authority's statutory objectives.
- 3.6. Not all CARs will proceed to the assessment stage or result in an amendment to the Code. The Authority exercises its discretion, within legal and regulatory requirements, to decide which CARs will be accepted and, following substantive assessment, whether a CAR will be a proposed amendment to the Code.
- 3.7. If the Authority concludes that the proposal does not raise a valid issue, it will decline the CAR and notify the requestor of this decision.

Does the CAR relate to a current project?

- 3.8. If the CAR raises a valid issue and is related to a current project, the CAR may be assessed as part of the project. The Authority will notify the project team and the proposer of this decision.

Does the CAR require an urgent response?

- 3.9. If the Authority considers that the CAR should be treated as urgent, it will be given priority and may not follow the standard Code amendment process (see the Consultation Charter for more information about urgent Code amendments). Requestors are therefore encouraged to provide as much information as possible if they consider that the CAR should be treated as urgent.

Categorising CARs as minor, medium or complex

- 3.10. As part of the initial CAR review the Authority will assign the CAR one of the following categories, using the criteria in Table 1 below:
- (a) minor
 - (b) medium or
 - (c) complex.

⁵ Electricity Authority. Amendments to the Code. Available at: [Amendments to the Code | Electricity Authority \(ea.govt.nz\)](https://www.ea.govt.nz/amendments-to-the-code/)

⁶ Section 32(1) of the Act states what the Code can contain.

Table 1: Criteria for Code amendment request categories

	Category of Code Amendment Request		
	Minor	Medium	Complex
Criteria	<p>Proposed Code amendment is small and discrete. It could involve some minor change in policy and/or policy intent.</p> <p>This includes technical and non-controversial amendments.</p> <p>Includes proposals to:</p> <ul style="list-style-type: none"> • keep the Code up-to-date and fit-for-purpose as the industry evolves, • address operational gaps in the Code • improve clarity and correct editorial and typographical errors, such as outdated cross-references, incorrect headings, incorrectly bolded terms. 	<p>Proposed Code amendment involves more than a minor change in policy and/or policy intent. For example, changes that affect a wide number of participants.</p> <p>It excludes significant changes to the market and participants' systems. It may include minor market and participants' systems changes.</p>	<p>Proposed Code amendment involves a significant change in policy and/or policy intent.</p> <p>It may include proposals which involve significant changes to the market systems and to participants' systems, or changes related to physical assets.</p>

- 3.11. The Authority will notify the requestor of the outcome of the initial CAR review, including how the CAR has been categorised. The Authority will usually take a maximum of three months to complete this categorisation. If it is considered urgent, we will assess it as soon as possible.
- 3.12. The initial review will use the criteria above (Table 1). Please note this is a guide only and can change on a case-by-case basis, as work is further scoped. The Authority will notify proposers if the category of their request changes.

Substantive assessment of the CAR

- 3.13. CARs that are accepted following initial CAR review will then be processed for substantive assessment. This is when the Authority investigates the CAR in detail and reaches a view on whether it should propose an amendment to the Code.
- 3.14. CARs can be assessed through one of the following five assessment tracks:
- incorporation into a Code review programme (CRP) that is in progress
 - inclusion on the CRP candidate list, for incorporation into future CRPs
 - incorporation into an existing project (if the proposal relates to an existing project)

- (d) prioritised for future work
 - (e) standing up a new project.
- 3.15. All CARs categorised as ‘minor’, and, where appropriate, some CARs categorised as ‘medium’ will normally be assessed through the CRP. This will depend on the impact on participants and market systems.
 - 3.16. Any CAR that relates to an existing project will be passed onto that project team. The CRP is a standing project that regularly proposes a set of small discrete Code changes, with different themes, all at once.
 - 3.17. Depending on the timing of the CRP, the priority of the CAR and Authority resourcing, ‘minor’ and ‘medium’ CARs may be incorporated in the current CRP or added to the CRP candidate list where they will wait to be assessed in subsequent programmes. CRPs are intended to be conducted regularly as resources permit.
 - 3.18. CARs categorised as ‘complex’ will not be assessed through the CRP. The appropriate assessment track for these more significant proposals will typically be reviewed annually when the Authority sets its draft work programme as part of its appropriations consultation.
 - 3.19. ‘Medium’ CARs may also be considered in this way if there is a more than a minor impact on participants and market systems. A decision by the Authority on the assessment track for ‘medium’ or ‘complex’ CARs will depend on the relative priority of the proposal with reference to the Authority’s statutory objectives and strategic ambitions, resourcing and other work.
 - 3.20. ‘Minor’ and ‘medium’ requests can be assessed through incorporation into one of the Authority’s existing projects if the timing and subject matter is appropriate.
 - 3.21. Urgent CARs will be given priority, as noted above. The appropriate assessment track for urgent CARs will depend in part on the timing of any relevant existing projects. For example, an urgent ‘minor’ or ‘medium’ CAR could be added to the current CRP. Alternatively, it may be more appropriate to stand up a new project to deal specifically with an urgent complex CAR.
 - 3.22. Table 2 shows how each CAR category could be processed for assessment.

Table 2: Possible assessment tracks for each CAR category

Minor	<ul style="list-style-type: none"> • Current CRP*, or • CRP candidate list, or • Incorporated into existing project*
Medium	<ul style="list-style-type: none"> • Current CRP*, or • CRP candidate list, or • Incorporated into existing project,* or • Prioritised for future work
Complex	<ul style="list-style-type: none"> • Prioritised for future work, or • A new project stood up*

* including urgent CARs

- 3.23. When a CAR comes to be assessed under one of these assessment tracks, and the Authority decides to propose a Code amendment, it will follow the process for amending the Code and consulting on amendments outlined in the Consultation Charter⁷.
- 3.24. The length of time that this may take will depend on the complexity and impact of the CAR. As above, for minor CARs this will be prepared as part of the CRP.

4. Related documents

- 4.1. Consultation Charter: [Amendments to the Code | Electricity Authority \(ea.govt.nz\)](#)
- 4.2. Code amendment request form: [Amendments to the Code | Electricity Authority \(ea.govt.nz\)](#)
- 4.3. Consultation Charter update webpage: <https://www.ea.govt.nz/projects/all/review-of-our-consultation-and-feedback-processes/consultation/consultation-charter-code-amendment-process-and-new-advisory-group/>
- 4.4. Code amendment webpage: [Amendments to the Code | Electricity Authority \(ea.govt.nz\)](#)

⁷ Electricity Authority. 2012. Consultation Charter. Available at: [Amendments to the Code | Electricity Authority \(ea.govt.nz\)](#)

Appendix D Revised Code amendment request form

Request to amend the Electricity Industry Participation Code 2010

This form is to request:

- an amendment to an existing clause or clauses in the Electricity Industry Participation Code 2010 (Code)
- the removal of an existing clause or clauses in the Code
- a new clause or clauses in the Code

Please refer to the Code amendment request guidelines [insert link] when completing this form. The Guidelines contain more information about requesting a Code amendment and the Authority's process when it receives a request.

Please complete all relevant sections of this form, with as much information as you can. The more information you include in your request, the better we will understand and be able to assess your request. If there is not enough room in this form, you can attach more pages.

Email completed forms to info@ea.govt.nz.

Proposer

Name:	
Date:	DD/MM/YYYY
Organisation:	
Position in organisation:	
Telephone:	
Email address:	

Section 1: Information to include for all requests

Complete this section for all Code amendment requests.

The proposal

<p>1. Objective of the proposal</p> <p>What do you want the proposal to achieve?</p> <p>Provide supporting information on the problem or issue the proposal seeks to resolve</p>	<p>For example, the objective of the proposal might be to clarify ambiguity in the current Code about how to resolve a particular situation, to address a gap in the operation of the Code, or to update the Code to respond to changes in technology or business practices.</p>
<p>2. Category of request</p> <p>State whether you think the request is minor, medium or complex, and why (applying the criteria in the Guidelines [insert link]).</p> <p>For minor requests, specify whether you think the nature of the amendment is technical and non-controversial.</p>	<p>For example, the request might be ‘minor’ because it only requires technical and non-controversial drafting changes, or because it only involves a minor policy change and there is no impact on market operation systems or participant processes or systems.</p>
<p>3. Clause(s) to which the proposal relates</p> <p>If the proposal relates to existing Code clause(s), state the full clause reference/s here.</p> <p>If the proposal relates to a new clause, state where you think this would best fit in the Code.</p>	<p>For example: clause 7 of Schedule 11.2, or clause 7 of Part 11</p> <p>For example: insert after clause 7 of Schedule 11.2, or insert after clause 7 of Part 11</p>
<p>4. Description of the proposed amendment</p> <p>Describe the Code amendments you are proposing (or attach a draft of the proposed Code amendment when submitting this form).</p> <p>Note: if you are providing draft wording of the proposed Code amendment, see the Code drafting manual for guidance.</p>	<p>For example:</p> <p>Changes to clause 11.18 as follows:</p> <p>11.18 Trader responsibility for ICP</p> <p>(1) If a trader is recorded in the registry as accepting responsibility for an ICP identifier that is not also an NSP, the trader is responsible for all obligations in this Part that— (a) apply to traders; and (b) relate to an ICP that is not also an NSP.</p>
<p>5. How the proposal supports the Authority’s main objective</p> <p>Identify how your proposal would support the Authority’s main objective of promoting competition in, reliable supply by, and/or efficient operation of the electricity</p>	<p>Competition:</p> <p>For example: This proposal promotes competition by reducing barriers to market entry for new participants by...</p> <p>Reliability:</p> <p>For example: This proposal promotes reliable supply by increasing generation supply in winter...</p>

<p>industry for the long-term benefit of consumers.</p> <p>If the proposal is not expected to impact a limb of the main objective, use “No impact on this limb”</p> <p>See section 15(1) of the Act</p>	<p>Efficiency:</p> <p>For example: This proposal promotes efficient operation through better utilisation of resources by ...</p>
<p>6. Application of the Authority’s additional objective</p> <p>Identify whether your proposal relates to the dealings of industry participants with domestic consumers and small business consumers.</p> <p>If it does, identify how your proposal will protect the interests of domestic and small business consumers in relation to the supply of electricity to those consumers.</p> <p>See sections 15(2)-(3) of the Act</p>	<p>For example: This amendment ensures that consumers have access to all information relevant to their choice in retail plans before signup, OR The proposal does not relate to the dealings of industry participants with domestic or small business consumers.</p>
<p>7. How the proposal complies with section 32 of the Act</p> <p>The Code may only contain provisions which are necessary or desirable to promote specific matters listed in section 32(1) of the Act which are:</p> <ol style="list-style-type: none"> a) competition in the electricity industry b) the reliable supply of electricity to consumers c) the efficient operation of the electricity industry d) the protection of the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers e) the performance by the Authority of its functions f) any other matter specifically referred to in the Act as a matter for inclusion in the Code. <p>Identify which of the section 32(1) matters listed in the adjacent column your proposal relates to.</p>	<p>For example: This proposal promotes competition in the electricity industry (see Q5 above) OR This proposal promotes the efficient operation of the electricity industry and the performance by the Authority of its functions by making it easier for participants to understand and comply their obligations, and for the Authority to monitor compliance with the Code.</p>
<p>8. Affected parties</p> <p>Who is likely to be substantially affected by the proposal?</p> <p>Thei could include other participants (such as generators,</p>	<p>For example: The system operator will be substantially affected because the change will require a change to their processes and market tools.</p>

distributors metering equipment providers, intermittent generation owners), consumers, market operation service providers.	
9. Urgency Identify whether you consider your proposal to be urgent (providing supporting rationale). Section 40 of the Act	For example: It is necessary or desirable in the public interest that the amendment be made urgently because there is a real risk that in the coming months the problem highlighted above could [result in inefficient pricing / undermine the reliable supply of electricity etc - insert details].
10. Support for the proposal Do you consider there is widespread support for your proposal among the people likely to be affected? If so, provide supporting rationale.	For example: The proposal aligns with the recommendations in a recent report [insert details] OR with processes already agreed with the industry.
11. Prior consultation Do you consider there has been adequate prior consultation on the proposal so that all relevant views have been considered? If so, provide supporting rationale.	For example: There has been no prior consultation OR The issue was consulted on in the preparation of a recent report [insert details] OR We have consulted with several generators to understand their views because they could be impacted by the proposed Code change. Below is a summary of the feedback we received...
12. Other relevant information Is there any other relevant information you would like the Authority to consider?	

Section 2: Standard Code amendment requests

This section should be completed for all standard Code amendment requests. A request will be treated as a standard Code amendment request unless the Authority is satisfied that one of the following applies:

- the nature of the amendment is technical and non-controversial (question 2)
- the proposed amendment should be made urgently (question 9)
- there is widespread support for the amendment among the people likely to be affected by it (question 10), or
- there has been adequate prior consultation so that all relevant views have been considered (question 11).

You do not need to complete this section of the form if any of these apply. However, if the Authority does not agree with your assessment and decides to treat the request as a standard Code amendment request, we may come back to you and ask you to complete this section.

Provide a summary of the costs and benefits in the table below. Benefits can be qualitative and/or quantitative.

Costs and benefits of the proposal

<p>13. Costs of the proposal Identify the expected costs of the proposal, including:</p> <ul style="list-style-type: none"> • your assessment of the direct cost to develop and implement the proposed Code amendment, and • the consequential costs as a result of the amendments. 	<p>Costs might include: direct costs for administration of the Code change process, direct costs incurred by the owners of intermittent generation to update their processes and tools.</p>
<p>14. Benefits of the proposal Identify the expected benefits of the proposal</p>	<p>Benefits might include: clearer rules, more accurate market information, a more secure system and lower electricity prices for consumers, reduced service provider costs, incentivise generators to co-operate on grid reinforcement costs.</p>
<p>15. Net benefit of the proposal State whether you consider the proposal has a positive net benefit, and why.</p>	<p>We consider the proposal has a positive net benefit because X, Y Z benefits outweigh the costs A, B, C.</p>

Assessment of alternative options

	Alternative means of achieving proposal's objective <i>(repeat column as necessary)</i>	
	Alternative 1	Alternative 2
<p>16. Describe alternative option Include a brief description of any alternative means identified of achieving your objective</p>	For example: Status quo...	For example: Business process...
<p>17. Identify extent to which the alternative would achieve your objective</p>		
<p>18. Affected parties Who is likely to be substantially affected by the alternative?</p>		

	Alternative means of achieving proposal's objective <i>(repeat column as necessary)</i>	
<p>19. Expected costs and benefits</p> <p>Please include direct costs to develop the alternative and consequential costs and benefits to all affected parties</p>		
<p>20. Why do you prefer the proposal over this alternative?</p>		