

Amending the major capex project outputs for the Bombay Otago regional major capex project

Draft decision and reasons paper

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Transpower’s amendment application and our draft decision

Purpose of this paper

- 1 On 14 May 2021, Transpower applied¹ (**amendment application**) to us to amend the approved major capex project outputs (**MCPOs**) and the major capex allowance (**MCA**) of the Bombay Otahuhu Regional major capex project (**Project**).²
- 2 The purpose of this paper is to:
 - 2.1 explain the reasons for our draft decision to approve Transpower's amendment application; and
 - 2.2 seek submissions from interested parties on our draft decision, which will inform our final decision on whether to approve or reject the amendment application.

Our draft decision is to amend the Project’s MCPOs and MCA

- 3 Based on our evaluation of Transpower’s amendment application:
 - 3.1 we are satisfied that Transpower’s reasons for amending the MCPOs meet the evaluation criteria under the *Transpower Capital Expenditure Input Methodology 2012* [2012] NZCC 2 (**Capex IM**) for approving an amendment to an MCPO;³
 - 3.2 we have assessed Transpower’s estimated cost of delivering the amended MCPOs and have set an MCA of \$13.22m (in 2021 prices) or \$14.59m (in 2024 prices) for delivering the additional MCPOs; and
 - 3.3 we are satisfied that there is no need to amend any other components of the Project.

Background and overview of the amendments Transpower seeks

- 4 On 19 March 2021, we published our final decision to approve Transpower’s major capex proposal (**original MCP**) for the Project.⁴

¹ Transpower New Zealand Limited, “Application for amendment of major capex project outputs for the Bombay-Otahuhu regional major capex project”, 14 May 2021 (**Application**).

² Commerce Commission “Decision and reasons on Transpower’s Bombay Otahuhu Regional major capex project”, 19 March 2021. (**BOBOTA Decision**), available at: https://comcom.govt.nz/_data/assets/pdf_file/0037/248995/Decision-and-reasons-on-TranspowerE28099s-Bombay-Otahuhu-Regional-major-capex-project-19-March-2021.pdf.

³ Commerce Commission, “Transpower Capital Expenditure Input Methodology Determination 2012 [2012] NZCC 2. (**Capex IM**), at cl 6.1.1, available at: https://comcom.govt.nz/_data/assets/pdf_file/0026/88280/Transpower-capital-expenditure-input-methodology-determination-consolidated-29-January-2020.pdf.

⁴ BOBOTA Decision, above n 2.

- 5 Transpower now seeks an amendment to the approved MCPOs, and a \$15.8 million increase (in 2024 prices) to the MCA to deliver the amended MCPOs.
- 6 Currently, the approved MCPOs for the Project are:
- 6.1 procuring, installing and commissioning two 150/175 MVA 220/110kV transformers at Transpower’s Bombay substation;
 - 6.2 procuring, installing and commissioning a connection for these transformers to the 220kV Huntly-Otahuhu A line; and
 - 6.3 undertaking preparatory works, including additional investigation, consultation, and design work, for reconductoring the Otahuhu-Wiri line.
- 7 Transpower seeks to amend the MCPOs to include the following additional outputs:⁵
- 7.1 removing the existing conductor, and procuring, installing and commissioning Goat ACSR conductor on the Otahuhu-Wiri section of the Bombay-Otahuhu A 110 kV transmission line; and
 - 7.2 works on the foundations and towers required for the spans on which the Goat ACSR conductor is installed.
- 8 The main reason for this amendment is because Transpower had not completed its investigation to identify the scope and cost of reconductoring the Otahuhu-Wiri line when it submitted the original MCP in June 2020. In its long-list and short-list consultations, Transpower had envisaged delivering the Project as a staged major capex project (**staged MCP**). Transpower aimed to complete the reconductoring investigation during our assessment of its major capex proposal for the first stage. Immediately following that assessment, Transpower intended to use the findings from the investigation to apply to us to deliver the reconductoring as a second stage.
- 9 However, as we explain below in paragraphs A31 to A37, we did not consider staging was appropriate for the Project. This is primarily because the uncertainty regarding the reconductoring, and the time and resources required to resolve that uncertainty, was not material enough to warrant a further stage. We discussed alternatives with Transpower, including delaying submitting its proposal to us until the investigation was complete and Transpower could include the reconductoring as an MCPO in a non-staged MCP.

⁵ Application, above n 1, at pg. 3.

- 10 Given the relatively pressing investment need, rather than delay delivering the Project’s initial work and MCPOs, Transpower opted for another alternative we discussed, which was to submit the original MCP without the reconductoring MCPO. This enabled Transpower to complete its investigations and refine the reconductoring cost estimate during out assessment of the original MCP. If we approved the original MCP, Transpower planned to apply for this amendment following our approval. In the original MCP it submitted, Transpower wrote:⁶

We will apply for an amendment to an approved major capex project output under clause 3.3.6(1)(c) of the Capex IM, for installation of a higher capacity conductor on the Otahuhu-Wiri section of the Bombay-Otahuhu A 110kV transmission line, once the investigation is complete and we can estimate a P50 cost with more accuracy.

- 11 In our decision on the original MCP, we noted that Transpower could apply to us to amend the MCPOs.⁷
- 12 The regulatory framework that applies to assessing MCPO amendments is set out in Attachment A of this paper. Attachment A also sets out our reasoning for assessing the proposed changes to the MCPOs and MCA as amendments to the original MCP we approved, rather than by other means (eg, as a separate staging project of a staged MCP).⁸
- 13 We have set out our assessment of the proposed amendments in Attachment B of this paper.

Structure of the remainder of this paper

- 14 Attachment A summarises the regulatory framework that applies to evaluating amendments to the MCPOs, along with the reasons we consider it appropriate to apply this framework to the proposed amendments.
- 15 Attachment B details our evaluation of the amendment application.

We seek submissions on our draft decision

- 16 Before making our final decision, we are seeking the views of interested persons on our draft decision.⁹
- 17 We seek your written views on:
- 17.1 our draft decision to approve the amendment application; and

⁶ Transpower New Zealand Limited, “Bombay-Otahuhu Regional major capex project”, May 2020, at footnote 2, pg. 6, available at: https://comcom.govt.nz/data/assets/pdf_file/0022/226255/Transpower-BOBOTA-major-capex-proposal-15-May-2020.pdf.

⁷ BOBOTA Decision, above n 2, at [40].

⁸ Capex IM, above n 3, at cl 3.3.3(1)(b).

⁹ Capex IM, above n 3, at cl 8.1.1(2)(a).

- 17.2 whether there is any further information we should consider before making our final decision on the amendment application.
- 18 Please provide your submissions by 5pm, 10 August 2021. We will consider all submissions received by this date in reaching our final decision.
- 19 Your submissions should be addressed to Matthew Clark c/o regulation.branch@comcom.govt.nz with 'BOBOTA original MCP amendment' in the subject line of your email.
- 20 We will publish all submissions on our website unless you indicate that your submission, or part(s) of it, is confidential. If you consider your submission to be confidential, please clearly mark which parts of the submission are confidential and provide your reasons for why this is the case.

Materials released alongside this paper

- 21 We have published Transpower's amendment application along with this paper on our website.

Attachment A Regulatory framework

A1 This Attachment sets out:

- A1.1 the legal framework against which we have evaluated Transpower's application to amend the relevant MCPOs of the Project; and
- A1.2 our reasoning for assessing the proposed changes to the MCPOs and MCA as amendments to the original MCP we approved, rather than by other means such as part of a separate staging project for a staged MCP.

The regulation that currently applies to Transpower

- A2 The price and quality of the service that Transpower supplies to consumers are regulated under Part 4 of the Commerce Act 1986 (**Act**). Transpower's service is transmitting electricity through the national grid.¹⁰
- A3 The Commission is responsible for regulating Transpower under the Act.
- A4 The rules governing Transpower's major capital investments are set out in the Capex IM.¹¹

Why Transpower needs our approval to amend the MCPOs

- A5 When we approve a major capex project, we require Transpower to deliver the project to a set of approved MCPOs.¹² The MCPOs specify the assets Transpower must build and the level of performance expected from those assets to meet the investment need underpinning the project.
- A6 If there is a need to change an approved MCPO, the Capex IM requires Transpower to seek our approval to amend the output before it can recover the full cost of such investments from consumers.¹³
- A7 The Capex IM also allows Transpower to seek our approval to amend an approved output if the amendment would deliver a better solution than that proposed and approved from the original major capex proposal.
- A8 If we approve an amendment to the MCPOs, we may, at our discretion, also make commensurate amendments to the project's MCA.¹⁴

¹⁰ The national grid connects generators of electricity to some major electricity consumers and to all electricity distribution businesses, who then connect to their electricity consumers.

¹¹ Capex IM, above n 3.

¹² Above n 3, at cl 3.3.5(6).

¹³ At cls 3.3.2(1) and 3.3.6(1).

¹⁴ At cl 3.3.6(8).

Components that can be amended and application timeframes

- A9 The Capex IM recognises that major capex projects are planned well in advance of delivery, and the circumstances of a project may change at any point. In particular, the information Transpower has on the investment need and the most suitable MCPO for meeting that need may change.
- A10 If such information changes after we have approved a major capex proposal, it may be desirable for Transpower to revisit and seek an amendment to the relevant component of an approved project.¹⁵ This is particularly so when a change in information or circumstances means that our approval would no longer enable Transpower to deliver the right investment at the right time, for the right cost.¹⁶
- A11 Transpower can apply for amendments to the following components of an approved major capex project:¹⁷
- A11.1 maximum recoverable costs for non-transmission solutions;
 - A11.2 recovery scheme for non-transmission solutions;
 - A11.3 approved major capex project outputs; and
 - A11.4 major capex project approval expiry date.
- A12 Transpower is limited in when it can apply for an amendment. An application for an amendment to an MCPO must be made no later than the date on which Transpower provides its annual compliance statement to the Commission for the disclosure year in which the commissioning date or completion date of the approved major capex project occurs.¹⁸

¹⁵ Commerce Commission “Transpower Capital Expenditure Input Methodology Determination Reasons Paper” (**Capex IM Reasons paper**), 31 January 2012, at [8.1.1-8.1.2]. Available at https://comcom.govt.nz/_data/assets/pdf_file/0028/63883/Capex-IM-Final-Reasons-Paper-31-January-2012.pdf.

¹⁶ See s 52A(1)(b) of the Act and our “Decision and reasons on Stage 1 of Transpower’s Waikato and Upper North Island Voltage Management staged major capex project” [2020] NZCC 20, (23 September 2020), at para X15, available at: https://comcom.govt.nz/_data/assets/pdf_file/0029/225497/2020-NZCC-20-Waikato-and-Upper-North-Island-Voltage-Management-major-capex-project-stage-1-Decisions-and-reasons-paper-23-September-2020.pdf (**WUNI Decision**).

¹⁷ Capex IM, above n 3, at cl 3.3.6(1)(a) to (d). This Application is under cl 3.3.6(1)(c).

¹⁸ Above n 3, at cl 7.4.2(1) to (2).

How we evaluate an application to amend an approved MCPO

- A13 We cannot decide to approve or reject an amendment to an approved MCPO until we have evaluated the application for the amendment, and any further information we request from Transpower, in accordance with Part 6 of the Capex IM.¹⁹
- A14 The evaluation of an amendment to a major capex project consists of:
- A14.1 an evaluation of the application in accordance with the general criteria;²⁰ and
 - A14.2 an evaluation of matters specific to the application, in accordance with the specific evaluation criteria.²¹

General criteria for evaluation

- A15 The general criteria for evaluation are:
- A15.1 whether what is proposed is consistent with the Capex IM and, where relevant, the Transpower Input Methodologies Determination 2010 as amended (**Transpower IM determination**);
 - A15.2 the extent to which what is proposed will promote the purpose of Part 4 of the Act; and
 - A15.3 whether, the data, analysis, and assumptions underpinning what is proposed are fit for the purpose of us exercising our powers under Part 4 of the Act, including consideration as to the accuracy and reliability of data and the reasonableness of assumptions and other matters of judgement.
- A16 When assessing whether a proposed amendment is consistent with the Capex IM and Transpower IM determination, we assess compliance with the application timeframes,²² the information requirements,²³ and certification requirements.²⁴

¹⁹ At cl 3.3.6(5).

²⁰ At cl 6.1.1(2)(a) to (c).

²¹ At cl 6.1.1(5)(a) to (d).

²² At cl 7.4.2(1)-(2).

²³ At cl H7 to H12, Schedule H.

²⁴ At cl 9.3.1.

The extent to which the proposed amendment promotes the purpose of Part 4

- A17 As part of the general criteria, we must consider “the extent to which what is proposed will promote the purpose of Part 4 of the Act”.²⁵ The Capex IM was enacted under the umbrella of requirements set by Part 4 of the Act, and as such is in accordance with Part 4. The provisions of the Capex IM must ultimately be construed and applied in a way that promotes the purpose of Part 4. Clause 6.1.1(2)(b) of the Capex IM is a restatement of this overriding test.
- A18 The purpose of Part 4 of the Act is to promote the long-term benefit of consumers in markets where there is little or no competition and little or no likelihood of a substantial increase in competition.²⁶ ‘Competition’ means ‘workable or effective competition’.²⁷
- A19 To promote workable or effective competition that is in the long-term interests of consumers, we must promote outcomes in regulated markets that are consistent with outcomes in competitive markets.
- A20 The four limbs of the purpose of Part 4 set out specific outcomes that we should promote so that regulated suppliers, including Transpower:
- A20.1 have incentives to innovate and invest;²⁸
 - A20.2 have incentives to improve efficiency and provide services at a quality that reflects consumer demands;²⁹
 - A20.3 share the benefits of efficiency gains with consumers, including through lower prices;³⁰ and
 - A20.4 are limited in their ability to extract excessive profits.³¹

Specific criteria for evaluation

- A21 The specific criteria for evaluation are:
- A21.1 the extent to which each key factor relevant to the proposed amendment:
 - A21.1.1 was reasonably foreseeable by Transpower before the major capex project was approved by Commission; and

²⁵ At cl 6.1.1(2)(b).

²⁶ Section 52A(1) of the Act.

²⁷ Section 3(1) of the Act.

²⁸ Section 52A(1)(a) of the Act.

²⁹ Section 52A(1)(b) of the Act.

³⁰ Section 52A(1)(c) of the Act.

³¹ Section 52A(1)(d) of the Act.

- A21.1.2 was or is within Transpower's control;
- A21.2 in relation to each key factor outside Transpower's control-
 - A21.2.1 the reasonableness of any applicable mitigation strategy devised by Transpower; and
 - A21.2.2 the reasonableness and extent of mitigation actions taken by Transpower;
- A21.3 the extent that the major capex project's 'expected net electricity market benefit'³² would be materially lower as a result of the amendment than when it was approved;³³ and
- A21.4 in respect of a major capex project that has already commenced, the extent to which Transpower has incurred capital expenditure by the date of the application.³⁴
- A22 We can consider in our evaluation any other additional information that we consider relevant.³⁵

Our discretion when making decisions on proposed MCPO amendments

- A23 Our discretion when making decisions on proposed MCPO amendments is limited under clause 3.3.6(7)(a) of the Capex IM.
- A24 Upon carrying out our evaluation of Transpower's application, we must decide to either:
 - A24.1 approve the amendment as proposed by Transpower in its application; or
 - A24.2 reject the amendment as proposed by Transpower in its application.
- A25 Where the proposed change in MCPOs impacts on the relevant project timeframes, we may also decide to adjust the:
 - A25.1 commissioning date assumption; and
 - A25.2 completion date assumption.³⁶

³² Capex IM, above n 3, at cl D2.

³³ Above n 3, at cl 6.1.1(5)(c).

³⁴ Above at cl 6.1.1(5)(a) to (d).

³⁵ At cl 6.1.1(1)(a)(ii).

³⁶ At cl 3.3.6(9).

A26 Where we make an amendment to the MCPOs, we may also make commensurate amendments to the MCA and exempt major capex.³⁷

Consultation requirements

A27 The Capex IM provides that consultation on the draft amendment decision is at our discretion.³⁸ We outline our reasoning for choosing to consult on this draft decision in the next section.

Our reasoning for applying the regulatory framework to the proposed amendments

Notification as a staged MCP

A28 When it first notified us of its intention to plan the MCP, Transpower advised the original MCP would likely be advanced as a staged MCP, but that Transpower was still to determine the components of the relevant staging projects. Transpower subsequently decided the original MCP would be a two-stage staged MCP and consulted on output options for the two stages in its long-list and short-list consultations.³⁹

December 2019 short-list consultation

A29 In its December 2019 short-list consultation, Transpower specified the outputs of the staged original MCP as:

A29.1 for Stage 1, two new transformers and associated works for the Bombay substation, plus preparatory works for the Stage 2 reconductoring work at Wiri; and

A29.2 for Stage 2, reconductoring the Otahuhu-Wiri section of the Bombay-Otahuhu line.

A30 After submitting Stage 1 to us, Transpower had intended to complete its further investigations, and refine and update its Stage 2 cost estimate, which it would then submit to us after we had approved its Stage 1 MCP. Transpower planned to deliver the Stage 2 works immediately after completing Stage 1 in 2023.

³⁷ CI 3.3.6(8).

³⁸ CI 8.1.1(2)(a).

³⁹ Transpower's long-list and short-list consultation documents, and the submissions Transpower received on these consultations, are available at: <https://www.transpower.co.nz/bombay-otahuhu-regional-investigation>.

Reasons why it was not appropriate to advance the original MCP as a staged MCP

- A31 However, under the approach Transpower proposed above, the Capex IM would treat each of the two staging projects as a new major capex proposal that must undergo the regulated preparation and approval processes specified in the Capex IM.⁴⁰
- A32 Since Transpower intended to submit Stages 1 and 2 for our approval consecutively, with little time-lag between submissions, we recommended Transpower combine both proposed stages of the Project into a single non-staged proposal. This was particularly appropriate given Transpower aimed to complete its further costing investigations for reconductoring the Otahuhu-Wiri section of the Bombay-Otahuhu line before or in sequence with our decision on the original MCP.
- A33 We introduced staged approvals for major capex projects to reduce the risks for projects with high levels of uncertainty.⁴¹ Our policy intentions for staging are:
- A33.1 for a discrete major capex project with high levels of uncertainty and investigation/ preparatory requirements: for these projects, staging allows Transpower to apply for initial funding to undertake (as one or more of the MCPOs for a major capex project) further investigation and preparatory works to deliver a more complex MCPO at a later stage – such as building a new transmission line. Transpower could complete this initial work as a first stage, then reconsult on the results and options, and apply for funding to deliver the more complex MCPO as a second stage, using the findings from the further investigation and preparatory works; and
- A33.2 for a major capex project with several discrete projects delivered in sequence over a few years, in each case when the time is right: for these projects, staging allows Transpower could seek approval for the later MCPOs when the timing of those MCPOs and/or the solution are better defined.⁴² Transpower’s approach to the Waikato and Upper North Island Voltage Management staged major capex project is an example of this sort of project.⁴³

⁴⁰ Capex IM, above n 3, at [3.3.3(1)] and [I6(2)-I6(3) of Schedule I]. We note that under paragraph I6(3) of Schedule I of the Capex IM, Transpower’s consultation requirements for subsequent stages of a staged MCP are commensurate with the materiality of changes to particular components of a project since Transpower’s previous consultation on those components.

⁴¹ Commerce Commission “Transpower capex input methodology review Decisions and reasons”, 29 March 2018, (**Capex IM Review**) at [244]. Available at https://comcom.govt.nz/_data/assets/pdf_file/0033/79926/Transpower-capex-IM-review-Decisions-and-reasons-29-March-2018.PDF.

⁴² Above n 60, at [245].

⁴³ We published our final decision on Stage 1 of Transpower’s Waikato and Upper North Island Voltage Management staged major capex project on 23 September 2020: https://comcom.govt.nz/_data/assets/pdf_file/0029/225497/2020-NZCC-20-Waikato-and-Upper-North-

- A34 In our view, the Project did not fit into the first of the above two contexts appropriate for staging (a discrete major capex project),⁴⁴ because Transpower would have the refined costing information it needed for the reconductoring MCPO before, or in sequence with, our decision on the original MCP. This sequencing demonstrates that it was not the completion of Stage 1 that would have resolved the uncertainty regarding the reconducting costs; but rather the completion of the investigation – which, in the event, occurred before we finished our assessment of the original MCP. It also shows that the nature and level of the uncertainty in the Project was not sufficient to bring it within the description of the first of the above two contexts.
- A35 We endorse Transpower’s initiative of seeking to refine this costing information given the relatively unfamiliar context of reconductoring in a built-up urban area. However, we do not consider the uncertainty regarding the reconductoring, and the time and resources required to resolve that uncertainty, was material enough to warrant a further stage.
- A36 An acceptable alternative approach to staging might have been for Transpower to reshape the staged original MCP as a regular (non-staged) original MCP and engage with interested parties to confirm its revised approach before submitting the original MCP to us. However, this alternative approach would likely have either:
- A36.1 delayed Transpower’s submission of the original MCP until all investigations were complete, therefore materially delaying delivery of the Project; or
 - A36.2 prompted Transpower to propose a higher MCA reflecting extra uncertainties in the estimated cost produced before Transpower completed the investigations.
- A37 We therefore recommended Transpower submit to us a regular (non-staged) major capex proposal, excluding the output and cost of reconductoring the Otahuhu-Wiri section of the Bombay-Otahuhu line. If we approved the original MCP in that form, Transpower could then submit to us an output amendment application using the information from its investigations to refine the cost estimate of the reconductoring.

[IslandVoltage-Management-major-capex-project-stage-1-Decisions-and-reasons-paper-23-September-2020.pdf](https://www.transpower.co.nz/waikato-and-upper-north-island-voltage-management-investigation), <https://www.transpower.co.nz/waikato-and-upper-north-island-voltage-management-investigation>. Updates and Transpower’s next steps with that project can be viewed at: <https://www.transpower.co.nz/waikato-and-upper-north-island-voltage-management-investigation>.

⁴⁴ The Project was not suitable for the purpose of the second of the two contexts for which a staged project is appropriate (see paragraph A33.2).

- A38 Providing for the reconductoring MCPO as an amendment to the original MCP, would also save us, Transpower, and interested parties time and resources that would otherwise be needed to engage in a staging process.
- A39 We do not consider the above approach is a precedent that future major capex projects are likely to follow. Rather, the above approach represents the most practical way forward given the improbable combination of circumstances. Those circumstances involved Transpower advancing its original planning and long-list and short-list consultations for the Project as a staged MCP, but subsequently establishing that it would have the information it needed well before the threshold for prompting a further stage was met.
- A40 In saying this, we recognise it may be appropriate to revisit the staging regime in our next review of the Capex IM, which is something Transpower raised with us in its response to our recent *Open Letter – Ensuring our energy and airports regulation is fit for purpose – 29 April 2021*.⁴⁵

Reasons why we are consulting on a draft decision on the amendment application

- A41 The Capex IM gives us discretion to decide whether to consult on our decision on a proposed amendment to an approved major capex project.⁴⁶ We set out below our reasoning for choosing to consult in this context.
- A42 In line with Transpower’s long-list and short-list consultations for the Project, interested parties could reasonably have expected Transpower to advance the reconductoring of the Otahuhu-Wiri section of the Bombay-Otahuhu line as a second stage of staged MCP. In that event, interested parties would have had:
- A42.1 a chance to submit on material changes to components of the staged MCP which Transpower would need to consult and take account of feedback on, before submitting the major capex proposal for the second stage to us;⁴⁷ and

⁴⁵ Transpower’s response to our Open Letter, at pg. 6, available at: https://comcom.govt.nz/_data/assets/pdf_file/0032/256919/Transpower-Response-to-29-April-Open-Letter-28-May-2021.pdf. Our Open Letter can be viewed at: https://comcom.govt.nz/_data/assets/pdf_file/0022/253561/Open-Letter-Ensuring-our-energy-and-airports-regulation-is-fit-for-purpose-29-April-2021.pdf.

⁴⁶ Capex IM, above n 3, at cl 8.1.1(2)(a).

⁴⁷ Under paragraph I6(3) of Schedule I of the Capex IM, Transpower’s must consult on subsequent stages of a staged MCP in a manner commensurate with the materiality of changes to particular components of a project since Transpower’s previous consultation on those components.

A42.2 a chance to submit on our draft decision on the second staging project of the staged MCP.⁴⁸

A43 Against this background and given the significance of the reconductoring to meeting the Project's investment need,⁴⁹ we consider it appropriate to seek, and take account of, feedback on our draft decision on the amendment application.

⁴⁸ Capex IM, above n 3, at cl 8.1.1(1)(a).

⁴⁹ As outlined on pg. 7 of the original MCP, above n 7, the Project's investment need is maintaining a reliable electricity supply to the Bombay-Otahuhu region.

Attachment B Our assessment of Transpower's amendment application

B1 In this Attachment, we outline our assessment of the amendment application against the general criteria and the specific criteria set out in Attachment A.

Assessment using the general criteria

B2 As mentioned in paragraph A15, the three general evaluation criteria are:⁵⁰

- B2.1 whether the proposed amendment is consistent with the Capex IM and the Transpower IM determination;
- B2.2 the extent to which the proposed amendment promotes the purpose of Part 4 of the Act; and
- B2.3 whether the data, analysis and assumptions underpinning the application are fit for the purpose of the Commission exercising its powers under Part 4 of the Act.

The proposed amendment is consistent with the Capex IM and the Transpower IM determination

B3 We are satisfied that the proposed amendment is consistent with the Capex IM and meets the necessary process requirements. The Transpower IM determination does not set out any requirements that apply to this application.

B4 There are three process requirements set out in the Capex IM: the date by which Transpower needs to apply; the information that needs to be included in the application; and the certification requirements.⁵¹

B4.1 Under the Capex IM, an application for an amendment to the MCPO must be received no later than by the date on which Transpower provides its annual compliance statement for the disclosure year in which the commissioning date of the approved major project occurs.⁵² The expected commissioning date of the approved Project is 2023. The amendment application is therefore within the required timeframe and meets the requirement of the Capex IM.

B4.2 Transpower complied with the information requirements of the Capex IM by providing all of the information set out in Division 2 of Schedule H of the Capex IM.⁵³ Specifically, Transpower provided:

⁵⁰ At cl 6.1.1(2).

⁵¹ At cl 7.4.2(1), cl 7.4.2(3) and cl 7.4.2(4).

⁵² At cl 7.4.2(1).

⁵³ At cl 7.4.2(3)(b) and Division 2 of Schedule H.

- B4.2.1 project identification and specifications;
- B4.2.2 amendment sought;
- B4.2.3 progress of project;
- B4.2.4 current and forecast expenditure; and
- B4.2.5 reasons for making the application.⁵⁴

B4.3 Transpower also satisfied the certification requirements of the Capex IM that require Chief Executive Officer certification.⁵⁵ Transpower's application included a certificate signed by the Chief Executive Officer of Transpower.⁵⁶

Assessment of the extent that the proposed amendment promotes the purpose of Part 4 of the Act

- B5 We are satisfied that the proposed amendment to the MCPOs promotes the overarching purpose of Part 4 of the Act by promoting the outcome under s 52A(1)(b).⁵⁷ That outcome is that regulated suppliers have incentives to improve efficiency and provide services at a quality that reflects consumer demands. We outline how approving the proposed amendment promotes this outcome in the following paragraphs.
- B6 Consistent with the original MCP we approved, the purpose of the proposed amendment is to contribute to meeting the Project's investment need of maintaining a reliable electricity supply to the Bombay-Otahuhu region. The proposed amendment would assist in achieving this purpose by improving the condition of the corroding transmission line supplying Wiri GXP, in the Bombay-Otahuhu region. The deteriorating condition of the existing line will reduce the quality of supply to Wiri GXP by increasing the probability of interruptions to supply.
- B7 In our decision on the original MCP, we noted that approving the Project would pave the way to reconductoring the Otahuhu-Wiri line. Reconductoring the line, by way of an output amendment, would ensure the line has the necessary reliability and capacity to supply consumers taking electricity from the Wiri GXP.⁵⁸

⁵⁴ Application, above n 1, at pp. 7-13.

⁵⁵ Capex IM, above n 3, at cl 7.4.2(4) and cl 9.3.1.

⁵⁶ Application, above n 1, Attachment.

⁵⁷ The purpose of Part 4 of the Act is set out in Attachment A.

⁵⁸ BOBOTA Decision, above n 2, at [X9].

B8 Accommodating the reconductoring of the Otahuhu-Wiri line as an output amendment to the MCPOs enables Transpower to deliver the right investment at the right time, based on a more accurate cost estimate. The amendment is for the long-term benefit of consumers supplied from the Wiri GXP, because it will allow Transpower to upgrade its transmission line and provide sufficient capacity to supply electricity to consumers serviced by that GXP over the next 20-30 years.

B9 This gives effect to the policy intent of the Capex IM's major capex regime by promoting the long-term benefit of Transpower's consumers in ensuring Transpower provides services at a quality that reflects their consumers' demands – consistent with section 52A(1)(b) of the Act.⁵⁹

The data, analysis and assumptions underpinning the application are fit for purpose

B10 Transpower's application included the information specified in the Capex IM.

B11 We are satisfied that the information provided by Transpower enables us to assess the application and decide on whether to approve it under the Capex IM.⁶⁰

Assessment based on the specific criteria for evaluation

B12 In the following paragraphs we present the results of our evaluation against the specific criteria set out in paragraph A21.

Assessment of the key factor relevant to the proposed amendment

The extent to which the key factor was foreseeable and within Transpower's control

B13 The key factor leading to the amendment application was Transpower completing the MCPOs (from the original MCP) of undertaking preparatory works, including additional investigation and design work, for reconductoring the Otahuhu-Wiri line.

B14 Since the above preparatory work has now been completed, and Transpower has the information it needed to refine its cost estimate, it is open to Transpower to seek an amendment to the approved MCPOs (from the original MCP) to deliver the reconductoring – in line with our view in paragraph A37.

⁵⁹ See s 52A(1)(b) of the Act and our WUNI Decision, above n 18, at para X15.

⁶⁰ Capex IM, above n 3, at cl 3.3.6(1).

B15 While the key factor that led to this application was foreseen and planned before we approved the original MCP,⁶¹ at the time Transpower submitted the original MCP, it did not have the information it needed to give a reasonable P50 cost estimate of the reconductoring work.⁶² There are therefore arguments either way as to whether the key factor was within Transpower's control. Notwithstanding, for the reasons outlined in paragraphs A31 to A39:

B15.1 it would not have been appropriate for Transpower to advance the Project as a staged MCP, or delay submitting the original MCP until the updated cost information was available;

B15.2 we consider the amendment application the most appropriate vehicle for advancing and assessing the reconductoring MCPO, despite the key factor being foreseeable and arguably within Transpower's control; and

B15.3 we do not consider this approach sets an undesirable precedent.

B16 Accordingly, to the extent the key factor was foreseeable and within Transpower's control, we do not consider this means we should reject the amendment application.

The reasonableness of the mitigation strategy and extent of mitigation actions

B17 This does not apply to this amendment.

Assessment of the effect of the amendment on the Project's expected net electricity market benefit

B18 In assessing the amendment application, we must assess the extent to which, as a result of the amendment, the Project's expected net electricity market benefit (**ENEMB**) is materially lower than when we approved the original MCP.⁶³

B19 In our assessment of Transpower's application of the investment test for the original MCP, we were satisfied that, based on the ENEMB of each of the investment options in Transpower's short-list consultation, Transpower selected the investment option with the highest ENEMB as the proposed investment.⁶⁴

⁶¹ Transpower stated in its original MCP that it intended to apply for this amendment, as discussed in paragraph 1.8 above. See original MCP, above n 7, at [footnote 2].

⁶² Under paragraph G5(2)(c) of Schedule G of the Capex IM, Transpower's MCA (comprising the MCPO cost estimates) must be the P50, of capital expenditure and the estimated probability distribution of the P50.

⁶³ Cl 6.1.1(5)(c) of the Capex IM. See also Capex IM Reasons paper, above n 14, at [8.4.2f].

⁶⁴ We discussed the investment test for the original MCP in Attachment D of our BOBOTA decision paper – see BOBOTA Decision, above n 2, at pp. 67–96. Under paragraph D1 of Schedule D, the investment test required Transpower to estimate under each relevant generation and demand scenario:

- B20 The purpose of the ENEMB assessment here is accordingly to ensure that, taking account of the amendment, the investment option that Transpower put forward from its short-list consultation as the proposed investment in the original MCP (which we approved in the BOBOTA Decision) remains the investment option with the highest ENEMB.^{65, 66}
- B21 Transpower's estimated cost to deliver this amendment has changed slightly.⁶⁷ The value of all other elements used in the investment test have not changed. For this reason, this amendment has not materially affected the relative ENEMBs of the investment options, or the outcome of the investment test, as seen in 0 below.
- B22 Because the Project is needed to meet the deterministic limb of the grid reliability standards,⁶⁸ it does not need to have a positive ENEMB.⁶⁹ For this reason, Transpower has shown the results of the investment test in 0 relative to Option 1. The estimated electricity market benefit of this proposed investment is \$188.6 million compared to Option 1.⁷⁰
- B23 0 shows that the relative ENEMBs for some of the investment options have reduced by \$0.1m, but the investment option with the highest ENEMB has not changed.⁷¹
- B24 We are therefore satisfied that, as a result of the amendment:

-
- a) the project costs of the investment option and the electricity market benefits or electricity market cost elements for the investment options and all consequential future investments over the calculation period of the investment test;
 - b) the net electricity market benefits for each investment option which is the sum of the electricity market benefits less the sum of the electricity market costs and the project cost; and
 - c) the ENEMB for each investment option, which is the weighted average of the net electricity market benefit calculations in the original MCP.

⁶⁵ Under paragraph D1(1)(b) of Schedule D, the ENEMB for the proposed investment does not need to be positive because the investment is needed to meet the deterministic limb of the grid reliability standards. Our BOBOTA Decision covered this at BOBOTA Decision, above n 2, at [B7-B11].

⁶⁶ We note that Transpower included the estimated cost of reconductoring the Otahuhu-Wiri line as a Project cost rather than as a quantum of modelled projects within the electricity market cost element of the investment test. Since the quantum of all electricity market cost elements and Project costs are summed in the investment test, allocating the expected cost of the Otahuhu-Wiri reconductoring as Project cost did not affect the ENEMB. The reason Transpower included the cost of reconductoring as a project cost in the original MCP is that Transpower's short-list consultation took place before Transpower revised the Project from being a staged MCP to a non-staged regular major capex project. This means that every investment option from Transpower's short-list consultation included the reconductoring of the Otahuhu-Wiri line as an MCPO (see Table 1, original MCP, above n 7, at pg. 9) – consistent with the requirements under Schedule I of the Capex IM that long-list and short-list consultations for a staged project include investment options (and MCPO) to meet the investment need across all stages. For this reason, we do not consider Transpower's inclusion of the reconductoring in each of the short-list investment options affected the outcome of the investment test.

⁶⁷ Application, above n 1, at [4].

⁶⁸ BOBOTA Decision, above n 2, at [B7-B11].

⁶⁹ Capex IM, above n 3, at [D1(b)]

⁷⁰ BOBOTA Decision, above n 2, at Table D5 p. 87.

⁷¹ Application, above n 1, at [4-5].

B24.1 the Project’s ENEMB is not materially lower than when we approved the original MCP; and

B24.2 the investment option with the highest ENEMB (the Project’s proposed investment) has not changed.

Table B1: ENEMB comparison between original MCP and original MCP plus amendment relative to base case

	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Option 7
	Maintain existing network to same capacity	220 kV at Bombay Supply Wiri from Otahuhu	220 kV at Drury supplying Bombay. Supply Wiri from Otahuhu	Maintain existing lines and increase capacity of OTA-WIR line	220 kV at Bombay Supply Wiri from Otahuhu with increased capacity	220 kV at Drury supplying Bombay. Supply Wiri from Otahuhu with increased capacity	220 kV at Bombay Supply Wiri from Otahuhu with increased capacity. Retain Bombay-Wiri line
Capital costs used in the amendment	31.2	34.6	50.6	32.2	35.3	51.4	54.5
Capital costs used in the original MCP ⁷²	33.6	37.0	53.0	34.5	37.6	53.7	56.9
ENEMB compared to base case in original MCP	0.0	37.1	21.8	0.7	38.0	22.7	21.2
ENEMB compared to base case original MCP + amendment	0.0	37.1	21.8	0.6	37.9	22.6	21.1

⁷² BOBOTA Decision, above n 2, at Table D4 p. 84.

Assessment of the extent that Transpower has incurred capital expenditure by the date of application

B25 Transpower's application notes that it has spent \$5.2 million on the Project.⁷³

Assessment of the amendment to the MCA

B26 If we approve an amendment to the MCPOs, the Capex IM allows us to make commensurate amendments to the MCA.⁷⁴

B27 The Capex IM does not set out any specific criteria for assessing cost estimates or MCAs arising from MCPO amendments. This provides us with some flexibility as to how we assess the cost estimate.

B28 We assessed the cost estimate by:

B28.1 scrutinising the SSR, which sets out the scope of works for the amendment;
and

B28.2 comparing the estimated costs of the work packages for the proposed amendment with those of two similar projects we approved recently:

- a) the Central Park-Wilton B reconductoring listed project⁷⁵ (**CPKWIL**);
and
- b) the Churton Park section of the Haywards-Oteranga Bay A line section reconductoring listed project (**HAYOTB**).⁷⁶

B29 We used the above two listed projects because these projects have similar features that affect their costs to the proposed amendment. In particular, the three transmission line sections are comparatively short, and they traverse some challenging terrains. Compared to longer lines, shorter lines have a higher percentage of cost per unit of line.

⁷³ Above n 1, at [10].

⁷⁴ Capex IM, above n 3, at cl 3.3.6(8).

⁷⁵ Commerce Commission, Decision and Reasons paper, 28 June 2017, available at: <https://comcom.govt.nz/regulated-industries/electricity-lines/electricity-transmission/transpower-capital-investment-proposals/transpower-listed-projects/central-parkwilton-b-reconductoring-listed-project>.

⁷⁶ Commerce Commission, Decision and Reasons paper, 10 October 2018, available at: <https://comcom.govt.nz/regulated-industries/electricity-lines/electricity-transmission/transpower-capital-investment-proposals/transpower-listed-projects/oteranga-bay-to-haywards-a-line-churton-park-section-reconductoring-listed-project?target=documents&root=100651>.

- B30 There are some differences that could increase the estimated costs of the amendment. The main differences are that the Otahuhu-Wiri line is only half the length of the other two-line sections and there are a lot of underbuilds along the line compared to the other two-line sections. In addition, most of the Otahuhu-Wiri line runs along the motorway.
- B31 For the above reasons, we compared the normalised estimated costs of these projects as it allows a reasonable comparison of estimated costs.
- B32 We benchmarked the normalised estimated costs against the following cost components:
- B32.1 Lines material procurement;
 - B32.2 Lines work;
 - B32.3 Contractor overheads;
 - B32.4 Design and consultant support;
 - B32.5 Transpower overhead & internal Labour;
 - B32.6 Environment and property; and
 - B32.7 Temporary work for security of supply.
- B33 Based on our evaluation and discussions with Transpower, we have set the additional MCA for the amendment as shown in the table below.

MCA component	Value (\$000s)
P50 estimate (real 2021 prices)	13,216
CPI	781
Interest during construction	595
Major capex allowance	14,592

Conclusion

- B34 We are satisfied that the proposed amendment to the Project's approved MCPOs meets the requirements of the Capex IM and will deliver the beneficial outcomes that Transpower specifies in its application.
- B35 Our draft decision is therefore to amend the approved MCPOs proposed in Transpower's amendment application and revise the MCA to reflect the estimated cost of delivering the amended MCPOs.