

# The Electricity Authority Advisory Group

Decision paper

27 January 2024

## Executive summary

New Zealand's electrification and renewable energy goals are driving significant changes. The transition to a net zero emissions economy by 2050 means opportunities for an increasing mix of energy sources, participants and innovation. This increasing diversity and participation, in an already complex industry, affords unprecedented opportunities and challenges for consumers, the sector, other industries and for the New Zealand economy.

Regulation must keep up with these changes to enable progress and maximise the benefits for all consumers. In its role as regulator, the Electricity Authority Te Mana Hiko (the Authority) is focused on ensuring the transition is as efficient and resilient as possible, while maintaining energy security, system adaptability and equitable energy access for all consumers.

Our vision is to ensure all consumers have choices in accessing the energy they need now, and in the future, to ensure they and New Zealand prosper. Now more than ever we need to be adaptable, using the collective intelligence and experience of industry and interested parties to identify critical issues and develop well informed regulation to enable the transition at least cost to consumers.

Required under the Electricity Industry Act 2010, advisory groups made up of a broad range of industry and consumer stakeholders, have played a key role in the development of the electricity market both before and after the establishment of the Authority. The makeup of the groups has evolved as the industry has transformed.

The Authority acknowledges the valuable work done by the advisory groups to date and needs to ensure that, going forward, the advisory group structure supports the Authority in meeting these needs.

Over the coming years the industry will continue to adapt and use current and future technology to help the country move to an electrified economy while ensuring an affordable, stable, and secure electricity supply for consumers.

Following consultation with industry and interested parties, the Authority has decided to establish a new advisory group to provide independent advice to the Authority on projects the Authority has in progress and is intending to develop.

Advisory groups provide valuable input into policy and regulatory development and decision making. The Authority wants to retain that valuable input but make some changes to support the Authority's next phase of work. The key changes the Authority is seeking to make with the new advisory group are:

- To work more closely and transparently with the sector and consumers, using advisory groups early and often in the Authority's decision-making processes.
- Encourage greater involvement of consumer views.

The Authority would like to express its gratitude to all those who submitted on the consultation, specifically those who provided input on advisory groups, and the participants in the workshops who provided further feedback. Your time and insight have been integral to this decision.

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## 1 Purpose

- 1.1. This paper communicates the Electricity Authority's decision on the future of the advisory group(s) required under Section 21(1) of the Electricity Industry Act 2010.

## 2 Advisory groups provide invaluable advice

- 2.1. The Electricity Industry Act 2010 (the Act) requires the Electricity Authority (Authority) to have at least one advisory group in addition to the Security and Reliability Council (SRC) to provide independent advice to the Authority on the development of the Code and on market facilitation.
- 2.2. The Act also specifies that every advisory group must include people who the Authority considers have appropriate knowledge of, and experience in, the electricity industry and consumer issues, but members need not be independent persons.
- 2.3. Advisory groups have played a key role in the development of the market. Since 2017, the Innovation and Participation Advisory Group (IPAG)<sup>1</sup> and the Market Development Advisory Group (MDAG)<sup>2</sup> have provided invaluable advice to the Authority on a host of key issues and opportunities facing the electricity industry.

## 3 Ensuring advisory groups are fit for purpose

- 3.1. The electricity industry is facing rapid and significant change. The transition to an electrified economy requires an unprecedented level of investment across the electricity system and a regulatory framework that gives certainty while unlocking innovation and new technologies.
- 3.2. As the regulator, the Authority is focused on ensuring the transition is as efficient and resilient as possible, while maintaining energy security, system adaptability and access to affordable electricity for all consumers. That requires us to stay ahead and work alongside industry, consumer groups and other agencies to identify critical issues and develop well informed regulation to enable the transition at least costs to consumers.
- 3.3. Our vision is to ensure all consumers have choices in accessing the energy they need now, and in the future, to ensure they and New Zealand prosper. Now more than ever we need to work quickly, using the collective intelligence and experience of many to identify and solve complex problems for the benefit of consumers and the future of New Zealand.

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<sup>1</sup> [Innovation and Participation Advisory Group | Electricity Authority \(ea.govt.nz\)](https://www.ea.govt.nz/information-and-consultation/innovation-and-participation-advisory-group/)

<sup>2</sup> [Market Development Advisory Group | Electricity Authority \(ea.govt.nz\)](https://www.ea.govt.nz/information-and-consultation/market-development-advisory-group/)

- 3.4. In preparing for the future, we want and need to work differently. We want to:
- (a) work more closely and transparently with the sector and consumers.
  - (b) cover a wide range of topics across technical areas, consumer interest and future perspectives.
  - (c) use an advisory group early and often in our decision-making processes.

## 4 Consulting on a proposed new advisory group

- 4.1. In January 2023, the Authority published a consultation paper on the review of consultation and feedback processes.
- 4.2. The paper consulted on four related but discrete proposals<sup>3</sup>:
- (a) changes to the Authority's consultation charter
  - (b) changes to the advisory groups, advisory group charter, and advisory group terms of reference
  - (c) changes to the Code amendment request process
  - (d) Code amendments regarding review and consultation on system operation documents incorporated into the Code by reference
- 4.3. The paper acknowledged the significant change in the electricity sector as the industry and other industries responded to the transition to an increasingly electrified economy. The Authority noted in the paper the future direction of its prioritised initiatives would require a new advisory group.
- 4.4. The Authority proposed to establish the Electricity Authority Advisory Group (EAAG), stating the purpose of the new advisory group is to provide advice on the Authority's prioritised initiatives as requested by the Authority.
- 4.5. The Authority consulted on the structure and membership makeup of the EAAG. The membership of the EAAG is expected to include a range of members from small, medium, and large industry participants as well as other interested parties including consumer groups and Māori.

## 5 The Authority has decided to establish a new advisory group

- 5.1. The Electricity Authority has decided to:
- (a) Establish the EAAG
  - (b) Replace the current Charter for Advisory Groups with a new version
  - (c) Create a draft terms of reference for the new EAAG.
- 5.2. The Authority will call for nominations for the EAAG early in 2024.

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<sup>3</sup> Decisions on items (a), (b), and (d) have been published separately. .

## 6 Capturing diverse expertise and experience

- 6.1. The Authority considers introducing a new advisory group structure will ensure it:
- (a) can work more closely with stakeholders, engaging early and often in the decision-making process
  - (b) gets the best interactions from industry-representative parties that can assist it in supporting its statutory objective
  - (c) maximises the administering of its resources to its fullest effect
  - (d) ensures greater acknowledgement of disparate voices through greater inclusion with the Authority's advisory process
  - (e) listens to consumers' views and provides transparency on how those views are weighted in reaching decisions
  - (f) maximises benefits and minimises costs for consumers.
- 6.2. In October 2022 the Board agreed to review the Consultation Charter, Code amendment process and new advisory group. The consultation paper titled *Review of the consultation and feedback processes* was published in January 2023 and closed for consultation on 21 March 2023.<sup>4</sup>
- 6.3. In the document, the Authority proposed establishing the EAAG with three options to consider:<sup>5</sup>
- (a) Option one - a small core group that co-opts other expertise
  - (b) Option two - a full-size group that can set up smaller working groups of interested members
  - (c) Option three - a large member pool with a stronger focus on breakout groups of members interested in individual subjects.
- 6.4. The Authority proposed the EAAG's input would inform and refine selected Authority projects. While the group is not intended as a replacement for public consultation there may be instances in which consultation with the EAAG may constitute consultation for the purposes of making some Code amendments.
- 6.5. EAAG members would be free to make their own submissions on consultation papers.

## 7 Submissions on the proposed EAAG were mixed

- 7.1. The Authority received 20 submissions on the *Review of consultation and feedback processes* consultation paper. These submissions shaped the Authority's thinking and influenced this decision.
- 7.2. Most submitters supported a new advisory group but views were mixed on the options proposed.

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<sup>4</sup> Consultation was extended to 4 April for distributors affected by cyclone Gabriel.

<sup>5</sup> [Consultation charter, Code amendment process and new advisory group | Our consultations | Our projects | Electricity Authority](#)

7.3. Vector and Manawa were less supportive of the proposed EAAG with Vector proposing the Authority:

*Retain the approach using multiple AGs, with strong independent chairs intervening if parties are failing to act independently or in the long-term interests of consumers.....*

7.4. Vector also submitted the Authority:

*should establish a permanent consumer panel and a permanent iwi reference panel (not under the proposed single EEAG).<sup>6</sup>*

7.5. Manawa was also keen to maintain the status quo

*We think the needs of the Authority and stakeholders would be better served by a series of advisory groups working on matters within their expertise and knowledge and encourage the Authority to further consider what the best arrangements to enable this are.<sup>7</sup>*

7.6. The Authority took this feedback into account and conducted further engagement with these and other stakeholders (see 8. Re-engaging with submitters to design the future)

7.7. The Authority notes the following key themes from submissions on expectations of a new advisory group. The advisory group should:

- (a) be able to move quicker
- (b) have a clear purpose and form
- (c) have a forward view of what's coming up
- (d) engage early before ideas are fully formed
- (e) have balanced representation (including consumers)
- (f) have appropriate administrative support.

7.8. Submitters also commented on the need for transparent and streamlined consultation processes. There was a consistent request for the Authority to give the sector and others timely notification of intended consultations and decisions. The Authority has since published a [consultation calendar](#) in response to this specific feedback and has also published an indicative work programme for the 2024/25 year with its [levy consultation](#). The Authority has also re-established its regular stakeholder engagement sessions, now called the Quarterly Update<sup>8</sup> in response to submitters' feedback.

## 8 Re-engaging with submitters to design the future

8.1. The Authority noted some submitters expressed concern the Authority had not engaged the sector to discuss options and help inform the consultation paper.

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<sup>6</sup> [Vector submission p.6](#)

<sup>7</sup> [Manawa submission p.2](#)

<sup>8</sup> These were previously known as the Regulatory Manager and Consumer Representatives meeting.

- 8.2. The Authority is committed to improving its stakeholder engagement including how we can be more transparent and engaging during our decision-making processes. Establishing the form and function of the EAAG is another critical next step.
- 8.3. The Authority acknowledged it could have engaged industry and interested parties earlier in the discussions about options. On that basis, we decided to run workshops with submitters to discuss key themes from submissions and seek understanding of what the form and function of the new advisory group could look like before making our decision.
- 8.4. We also saw this as an excellent and appropriate opportunity to trial a different form of engagement with stakeholders on a specific issue by running workshops rather than publishing another consultation paper. The Authority has used workshops with diverse representation in the past with some success including our strategy reset in 2019 and initial work on consumer care. Trialling this approach with the proposed advisory group gave us the opportunity to workshop how a facilitated advisory group may operate in the future.

The two workshops were independently facilitated and were well attended by industry representatives and consumer groups.

## 9 The purpose and outcomes of the workshops

- 9.1. The first workshop in September 2023 focused on discussing the key areas of concern and key issues identified in submissions on the consultation paper. The workshop also discussed the purpose of a new advisory group and how it may work.
- 9.2. The discussion reiterated the broad support for a review of the advisory groups. Emerging themes indicated areas of commonality but also points of contention among some workshop attendees including the importance of:
  - (a) the advisory group bringing independent thinking and advice
  - (b) diversity of membership including consumer voice
  - (c) early involvement in Authority processes
  - (d) the ability to give advice at pace
  - (e) achieving a balance between retaining technical expertise and capturing consumer voice
  - (f) a more flexible approach using sub-groups to work on different topics
- 9.3. The second workshop in October 2023 was intended to seek broad understanding and agreement on a proposed form and function of the new advisory group. The group largely agreed the new advisory group will:
  - (a) provide a diverse range of independent input and advice to the regulator.
  - (b) provide advice early and often on key pieces of work that are part of the Authority's work programme
  - (c) test practical implications of regulatory decisions for consumers and stakeholders before consultation or decision-making including:
    - (i) helping to understand the problem



- (i) testing early options thinking
  - (i) workability and practicalities of implementation
- 9.4. The workshop also identified what the advisory group would not do, including:
  - (a) Be responsible for determining the Electricity Authority's work programme
  - (b) Make decisions - independent thinking and perspectives will be required, not consensus.
  - (c) Provide ad-hoc, informal advice on discrete projects
  - (d) Commission external advice or opinions.

## **10 Diverse membership will support well informed regulatory decisions**

- 10.1. Some workshop attendees raised concerns that opening the group to diverse membership may dilute the technical, industry expertise previously integral to the success of existing and previous Authority advisory groups. However, nearly all attendees agreed that diverse representation was important, and expert facilitation of the group would be necessary to ensure all views and expertise is captured. The Authority intends to continue to use technical working groups as well as advisory groups to ensure we have multiple ways to capture technical expertise.
- 10.2. The Authority's consultation paper proposed membership of the advisory group would be made up of members "representing the interests" of different parts of the sector and consumer groups.
- 10.3. Submissions and the working group discussed the difference and tension between independent advice and having members "representing interests". The Authority agrees members should be focused on delivering independent advice that focuses on enabling the Authority to achieve its statutory objectives and ultimately deliver benefits for consumers.
- 10.4. Members will be selected based on their experience and expertise. The Authority will be seeking nominations from people across the sector, consumer groups, iwi and other interested parties to achieve diverse and informed perspectives within the group.
- 10.5. Key aspects of membership included
  - (a) Membership will take a more flexible approach with members able to opt-out of a particular project(s) if they do not have the experience to meaningfully contribute and not all members needing to participate in all activities.
  - (b) Members will have varying views and perspectives given their experience in the industry and/or with consumer impact.
  - (c) Members will not be representatives of a part of the sector, but individuals selected on their experience
  - (d) Individual membership will refresh over time to ensure fresh perspectives.
  - (e) Membership terms would be three years with rolling expiry.
  - (f) There will be a formal agreement to participate with clear terms of reference

## 11 Decision on the form and purpose of the EAAG

- 11.1. The timing, structure and purpose of the EAAG is summarised in Table 1.
- 11.2. Key elements of the new structure include:
  - (a) Independent facilitation using an independent Chair with the Authority as the secretariat and responsible for commissioning the advice.
  - (b) At a minimum, an annual meeting to bring the full group together and review how things have gone the previous year, share the forward work programme, plan work required in the upcoming months.
  - (c) Flexible subgroups will be formed to work on specific items, utilising the broad experience in the EAAG while enabling progress on key issues in a timely manner. Membership and facilitation of these groups will be agreed at the annual meeting depending on the timing and scope of the work. Facilitation options include the Chair as the default chair, but could also include an external independent facilitator or member of the Authority secretariat.
  - (d) Papers, agendas and minutes will be published.
- 11.3. These key elements seek to respond to repeated themes in submissions including the importance of independent advice; the opportunity for subgroups for specific issues for which in depth expertise is required; and the need to ensure (as much as possible) transparency of the advisory process.
- 11.4. An amended Charter about advisory groups was released for consultation with the proposal in January 2023. We received little feedback on the specifics of the Charter. The amended Charter is published on our website **[include link]**.
- 11.5. A call for nominations for the EAAG will go out early February 2024. Nominations will close after 4 weeks, and the Authority intends to stand up the new advisory group by April 2024.
- 11.6. The EAAG will comprise of up to 25 members approved by the Authority. A Chair will also be nominated and appointed ahead of the first EAAG meeting.
- 11.7. All members will meet on an annual basis to discuss the Authority's work programme for the next 12 months. During this meeting, the EAAG and the Authority secretariat will work together to:
  - (a) Discuss the Authority's work programme
  - (b) Identify priority workstreams for independent advice from the EAAG
  - (c) Plan timings for the advice
  - (d) Agree on the size and membership of the subgroup for each item
  - (e) Agree on facilitation of subgroups, noting the Chair is the default, with the option of an external facilitator or member of the Authority secretariat if necessary.

## 12 Technical working groups

- 12.1. The Authority already operates technical working groups. The annual review of the work programme will provide an opportunity to identify which topics may call for any

technical working groups to be formed. Technical working groups are usually formed for a specific project then disestablished.

- 12.2. At present, there are three technical groups:
- (a) The Standing Data Formats Group provides advice on new file formats required to exchange information. It also promotes awareness and use of file format change review protocols in the industry. This is a standing group but is not currently active. It is likely to be reactivated soon in relation to the new registry fields project.
  - (b) The Switch Technical Group provides advice on switching process amendments to ensure they are fit for purpose. It also promotes awareness of the current switching protocols and the proposed amendments in the industry. This group is involved with work that has been significantly advanced but then put on hold. It is expected to be involved in work next year and a call may then be made on its future.
  - (c) The Future Security and Resilience Common Quality Technical Group has been recently established to advise the Authority as it carries out its review of common quality requirements in Part 8 of the Code. The Authority appointed 11 representatives to this group in July 2023.

## **13 The Authority will work with the group to finalise the terms of reference.**

- 13.1. Appendix A includes the draft terms of reference (ToR) for the EAAG. The draft will be finalised by the Authority after discussion with the group at their first meeting. The ToR will be published with the agenda and minutes of the first meeting.

## **14 MDAG and IPAG**

- 14.1. MDAG is set to expire on 29 February 2024. We will encourage MDAG members to consider the opportunity of being involved in the Electricity Authority Advisory Group.
- 14.2. IPAG has been disestablished. The Authority decided to pause using the IPAG in 2022 to prioritise resources towards key projects<sup>9</sup> working to implement some of IPAG's recommendations.
- 14.3. IPAG members including the Chair have been formally notified and thanked for their service. We encourage them to consider being part of the new advisory group.

## **15 Next steps**

- 15.1. The Authority has published a request for nominations for the EAAG alongside this decision paper on its website.

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<sup>9</sup> Wholesale market review; Real-time pricing; Future security and resilience; Commercial market making; and Updating the regulatory settings for distribution networks.

- 15.2. We have scheduled an online briefing to verbally communicate this decision and answer any questions.

## 16 Attachments

16.1. The following appendices are attached to this paper:

**Appendix A**

**Appendix B**

**Draft terms of reference**

**Submitters**

## **Appendix A    Draft terms of reference**

## **DRAFT Terms of reference for the Electricity Authority Advisory Group (EAAG)**

### **1 Introduction**

- 1.1 This document specifies the operational and governance matters for the Electricity Authority Advisory Group (EAAG), an advisory group established under section 21 of the Electricity Industry Act 2010 (Act).
- 1.2 The EAAG is also subject to the Electricity Authority's (Authority) charter on advisory groups (charter), and the two documents should be read together. If there is any inconsistency between these terms of reference and the charter, the charter will prevail.

### **2 Responsibilities of members**

#### **General**

- 2.1 Members of the EAAG must:
- (a) comply with the requirements set out in the charter
  - (b) comply with the requirements set out in these terms of reference
  - (c) be available for all meetings unless granted leave by the chairperson
  - (d) read all papers circulated to the group, and actively contribute to the group's discussions
  - (e) inform the chairperson and the Authority's representative of any actual or potential conflicts of interest that may affect their ability to perform their functions as a member of the group in accordance with sections 62 to 72 of the Crown Entities Act 2004 and section 2 of these terms of reference
  - (f) carry out the tasks assigned to the group arising from meeting agendas

#### **Attendance**

- 2.2 Members are not entitled to send an alternate in their place if they cannot attend a meeting.
- 2.3 Any member who misses two consecutive meetings is deemed to have resigned from the group from the date of the second missed meeting unless:
- (a) they have been given leave from the chairperson, or in the case of the chairperson, from the Chief Executive; or
  - (b) extenuating circumstances exist, as decided by the chairperson or the Chief Executive, as the case may be.

- 2.4 Despite clause 2.3(b), if the chairperson considers the member's absence for more than two consecutive meetings is likely to disadvantage the group, a new member may be appointed to replace the member as if he or she had resigned. Any such appointment must be carried out in accordance with clauses 8.1 to 8.4.

## **Media relations**

- 2.5 Members have no media relations role and may not speak on behalf of the Authority or the group in regard to matters on which the group has advised, or is advising, the Authority. The Authority is solely responsible for all media relations.

## **3 Process for handling concerns about performance**

### **Member performance**

- 3.1 Any person concerned about the performance of a member should discuss those concerns with both the chairperson and the Authority's representative.
- 3.2 If the Authority representative, in consultation with the chairperson, considers action is warranted, he or she must:
- (a) discuss the matter with the member concerned and give the member an opportunity to state his or her view
  - (b) if the discussion does not resolve the matter to Authority representative's satisfaction, provide written notice to the member stating the concerns and the desired corrective action
  - (c) if the member is affiliated with an organisation, inform relevant people at the member's affiliated organisation of the matter, if appropriate, prior to sending the written notice
  - (d) if the member fails to address the concerns specified in the written notice, provide the member with an opportunity to discuss the matter further and, if appropriate, discuss the matter with the affiliated organisation
  - (e) if not satisfied after due consideration of the member's explanation, inform the member and the affiliated organisation, if appropriate, that they will recommend to the Chief Executive that the member's appointment be terminated.
- 3.3 Any discussions with a member's affiliated organisation under clause 3.2 must not compromise the ability of the member to act in his or her personal capacity in regard to the advice the member contributes to the group. The sole purpose of these discussions is to inform the affiliated organisation of the situation and to gather information about extenuating circumstances the chairperson and Authority representative may need to take into account in their handling of the situation.
- 3.4 The Chief Executive, on receiving a recommendation under clause 3.2(e), must be confident the processes in clause 3.2 have been satisfactorily complied with. If appropriate, the Chief Executive may also, notwithstanding clause 6.3, discuss the matter with the Chief Executive of the member's affiliated organisation.
- 3.5 If the Chief Executive agrees with a recommendation made under clause 3.2(e), the Chief Executive may recommend to the Authority that the member's appointment to the group be terminated.



- 3.6 In clauses 3.1 to 3.5, if the Authority's representative is the Chief Executive, all references to the Chief Executive should be read as the Authority's chairperson.

## **Chairperson performance**

- 3.7 Any person concerned about the performance of the chairperson should discuss those concerns with the Chief Executive.
- 3.8 If the Chief Executive believes that further action is warranted, the Chief Executive must discuss the matter with the Authority's chairperson.
- 3.9 If the Authority's chairperson agrees that further action is warranted, the Chief Executive must follow the process set out in clauses 3.2 and 3.3, as if references to:
- (a) the Authority representative were references to the Chief Executive
  - (b) the member were references to the chairperson.

## **Authority (or other) staff performance**

- 3.10 Any person involved with the group who is concerned about the performance of an Authority staff member, in relation to the group, should discuss those concerns with the Chief Executive. The Chief Executive will determine the appropriate actions to be taken in response to such concerns.
- 3.11 Any person involved with the group who is concerned about the performance of a contractor or external consultant associated with an advisory group should discuss those concerns with the Authority's representative. The Authority's representative, in consultation with the Chief Executive, will determine the appropriate action in response to such concerns.

## **4 Confidentiality of reports**

- 4.1 All reports submitted to the group (including reports or presentations submitted by members) are subject to the Official Information Act 1982 (OIA) and, in the normal course of events, will not be treated as confidential.
- 4.2 However, the Authority may withhold information contained in such reports or presentations if the Authority considers there are grounds for doing so under the OIA.
- 4.3 The chairperson must forward any requests for official information the group receives to the Authority immediately.

## **5 Conflicts of interest**

- 5.1 Section 22(1) of the Act provides that the conflict of interest disclosure rules in sections 62 to 72 of the Crown Entities Act 2004 apply in respect of each member of the group as if the group were a statutory entity.
- 5.2 If a member of the group is required to make a disclosure under those sections, the member must make the disclosure to the Authority as well as to the group.

## 6 Functions and responsibilities

### Functions of the advisory group chair

- 6.1 The key functions of the advisory group chair include:
- (a) managing the group's activities to facilitate delivery of the group's work
  - (b) facilitating discussions between group members in a manner that will stimulate robust debate on issues and encourage effective contribution from members
  - (c) guiding relevant and effective discussions while also ensuring genuine disagreements and conflicts are aired and, if possible, resolved
  - (d) ensuring that the minutes of each group meeting are correct
  - (e) ensuring that the views of the group are accurately represented in papers to the Authority
  - (f) attending Authority Board meetings, as required, to present the group's advice
  - (g) approving and signing on behalf of the group any other communications the group wishes to have with the Authority.
- 6.2 When making representations to the Authority on any aspect of the group's work and recommendations, the chairperson must take care to provide a balanced representation of the views held by the members of the group.
- 6.3 If the chair has any significant concerns, including (for example) in relation to the operation of the group, these are to be raised with the Authority's representative to the group in the first instance. If the chairperson's concern is in regard to the Authority representative or deems the concern significant enough to warrant raising it with the Authority Chief Executive, the chairperson may raise such concerns with the Chief Executive.

### Responsibility of advisory group members

- 6.4 A key role of the EAAG is to use its collective knowledge and experience when considering the matters before it. The EAAG's advice to the Authority must be independent, considered, and supported by robust analysis. The quality of the advice must be sufficient to enable the Authority to make well-informed decisions.
- 6.5 In addition to the responsibilities under section 2, when carrying out their duties, members of the EAAG must keep in mind that:
- (a) They have been appointed for their knowledge and experience as well as their ability to participate constructively in group meetings.
  - (b) They have been appointed to act in their personal capacity (not as representatives of organisations) and the Act requires them to provide independent advice as a group, even though they need not be independent persons individually.
  - (c) The requirement in paragraph (b) means members are expected to act in the best interests of all stakeholders irrespective of whether this aligns with the interests of any organisation he or she may be associated with.

- (d) The group is expected to reconcile divergent views and interests, both in the group and among wider stakeholders, in ways consistent with the Authority's statutory objectives, the Authority's Code amendment principles contained within the Authority's consultation charter and in a manner that achieves wider stakeholder "buy in". This requires a serious commitment by all members to understand alternative views and find workable solutions.
- (e) Authority staff and external experts are free to form their own views on the matters considered by the group, and the Authority expects members to respect the different roles that Authority staff and external advisors play in assisting the group and advising the Authority.

## 7 Work plan

- 7.1 The EAAG will operate to a work plan. The EAAG is expected to use its knowledge and expertise to investigate, analyse, and make recommendations to the Authority on matters included in its work plan as appropriate to the work plan item.
- 7.2 The work plan will be:
  - (a) developed by the Authority in discussion with the group
  - (b) primarily developed for the group to provide advice on Authority project work and consultation papers before public release, and, as appropriate, to assist in considering and reconciling views presented in submissions
  - (c) developed with regard to the Authority's limited budget
  - (d) part of the Authority's overall work programme, priorities and timeframes
  - (e) updated to account for developments that occur in the course of the Authority's overall work programme.
- 7.3 Members may suggest items to be included in the work plan, but those items will be included at the Authority's discretion, and subject to clause 7.2.
- 7.4 If projects in the group's work plan overlap with projects being considered by other advisory or working groups, the Authority will:
  - (a) make reasonable efforts to coordinate the advice from the other groups
  - (b) interact with the relevant groups on those projects (for example, by conducting joint meetings and workshops)
  - (c) facilitate timely updates to each relevant group on the status of those projects.
- 7.5 The Authority will hold the group accountable to its work plan by:
  - (a) monitoring the performance of the group and its members
  - (b) receiving feedback from the secretariat on the group's analysis and recommendations and its decision-making processes
  - (c) may use knowledge and expertise from within each member's organisation, unless the Authority requires the work item to be kept confidential
  - (d) must ensure all papers and discussion a member shares within its organisation for feedback is kept confidential within the organisation and is only used by the organisation for the purpose of providing feedback.

## 8 Appointment

### Appointment of advisory group members

- 8.1 The Authority will appoint members after calling for nominations and considering nominees against the relevant criteria.
- 8.2 The Authority must appoint members by written notice. The notice must state the date the appointment takes effect and state the term of the appointment.

### Appointment of advisory group chairperson (including a temporary deputy chairperson)

- 8.3 The Authority may appoint a chairperson after calling for nominations and considering nominees against the relevant criteria.
- 8.4 The Authority may select a chairperson from among the existing members or may appoint someone from outside of the group. The Authority must appoint the chairperson by written notice to the relevant nominee, followed by written notice to the other members of the group.
- 8.5 The group may appoint a member to be a standing or temporary deputy chairperson, who may exercise all the functions and powers of the chairperson in relation to a matter if:
  - (a) the chairperson is unavailable; or
  - (b) the chairperson has a conflict of interest relating to the matter.

## 9 Scope of role

- 9.1 The purpose of the EAAG is to provide independent advice to the Authority.
- 9.2 In particular, the Authority may seek the EAAG's advice on:
  - (a) draft issues papers, option papers or other Code amendment papers, assessing whether:
    - (i) the content of these papers is feasible and viable, and if not, what any issues are
    - (ii) the industry's ability to implement any changes being considered is documented and accounted for in the final versions of the paper being released
  - (b) other initiatives, including:
    - (i) improving consumer awareness, understanding, motivation and action by mass-market, commercial, or industrial consumers
    - (ii) monitoring of existing obligations and changes being implemented
  - (c) any other policy, operational or strategy matters that the Authority considers appropriate.

## 10 Membership

- 10.1 The Authority will target appointing 25 members to the EAAG, including an independent chairperson. However, the Authority may appoint more or less members.
- 10.2 The chairperson is a member. Accordingly, provisions in these terms of reference that apply to members also apply to the chairperson. However, provisions specific to the chairperson take precedence.

### Criteria for membership

- 10.3 The Authority may appoint members to the EAAG after considering nominees against the following criteria:
- (a) An ability to contribute to a balance of knowledge and experience relevant to the matters specified in clause 9
  - (b) an ability to represent alternative views in a balanced manner
  - (c) an ability to provide impartial, independent advice
  - (d) a high level of integrity and credibility
  - (e) an ability to contribute constructively to the group's tasks.
- 10.4 To qualify as an independent chairperson, a nominee must meet the membership criteria specified in clause 10.3 and the following additional criteria:
- (a) the nominee must, in the opinion of the Authority, be demonstrably free of conflicts of interest
  - (b) the nominee must have the skills and experience necessary to carry out the responsibilities of the chairperson and to perform the functions set out in clauses 6.1 to 6.3.

### Term of appointment

- 10.5 Appointment to the EAAG is ordinarily for a term of five years.
- 10.6 The maximum number of consecutive terms that a member may ordinarily be appointed is two.
- 10.7 Despite clause 10.5, the Authority may:
- (a) request that a member serve a term of more than five years
  - (b) decide to appoint a member for a term of less than five years.
- 10.8 Despite clause 10.6, the Authority may appoint a member for more than two consecutive terms.

## 11 Procedures

### General

11.1 The EAAG:

- (a) may determine its own procedures, subject to the requirements of the Act, the Charter, and these terms of reference
- (b) must conduct its business and activities in a manner that is as transparent as practicable.

### Approach to meetings

11.2 The EAAG will meet:

- (a) by any means that enables effective investigation of the matters included in the EAAG's work plan
- (b) as often as required, having regard to the Authority's planning cycle and the EAAG's work plan.

11.3 A meeting of the EAAG may be held by a quorum of its members. No business may be transacted at a meeting if there is no quorum.

11.4 A quorum for a meeting of the EAAG comprises the minimum number of members necessary to ensure effective investigation of the matters included in the EAAG's work plan, as determined by the Authority representative in consultation with the chairperson.

11.5 The chairperson of the EAAG may request any member or members of the EAAG to contribute on a project-specific basis.

11.6 The chairperson, with the agreement of the Authority's representative, may invite non-members (in addition to Authority staff) to attend the EAAG's meeting. In those circumstances, the invited party may participate in discussions at the discretion of the chairperson but is not a member of the EAAG and does not form part of the quorum.

### Administration

11.7 The Authority's representative is accountable to the Authority for the successful and effective functioning of the EAAG.

11.8 The Authority, in its capacity as the secretariat, will:

- (a) make appropriate arrangements for any meetings of the group, in consultation with the chairperson
- (b) give reasonable notice of meetings to each member, including details as to the time and venue of meetings
- (c) if possible, arrange for any materials that will be discussed at group meetings to be circulated to members at least five business days before the meeting, to enable members to properly consider them
- (d) ensure that non-confidential meeting materials are published on the Authority's website, however, ordinarily, draft Authority papers provided for the EAAGs

consideration prior to public release are considered confidential until publicly released

- (e) attend all meetings, ensure that minutes of meetings are published on the Authority's website as soon as practicable after their confirmation.
- 11.9 Any emails sent by a member of the EAAG about any substantive aspects of the group's business should be copied to:
- (a) all the EAAG's members
  - (b) the Authority representative
  - (c) the Authority secretariat.

## 12 Working groups

### Purpose of working groups

- 12.1 References to working groups should be read as references to working groups, forums, workshops, or other types of groups (excluding ad hoc advisory groups).
- 12.2 The primary role of working groups is to provide technical and specialist input to the work of the EAAG. Working groups may also assist with the EAAG's workload, if directed by the Authority.
- 12.3 Working groups can be standing or ad hoc, and may be functional or project-specific, depending on the EAAG's requirements.

### Establishment of working groups

- 12.4 The chairperson of the EAAG and the relevant Authority representative will jointly recommend to the Authority whether a working group is required, and if that working group will be a subgroup of the EAAG made up of members of the EAAG or be independent of the EAAG made up of new appointees (which may include EAAG members (if they meet the criteria)).
- 12.5 The Authority may establish a working group by:
- (a) calling for nominations by:
    - (i) determining the appropriate criteria against which to evaluate possible members of the working group, including candidates for the position of chairperson
    - (ii) calling for nominations for members including a chairperson
    - (iii) appointing members and a chairperson in accordance with the criteria established under paragraph (i)
    - (iv) determining appropriate terms of reference; or
  - (b) invitation to preferred potential members, including current EAAG members on the chairperson's recommendation; or
  - (c) another process (that is documented and followed) that is appropriate for the required purpose, work, and duration of the working group.

- 12.6 The Authority must have regard to the views of the EAAG when establishing a working group.
- 12.7 When establishing a working group under clause 9.5 the Authority must evaluate potential members against the following criteria, in addition to any criteria that may also apply under clause 12.5(a)(i):
- (a) relevant knowledge and experience
  - (b) relevant strategic, commercial, and regulatory expertise
  - (c) an ability to represent alternative views in a balanced manner
  - (d) an ability to provide impartial, independent advice
  - (e) an ability to contribute constructively to the relevant tasks
  - (f) the ability of members to collectively represent the relevant key perspectives.
- 12.8 The Authority will determine on a case-by-case basis whether an EAAG member can become a member of a working group assisting the EAAG.

### **Operation of working groups**

- 12.9 Each working group will report its analysis and recommendations as advised by the Authority (normally to either the Authority or to the EAAG). A working group may nominate a member, in addition to its chairperson, to represent it when the EAAG considers its reports.
- 12.10 The EAAG has the discretion to support any recommendation from a working group.
- 12.11 If a working group's task is a standalone one, the EAAG is expected to forward the analysis and recommendations it receives from the working group on to the Authority.
- 12.12 If a working group's task is a component of a broader scope of work being undertaken by the EAAG, the EAAG is expected to integrate the working group's analysis and recommendations into the EAAG's broader report to the Authority. If not integrated, the work and reason for not integrating it must be provided to the Authority representative.



## Appendix B Submitters

Submitters	
Consumer Advocacy Council	Major Electricity Users Group
Contact Energy	Mercury
Electricity Networks Aotearoa	Meridian
Electricity Retailers' Association of NZ	Nova
FinCap	Orion
Genesis	Powerco
Horizon Networks	SwitchDin
Independent retailers	Transpower
Intellihub	Utilities Disputes
Manawa	Vector