

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.

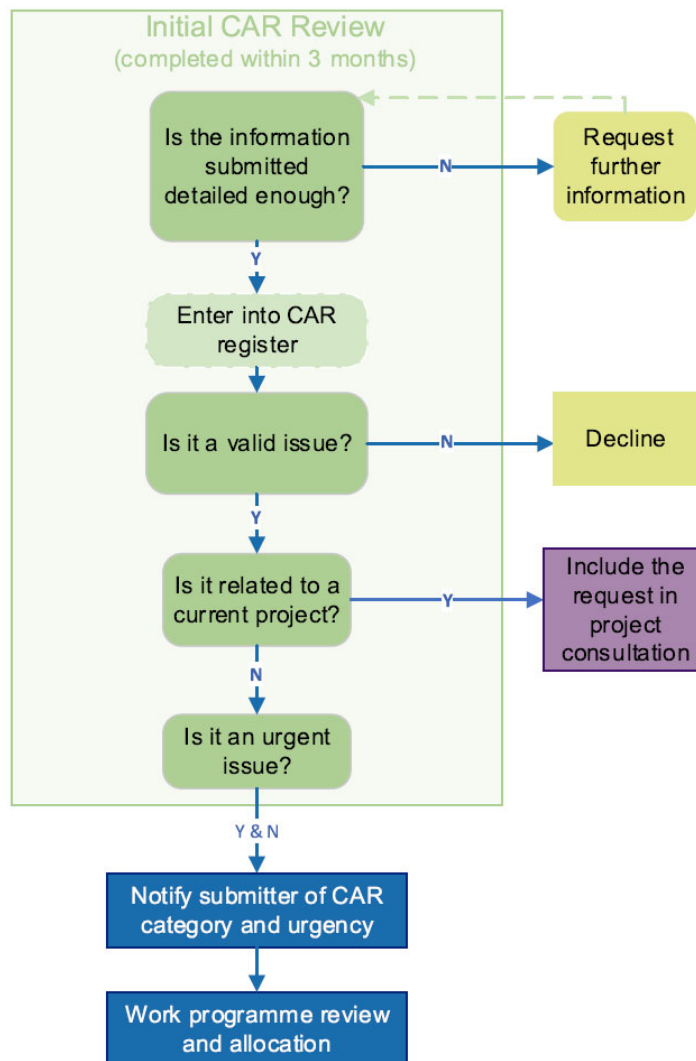
3. Authority process following receipt of Code amendment requests

- 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:
- (a) incorporation into a Code review programme (CRP) that is in progress
 - (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.
- 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 \(ea.govt.nz\)](#)