

## NOTICE OF INTENTION

16 MAY 2019

### Proposal to Consider Amending Input Methodologies for Electricity Distribution Services and Transpower New Zealand Limited

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1. The purpose of this notice of intention is to advise that the Commerce Commission (**Commission**) is beginning work to consider amendments to the following input methodologies (**IMs**):
  - a. *Electricity Distribution Services Input Methodologies Determination 2012* [2012] NZCC 26 (**EDB IM determination**).<sup>1</sup>
  - b. *Transpower Input Methodologies Determination 2010* [2012] NZCC 17 (**Transpower IM determination**).<sup>2</sup>
  - c. *Transpower Capital Expenditure Input Methodology Determination 2012* [2012] NZCC 2 (**Transpower Capex IM determination**).<sup>3</sup>
2. The amendments being considered to the EDB IM determination relate to:
  - a. the IMs for information disclosure (**ID**), specifically the valuation of assets, the treatment of taxation, and the definition of ‘operating costs’;
  - b. the IMs for both default and customised price-quality paths (**DPPs and CPPs**), specifically the specification and definition of prices, the incremental rolling incentive scheme (**IRIS**), and the definition of ‘operating costs’;
  - c. the IMs for default price-quality paths (**DPPs**), specifically the valuation of assets, the treatment of taxation, the circumstances in which DPPs may be reconsidered within a regulatory period, and the definition of ‘operating costs’; and
  - d. the IMs for customised price-quality paths (**CPPs**), specifically the valuation of assets, the treatment of taxation, the matters relating to proposals by a regulated supplier for a CPP, and the definition of ‘operating costs’.
3. The amendments being considered to the Transpower IM determination relate to changes to:
  - a. the IMs for ID, specifically the valuation of assets, the treatment of taxation, and the definition of ‘operating costs’; and
  - b. the IMs applying to an individual price-quality path (**IPP**), specifically the specification and definition of prices, the valuation of assets, the treatment of

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<sup>1</sup> The EDB IM determination was most recently amended in November 2018 by the *Electricity Distribution Services Input Methodologies (Accelerated Depreciation) Amendments Determination 2018* [2018] NZCC 19.

<sup>2</sup> The Transpower IM determination was most recently amended in December 2016 by the *Transpower Input Methodologies Amendments Determination 2016* [2016] NZCC 27.

<sup>3</sup> The Transpower Capex IM determination was most recently amended in May 2018 by the *Transpower Capital Expenditure Input Methodology Amendments Determination 2018* [2018] NZCC 8.

taxation, the IRIS, the circumstances in which an IPP may be reconsidered within a regulatory period, and the definition of 'operating costs'.

4. The amendments being considered to the Transpower Capex IM determination relate to definitions associated with the IM requirements that must be met by Transpower New Zealand Limited (**Transpower**).
5. In accordance with sections 52V(1) and 52X of the Commerce Act 1986, this notice outlines the process that will be followed in considering and consulting on the potential IM amendments, and the proposed timeframes for the potential amendments.

### **Potential IM amendments**

6. We intend to consider and consult on the following potential IM amendments:

#### *Amendments to the EDB IM determination*

- a. Changes to the IMs for ID, DPPs, and CPPs in relation to the valuation of assets, specifically the regulatory treatment of operating leases;
- b. Changes to the IMs for ID, DPPs, and CPPs in relation to the treatment of taxation, specifically the regulatory treatment of operating leases;
- c. Changes to the IMs for ID, DPPs and CPPs in relation to the definition of 'operating costs';
- d. Changes to the IMs for both DPPs and CPPs in relation to the specification and definition of prices, specifically "pass-through costs" and "recoverable costs";
- e. Changes to the IMs for both DPPs and CPPs in relation to operating expenditure incentives under the IRIS, specifically "how to calculate opex incentive amounts";
- f. Changes to the IMs for both DPPs and CPPs in relation to the IRIS, specifically the regulatory treatment of operating leases;
- g. Changes to the IMs for DPPs in relation to the circumstances in which DPPs may be reconsidered within a regulatory period; and
- h. Changes to the IMs for CPPs in relation to the matters relating to proposals by a regulated supplier for a CPP.

#### *Amendments to the Transpower IM determination*

- i. Changes to the IMs for ID and IPPs in relation to the valuation of assets, specifically the regulatory treatment of operating leases;
- j. Changes to the IMs for ID and IPPs in relation to the treatment of taxation, specifically the regulatory treatment of operating leases;
- k. Changes to the IMs for ID and IPPs in relation to the definition of 'operating costs'
- l. Changes to the IMs applying to IPPs in relation to the specification and definition of prices, specifically "price", "pass-through cost requirements", and "recoverable costs";
- m. Changes to the IMs applying to IPPs in relation to operating expenditure incentives under the IRIS, specifically "how to calculate opex incentive amounts";

- n. Changes to the IMs applying to IPPs in relation to the IRIS, specifically the regulatory treatment of operating leases; and
- o. Changes to the IMs applying to IPPs in relation to the circumstances in which an IPP may be reconsidered within a regulatory period.

*Amendments to the Transpower Capex IM determination*

- p. Changes to the Transpower Capex IM in relation to definitions associated with the IM requirements that must be met by Transpower, specifically the “base capex standard incentive rate”.
7. In considering any IM amendments affecting the regulatory treatment of operating leases, we will have regard to any views received from interested persons on the ‘regulatory treatment of operating leases’ issue as identified in our *Treatment of operating leases: Issues paper*, which we are intending to publish by the end of May 2019.<sup>4</sup>

**Process for potential IM amendments**

8. We note that although some of the potential IM amendments relate to our reset of the DPP for electricity distribution businesses for the third regulatory period beginning 1 April 2020 (**DPP3**) and the determination of Transpower’s IPP for the next regulatory control period to apply from 1 April 2020 to 31 March 2025 (**RCP3**), we intend to consult on these potential IM amendments as a separate process to our decisions for DPP3 and RCP3.

**Table 1: Process for potential IM amendments**

Process		Indicative time frame
1.	a. Commission consultation on potential IM amendments in relation to: <ul style="list-style-type: none"> <li>• the IMs for ID, DPPs and CPPs under the EDB IM determination, not including those affecting the regulatory treatment of operating leases;</li> <li>• the IMs for ID and IPP under the Transpower IM determination, not including those affecting the regulatory treatment of operating leases; and</li> <li>• to definitions associated with the IM requirements that must be met by Transpower under the Transpower Capex IM determination.</li> </ul>	May 2019

<sup>4</sup> We originally intended to publish this issues paper inviting comment on the regulatory treatment of operating leases in early March 2019 – see Commerce Commission “Transpower’s individual price-quality path for the next regulatory control period: Issues paper” (7 February 2019), para 8.32.

	b. Publication of draft IM reasons paper and draft IM amendments.	
2.	<p>Submissions due from interested persons on potential IM amendments in relation to:</p> <ul style="list-style-type: none"> <li>the IMs for ID, DPPs and CPPs under the EDB IM determination, not including those affecting the regulatory treatment of operating leases; and</li> <li>the IMs for ID and IPP under the Transpower IM determination, not including those affecting the regulatory treatment of operating leases; and</li> <li>definitions associated with the IM requirements that must be met by Transpower under the Transpower Capex IM determination.</li> </ul>	July 2019
3.	<p>Cross-submissions due from interested persons on potential IM amendments in relation to:</p> <ul style="list-style-type: none"> <li>the IMs for ID, DPPs and CPPs under the EDB IM determination, not including those affecting the regulatory treatment of operating leases;</li> <li>the IMs for ID and IPP under the Transpower IM determination, not including those affecting the regulatory treatment of operating leases; and</li> <li>definitions associated with the IM requirements that must be met by Transpower under the Transpower Capex IM determination.</li> </ul>	July 2019
4.	<p>a. Commission consultation on potential IM amendments in relation to:</p> <ul style="list-style-type: none"> <li>the IMs for ID, DPP and CPP under the EDB IM determination affecting the regulatory treatment of operating leases; and</li> <li>the IMs for ID and IPP under the Transpower IM determination affecting the regulatory treatment of operating leases.</li> </ul> <p>b. Publication of draft reasons paper and draft IM amendments.</p>	Early August 2019
5.	<p><b>Final decisions by the Commission</b></p> <p>Publication of final reasons papers and amendments in relation to:</p> <ul style="list-style-type: none"> <li>the IMs for ID and IPP under the Transpower IM determination, not including those affecting the regulatory treatment of operating leases; and</li> </ul>	Late August 2019

	<ul style="list-style-type: none"> <li>definitions associated with the IM requirements that must be met by Transpower under the Transpower Capex IM determination.</li> </ul>	
6.	<p>Submissions due from interested persons on potential IM amendments in relation to:</p> <ul style="list-style-type: none"> <li>the IMs for ID, DPP and CPP IMs under the EDB IM determination affecting the regulatory treatment of operating leases; and</li> <li>the IMs for ID and IPP under the Transpower IM determination affecting the regulatory treatment of operating leases.</li> </ul>	Late August 2019
7.	<p>Cross-submissions due from interested persons on potential IM amendments in relation to:</p> <ul style="list-style-type: none"> <li>the IMs for ID, DPP and CPP IMs under the EDB IM determination affecting the regulatory treatment of operating leases; and</li> <li>the IMs for ID and IPP under the Transpower IM determination affecting the regulatory treatment of operating leases.</li> </ul>	September 2019
8.	<p><b>Final decisions by the Commission</b></p> <p>Publication of final reasons papers and amendments in relation to:</p> <ul style="list-style-type: none"> <li>the IMs for ID, DPPs and CPPs under the EDB IM determination, not including those affecting the regulatory treatment of operating leases;</li> <li>the IMs for ID, DPPs and CPPs under the EDB IM determination affecting the regulatory treatment of operating leases; and</li> <li>the IMs for ID and IPP under the Transpower IM determination affecting the regulatory treatment of operating leases.</li> </ul>	November 2019

Updates and any process refinements will be published on the Commission's website.