TRANSPOWER

13 February 2026

Submission on the Emergency Management Bill (No 2)

Submission to:

Chair and Members of the Governance and Administration Committee
c/- Parliament Buildings
Wellington

Introduction

1 As the owner and operator of essential infrastructure, Transpower welcomes the opportunity to make a submission on the Emergency Management Bill (No 2) (*the Bill*).

2 Transpower is the State-owned enterprise that plans, builds, maintains, owns and operates New Zealand's high voltage electricity transmission network (*the Grid*). The Grid includes some 11,000km of transmission lines and cables (overhead, underground and submarine) and over 170 substations across the country. The Grid is controlled and monitored by a telecommunications network, which helps link together the components of the Grid.

3 We wish to be heard on this submission.

Main points

4 Our submission focuses on the proposed essential infrastructure regime under the Bill. Our main points (which we expand on in the body of our submission) are:

4.1 ***The obligations imposed by the Bill's essential infrastructure regime do not align with other regulatory regimes –*** Transpower has two primary regulators – the Commerce Commission and the Electricity Authority. The role of each is broad enough to capture resilience (mainly through reliability requirements and service quality measures). Transpower's obligations should be aligned as between on the one hand, the new essential infrastructure regime and on the other hand, these other two primary regulatory regimes (referred to below in this submission as *the other regulatory regimes*);

4.2 ***Clause 74(a) duty –*** The clause 74(a) duty should be amended to refer to "services" that Transpower is responsible for providing, as opposed to "essential infrastructure" (and the infrastructure components included in the definition of that term). The clause 74(a) duty as currently drafted in the Bill is unworkable and inconsistent with the other regulatory regimes;

4.3 ***Clause 74(b) plan –*** The clause 74(b) duty should be to develop and maintain "service continuity plans". To achieve better alignment with the other regulatory regimes, the content of the plans should not be prescribed by regulation as proposed under clause 210(1)(c). The Bill should also be

amended to require the Director-General to take into account the service continuity plans developed and maintained under clause 74(b) before they exercise any powers under clause 15. Any disclosure requirements regarding these service continuity plans should recognise the need to manage sensitive material with appropriate restrictions;

4.4 ***Sector response plans –*** The content of the sector response plans under clause 105(1) should be restricted to collaboration and co-ordination arrangements for the essential infrastructure providers with other entities, including Emergency Management Committees, the Director-General, and other agencies. The focus on this specific aspect of collaboration and co-ordination arrangements is appropriate and critical for the sector response plans, as it appears to be lacking in other provisions of the Bill;

4.5 ***Power for Minister to make rules –*** The Minister's power to make rules on a range of matters under clause 212 of the Bill has scope to create uncertainty and inconsistencies with the other regulatory regimes. To resolve these issues, we submit that the rule-making process should be made more rigorous as described at paragraph 38 below;

4.6 ***Schedule 3 list of "essential infrastructure providers" –*** Schedule 3 should be amended to extend the list of "essential infrastructure providers" to include:

(a) "flood protection services". These services are essential and integral to the infrastructure of Aotearoa New Zealand in an emergency context; and

(b) "early warning system services". These are essential for disaster risk reduction and readiness, providing timely information to mitigate the impacts of natural hazards.

We consider that the failure to include "flood protection services" and "early warning system services" in Schedule 3 from the outset would have potential negative implications, effects, and costs.

Background – Key features that affect the resilience of the Grid

5 Transpower makes this submission against the backdrop of some key features that affect the resilience of the Grid:

5.1 ***Legacy infrastructure –*** Much of the Grid is aging infrastructure, built 50 to 70 years ago. The vulnerabilities of the Grid in some cases stem from investment decisions (including route selection) made years ago. The replacement and refurbishment cycles for this infrastructure are lengthy because transmission assets are – by design – long-lived. In some cases, replacement assets designed to modern standards may be many years away and route or location changes (which rarely occur) need to navigate planning, property right, resource management, and social licence constraints;

5.2 ***Scope of network –*** Transpower's high voltage network traverses almost every district in Aotearoa New Zealand. The network provides a key link

between the North and South Island. The Grid is long and stringy. The investment required to increase security of supply at the edges of the Grid, or at key choke points such as the Cook Strait, is significant and will not always be economic for consumers;

5.3 ***Interdependencies of the Grid with other essential infrastructure –*** The Grid supports, and is supported by, telecommunications networks, and information and operational technology systems not owned or operated by Transpower. For example, the bulk of the fibre we use is owned by other infrastructure operators. There are also dependencies with assets in other parts of the electricity sector – across generation and distribution companies. In a particular emergency situation these other assets may require a quite different response to the most appropriate response for high voltage electricity transmission assets. The performance of the Grid also relies on other types of infrastructure, such as roading which allows access for physical maintenance and repair;

5.4 ***Different threats require different responses –*** Different threats to the Grid (e.g., earthquakes; floods; volcanic eruptions) require different responses at different locations and depending on the nature and extent of the emergency. For example, if a substation at the end of a spur line were severely damaged as a result of an extreme event, it might take weeks to a month to get it back up and running. For an area that has more than one substation or more than one line, the timeframe would be much shorter;

5.5 ***Range of hazards –*** The resilience of the Grid to hazards has received increased focus in recent years. This is in part because of the increased severe weather events due to climate change and the emerging science in areas such as seismic and space weather hazards. Our supply chain security and procurement resilience remain a focus and are regularly monitored. Our cyber defences are frequently tested and enhanced to remain fit for purpose;

5.6 ***Security of supply and resilience are a key focus for Transpower –*** For Transpower, security of supply and resilience of the Grid feature highly in its strategies and day to day operations. Transpower has a high degree of expertise and capability in this area;

5.7 ***Improvement to infrastructure resilience is constrained by the other regulatory regimes –*** Existing regulation requires Transpower to demonstrate that work to build a more resilient network is prudent and efficient. In particular, the regulation of Transpower by both the Commerce Commission and the Electricity Authority already captures (to an extent) the resilience of the Grid and places some constraints on Transpower's economic ability to improve it. For example, the Commerce Commission determines Transpower's allowable revenue and, in doing so, makes a judgement about whether Transpower investments are prudent and efficient in a given five-year regulatory cycle. That includes investments to increase resilience or security of supply;

5.8 Further, some regulation increases the stress our infrastructure faces - for example, the Resource Management legislation (and the national direction

under it), Emissions Trading Scheme (ETS) and the Electricity (Hazards from Trees) Regulations. This legislation in combination has resulted in trees being planted too close to our lines, adversely impacting the overall resilience of the Grid.

From Transpower's perspective, the essential infrastructure regime should recognise and respond to these key features. For the following reasons, we consider the proposed essential infrastructure regime under the Bill falls short in a number of respects.

Inconsistencies between provisions under the Bill and the other regulatory regimes

6 The Bill contains provisions that directly relate to the resilience of the Grid. Specifically:

6.1 clause 74(a) of the Bill requires Transpower to "ensure that the essential infrastructure that it is responsible for providing is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency". A corresponding duty with different wording is also in the existing legislation (the Civil Defence Emergency Management Act 2002) and applies to Transpower as a lifeline utility;

6.2 clause 74(b) of the Bill requires Transpower to develop and maintain a plan to carry out the clause 74(a) duty. The content of this plan may be prescribed by regulation under clause 210(1)(c);

6.3 clauses 104 and 105 of the Bill empower the Director-General to develop and approve sector response plans that address the response to, and recovery from, the potential disruptions to essential infrastructure providers in the various classes in providing their essential infrastructure in the event of an emergency. Transpower is required to contribute to developing such sector response plan(s) if required to do so by the Director-General (see clause 74(d)); and

6.4 clauses 212 and 213 of the Bill empower the Minister to make (and make changes to) rules for a range of purposes, including prescribing technical and data standards, performance standards, and operating practices, procedures, and systems.

7 These provisions give rise to potential inconsistencies with the other regulatory regimes that Transpower is subject to.

8 Transpower has two primary regulators – the Commerce Commission and the Electricity Authority. The role of each is broad enough to capture resilience (primarily through reliability requirements and service quality measures).

9 We elaborate below on the lack of alignment between:

9.1 the essential infrastructure regime; and

9.2 the respective roles of the Commerce Commission and the Electricity Authority.

Lack of alignment between essential infrastructure regime and Commerce Act regime

10 The Commerce Commission is Transpower's economic regulator under Part 4 of the Commerce Act. The Commerce Commission promotes the long-term benefit of consumers of electricity transmission services by setting price-quality paths that reflect the outcomes that would be expected in workably competitive markets, including by ensuring that Transpower has incentives to:

10.1 innovate and to invest, including in replacement, upgraded and new assets; and

10.2 improve efficiency and provide services at a quality that reflects consumer demands.

11 In practical terms, every five years the Commerce Commission determines Transpower's price-quality path, which limits the amount of revenue that Transpower is allowed to earn and subsequently charge its customers. In setting the Transpower revenue allowance, the Commerce Commission reviews Transpower's proposed expenditure and makes its own judgement regarding whether it considers Transpower's proposed expenditure to be prudent and efficient.

12 The Commerce Commission also has an enforcement regime – with the ability to impose severe penalties, which incentivise service quality standards to be met.

13 If new obligations under the Bill are introduced, Transpower can apply for its individual price-quality path to be reopened.[1] The Commerce Commission would then assess Transpower's proposals and determine if they are prudent and efficient. This can be a complex process and ex ante it is not certain that Transpower would receive all the required funding to undertake new obligations. If the Commerce Commission does not provide Transpower with sufficient funding to undertake resilience workstreams under its price-quality paths in the future, Transpower will need to decide whether to forgo other work in order to deliver these resilience outcomes.

14 Accordingly, unless there is alignment between the requirements of the Bill and the Commerce Commission's role in determining prudent and efficient expenditure, Transpower may not have sufficient funding to undertake all the work required or would need to consider reducing expenditure on meeting other transmission lines services requirements required by another regulatory regime.

15 Transpower considers that the imposition of obligations in the Bill needs to be considered against funding constraints and the regulatory regimes that all essential infrastructure entities operate in.

[1] The threshold for a reopener to be triggered is if the costs of the new obligations exceed $5 million.

Lack of alignment between essential infrastructure regime and electricity regulatory regime

16 One of the Electricity Authority's functions is to promote "reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers." To an extent, this function captures resilience of the electricity system (although, not the inter-related infrastructure operators or related entities).

17 The performance of Transpower's system operator function is regulated by the Electricity Authority via the Electricity Industry Participation Code 2010 (*the Code*). The system operator has principal performance obligations under the Code in respect of its operation of the real-time power system. The Code sets out the Grid reliability standards that Transpower must meet and the value of expected unserved energy (i.e., the estimated cost to transmission customers if there is an interruption in their transmission service). The latter is part of the evaluation criteria to determine whether an investment should be made.

18 The Electricity Authority administers enforcement of the Code, including via a Rulings Panel, which is an independent body that assists in enforcing the Code.

19 There is potential for inconsistency between:

19.1 on the one hand, under the Bill as currently drafted:

(a) the clause 74(a) duty which requires Transpower to "ensure that the essential infrastructure that it is responsible for providing is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency";

(b) the clause 74(b) plan to carry out the clause 74(a) duty. The content of this plan may be prescribed by regulation under clause 210(1)(c);

(c) the clause 104 and 105 sector response plan that addresses the response to, and recovery from, the potential disruptions to essential infrastructure providers in the electricity sector in the event of an emergency; and

(d) the clause 212 and 213 rules for prescribing technical and data standards, performance standards, and operating practices, procedures, and systems; and

19.2 on the other hand, the requirements of the electricity regulatory regime which potentially constrain Transpower's own decision-making regarding resilience.

20 We consider that the obligations in the Bill need to be considered against this regulatory regime, in addition to the Commerce Act regime.

Achieving alignment between provisions under the Bill and the other regulatory regimes

21 We submit that the issues of inconsistency between the Bill and the other regulatory regimes should be addressed by making the following amendments.

Clause 74(a) duty

22 We submit that clause 74(a) should be amended to read:

> ensure that the **services** that it is responsible for providing **are** able to **be provided** to the fullest possible extent, even though this may be at a reduced level, during and after an emergency (our emphasis)

23 This amendment ensures that the duty is focussed on service delivery rather than each of the "infrastructure components" (assets, information, networks, systems, suppliers, people, and processes – see the definition in clause 7(2)).

24 In an emergency, Transpower will be focused on outcomes – such that the "service" that it provides is able to function to the fullest possible extent.

25 The duty under clause 74(a) as currently drafted would require Transpower to ensure that "infrastructure components" are able to function to the fullest possible extent (subject to the reduced level allowance). For the following reasons, we submit that such a requirement is unworkable:

25.1 it may well be inefficient to ensure that a particular asset, supplier or person is able to function to the fullest possible extent in emergency conditions. If some of these components are compromised, it may be better to focus on a separate work-around that restores overall service to the fullest possible extent; and

25.2 there may be interdependent components. In other words, overall service provision may be dictated by the weakest link in an interdependent chain. That weakness cannot be compensated for by strength in another link and strength elsewhere in the chain is wasted investment until such time as the whole chain achieves a commensurate level of strength.

26 Our proposed drafting of the clause 74(a) duty in paragraph 22 above recognises the flexibility, innovation and nimbleness required by Transpower in a situation of emergency. The flexibility allowed by this revised drafting would also better enable Transpower to work within the parameters of the other regulatory regimes that it is subject to. This would go some way to alleviating the concerns set out above with respect to the lack of alignment between:

26.1 the essential infrastructure regime in the Bill; and

26.2 the Commerce Act regime and electricity regulatory regime.

Clause 74(b) plan

27 Under the Bill, Transpower must develop and maintain a clause 74(b) plan to carry out the clause 74(a) duty.

28 The content of the clause 74(b) plan may be prescribed by regulations (clause 210(1)(c)). This gives rise to:

28.1 future uncertainty as to the detail required in the plan; and

28.2 scope for inconsistency with the other regulatory regimes (see paragraphs 10 to 20 above).

29 To resolve these concerns, we submit that:

29.1 clause 74(b) should be amended to read:

> develop and maintain **service continuity plans** to carry out the duty described in paragraph (a) (our emphasis)

29.2 clause 210(1)(c) should be deleted.

30 These amendments recognise the need for Transpower to have flexibility to develop and use service continuity plans without prescription and thereby reduce the scope for inconsistency with the other regulatory regimes.

31 Transpower is already incentivised to respond quickly to an event and has many existing service continuity plans in place. Transpower would be comfortable providing appropriate transparency of those plans. However, such plans are often sensitive in nature (for example, in relation to cybersecurity), and therefore disclosure of these plans should recognise the need to manage sensitive material with appropriate restrictions.

32 Further, we consider that the Bill should be amended to require the Director-General to take into account service continuity plans developed and maintained under clause 74(b) before he or she exercises any powers under clause 15. Such a provision would avoid the potential for conflicts between the Director-General's actions and those of Transpower during and after an emergency.

Sector response plans

33 Clause 104 of the Bill empowers the Director-General to develop and approve a sector response plan that addresses the response to, and recovery from, the potential disruptions to Transpower providing its essential infrastructure in the event of an emergency.

34 Clause 105(1)(a) purports to enable the Director-General to address in the plan the roles and responsibilities of the essential infrastructure providers to which it applies, Emergency Management Committees, the Director-General, and other agencies. We submit that these roles and responsibilities are set out elsewhere in the legislation. Revisiting roles and responsibilities (and other matters - see clause 105(1)(c)) in the sector response plan gives rise to another level of uncertainly and scope for inconsistency with the other regulatory regimes (as discussed above).

35 We submit that the content of the sector response plan under clause 105(1) should be restricted to collaboration and co-ordination arrangements for the essential infrastructure providers with other entities, including Emergency Management Committees, the Director-General, and other agencies. This outcome appears to be consistent with the intent in any event, as a sector response plan does not place mandatory requirements or duties on any person (see clause 105(2)).

36 We submit that that this focus on collaboration and co-ordination arrangements is appropriate and critical for the sector response plans. This specific aspect in relation to essential infrastructure providers appears lacking in other provisions of the Bill.

Power for Minister to make rules

37 Under clause 212 of the Bill, the Minister may make rules on a range of matters, including prescribing technical and data standards, performance standards, operating practices, procedures, and systems. The breadth of this power gives rise to uncertainties about how the rules would impact Transpower's operations (for example, if the rules were to mandate a prescriptive framework in the cybersecurity area). There is also scope for such rules to give rise to inconsistencies with the other regulatory regimes (see paragraphs 10 to 20 above).

38 To resolve these issues, we submit that the rule-making process should be made more rigorous. In particular:

38.1 clause 212(1)(b) should be more specific about the types of "technical and data standards" that are proposed to be prescribed by the rules. Transpower considers it would be useful to have better data on hazards and threats, including for example, related to risk tolerance; community expectations about resilience of the electricity network; up-to-date climate datasets; probabilistic risk models; flood modelling; and more timely exchange of cyber threat information, as incidents impacting other providers evolve;

38.2 the procedure under clause 213 should ensure that interested parties have a reasonable time to make submissions, and be consulted, on the specific set of rules that are being proposed. It is not sufficient that:

(a) notification under clause 213(1)(a) is about "the intention to make the rule" and "the objective of the rule" (as opposed to the draft proposed rule itself); and

(b) consultation is at the Minister's discretion (it should be mandatory);

38.3 clause 213(1)(d) should read:

> (d) have regard to the following matters:
>
> (i) the purpose of this Act:
>
> (ii) the costs **and benefits** of implementing measures for which the rule is being proposed:
>
> (iii) any other matters that the Minister considers appropriate in the circumstances. (our emphasis)

Definition of "emergency" – inclusion of "space weather"

39 We have considered whether "space weather" comes within the meaning of "emergency" as defined in clause 6.

40 Space weather occurs when the sun ejects plasma and other matter in Earth's direction. These coronal mass ejections are extremely rare but can cause geomagnetic storms on Earth. These storms can send unwanted currents through the long electricity circuits that Transpower manages. When the currents reach transformers in our substations, they can cause extensive damage.

41 We have formed the view that, although space weather is not listed as a "happening" under clause 6(2), a damage-causing space weather event would fall within clause 6(1) – noting that the list of "happenings" is not exclusive.

42 We are assuming that the drafters of the Bill:

42.1 have considered space weather as a potential "emergency"; and

42.2 are content that a damage-causing space weather event would be covered by the existing "emergency" definition under the Bill.

Schedule 3 list of "essential infrastructure providers" – add "flood protection services" and "early warning system services"

43 We submit that the Bill should be amended to extend the list of "essential infrastructure providers" in Schedule 3 to include:

43.1 "flood protection services"; and

43.2 "early warning system services".

We consider that the failure to include "flood protection services" and "early warning system services" in Schedule 3 from the outset would have potential negative implications, effects, and costs.

Flood protection services

44 "Flood protection services" are essential and integral to the infrastructure of Aotearoa New Zealand in an emergency context. In particular, these services are critical for protecting Transpower's infrastructure.

45 Flooding can have severe impacts to the power transmission as experienced in Cyclone Gabrielle. Examples of flood protection services related to power transmission risk include:

45.1 the Rangitāiki floodway, which has reduced flood risk for the Edgecumbe substation; and

45.2 the monitoring of Poorman stream and the removal of gravel that reduces flood risk at the Stoke substation.

Early warning system services

46 "Early warning system services" are essential for disaster risk reduction and readiness, providing timely information to mitigate the impacts of natural hazards.

47 In readiness for events, Transpower relies on event forecasts and warnings, including of extreme weather and its impacts such as slips and flooding.

Other matters

48 Our submission does not contain confidential matters.

49 Transpower's address for service is:

Transpower New Zealand Limited
PO Box 1021
Wellington 6140

Attention: Jo Mooar, Senior Corporate Counsel
Email: joanne.mooar@transpower.co.nz
Ph: 04 590 6060