



11 August 2016  
Keston Ruxton  
Manager, IM Review  
Commerce Commission  
Wellington

By email: [im.review@comcom.govt.nz](mailto:im.review@comcom.govt.nz)

Dear Keston

## IM review: Comments on Draft Determination

We appreciate the opportunity to provide comment on the Commission's draft amendments to the Transpower Input Methodologies Determination, published 22 June 2016 (**Draft Determination**).

These comments are made via mark-up of the Draft Determination, which is attached as Appendix A. We have used embedded comments to explain the changes, make drafting observations and raise queries.

We would appreciate an opportunity to discuss our suggestions with the Commission's drafting team before the final decision is issued.

### Approach to drafting review

Our focus has been on the amendments proposed by the Commission. Our drafting suggestions and comments on those amendments go mostly to their internal logic and consistency with other provisions in the Draft Determination.

At this stage we have not suggested changes that would give effect to the substantive points raised in our 4 August submission on the Commission's decision papers, but would be happy to do so at the appropriate point.

We have taken the opportunity to suggest changes to correct some legacy drafting issues in the Draft Determination, and have included explanatory comments where we have done so. For example:

- We have suggested removing a number of provisions relating to RCP1 and disclosure years in RCP1 because they no longer serve a function
- We have commented on a number of language inconsistencies, such as the inconsistent references to the Commission 'estimating', 'determining an estimate' and 'determining and estimating'.

While we have identified a number of legacy drafting issues, we have not had capacity for an exhaustive review at this stage. We would be happy to continue working with the Commission on that.

### New 'next closest alternative' policy - clause 1.1.5

We have made several comments on proposed clause 1.1.5 of the Draft Determination. For example:

- We suggest the term 'close' instead of 'closest', as 'close' is more realistic about the expectations for the range of possible alternatives identified and assessed
- We strike out the requirement for certification of the matters in subclause (3) as they are matters of opinion rather than fact
- We query the meaning of 'an equivalent or non-equivalent effect'.

As highlighted in our 4 August submission, we consider this policy has the potential to undermine the predictability and certainty provided by the input methodologies. To address that risk we have suggested a change to ensure the Commission cannot apply a close alternative approach except on Transpower's application.

Please do not hesitate to contact me if you have any queries or would like to discuss the content of this submission.

Yours sincerely

A handwritten signature in black ink, appearing to be 'JK' followed by a long horizontal stroke.

**Jeremy Cain**  
**Regulatory Affairs & Pricing Manager**