

Determination

Genesis Energy Limited, Contact Energy Limited, Meridian Energy Limited and Mercury NZ Limited [2025] NZCC 22

The Commission:	John Small Anne Callinan Nathan Strong
Summary of application:	Genesis Energy Limited, Contact Energy Limited, Meridian Energy Limited, and Mercury NZ Limited have applied for authorisation to enter into and give effect to the Strategic Energy Reserve Huntly Firming Option to access certain notional generation capacity from Genesis' Rankine Units at the Huntly Power Station.
Determination:	The Commission's determination is to grant authorisation as it is satisfied that the Proposed Arrangements will result, or are likely to result, in a benefit to the public which would outweigh the lessening of competition.
Date of Determination:	5 November 2025

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Acronyms and abbreviations

2degrees	2degrees Limited
Act	Commerce Act 1986
Additional Baseload Capacity	Each Counterparty will have an additional 25MW of baseload capacity available in certain circumstances over and above the amount of Core Capacity that they can access under the Proposed Arrangements
Applicants	Genesis, Contact, Meridian and Mercury
Application	Application for authorisation submitted to the Commerce Commission from the Applicants on 4 August 2025
ASX	Australian Securities Exchange
ASX Hedges	Hedges traded on the Australian Securities Exchange
Baseload Hedges	See paragraph 83.2
BESS	Battery energy storage system
Cartel Authorisation Sections	Sections 58(6B) and (6D) of the Act
CFDs	Contracts for difference
Clearing Manager	The clearing manager ensures that industry participants pay or are paid the correct amount for the electricity they generate, or consume, and for market-related costs.
Code	Electricity Industry Participation Code 2010
Commission	Commerce Commission
Competition Authorisation Sections	Sections 58(1)-(2) of the Act
Contact	Contact Energy Limited
Core Capacity	The Core Capacity is 50MW per Counterparty, as may be subsequently adjusted for suspension events pursuant to the Proposed Arrangements.
Counterparties	Mercury, Meridian and Contact

EA	Electricity Authority
Electric Kiwi	Electric Kiwi Limited
emhTrade	emhTrade Markets Limited
ERCs	Electricity risk curves
ETS	Emissions Trading Scheme
EV	Electric vehicle
Fletcher Building	Fletcher Building Limited
Framework Agreement	One of the contracts making up the Proposed Arrangements. See paragraph 43.3
Government Frontier Proposals	The Government's response to Frontier Economics' review of electricity markets
Genesis	Genesis Energy Limited
Gentailers	'Generator-retailers': Genesis, Contact, Meridian and Mercury
GW	Gigawatt
GPS	Government Policy Statement
Haast Energy	Haast Energy Trading Limited
HFOs	Huntly Firming Options
HSER HFO	Huntly Strategic Energy Reserve Huntly Firming Option
IEGA	Independent Electricity Generators Association
ISDA	International Swaps and Derivatives Association
Kt	Kilotons
LNG	Liquefied natural gas
Lodestone Energy	Lodestone Energy Limited
MBIE	Ministry of Business, Innovation & Employment
Mercuria	Mercuria New Zealand Limited

Mercury	Mercury NZ Limited
MEUG	Major Electricity Users Group
Meridian	Meridian Energy Limited
MSOs	Market Security Options
MW	Megawatts
Neoen	Neoen New Zealand Limited
Nova Energy	Nova Energy Limited
NZ-WEM	New Zealand Winter Energy Margin
Octopus	Octopus Energy NZ Limited
Option Capacity	Each Counterparty's option to call on up to 50MW of Core Capacity and an additional 25MW of Additional Baseload Capacity.
OTC Hedges	Over-the-counter hedges
PPAs	Power Purchase Agreements
Proposed Arrangements	See paragraph 43
Pulse	Bel Investments NZ Limited, trading as Pulse Energy
Rankine Unit	A type of steam-powered electricity generating power plant that can run on gas or coal. Genesis currently operates three Rankine Units at Huntly. Each of Genesis' Units can generate up to 240MW
Shaped Hedges	See paragraph 83.1
SOSA	Security of supply assessment
SSNIP	Small but significant non-transitory increase in price
Strategic Reserve Stockpile	See paragraph 91.4
Transpower	Transpower New Zealand Limited
Unit 2	One of the Rankine Units at Huntly power station. It is currently scheduled to be decommissioned in 2026.
WEL Networks	WEL Networks Limited

Executive Summary

What is the application for authorisation about?

1. On 4 August 2025, the Commerce Commission (**Commission**) received an application for authorisation (**Application**) from Genesis Energy Limited (**Genesis**), Contact Energy Limited (**Contact**), Meridian Energy Limited (**Meridian**), and Mercury NZ Limited (**Mercury**) (together, the **Applicants**) to give effect to a series of agreements (**Proposed Arrangements**) that have been entered into that would extend the life of one of Genesis' thermal generation units for 10 years.
2. New Zealand's electricity system is susceptible to 'dry year risk': extended periods of dry weather that lower lake levels, reducing the amount of hydroelectricity that may be generated and increasing the risk that there is inadequate electricity supply to meet demand.
3. Genesis owns the Huntly Power Station in the Waikato. The Huntly Power Station comprises a number of thermal generation units, including three Rankine units (**Rankine Units**). The Rankine Units are well suited to help manage dry year risk. They are coal-powered electricity generators that can be turned on as required during extended dry periods to help ensure sufficient electricity supply.
4. However, the Rankine Units are old, expensive to maintain and run, and their full capacity is often not required by the market. Genesis has determined that without support from other market participants in the form of long-term hedge contracts,¹ it will close one of its Rankine Units in early 2026, referred to in this Determination as 'Unit 2' (**Unit 2**). Unit 2 requires significant investment to recertify if it is to remain operational after February 2026. Genesis has indicated that it does not need Unit 2 to cover its own contracts.
5. The Proposed Arrangements are a form of hedge contract between Genesis and each of the counterparties: Mercury, Meridian and Contact (**Counterparties**). The stated purpose of the Proposed Arrangements is to ensure that Genesis will invest the required capital and operating expenditure to maintain Unit 2 to contribute to security of electricity supply for dry winters. Under the Proposed Arrangements, the Counterparties have agreed to contribute to the capital and operating costs of Unit 2 in exchange for notional generation capacity at a fixed price.
6. More detail on the background and the Proposed Arrangements themselves can be found from paragraph 48.

What feedback have we received from interested parties?

7. As part of our consideration of the Application, the Commission sought feedback from interested parties on the Proposed Arrangements.

¹ Hedge contracts are a type of financial instrument that involve the purchase of insurance against electricity price volatility rather than the purchase of physical electricity. Purchasers of hedges receive insurance against high prices and sellers of hedges receive insurance against low prices.

8. The feedback that we have received is that the Rankine Units are a particularly important safeguard for security of supply in New Zealand. There is strong public support for ensuring that all three Rankine Units remain operational in at least the short to medium term while investment in other forms of electricity generation such as solar, wind and hydro generation are being brought to market.
9. However, our public consultation also demonstrates a level of concern about the Proposed Arrangements. Interested parties are concerned about the amount of capacity committed under the Proposed Arrangements, the duration of the contracts, and the identity of the participants (all of whom are generator-retailers (**Gentailers**)).
10. Some interested parties also expressed concern that the Proposed Arrangements would entrench the Applicants' market power, and that the capacity of the Rankine Units will be "locked up" between the Applicants for a significant period (10 years).
11. A number of parties submitted that the Commission should authorise the Proposed Arrangements subject to conditions. Proposed conditions included conditions that would require the Applicants to offer hedge products to third parties, impose information disclosure obligations, and require monitoring by the Commission.
12. Since the Commission issued its Draft Determination, the Government released a package of proposals that would affect the energy sector in response to a review that it commissioned from Frontier Economics (**Government Frontier Proposals**), including a series of proposals intended to improve security of supply in dry winters.² Some submitters expressed the view that the Government Frontier Proposals alter the way the Commission should assess the Proposed Arrangements.

How do we assess applications for authorisation?

13. We have explained the legal framework that governs authorisations in detail as part of this Determination.³
14. At a high level, the legal question that the Commission must ask itself is whether the public benefits of the Proposed Arrangements are likely to outweigh any detriments associated with the Proposed Arrangements (including any associated harm to competition). This is called the 'public benefit' test.
15. The Commission must not grant authorisation unless it is satisfied that the public benefits of the arrangements are likely to outweigh the detriments.
16. While the Commission has a broad mandate to promote competition and is on record as being dissatisfied with the state of competition in the electricity sector, its legal role in an authorisation process is tightly constrained. The Commission must only consider the conduct for which authorisation is sought as defined by the

² Nicola Willis and Simon Watts "Securing New Zealand's energy future" (1 October 2025) <www.beehive.govt.nz>. See in particular, MBIE "At a glance: New Zealand's Energy Package" (October 2025) Beehive <www.beehive.govt.nz>.

³ See from paragraph 105.

Applicants. It can either decline to grant authorisation, grant authorisation, or grant authorisation with conditions. The Commission has broad discretion to impose conditions, provided those conditions are not inconsistent with the Commerce Act 1986 (Act).⁴

How do we determine whether the benefits outweigh the detriments?

17. At a high level, the Commission is required to assess what is likely to happen in future if the Proposed Arrangements go ahead (what we refer to as the 'factual') and compare it to what we think is likely to happen if the Proposed Arrangements do not go ahead (what we refer to as the 'counterfactual').
18. We then weigh up the likely public benefits and detriments in the factual compared with the counterfactual to determine whether the Proposed Arrangements are likely to result in a net benefit or a net detriment. Further information on this test is available at paragraph 116.
19. On the basis of the evidence received, we think that in the factual, Genesis will invest in the necessary operating and capital expenditure to ensure Unit 2 remains in the market. The primary benefit is that electricity supply is more secure.
20. Our view of what is likely to happen if the Proposed Arrangements do not go ahead is more complicated.

What do we think is likely to happen if the Proposed Arrangements do not go ahead (what is the likely counterfactual(s))?

21. We have carefully considered what is likely to happen if the Proposed Arrangements do not go ahead, based on our public consultation and the evidence received from the Applicants.
22. Some interested parties expressed doubt that Genesis would close Unit 2 if the Proposed Arrangements do not proceed. There is a perception that, given New Zealand's constrained electricity supply (particularly during dry winters), Genesis must be commercially incentivised to keep Unit 2 operating for the foreseeable future. Interested parties also observed that there is strong political interest in the future of the Rankine Units.
23. However, based on evidence received, the Commission is satisfied that, in the absence of the Proposed Arrangements, the economic incentives on Genesis weigh in favour of the closure of Unit 2. Genesis does not require Unit 2 to fulfil its own customer and hedge contracts and, given the uncertain timing and frequency of dry winters, it considers itself unlikely to recover the costs of recertifying Unit 2 unless it

⁴ Paragraph 14 of the Draft Determination said that the Commission may only impose conditions if the conditions enable the Proposed Arrangements to pass the public benefit test. That is not a complete statement of the Commission's powers, as explained in previous decisions. See *Re New Zealand Kiwifruit Exporters Assoc Inc* (1989) NZBLC (Com) 104,485 at [6.3]-[6.4] and *OMV New Zealand Ltd, Shell Exploration New Zealand Ltd, Shell (Petroleum Mining) Co Ltd and Todd (Petroleum Mining Co) Ltd* (Commerce Commission Decision 505, 1 September 2003) at [530]-[534].

enters into hedge contracts with enough counterparties. We explain this in more detail from paragraph 176.

24. Some parties submitted that the Government would intervene to prevent the closure of Unit 2 if Genesis went ahead with its publicly stated plans. There is insufficient evidence to find that there is a real chance of political intervention to prevent the closure of Unit 2. We do not consider that the Government Frontier Proposals alter this conclusion: notably they do not propose investment in existing capacity.
25. Many interested parties also told us that, instead of the Proposed Arrangements, Genesis would or should issue a public tender to enable a greater number of parties to enter negotiations to purchase Genesis' hedge contracts on a bilateral basis⁵ and/or open up the Proposed Arrangements to more counterparties. Those interested parties considered this would be better for competition because the hedge contracts could be negotiated by more parties on differentiated terms.
26. We have carefully assessed whether it is likely that enough current Counterparties and/or other interested parties would enter into bilateral hedge contracts with Genesis if the Proposed Arrangements do not go ahead. We asked other potential purchasers about their interest in Genesis' hedge contracts and their needs and risk appetites when purchasing such contracts.
27. We also tested whether other interested parties would have signed up to the Proposed Arrangements with the Applicants (ie, entered a multilateral arrangement on the same or similar terms) if that was an option available to them.
28. In making that assessment, we accept Genesis' submission that the Proposed Arrangements set out the minimum terms it requires commercially to keep Unit 2 in operation. We note that other interested potential purchasers told us that Genesis' commercial requirements to keep Unit 2 open are too onerous and transfer too much risk and cost to Counterparties. However, Genesis' risk appetite and commercial position is a matter for Genesis, not the Commission, to determine. The Commission is satisfied that Genesis' commercial position would be unlikely to change if, for example, it negotiated with a wider range of counterparties. We consider it is likely that if Genesis' bottom lines are not met, Genesis will close Unit 2.
29. We consider it unlikely, based on the weight of the evidence we have received, that:
 - 29.1 any other interested parties would be interested in accepting Genesis' minimum terms (whether bilaterally or as additional counterparties to the Proposed Arrangements); and

⁵ ie, these parties have suggested that Genesis should enter a series of bilateral hedge contracts with different counterparties on differentiated terms, rather than a multilateral agreement like the Proposed Arrangements (involving a number of parties all agreeing to the same terms).

- 29.2 a sufficient number of the current Counterparties would reach bilateral arrangements with Genesis on the minimum terms required to commercially justify the recertification of Unit 2.
30. Furthermore, bilateral or multilateral negotiations with a wider number of parties would be complex and time-consuming. They would likely not be completed in sufficient time for Genesis to complete the necessary recertification work to make Unit 2's capacity available for winter 2026.
31. For these reasons, the Commission considers that in the absence of the Proposed Arrangements, Genesis is likely to shut down Unit 2 in accordance with its publicly stated plans.
32. This means that we must identify the likely benefits and detriments of the Proposed Arrangements, which secure the capacity of Unit 2 for the market for a further 10 years, and compare them to the likely benefits and detriments of a counterfactual in which Unit 2 is shut down and its capacity is removed from the market.

Why do we think the benefits of the Proposed Arrangements outweigh the detriments?

Benefits

33. We consider that the Proposed Arrangements are more likely than not to lead to a net public benefit. That is, the Proposed Arrangements are likely to result in public benefits that would outweigh the detriments.
34. That is because, compared to a counterfactual in which Unit 2 is shut down, the Proposed Arrangements are likely to give rise to the following benefits:
- 34.1 improved security of supply, particularly during 'dry' winters, because the capacity of Unit 2 will remain available to be turned on as needed during dry years;
- 34.2 lower wholesale electricity prices and/or reduced price volatility. Current evidence indicates that lower wholesale prices will produce a sizeable public benefit, in the range of \$13.5m – \$15.8m over the next five years; and
- 34.3 some Rankine Unit capacity (around 50 megawatts (**MW**), with 85MW to become available in 2027/2028) remains unallocated and Genesis has indicated that it intends to contract a proportion of that capacity to third parties. Genesis stated in the Application that, if the Proposed Arrangements proceed, it intends to design hedge products that are suitable for the needs of a wider range of interested parties.
35. The Commission takes note of Genesis' commitment to design risk management products that are suitable for the needs of interested parties (such as financial intermediaries, independent retailers, generators, and industrial customers) and expects Genesis to promptly follow through on that commitment consistent with its statements in the Application. We expect these products to be offered on fair and reasonable terms, and to take into account that Genesis has already secured the

capital and tenure it deems necessary to commit to keeping three Rankine Units in market.

36. A number of interested parties during consultation expressed concern that this benefit would not materialise in the absence of enforceable conditions. The Commission has considered whether it would be appropriate to impose a condition on Genesis requiring it to provide information regarding its progress in agreeing contracts with third parties. However, the Commission has confirmed that information of the type that it would procure in order to monitor this is already gathered by the Electricity Authority (EA). The EA is able to share that information with the Commission, and the Commission intends to liaise with the EA to obtain that information on a regular basis. Accordingly, no separate condition requiring the provision of this information directly to the Commission is necessary.
37. The Commission considers that other conditions proposed by submitters (such as conditions mandating Genesis to offer and sell hedge contracts to third parties or other forms of information disclosure), would be costly, difficult to monitor and enforce, and likely of limited additional benefit.

Detriments

38. We have also assessed whether the Proposed Arrangements would give rise to detriments compared to a counterfactual in which Unit 2 is retired. Our view on the basis of the evidence received is that any detriments are likely to be minimal:
 - 38.1 The Proposed Arrangements are unlikely to facilitate or enhance coordinated behaviour by or between the Applicants (rather than ensure competition between them) because of the generally transparent nature of the market and asymmetry in the Applicants' generation assets and load commitments.
 - 38.2 Any potential reduction in incentives on the Applicants to invest in more efficient generation than the Rankine Units as a result of the Proposed Arrangements is likely to be minor if it occurs at all. We consider that there will still be incentives to invest in other generation. This is due to the unique characteristics of the Rankine Units, which have few substitutes during dry winters but which are materially more expensive to run than renewables, and so are unlikely to displace renewable generation outside of dry winters.
 - 38.3 Any increase in the volume of carbon emissions as a result of the Proposed Arrangements would likely be minimal and would only constitute a small public detriment that is internalised by the fact that carbon credits must be bought to cover the emissions.
 - 38.4 It is unlikely that the Proposed Arrangements increase the ability or incentives of the Applicants to exercise market power in the spot market:
 - 38.4.1 If the Proposed Arrangements go ahead, the presence of Unit 2 will increase capacity in the market (compared to a scenario in which Unit 2 is disestablished).

38.4.2 If Genesis attempted to use the Rankine Units to exercise market power in the spot market (ie, to increase spot prices) it would need to pay the Counterparties if spot prices exceeded the electricity price agreed under the Proposed Arrangements (if the Counterparties elected to call their hedge options).

38.4.3 In the counterfactual, Genesis alone would control the allocation of the remaining Huntly capacity (i.e., the capacity of the remaining Rankine Units). The Proposed Arrangements allow for capacity to be shared among the Counterparties (and Counterparties can enter into secondary trades in competition with Genesis). The allocation of capacity to a greater number of parties, who compete on the on-selling of this capacity, limits rather than increases Genesis' market power in the factual.

39. Overall, the Commission's assessment is that the benefits of the Proposed Arrangements outweigh the public detriments, regardless of the frequency of dry years over the authorisation period. Therefore, we are satisfied that, in all scenarios, the Proposed Arrangements will likely result in a net public benefit.

Government Frontier Proposals

40. We do not consider that the Government Frontier Proposals materially alter our assessment of the benefits and detriments. While some of the Government Frontier Proposals (eg, investment in new firming capacity, procurement of a liquefied natural gas (**LNG**) import facility, and other proposals to incentivise or reduce barriers to investment in new generation) are intended to address security of supply:

- 40.1 the final form, timing and implementation of any of the proposals remains uncertain because the Government is still consulting on the proposals with industry participants;
- 40.2 if implemented, the proposals would primarily impact security of supply in the medium (between 5-10 years) to long term (over 10 years). Our assessment of the benefits of security of supply and lower wholesale prices has focussed on the shorter-term benefits (1-5 years), which would accrue regardless of the Government Frontier Proposals; and
- 40.3 to the extent that the proposals come to fruition during the Authorisation period, the public benefits may slightly reduce depending on the duration of the overlap (but so would the detriments). In addition, having Unit 2 in the market may help moderate future prices in addition to any Government intervention and, therefore, the Proposed Arrangements are still likely to result in a net benefit.

Duration

41. Having regard to the need for Genesis to recover the upfront investment over a commercially feasible timeframe and given our overall assessment of the likely

benefits and detriments, we consider it appropriate to authorise the Proposed Arrangements for 10 years.

Introduction

42. On 4 August 2025, the Commission received an application from the Applicants. The Applicants seek authorisation under sections 58(1), 58(2), 58(6B) and 58(6D) of the Act to enter into and give effect to what the Applicants refer to as the 'Huntly Strategic Energy Reserve Huntly Firming Option' (**HSER HFO**).
43. In particular, the Applicants seek authorisation to enter into and give effect to the Proposed Arrangements, which comprise:
 - 43.1 a bilateral International Swaps and Derivatives Association (**ISDA**) Master Agreement and ISDA Schedule between Genesis (as floating price payer) and the relevant buyer/fixed price payer (one of the Counterparties);
 - 43.2 a bilateral Swaption Confirmation between Genesis and the counterparty; and
 - 43.3 a multilateral framework agreement (the **Framework Agreement**).
44. The Applicants are seeking authorisation for the period ending 31 December 2035.
45. On 29 September 2025, the Commission issued its draft determination proposing to authorise the Proposed Arrangement for a period ending 31 December 2035 (**Draft Determination**).

Determination

46. The Commission's determination is to grant authorisation for the Proposed Arrangements under sections 58(1) and 58(2) of the Act, due to the public benefits that will result, or be likely to result, from them, for a period of 10 years.

Assessment procedure

47. In preparing this Determination, we sought submissions and obtained information from a wide range of sources. The Commission:
 - 47.1 reviewed the information and analysis in the Application;
 - 47.2 considered evidence received from the Applicants and interested parties by way of interview and in response to information requests;
 - 47.3 considered submissions made by various interested parties in response to the Commission's Statement of Preliminary Issues relating to the Application;⁶

⁶ Commerce Commission "Statement of Preliminary Issues" (6 August 2025) <www.comcom.govt.nz>. Submissions are available online [here](#).

47.4 prepared a Draft Determination which explained the Commission’s preliminary view that authorisation should be granted and called for submissions on our preliminary view;⁷ and

47.5 considered submissions on the Draft Determination.⁸

Background

48. In this section we provide relevant background to the Proposed Arrangements, including:

48.1 the main types of market participants in the wholesale electricity sector;

48.2 how thermal generation (like the Rankine Units) contributes to security of supply in New Zealand; and

48.3 the purpose of hedge contracts such as the Proposed Arrangements in the electricity industry.

Market participants

49. The two main types of market participants in the wholesale electricity sector are generators that produce and supply electricity, and purchasers that source and use electricity (either for retailing purposes or as end users). Under the current structure of the industry, many market participants are both suppliers and purchasers.

50. Currently, the Applicants generate approximately 90% of the electricity produced in New Zealand. The Applicants are also the largest retailers of electricity and are commonly referred to as the ‘big four’ vertically integrated Gentailers.

51. The remaining 10% of electricity produced in New Zealand is generated by several smaller entities. Some of these are smaller vertically integrated gentailers (eg, Nova Energy Limited (**Nova Energy**) and Bel Investments NZ Limited trading as Pulse Energy (**Pulse**),⁹ but others do not have a retail arm and are referred to as independent generators. Independent generators include Lodestone Energy Limited (**Lodestone Energy**), Ngāwhā Generation Limited and Eastland Generation Limited.

52. There are also several non-vertically integrated retailers in the market, commonly referred to as independent retailers. Independent retailers include Electric Kiwi Limited (**Electric Kiwi**), 2degrees Limited (**2degrees**), and Octopus Energy NZ Limited (**Octopus**).

53. All participants in the industry must comply with the obligations set out in the Electricity Industry Participation Code 2010 (**Code**), which is administered by the EA.

⁷ Commerce Commission “Draft Determination” (29 September 2025) <www.comcom.govt.nz>.

⁸ Submissions are available online [here](#).

⁹ These entities are technically gentailers as they have both generation and retail arms.

How thermal generation contributes to security of supply in New Zealand

54. This section sets out:
- 54.1 what the Rankine Units are;
 - 54.2 the challenges New Zealand faces in achieving security of supply at peak times, particularly in dry winters;
 - 54.3 how thermal generation contributes to security of supply; and
 - 54.4 how New Zealand's sources of generation are anticipated to change over time.

Rankine Units

55. Genesis currently operates three Rankine Units at the Huntly Power Station, each with a capacity of 240MW.¹⁰ The Rankine Units are turbine power plants that utilise boiler and steam turbine technology to generate electricity. The Rankine Units can run on either coal or natural gas. Due to the constrained gas supply in New Zealand,¹¹ the Rankine Units have been running predominantly on coal for the past two years, with Genesis directing available gas to its more efficient Unit 5 (a Combined Cycle Gas Turbine).¹²
56. In recent years, Genesis has operated up to two Rankine Units to support its own customers and holders of its prior hedge contracts.¹³ It has also operated Unit 2 in emergencies (when other plants have not been available) and, with planning, for around three months at a time in dry winters with high demand.¹⁴
57. Genesis submitted that its running of and investment in Unit 2 has reflected an end-of-life strategy. The high-pressure steam boiler and associated plant for the Rankine Units must be certified by WorkSafe every four years to remain in operation.¹⁵

¹⁰ Genesis Energy Limited (**Genesis**), Contact Energy Limited (**Contact**), Meridian Energy Limited (**Meridian**), and Mercury NZ Limited (**Mercury**) (together, the **Applicants**) "Notice Seeking Authorisation of a Restrictive Trade Practice pursuant to Section 58 of the Commerce Act 1986" (4 August 2025)(**Application**) at [3.9].

¹¹ Since 2018, New Zealand has experienced substantial natural gas shortages due to a sudden reduction in output from New Zealand's largest gas field, Pohokura. Since then, output has declined faster and sooner than previously forecast. For example, this year MBIE reported that natural gas reserves fell 27% and gas supply for 2024 decreased by 20.9% compared to 2023 levels, mainly due to the natural field declines, as well as gas field operators revising their estimates of field reserves. See MBIE "Energy in New Zealand 2025" (21 August 2025) <www.mbie.govt.nz> and MBIE "New Zealand Energy Quarterly: December 2018 quarter" (14 March 2019) <www.mbie.govt.nz>. Average wholesale prices have more than doubled since these gas shocks. See RNZ "Problems at offshore fields lead to reduced natural gas production" (2 December 2020) <www.rnz.co.nz>. MBIE "Fact Sheet: Challenges facing the electricity system" <www.mbie.govt.nz>. Zen Energy "The Gas Crunch" <www.zenenergy.co.nz>.

¹² Application at [3.10].

¹³ Application at [3.11].

¹⁴ Application at [3.11].

¹⁵ Section 20 of the Health and Safety in Employment Act 1992. WorkSafe Approved Code of Practice for the Design, Safe Operation, Maintenance and Servicing of Boilers 1996.

However, Unit 2's current certification expires in February 2026.¹⁶ Genesis estimates that the cost of recertifying Unit 2 is approximately [].¹⁷

58. Genesis submitted that it intends to retire Unit 2 in January 2026 because its operation is no longer economic.¹⁸ Genesis does not believe that the revenues Unit 2 could generate in the spot market are likely to offset the costs of recertifying and maintaining Unit 2 and a sufficiently large stockpile of coal onsite to properly utilise the capacity when demanded in the market.¹⁹

New Zealand faces challenges achieving reliable security of supply at peak times

59. In New Zealand, electricity demand varies significantly over the course of a day. Demand is generally very low during the early hours of the morning and peaks between 7 and 9am, before reducing slightly towards the middle of the day. Demand starts rising again from around 4pm. The evening demand peak is generally between 5 and 7pm and is usually higher than the morning peak. Demand then slowly tails off through the evening and into the early hours of the morning.
60. The size of demand peaks is highly seasonal and weather dependent. During summer months, demand peaks are much lower and there can be little difference between the peak demand periods and the midday 'trough' in demand. During winter months, peak demand can be very high and is prone to unexpected, short-term spikes when cold weather fronts pass over the country.²⁰
61. New Zealand faces challenges in achieving reliable electricity around the clock. This is because our electricity is produced by both renewable sources, like wind, hydro, solar and geothermal, and by non-renewable, thermal-fuelled power stations.²¹ Renewable sources of energy are constrained by the natural limits of the generation source. For example:
- 61.1 Solar generation does not typically produce electricity during the peak demand periods as it is dark, and low wind speeds brought about by cool temperatures impact the contribution of wind generation (which is approximately 10% of New Zealand's electricity generation capacity and growing).²² This leaves hydro, geothermal and thermal generation to provide the bulk of electricity during peak demand periods.
- 61.2 Geothermal generation runs at near full capacity all of the time and cannot be varied except to be shut down. Thermal and hydro generation with

¹⁶ Application at [1.5].

¹⁷ Applicants "Annexure 3: Confidential submission by Genesis on the counterfactual" (4 August 2025) (**Annexure 3**) at 1.

¹⁸ Application at [1.6].

¹⁹ Application at [1.6].

²⁰ Electricity Authority (EA) "The difference between winter peak capacity and dry year risk" (28 May 2024) <www.ea.govt.nz>.

²¹ EA "The difference between winter peak capacity and dry year risk" (28 May 2024) <www.ea.govt.nz>.

²² EA "The difference between winter peak capacity and dry year risk" (28 May 2024) <www.ea.govt.nz>.

controllable storage are the only forms of generation that can ramp up and down to meet peak demand.

- 61.3 Over 50% of the electricity generated in New Zealand is from hydro generation.²³ Many hydroelectric generation lakes have storage reservoirs which conserve water for later use.²⁴ An extended period of low rainfall in New Zealand can lead to lower-than-expected storage levels in the country's hydroelectric power dams ('dry year risk').²⁵ Lake levels can impact both the ability of generators to provide electricity over an extended period ('energy risk') and the ability for hydro generation to ramp up and down to meet short-term peak demand needs ('capacity risk').
62. Due to the high and increasing level of intermittent, non-controllable renewables in New Zealand's electricity system, it is critical to have access to controllable generation resources with fuel storage to meet demand at peak times and over extended dry sequences.

Thermal generation contributes to security of supply during 'dry' winters

63. Because of the limitations of renewable sources of energy, during winters it may be necessary to use thermal generation to meet electricity demand in peak periods, particularly in dry winters. Thermal generation, particularly gas-fuelled generators, can be flexibly dispatched to meet short-term changes in demand and its fuel source is not weather dependent. In the case of coal, large fuel stockpiles can be maintained for extended periods and used when needed. Coal can also be restocked relatively easily if enough lead time is allowed for ordering and delivery.
64. Thermal generation generally has higher operating costs than other forms of generation because of the cost of fuels (coal, gas and diesel) and associated carbon emissions. This can contribute to higher average electricity spot prices during dry years, leading to a higher overall cost of electricity for consumers that are exposed to the spot market.²⁶ In the long run, it also incentivises generators to invest in cheaper forms of renewable generation over thermal generation most of the time. However, because of the limits of renewable generation, thermal generation remains an important safeguard for security of supply during dry winters.

²³ MBIE "Fact Sheet: Challenges facing the electricity system" <www.mbie.govt.nz>. This sets out that in 2024, 53% of electricity was generated from hydropower, 20% from geothermal, 10% from wind and solar, and 16% from thermal sources.

²⁴ EA "The difference between winter peak capacity and dry year risk" (28 May 2024) <www.ea.govt.nz>.

²⁵ Dry year risk can occur during any season but is intensified in winter when electricity demand is highest. EA "The difference between winter peak capacity and dry year risk" (28 May 2024) <www.ea.govt.nz>.

²⁶ In August 2024, New Zealand experienced a significant electricity price spike, which was driven by a combination of high demand and low hydroelectricity lake levels, reduced gas supply, and low wind generation, which led to insufficient generation. As a result, several electricity users had to scale back and/or temporarily halt operations and some independent electricity retailers struggled to take on new customers because they could not offer competitive prices in the volatile wholesale market. EA "What was behind high wholesale electricity prices" (16 September 2024) <www.ea.govt.nz>.

65. Historically, dry years have been relatively infrequent, with 7 occurring over the last 30 years. However, the frequency (and variability) is expected to increase because of climate change.²⁷ Most recently, New Zealand experienced a dry winter in 2024, when electricity prices on the spot market increased significantly.
66. For the reasons set out above, New Zealand faces challenges in managing dry year risk as its transitions towards a more highly renewable power system. Alternative solutions to the dry year risk are being explored and include options like pumped hydro schemes, peakers, baseload thermal running on renewable fuels (like hydrogen or wood pellets) or over-building renewable generation such as wind and solar.²⁸ Some of these are discussed in more detail below.

Expected changes to how electricity will be generated

67. The electricity industry is experiencing significant changes, primarily driven by the transition to intermittent renewable energy sources such as solar and wind and the retirement of carbon-producing assets such as thermal generation.²⁹ Part of this transition involves new generation assets being built, and there is currently a large pipeline of new generation projects from both existing generators and new entrants.³⁰
68. While the shift in generation types will contribute to a more sustainable energy mix, the variability of the volumes of electricity that will be generated will necessitate a change in how the industry operates.
- 68.1 The transition to renewables is likely to increase volatility in the wholesale spot price for electricity as the intermittent nature of this type of generation will likely lead to greater variability in supply. This is because intermittent sources of energy are reliant on suitable weather conditions (ie, solar generation requires the sun to be shining, and wind generation requires it to be windy).
- 68.2 While supply is becoming more variable, demand for electricity is forecast to increase due to increased demand from commercial and industrial sectors, the rise in electric vehicles, the switch from fossil fuel usage to electricity, and a rise in residential electricity demand for heating.³¹

²⁷ Application at [3.6]. Jen Purdie “Climate change impacts on New Zealand hydro catchment inflows & wind speeds” (February 2022) Ministry of Business, Innovation and Employment (**MBIE**) <www.mbie.govt.nz>.

²⁸ EA “The difference between winter peak capacity and dry year risk” (28 May 2024) <www.ea.govt.nz>.

²⁹ EA “Reviewing risk management options for electricity retailers – issues paper” (7 November 2024) <www.ea.govt.nz> at 3.

³⁰ [

] [

] EA “Generation investment pipeline” (16 September 2025) <www.ea.govt.nz>.

³¹ The results of MBIE’s Electricity Demand and Generation Scenarios show that electricity demand is expected to rise in all forecast possible future demand scenarios. See MBIE “Electricity Demand and Generation Scenarios: Results summary” (July 2024) <www.mbie.govt.nz> at 1.

69. Given these challenges achieving reliable security of supply at peak times and the intermittent nature of renewables, reliance on some form of thermal firming capacity remains important. There is currently no 'long-duration' firming (compared to short-term firming options like batteries) in the generation pipeline.³²
70. Further, with the industry in transition, there is the potential for new products and new technologies to be introduced.³³ For example, battery capacity is being introduced in New Zealand, which may enable electricity from existing generation assets to be stored during off-peak periods and then deployed during super-peak periods. If introduced at scale, battery technology may improve security of supply.

Other potential sector changes – Government Frontier Proposals

71. On 1 October 2025, the Government announced two workstreams of proposals in response to a review that it commissioned from Frontier Economics.³⁴
72. The stated purpose of the proposals outlined in Workstream 1 is to address energy security in dry years. The Government proposes to:³⁵
 - 72.1 launch a formal procurement process for an LNG import facility (**Action 1.1**);
 - 72.2 communicate to the Crown's Mixed Ownership Model companies (Genesis, Mercury and Meridian) that the Crown is prepared to support capital funding requests for strategic and commercially rational investments that support energy security (**Action 1.2**);
 - 72.3 enter into long-term supply agreements for government energy use to guarantee revenue streams and de-risk investment in new technologies and fuel supplies, thereby encouraging investment in new energy supply (**Action 1.3**); and
 - 72.4 reduce barriers to new generation via changes to the Resource Management Act and the Fast Track approvals process, and via new offshore wind legislation (**Action 1.4**).
73. The stated purpose of the proposals outlined in Workstream 2 is to build stronger electricity markets. The Government proposes to:³⁶

³² MBIE "Fact Sheet: Challenges facing the electricity system" <www.mbie.govt.nz>.

³³ For example, see EA "Reviewing risk management options for electricity retailers – issues paper" (7 November 2024) <www.ea.govt.nz> at 2.

³⁴ Nicola Willis and Simon Watts "Securing New Zealand's energy future" (1 October 2025) <www.beehive.govt.nz>.

³⁵ MBIE "At a glance: New Zealand's Energy Package" (October 2025) Beehive <www.beehive.govt.nz> at 5.

³⁶ MBIE "At a glance: New Zealand's Energy Package" (October 2025) Beehive <www.beehive.govt.nz> at 5.

- 73.1 develop options to reduce sovereign policy risk for investors in key energy projects (eg, via indemnities, co-investment and public-private partnerships) **(Action 2.1)**;
 - 73.2 provide the EA with new powers and penalties (eg, higher minimum penalties for Code breaches, criminalisation of certain business conduct, stronger information gathering powers, the ability to make faster rule changes, and more ability to monitor and report on competition and security of supply) **(Action 2.2)**;
 - 73.3 require the EA to improve market transparency by making better use of the data it collects on hedging (eg, by requiring the EA to improve disclosure of thermal fuel information, increase hedge market transparency and liquidity, and enhance stress-testing on market participants) **(Action 2.3)**;
 - 73.4 improve gas market transparency (eg, by reducing timeframes for Ministry of Business, Innovation & Employment (**MBIE**) to receive and publish data, requiring Gas Industry Company to produce studies with forward-looking insights, and consulting with industry about other information requirements) **(Action 2.4)**;
 - 73.5 design a regulatory framework to reduce dry year uncertainty and enable independent developers to secure firm contract cover for renewable builds, thereby providing investment signals for flexible and long-duration capacity **(Action 2.5)**; and
 - 73.6 require electricity distribution businesses to be more efficient (eg, through greater standardisation, collaboration, and smarter investment planning) **(Action 2.6)**.
74. We have referred to the Government Frontier Proposals where relevant throughout this Determination.

The wholesale electricity price and the role of hedge contracts

- 75. The Proposed Arrangements are a form of hedge contract which the Applicants have entered to incentivise Genesis to invest in the ongoing operation of Unit 2.
- 76. This section explains how hedge contracts are used to manage spot price volatility in the electricity industry, by describing:
 - 76.1 how the wholesale price of electricity is determined;
 - 76.2 how hedge contracts such as the Proposed Arrangements support the industry to manage volatility in the wholesale price; and
 - 76.3 how Genesis has previously (ie, prior to the Proposed Arrangements) offered hedge contracts backed by Huntly capacity.

How the wholesale price of electricity is determined

77. Purchasers of wholesale electricity (retailers and large commercial and industrial electricity end users) pay the 'spot price' for the physical electricity they purchase.
 - 77.1 The spot price of electricity differs depending on the combination of supply, demand, and the distance from the source of the electricity generated.³⁷
 - 77.2 The spot price for each half hour trading period is set by the price offered by the last (most expensive) power station whose power is required to fulfil the demand. All generators whose power is required to fulfil wholesale demand in the particular trading period are then paid that spot price for the electricity they generate.
 - 77.3 The spot price can be volatile depending on market conditions. The EA notes that volatility in the spot price occurs because supply and demand vary depending on factors like cold weather (which increases demand) and the amount of wholesale electricity available (which can vary based on how dry the lakes are at a generator's hydropower station or the amount of wind at a generator's windfarm).³⁸
78. All generators sell electricity to, and purchasers buy energy from, a central agency known as the 'clearing manager' (**Clearing Manager**) at the relevant spot price. Because all direct generation and purchase transactions must happen via the Clearing Manager, bilateral sale agreements between generators and purchasers take the form of hedge contracts.

How hedge contracts such as the Proposed Arrangements support the industry to manage volatility in the wholesale price

79. Exposure to spot price volatility creates risk for both purchasers and suppliers of electricity. For a spot market purchaser, such as an electricity retailer, high price periods can lead to times where the cost of purchasing electricity on the spot market is higher than the price the retailer can sell it to consumers for. Conversely, generators want to avoid exposure to periods of low spot prices that may be below their average total cost of production.
80. Industry participants can manage these risks in several ways, including by entering hedge contracts. Hedge contracts are a type of financial instrument that involve the purchase of insurance against spot price volatility rather than the purchase of physical electricity. In a typical hedge contract arrangement, the purchaser will agree to pay a fixed price for a notional quantity of electricity, while the seller, usually a generator, will pay the purchaser the spot price they received from the Clearing

³⁷ Generators submit 'offers' to supply electricity in half hour increments, and large industrial customers submit 'bids' for electricity to be supplied. The remaining demand is forecast by Transpower as the System Operator for each half hour period and is considered inflexible unless flexibility bids are submitted. The price is calculated in half hour increments based on this information for ~220 pricing locations ('nodes') across the country. See EA "Spot market" <www.ea.govt.nz>.

³⁸ For example, see EA "Past and future spot market volatility" (8 April 2024) <www.ea.govt.nz>.

Manager for the agreed quantity. As the purchaser has already paid the Clearing Manager for the quantity of electricity and the generator has been paid by the Clearing Manager, the hedge contract settles the difference between the spot price and the agreed hedge price for the electricity. For this reason, the contracts are typically called 'contracts for difference' (**CFDs**). The effect of this type of arrangement is that the purchaser of a hedge receives insurance against high spot prices, and the seller receives insurance against low spot prices.

81. Hedge contracts can have a wide variety of structures and terms. Hedge contract terms can vary by the volume of electricity covered by the hedge, the trading periods and/or time of day that the hedge relates to, and/or the channel through which the hedge is supplied. We briefly discuss some relevant types of hedges below.
82. The electricity volumes covered by a hedge can be variable or fixed.
 - 82.1 Variable volume hedges are those where the volume of electricity covered varies (the price of the electricity can be fixed or variable). For example, a generator might sell a variable volume contract (also known as a power purchase agreement (**PPA**)) linked to all or some proportion of the output from an individual plant.
 - 82.2 Fixed volume hedges are those where the volume of electricity covered by the hedge contract is fixed for the period of the contract (the price of the electricity can be fixed or variable).
83. The electricity trading periods covered by a hedge can also vary. This is most relevant for fixed volume hedges, which can be 'shaped' to a particular period of a day or a week (**Shaped Hedges**).
 - 83.1 Shaped Hedges are generally those that cover specific time periods such as the morning and the evening when electricity demand tends to be at its highest (intra-day).³⁹ In addition to intra-day periods, Shaped Hedges can also cover intra-week periods as well as inter-seasonal periods. As such, any product which covers a volume of MW that changes across specified time periods can be classified as a Shaped Hedge.⁴⁰ Shaped Hedges are typically provided by generators with flexible types of generation (such as hydro and thermal) as the amount of generation these assets produce can be increased or decreased by the generator.
 - 83.2 Alternatively, there are hedges that cover all periods during the duration of the hedge, commonly referred to as baseload hedges (**Baseload Hedges**). Baseload Hedges are typically provided by generators with a portfolio of

³⁹ For example, 'peak' Shaped Hedges generally cover volumes for trading periods between 7am and 9pm, and 'super-peak' Shaped Hedges generally cover trading periods between 7am and 10.30am and between 5pm and 9pm.

⁴⁰ For example, a Shaped Hedge could cover X volumes per day during the weekend but X+Y volumes per day during the working week.

assets that together can provide the required energy at a relatively consistent level.

84. Various independent generators and retailers advised the Commission that they require access to Shaped Hedges to better manage risks around spot price volatility during periods of high demand. These products allow them to be more competitive on price and to therefore compete more successfully for customers.⁴¹
85. The channel through which a hedge is supplied (or traded) can vary and this can also impact what is covered by a particular hedge contract. There are three main channels for the trading of hedges:⁴²
 - 85.1 Australian Securities Exchange hedges (**ASX Hedges**) – the ASX hosts a range of New Zealand-electricity based hedge contracts, including baseload, peak, and option contracts.
 - 85.2 Standardised flexibility products – These products are traded anonymously over the Aotearoa Energy trading platform during fortnightly trading windows. They offer hedge cover for morning and evening demand peaks and can be bought as calendar month or quarterly hedges.
 - 85.3 Over-the-counter hedges (**OTC Hedges**) – OTC Hedges are traded via bilateral negotiations between buyers and sellers and so, unlike ASX Hedges, can be negotiated to suit each party's particular requirements.
86. The Proposed Arrangements are an OTC Hedge that provides the Counterparties with the option to enter into CFDs with Genesis over the 10-year term. Counterparties can choose the volume that is fixed for each CFD they enter into, as well as its profile (eg, baseload or shaped), subject to the terms and conditions of the contract. The characteristics of the Proposed Arrangements are described in more detail below.

How Genesis has previously offered hedge contracts backed by Huntly capacity.

87. Genesis' approach to designing and offering risk management products such as hedge contracts has evolved over time. As well as trading hedge products via the

⁴¹ []
[] [] IEGA cross-submission on Draft

Determination (17 October 2025) at 2.

⁴² In addition, the EA recently introduced a standardised super-peak Shaped Hedge contract, enabling customers to manage spot price risk during periods when demand is likely highest (mornings and evenings) and intermittent generation (eg, solar farms) may be low. Interested parties can voluntarily trade this product through an appointed broker. Customers can also purchase financial transmission rights. Electricity can be transmitted between different parts of the country (through different nodes) but the longer the distance of transmission, the larger the electricity losses incurred. As a result, there are differences in spot prices across different nodes. Financial transmission rights protect against these geographic differences in spot prices.

ASX, Genesis has previously entered into several forms of bilateral arrangements to provide Rankine Unit capacity as a hedge product:

87.1 Historically, Genesis offered swaption arrangements.⁴³ These were bilateral contracts which supported the cost of maintaining the Rankine Units by having the relevant counterparty pay a premium to Genesis in exchange for a fixed price call option. The swaptions typically involved a significant portion of capacity allocated to one or two counterparties.⁴⁴ The last of these expired at the end of 2021.⁴⁵

87.2 Genesis offered Market Security Options (**MSOs**) into the market in 2022 and then Huntly Firming Options (**HFOs**) in 2024.⁴⁶

87.2.1 The MSOs offered a relatively inflexible option to access Huntly generation capacity, again with a premium to cover associated capital and operating expenditure.⁴⁷ Subject to the counterparty pre-purchasing sufficient coal to meet their call, Huntly capacity could be called with 24 hours' notice but had to be used continuously for at least 5 days. The terms required a run of 24 hours per day over the full call period with some ability to shape the call between peak and off-peak periods. The fixed price for a call was tied to the daily international coal Newcastle settlement price. This introduced some uncertainty for counterparties concerning the actual cost of the option, particularly at a time of significant international coal price increases due to the Russian invasion of Ukraine.

87.2.2 The HFOs differed from the MSOs because they could also be used to help mitigate against peak supply risks and shorter duration constraints. The HFOs provided counterparties with greater call profile flexibility to help hedge price risk, tailored to the specific shape of their portfolios.⁴⁸

88. Genesis is no longer offering its MSO and HFO products, and has stated these products have not provided sufficient certainty (in terms of revenue and tenure) to justify the necessary investment to maintain three operational Rankine Units.⁴⁹ The Proposed Arrangements are different to previously offered MSOs and HFOs including, for example, their tenure (the Proposed Arrangements last 10 years), premium payable (which is higher under the Proposed Arrangements), and the requirement for Counterparties to contribute to a coal stockpile (which was not a requirement of MSOs or HFOs).

⁴³ Application at [9.8].

⁴⁴ See for example Gavin Evans "Meridian buys power from rival Genesis" (13 February 2019) Newsroom <www.newsroom.co.nz>.

⁴⁵ Application at [4.10].

⁴⁶ Application at [9.8].

⁴⁷ Genesis "Market Security Options" (August 2022) <www.media.genesisenergy.co.nz>.

⁴⁸ Genesis "Huntly Firming Options" (May 2024) <www.media.genesisenergy.co.nz> at 2.

⁴⁹ Application at [4.10].

89. However, as explained in more detail below, Genesis has submitted that there is approximately 50MW of Rankine Unit capacity that Genesis does not use to supply its own retail or hedge customers and is not allocated to the Proposed Arrangements. Genesis has indicated that it intends to offer further hedge products backed by a proportion of this unallocated capacity in the future.⁵⁰ The capacity available for third party contracts may increase as the 2024 HFO agreements (approximately 85MW) roll off and Genesis' renewable generation investments come to market. Genesis told us that it is currently considering the form that these products will take and has started discussions with a number of third parties.

The Proposed Arrangements

90. In summary, the Proposed Arrangements provide each of the Counterparties an option to access certain notional generation capacity from Genesis' Rankine Units at the Huntly Power Station at a fixed (or 'strike') price.⁵¹ As part of the Proposed Arrangements, the Counterparties have agreed to contribute to the capital and operating costs of Unit 2.
91. The Applicants summarise the Proposed Arrangements in the Application and in additional information provided to the Commission as follows:
- 91.1 each Counterparty has an option to call a certain volume of hedge cover at a price equal to the cost of the 'relevant coal' (being the average price of coal in a Counterparty's notional coal ledger) multiplied by an efficiency modifier (which varies for each permitted 'option profile');⁵²
- 91.2 in exchange for the option to access hedge cover, the Counterparties pay an annual premium to Genesis. The 10 year per annum premium under the Proposed Arrangement is greater than the premiums paid by purchasers of Genesis' prior MSO/HFO products;⁵³
- 91.3 each Counterparty's right to access hedge cover comprises core capacity (**Core Capacity**) and additional baseload capacity (**Additional Baseload Capacity**). Each Counterparty will have an option to call on up to 50MW of

⁵⁰ Application at [9.5]. Interview with Genesis (21 August 2025) at 4, lines 31-33. Genesis response to RFI dated 20 August 2025 (9 September 2025) at 4 and Annex 1. Genesis response to RFI dated 1 September 2025 (6 September 2025) at 7.

⁵¹ Application at [1.8]-[1.9].

⁵² We understand that an option profile refers to the 'shape' of the underlying hedge cover (see discussion above for an explanation of Shaped Hedges). Previous option contracts Genesis offered to market included four option profiles: long-duration baseload (≥ 5 days duration); short-duration baseload (≤ 4 days duration); peak (any 15-hour block during a day); and superpeak (any two non-contiguous 3.5-hour blocks during a day). See Genesis "Huntly Firming Options" (May 2024) <www.media.genesisenergy.co.nz>. Efficiency modifiers are a mechanism to reflect the different cost and efficiency of generating a particular MW of electricity using a Rankine Unit for the profile and duration of the related option. See Application at [5.4(e)]. An explanation of these previous option contracts is set out at paragraph 87.

⁵³ Application at [5.4(b)]. Applicants "Authorisation Application – Additional Information" (9 September 2025) ([here](#)) (**Application – Additional Information**) at [1].

Core Capacity, as well as an additional 25MW of Additional Baseload Capacity available in certain circumstances (**Option Capacity**);⁵⁴

- 91.4 the Framework Arrangement establishes a coal ordering process, under which the Counterparties agree to pay a price for notional coal and Genesis has an obligation to use reasonable endeavours to acquire physical coal for a “Strategic Reserve Stockpile” (**Strategic Reserve Stockpile**);⁵⁵
- 91.5 the Strategic Reserve Stockpile will be initially set at 600 kilotons (**kt**) and needs to be maintained at the target level ahead of each winter. Each Counterparty will initially be required to pay for a quarter (150 kt) of the Strategic Reserve Stockpile at the prevailing market price for coal;⁵⁶
- 91.6 to exercise an option, a Counterparty must ensure it has prepaid Genesis for sufficient notional coal on its “ledger” and the coal must have been delivered to Huntly for Genesis to generate the MW it is calling for;⁵⁷
- 91.7 each Counterparty must secure and deliver to Genesis sufficient carbon units to cover the notional emissions associated with the MW it has called pursuant to the Proposed Arrangements in the prior year;⁵⁸
- 91.8 Genesis will maintain full control of all plant operating decisions, including whether a Rankine Unit is turned on in response to calls and the price at which all Rankine Unit capacity is offered to the market;⁵⁹
- 91.9 mechanically, the Proposed Arrangements will be settled by way of a financial hedge;⁶⁰
- 91.10 the Proposed Arrangements are for a term of 10 years, ending on 31 December 2035. A Counterparty may elect to exit the Proposed Arrangements after 5 years, on payment of an early exit fee equal to 80% of the aggregate annual premium due for the remaining five years. Counterparties can also exit by on-selling their option to third parties with Genesis’ prior consent;⁶¹
- 91.11 Genesis retains discretion as to what it does with the capacity from the Rankine Units;⁶² and

⁵⁴ Application at [5.4(d)].

⁵⁵ Application at [5.4(f)].

⁵⁶ Application – Additional Information at [2].

⁵⁷ Application at [5.4(g)]. This differs to Genesis’ 2022 MSOs and 2024 HFOs currently in the market where the counterparty is not required to prepay for notional coal orders before the option is called. For further information about the price payable for the option, see Application – Additional Information.

⁵⁸ Application at [5.4(g)].

⁵⁹ Application at [5.4(h)].

⁶⁰ Application at [5.4(i)].

⁶¹ Application at [5.4(m)]. Application – Additional Information at [3].

⁶² Application at [5.4(k)].

- 91.12 the Proposed Arrangements include a detailed suspension event regime, which permits Genesis to suspend a called swap in specified circumstances.⁶³
92. The Proposed Arrangements differ from Genesis' prior HFOs and MSOs because:
- 92.1 the terms and conditions of the Proposed Arrangements and the fixed price paid for the hedge contracts have been jointly agreed between the Applicants, whereas previously Genesis offered firming capacity to market participants to bid for (in competition with each other) on a bilateral basis;⁶⁴ and
- 92.2 as noted above, the terms and conditions of the Proposed Arrangements are different to prior arrangements including, for example, their tenure (10 years), the premium payable, and the requirement to contribute to a coal stockpile.
93. The Applicants are seeking authorisation until 31 December 2035.⁶⁵

Unallocated Rankine Unit capacity

94. The Applicants submitted that, after the Proposed Arrangements are considered, some Rankine Unit capacity will remain available for contracting to third parties.
95. In summary, there is approximately 50MW of Rankine Unit capacity that is unallocated (ie, that Genesis does not use to supply its own retail or hedge customers, and is not allocated to the Proposed Arrangements). Further, pre-existing hedge contracts for Huntly capacity will roll off at the end of 2026/2027. This will provide for a further 85MW of capacity to be available to the market from January 2027 (or January 2028 if parties elect to exercise their rights to extend the contract by one year).⁶⁶ However, Genesis noted that:⁶⁷
- 95.1 More or less capacity may be available at any given time (for example, more when all three units are running, and less if there are outages), which may be reflected in the amount of capacity that Genesis is prepared to sell.
- 95.2 [
-]

⁶³ Application – Additional Information at [6].

⁶⁴ Application at [4.10] and [5.4].

⁶⁵ Application at [5.6].

⁶⁶ Genesis, "Huntly Firming Options" (May 2024) <www.media.genesisenergy.co.nz>. Interview with Genesis Energy Limited (**Genesis**) (21 August 2025) at 4, lines 31-33. Genesis response to RFI dated 20 August 2025 (9 September 2025) at 4 and Annex 1. Genesis response to RFI dated 1 September 2025 (6 September 2025) at 7.

⁶⁷ Genesis submission on Draft Determination (10 October 2025) [Sensitive] at [4.2]-[4.4]. Genesis response to RFI dated 15 October 2025 (20 October 2025) at [2(b)] .

95.3 [

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96. We understand this to mean at a high level that Genesis is likely to sell a proportion of capacity as long-term contracts, while leaving some capacity unallocated to cover a situation where one of the units is on outage (ie, it would sell less than 135MW in the form of long-term contracts). If wholesale prices are higher than the cost of generation and all units were operational, Genesis might sell additional capacity as short-term contracts (up to and potentially more than 135MW).]

Summary of submissions

97. The Commission received a range of submissions from organisations and businesses on the Application, the Statement of Preliminary Issues, and the Draft Determination.⁶⁸ The Commission considered all submissions it received.
98. The parties that made submissions were:
- 98.1 *Public bodies and associations:* Transpower New Zealand Limited (**Transpower**), Independent Electricity Generators Association (**IEGA**), Major Electricity Users Group (**MEUG**), and Energy Resources Aotearoa;
 - 98.2 *Electricity distribution companies:* WEL Networks Limited (**WEL Networks**);
 - 98.3 *Independent gentailers:* Lodestone Energy;
 - 98.4 *Independent energy trading groups:* Mercuria New Zealand Limited (**Mercuria**), emhTrade Markets Limited (**emhTrade**), and Haast Energy Trading Limited (**Haast Energy**);
 - 98.5 *Independent retailers:* 2degrees, Pulse, Electric Kiwi Limited, and Neoen New Zealand Limited (**Neoen**);
 - 98.6 *Commercial and industrial customers:* Fletcher Building Limited (**Fletcher Building**);
 - 98.7 *Māori organisations:* Waikato-Tainui; and
 - 98.8 *Individuals:* Ross Boswell.
99. We provide a brief summary of submissions, noting that views expressed by submitters are discussed in more detail throughout our analysis in this Determination.
100. Submissions that were supportive agreed that the additional capacity made available through the Proposed Arrangements would improve the security of supply in New

⁶⁸

Submissions are available on the Commission's website ([here](#)).

Zealand,⁶⁹ reduce wholesale price volatility,⁷⁰ and/or reduce wholesale prices.⁷¹ Some parties raised that the unallocated Rankine Unit capacity⁷² would ensure additional firming products could be made available to third parties, which would promote broader market access and competition.⁷³

101. However, some submissions expressed concern that the Proposed Arrangements would reduce the incentives on the Applicants to build new thermal generation or renewable generation,⁷⁴ and to offer firming options/hedges to the market. They suggested that the Proposed Arrangements could have the effect of higher consumer prices.⁷⁵
102. In addition, some parties were concerned that the Proposed Arrangements would entrench the market power of the Applicants by excluding other interested parties from the Proposed Arrangements and creating information asymmetries,⁷⁶ increasing the Applicants' incentives in the long-term to exercise market power,⁷⁷ and increasing the risk of coordinated behaviour between the Applicants.⁷⁸
103. In response to our Draft Determination, interested parties also raised the following points:⁷⁹
 - 103.1 Some interested parties expressed the view that the Government Frontier Proposals might alter our assessment of the likely counterfactual and/or assessment of the benefits and detriments.⁸⁰ On the other hand, one

⁶⁹ WEL Networks Limited (**WEL Networks**) submission on Statement of Preliminary Issues (**SOPI**) (21 August 2025) at 1. Transpower New Zealand Limited (**Transpower**) submission on SOPI (26 August 2025) at [3]. Lodestone submission on SOPI (27 August 2025) at 1 and 3. Independent Electricity Generators Association (**IEGA**) submission on SOPI (27 August 2025) at 2. Fletcher Building Limited (**Fletcher Building**) submission on SOPI (26 August 2025) at 1. Energy Resources Aotearoa submission on SOPI (27 August 2025) at [3], [5]-[8] and [23]-[24]. Major Electricity Users Group (**MEUG**) submission on SOPI (4 September 2025) at [4] and [8].

⁷⁰ WEL Networks submission on SOPI (21 August 2025) at 1. Fletcher Building submission on SOPI (26 August 2025) at 1.

⁷¹ Energy Resources Aotearoa submission on SOPI (27 August 2025) at [9], [19] and [23].

⁷² See paragraph 94 above.

⁷³ Submission from WEL Networks submission on SOPI (21 August 2025) at 1. Submission from Lodestone submission on SOPI (27 August 2025) at 1.

⁷⁴ Electric Kiwi and 2degrees raised potential evidence of under-investment, negative portfolio effects, and reduced incentive to build new thermal generation. Electric Kiwi submission on SOPI (27 August 2025) at [24]. 2degrees Limited (**2degrees**) submission on SOPI (27 August 2025) at 3.

⁷⁵ Pulse Energy submission on SOPI (26 August 2025) at 1. emhTrade Markets Limited (**emhTrade**) submission on SOPI (1 September 2025) [Public] at 6. Haast Energy Trading (**Haast Energy**) submission on SOPI (13 August 2025) at [2]-[3].

⁷⁶ Pulse Energy submission on SOPI (26 August 2025) at 2. Electric Kiwi submission on SOPI (27 August 2025) at [3] and [8]. Haast Energy submission on SOPI (13 August 2025) at 1.

⁷⁷ Electric Kiwi submission on SOPI (27 August 2025) at [36]-[39].

⁷⁸ Haast Energy submission on SOPI (13 August 2025) at 2-3. emhTrade submission on SOPI (1 September 2025) [Public] at 7.

⁷⁹ Submissions are available on the Commission's website ([here](#)).

⁸⁰ Lodestone submission on Draft Determination (10 October 2025) at 2. MEUG submission on Draft Determination (10 October 2025) at 2. emhTrade submission on Draft Determination (10 October 2025) at 2-4.

interested party noted that the scope of and timeframes for the proposals are currently uncertain.⁸¹

103.2 Some submissions queried the Commission’s assessment of the benefits and detriments of the Proposed Arrangements. emhTrade submitted that a quantitative analysis can and should be undertaken, that the public benefits of security of supply and lower wholesale prices identified in the Draft Determination are double-counted and overstated, and expressed the view that the value of the benefits identified by the Commission were insignificant.⁸²

103.3 Several submitters reiterated the view that the Proposed Arrangements may entrench the market power of the Applicants.⁸³ Some submitters also queried whether Genesis would be willing to sell any remaining capacity, especially during periods of scheduled outages.⁸⁴ A number of parties expressed the view that the Commission should authorise the Proposed Arrangements subject to conditions. Proposed conditions included:

103.3.1 Obligations on the Applicants to offer hedge products to third parties on bespoke, non-discriminatory and/or fair and reasonable terms.⁸⁵ In addition, Waikato-Tainui sought prioritised access pathways for iwi, independent generators, and community-based entities;⁸⁶

103.3.2 Mandatory “market making” obligations, including for peak energy hedges;⁸⁷

103.3.3 Conditions mandating information disclosure by the Applicants, such as the contractual terms of the Proposed Arrangements; when and how the hedge options are exercised; availability, pricing and uptake of third-party hedge products; and the carbon emissions arising from

⁸¹ MEUG submission on Draft Determination (10 October 2025) at 2.

⁸² emhTrade submission on Draft Determination (10 October 2025) at 1.

⁸³ Electric Kiwi submission on Draft Determination (10 October 2025) at 1. Mercuria submission on Draft Determination (13 October 2025) at 1. Waikato-Tainui submission on Draft Determination (14 October 2025) at [21]. Ross Boswell submission on Draft Determination (30 September 2025) at 1. MEUG submission on Draft Determination (10 October 2025) at 2.

⁸⁴ emhTrade submission on Draft Determination (10 October 2025) at 2. Mercuria submission on Draft Determination (13 October 2025) at 2.

⁸⁵ Electric Kiwi submission on Draft Determination (10 October 2025) at 1-2. MEUG submission on Draft Determination (10 October 2025) at 2. emhTrade submission on Draft Determination (10 October 2025) at 2. Mercuria submission on Draft Determination (13 October 2025) at 2. IEGA cross-submission on Draft Determination (17 October 2025) at 1-2.

⁸⁶ Waikato-Tainui submission on Draft Determination (14 October 2025) at [24].

⁸⁷ Lodestone submission on Draft Determination (10 October 2025) at 1-2. This would expand “market making” obligations that already exist on the Applicants to both offer and bid for a certain quantity of hedge products each day on the ASX. The market making obligations stipulate the quantities that must be bid and offered into the market, the allowable price difference between the offers and bids and the time of day these products must be made available. The purpose of these obligations is to enable third parties to access risk management products and ensures that hedge prices remain reflective of expected market conditions.

Unit 2 operations and progress towards reduced coal reliance, as well as the health and wellbeing of the Waikato River;⁸⁸

103.3.4 Alignment and engagement with affected iwi and hapuu to ensure decisions reflect mana whakahaere, kaitikitanga and iwi-led solutions;

103.3.5 A requirement that efficiency gains and public benefits achieved under the Authorisation be partially reinvested into renewable or iwi-partnership initiatives within the Waikato catchment; and

103.3.6 Monitoring and public reporting on the Applicants' compliance with any conditions.⁸⁹

104. We have taken account of these views and addressed them throughout the Final Determination.

Our framework

Statutory framework

105. Under section 58 of the Act, the Commission can grant authorisation for restrictive trade practices. This includes authorising conduct that may breach section 27 (contracts, arrangements or understandings substantially lessening competition prohibited) and/or section 30 (contracts, arrangements, understandings or covenants containing cartel provisions prohibited) of the Act.

106. A two-stage assessment is undertaken in any authorisation application under section 58 of the Act.

107. First, confirming the jurisdictional threshold:

107.1 for applications pursuant to subsections 58(1) and (2) (the **Competition Authorisation Sections**), whether section 27 might apply to the agreement; or

107.2 for applications pursuant to subsections 58(6B) and (6D) (the **Cartel Authorisation Sections**), whether the agreement might contain a cartel provision.⁹⁰

108. Second, establishing whether the Commission is able to grant authorisation on the basis of the public benefit test, under:

⁸⁸ Electric Kiwi submission on Draft Determination (10 October 2025) at 1. Mercuria submission on Draft Determination (13 October 2025) at 2. IEGA cross-submission on Draft Determination (17 October 2025) at 2. Ross Boswell submission on Draft Determination (30 September 2025) at 1. Waikato-Tainui submission on Draft Determination (14 October 2025) at [25].

⁸⁹ Electric Kiwi submission on Draft Determination (10 October 2025) at 1-2. Mercuria submission on Draft Determination (13 October 2025) at 2.

⁹⁰ Section 61(9) of the Act.

108.1 section 61(6) of the Act for the Competition Authorisation Sections; or

108.2 section 61(8) of the Act for the Cartel Authorisation Sections.

109. We take into account any conditions we may impose at this point.

Jurisdictional threshold

110. The Applicants have applied for authorisation under the:⁹¹

110.1 Competition Authorisation Sections, which set out that a person who wishes to:

110.1.1 enter into a contract, arrangement or understanding (section 58(1));
or

110.1.2 give effect to a provision in a contract, arrangement or understanding (section 58(2)),

to which section 27 would or might apply, may apply to the Commission for an authorisation to do so, and the Commission may grant an authorisation; and

110.2 Cartel Authorisation Sections, which set out that a person who wishes to:

110.2.1 enter into a contract, arrangement or understanding or covenant that contains a provision that is, or might be, a cartel provision (section 58(6B)); or

110.2.2 give effect to a provision of a contract, arrangement, understanding or covenant that is, or might be, a cartel provision (section 58(6D)),

may apply to the Commission for authorisation to do so, and the Commission may grant authorisation.

111. Under the Competition Authorisation Sections, the Commission has jurisdiction to consider an application for authorisation where the proposed contract, arrangement or understanding is likely to lessen competition. This arises from section 61(6) of the Act, which contains the substantive public benefit test but also gives rise to a jurisdictional issue – requiring the Commission be “satisfied” that the conduct defined in the application, in all the circumstances, would result or be likely to result in a lessening of competition.⁹² Section 61(6A) of the Act specifies that a “lessening of competition” includes a lessening of competition that is not substantial (which is a lower threshold than applies under section 27 of the Act).

112. Under the Cartel Authorisation Sections, the Commission’s jurisdiction arises from section 61(8) of the Act. Section 61(9) of the Act further clarifies that under section 61(8), for the purpose of the Cartel Authorisation Sections, it is not necessary for the

⁹¹ Application at [6.1].

⁹² *Re Weddel Crown Corporation Ltd* (Commerce Commission Decision 205, 22 July 1987) at [18] and [20].

Commission to determine whether a particular provision is in fact a cartel provision, as long as there are reasonable grounds for believing that it might be.⁹³

Public benefit test

113. Although the jurisdictional thresholds are expressed differently in the Competition Authorisation Sections and Cartel Authorisation Sections,⁹⁴ the public benefit test is materially the same.⁹⁵
114. The Commission can authorise an arrangement if it is satisfied that a proposed arrangement will, in all the circumstances:
 - 114.1 in relation to the Competition Authorisation Sections, be likely to result in a benefit to the public which would outweigh the lessening of competition;⁹⁶ or
 - 114.2 in relation to the Cartel Authorisation Sections, be likely to result in such a benefit to the public that the matter should be permitted.⁹⁷
115. Courts have taken a consistent approach to the assessment of public benefits in authorisation decisions. That is, Courts have applied a fact-based assessment of the benefits and detriments, adopting a quantitative approach where possible.⁹⁸ Courts have also permitted the use of a qualitative assessment of all the benefits and detriments from a proposed arrangement, including those that cannot be quantified in monetary terms.⁹⁹
116. In each case, the Commission needs to investigate and assess the nature, likelihood, and magnitude of any benefits and detriments that might arise from the proposed arrangements.
117. The benefits and detriments which are balanced in the public benefit test must arise from the proposed arrangements for which authorisation is sought.¹⁰⁰ To determine whether the benefits and detriments are specific to the proposed arrangements, we assess:
 - 117.1 what is likely to occur in the future with the arrangement (the factual); and
 - 117.2 what is likely to occur in the future without the arrangement (the counterfactual).

⁹³ Section 61(9) of the Act.

⁹⁴ Sections 58(1)-(2), 58(6B) and (6D) of the Act.

⁹⁵ Commerce Commission “Authorisation Guidelines” (June 2023) <www.comcom.govt.nz> (**Authorisation Guidelines**) at [19].

⁹⁶ Section 61(6) of the Act.

⁹⁷ Section 61(8) of the Act.

⁹⁸ Authorisation Guidelines at [51].

⁹⁹ Authorisation Guidelines at [7].

¹⁰⁰ Authorisation Guidelines at [43].

118. Once we have identified all likely benefits and detriments, we then assess the value of those benefits and detriments. When making that assessment, factors we may take into account include how the conduct could affect:
- 118.1 allocative efficiency – whether the conduct would raise or lower margins, and whether it would reduce or improve quality, choice or other elements of value to consumers;
 - 118.2 productive efficiency – whether the conduct could improve or worsen the cost of production processes; and
 - 118.3 dynamic efficiency – whether the conduct could assist or hinder efficient innovation in products or processes.
119. New Zealand Courts have recognised that efficiencies are not the only benefits and detriments which are relevant to the Commission’s assessment.¹⁰¹ As such, the Commission is not limited to considering efficiencies. Rather, the Commission assesses what benefits accrue to the public in the circumstances of any given case.¹⁰²
120. If we are satisfied that the benefits of the arrangement likely outweigh the detriments, we will grant authorisation. If we are not satisfied, we will not grant authorisation.¹⁰³

Conditions and period of authorisation

121. We can authorise agreements subject to conditions and for a period we consider appropriate.¹⁰⁴
122. The Commission has a wide discretion to impose conditions. If we decide to impose conditions on an authorisation, these must not be inconsistent with the Act.¹⁰⁵ We may include conditions that remove or lessen the detriments arising from an agreement or unilateral conduct, or conditions that create or enhance the benefits.¹⁰⁶ The Commission’s power to impose conditions is not limited to situations in which conditions enable the proposed arrangements to pass the public benefit test by “tipping the balance” of the benefits over the detriments.¹⁰⁷

¹⁰¹ *NZME Ltd v Commerce Commission* [2018] NZCA 389 at [80]-[81].

¹⁰² Authorisation Guidelines at [42].

¹⁰³ Authorisation Guidelines at [49].

¹⁰⁴ Section 61(2) of the Act.

¹⁰⁵ Section 61(2) of the Act.

¹⁰⁶ Authorisation Guidelines at [32].

¹⁰⁷ Paragraph 14 of the Draft Determination said that the Commission may only impose conditions if they enable the proposed arrangements to pass the public benefit test. That is not a complete statement of the Commission’s powers, as explained in previous decisions. See *Re New Zealand Kiwifruit Exporters Assoc Inc* (1989) NZBLC (Com) 104,485 and *OMV New Zealand Ltd, Shell Exploration New Zealand Ltd, Shell (Petroleum Mining) Co Ltd, and Todd (Petroleum Mining Co) Ltd* (Commerce Commission Decision 505, 1 September 2003) at [530]-[534].

123. When considering whether to impose behavioural conditions, we are mindful that they can carry their own costs. In assessing potential conditions, we will have regard to:¹⁰⁸

123.1 how well they achieve their objectives, while minimising the risk of unintended negative consequences;

123.2 the likely cost of monitoring and enforcement; and

123.3 the likely compliance costs for the firms involved.

Our assessment of jurisdiction

124. As stated above, the Applicants have applied for authorisation under the Competition Authorisation Sections and Cartel Authorisation Sections of the Act.

125. The Commission may consider that it has jurisdiction under both the Competition Authorisation Sections and Cartel Authorisation Sections. Alternatively, it may consider it has jurisdiction under the Competition Authorisation Sections but not the Cartel Authorisation Sections (or vice versa). The last alternative is that the Commission does not consider it has jurisdiction because:

125.1 the arrangements do not meet the threshold of “lessening competition” under the Competition Authorisation Sections; and

125.2 the arrangements do not meet the threshold for the Cartel Authorisation Sections because the arrangements do not contain provisions that are or may be cartel provisions.

Sections 58(1) and (2) – Competition Authorisation Sections

126. The Applicants submitted that the Proposed Arrangements “might” raise issues under section 27 of the Act,¹⁰⁹ but that the net effect of the Proposed Arrangements is positive.¹¹⁰

127. In relation to the Competition Authorisation Sections, the Applicants consider that the jurisdictional threshold is met to the extent that the Commission concludes that, absent the Proposed Arrangements, two or more of the parties would seek to acquire the relevant products (ie, the HSER HFO) independently. All else being equal, the Applicants submitted that the Proposed Arrangements would be likely to hinder or prevent some degree of competition between the parties which would amount to a lessening of competition.¹¹¹

128. The Applicants submitted that the Commission could conclude that, absent the Proposed Arrangements, there is a real chance that:

¹⁰⁸ Authorisation Guidelines at [34].

¹⁰⁹ Application at [6.7].

¹¹⁰ Application at [6.6].

¹¹¹ Application at [6.8].

- 128.1 The Counterparties would have each negotiated separately with Genesis or other third parties to secure something akin to the HSER HFO in competition with one or more Counterparties or third parties.¹¹²
- 128.2 If the Counterparties were to negotiate separately with Genesis, they would each have likely sought to negotiate flexible or tailored arrangements. In the factual, the Counterparties are no longer able to secure differentiated terms.¹¹³
- 128.3 Each of the Applicants would explore and compete for alternative options to meet their contractual obligations in a dry year.¹¹⁴ There would be competitive tension as each of the Applicants compete for access to these alternative arrangements to acquire firming,¹¹⁵ compared to with the Proposed Arrangements where the competitive tension or rivalry between the Counterparties for these arrangements is lessened.¹¹⁶
129. The Applicants also submitted that the Commission might find that there is a real chance a lessening of competition could arise from the transparency of pricing under the Proposed Arrangements, specifically due to the knowledge the Applicants have of the price paid by the other party for their options. The Applicants submitted that the fact they each know the approximate price at which the other has transacted with Genesis may, all else being equal, slightly soften competitive tension and therefore lessen competition.¹¹⁷
130. We accept the Applicants' submissions on jurisdiction under the Competition Authorisation Sections. Accordingly, we consider we have jurisdiction to assess the Application under these sections.¹¹⁸

Relevant markets

131. The term "market" refers to a market in New Zealand for goods or services as well as other goods or services that, as a matter of fact and commercial common sense, are substitutable for them.¹¹⁹
132. As part of our assessment of the benefits and detriments of an authorisation, we assess the competitive effects of proposed arrangements on relevant markets in New Zealand. We define markets in the way that we consider best isolates the key competition issues that may arise from the proposed arrangements. However, it may

¹¹² Application at [6.9](a)].

¹¹³ Application at [6.9](a)(ii)].

¹¹⁴ Application at [6.9](b)].

¹¹⁵ Application at [6.9](b)(i)].

¹¹⁶ Application at [6.9](b)(ii)].

¹¹⁷ Application at [6.10].

¹¹⁸ We are satisfied under the jurisdictional test that there "might" be more competitive bilateral negotiations sufficient for the Applicants to cross the threshold for further consideration. However, as explained at paragraphs 193 to 224, for the purposes of the counterfactual assessment, we do not think the possibility of bilateral negotiation reaches the higher threshold of being "likely".

¹¹⁹ Section 3(1A) of the Act.

not be necessary to precisely define the boundaries of these markets if the outcome of the assessment is likely to be substantially the same irrespective of the precise scope of the market.

133. The Applicants submitted that the Proposed Arrangements affect the relevant market(s) for the generation and wholesale supply of electricity in New Zealand.¹²⁰
134. As part of our assessment, we have considered:
 - 134.1 whether there are separate product markets for the wholesale supply of physical electricity (sold at the spot price) and the supply of electricity hedge contracts, including the supply of Shaped Hedges, which generally reduce financial exposure during certain peak time periods where there is high demand and which are particularly important to independent electricity retailers;¹²¹ and
 - 134.2 whether there are separate temporal markets associated with the wholesale supply of electricity (eg, to reflect different customer demands during certain peak time periods).
135. However, for the purposes of assessing the Proposed Arrangements, we do not consider it necessary to conclude on the exact boundaries of the market(s) because we do not consider that it would change whether the benefits of the Proposed Arrangements are likely to outweigh the detriments.

Product dimension – physical electricity sold on spot market and hedge contracts

136. The Proposed Arrangements support the continued operation of Unit 2 by Genesis. This affects the amount of physical electricity that Genesis can generate and supply to its wholesale customers, the volume and type of hedges that Genesis makes available to the Counterparties, and the volume and type of hedges that each of the Applicants can supply to third parties.¹²² For that reason, we discuss below whether physical electricity and hedge products (whether Shaped Hedges or all hedges) are in the same or separate product markets.
137. The Applicants submitted that hedge contracts and spot trading are closely interrelated and substitutable but do not consider that it is necessary to reach a concluded view on the relevant markets.¹²³ This is because, in their view, the Proposed Arrangements do not harm competition because they enable Genesis to make more capacity available to the market(s) (however defined), and do not place restrictions on when Counterparties may call their options or otherwise operate in

¹²⁰ Application at [8.1].

¹²¹ As noted above in paragraph 83.1, Shaped Hedges come in various forms beyond intra-day shapes that generally cover peak trading periods. For example, Shaped Hedges covering a weekly shape may cover higher demand on weekdays, while those with a seasonal shape may cover higher demand in winter months.

¹²² Third parties include independent generators, independent retailers, industrial customers and financial intermediaries.

¹²³ Application at [8.3]-[8.4].

the market. The Proposed Arrangements similarly do not restrict or determine how Genesis may choose to operate the Rankine Units.

138. We received some feedback that, while some parties are able to substitute hedge trading and spot trading prices, this is not the case for all parties, including independent generators, independent retailers, and intermediaries (whose role is to warehouse and otherwise support the transfer of risk).¹²⁴ On the other hand, we received some feedback that while both spot and contract markets are affected, the key issue is whether there is sufficient physical capacity to keep prices competitive and security adequate.¹²⁵
139. In *Contact/Manawa*,¹²⁶ the Commission assessed the wholesale supply of physical electricity (sold at the spot price) as distinct from the supply of electricity via hedge contracts (with Shaped Hedges potentially forming a distinct market). This is primarily because we considered that purchasing physical electricity and acquiring hedge contracts to be complements for many market participants (rather than substitutes) and the trading mechanisms were very different.¹²⁷
- 139.1 On the demand side, each serves a different purpose. Purchasing electricity on the spot market involves the purchase of physical electricity, whereas hedges do not. Hedges instead involve the acquisition of what is effectively insurance against fluctuations in spot prices. We would expect demand for hedge products to be positively correlated with demand for physical electricity, so that if a hypothetical monopolist were to impose a ‘small but significant non-transitory increase in price’ (**SSNIP**) on the spot price, some purchasers (to the extent they have demand response) would demand less physical electricity and therefore require less hedge cover to manage their spot price exposure.
- 139.2 On the supply side, Gentailers have much less need for hedge cover as operating at both functional levels of the market provides a natural hedge. Thus, for a SSNIP in the spot market to be defeated by trading in the hedge market, the burden of doing so will fall primarily on independent retailers and large customers, who are exactly the customers who most need price insurance and are most likely to already have it.¹²⁸ Additionally, rival hedge suppliers that are financial institutions could not easily, profitably, and quickly increase their supply of electricity given that they do not have generation portfolios.¹²⁹

¹²⁴ IEGA submission on SOPI (27 August 2025) at 3.

¹²⁵ Energy Resources Aotearoa submission on SOPI (27 August 2025) at [16].

¹²⁶ *Contact Energy Limited and Manawa Energy Limited* [2025] NZCC 10 (***Contact/Manawa***).

¹²⁷ *Contact/Manawa* at [54]-[77]. Purchasing electricity on the spot market involves the purchase of physical electricity (and exposes customer and supplier to potentially volatile spot prices) whereas hedges involve the acquisition of an insurance-like product to protect against high spot prices, allowing wholesale customers and suppliers to manage the risk of price volatility.

¹²⁸ See *Contact/Manawa* at [61]-[63], which sets out our analysis regarding the SSNIP test.

¹²⁹ See *Contact/Manawa* at [64]-[67], which sets out our analysis regarding the SSNIP test.

140. In addition, the Commission found that both the wholesale supply of physical electricity and the supply of hedge contracts takes place on a national basis.¹³⁰
141. We see no reason to depart from the Commission's decision in *Contact/Manawa* that it is appropriate to assess the supply of hedge contracts separately from the wholesale supply of physical electricity. We discuss our considerations of a potential separate market for Shaped Hedges below.

Market for Shaped Hedges

142. In *Contact/Manawa*, the Commission considered that Shaped Hedges potentially formed a distinct market.¹³¹
143. On the demand side, it was noted that Shaped Hedges were not sufficiently close substitutes for Baseload Hedges in the event of a SSNIP because they provide different types of protection from spot price volatility. Shaped Hedges provide targeted protection for specific time periods, while Baseload Hedges provide a consistent level of protection throughout the contract duration.¹³² Further, a baseload ASX Hedge is likely to be less substitutable for a Shaped Hedge (particularly inter- or intra-day Shaped Hedges) given that the former is standardised while the latter is often bespoke. However, there are occasions where Shaped Hedges might be somewhat substitutable for Baseload Hedges. For example, a Baseload Hedge could substitute for inter-seasonal Shaped Hedges if a party was to purchase several different Baseload Hedges, which could provide similar levels of protection from spot price volatility.¹³³ Similarly, there will be times when a PPA can act as an effective substitute for a Shaped Hedge and times when it cannot.¹³⁴
144. On the supply side, in *Contact/Manawa*, the Commission noted that while a generator with a portfolio of flexible generation assets is likely to have the ability to supply different hedge products and is able to quickly switch to supplying Shaped Hedges in response to a SSNIP, not all generators have these flexible generation assets so they may not be able to relatively easily switch to supplying Shaped Hedges in response to a SSNIP.¹³⁵
145. We received submissions in this case which ask us to consider whether the electricity hedge market can be further split into baseload and firming contracts and whether these vary by duration (eg, short, medium and long duration markets).¹³⁶

¹³⁰ See *Contact/Manawa* at [78]-[79]. Although electricity generators have assets located throughout the country, all the different wholesale market participants advised they competed nationally, and that physical electricity and trading of electricity hedges occurs on a national basis.

¹³¹ *Contact/Manawa* at [68].

¹³² *Contact/Manawa* at [70].

¹³³ *Contact/Manawa* at [70].

¹³⁴ The Commission in *Contact/Manawa* also noted that other alternatives, such as batteries and Huntly Firming Options, were not developed sufficiently to discipline the price of Shaped Hedges now. See *Contact/Manawa* at [71] and [75].

¹³⁵ *Contact/Manawa* at [75].

¹³⁶ IEGA submission on SOPI (27 August 2025) at 2.

146. We do not consider it is necessary for the purposes of our analysis to reach a view on whether Shaped Hedges comprise a separate product market from Baseload Hedges or whether other more granular types of hedge products should be assessed separately. There is generally limited ability to substitute between various types of hedges,¹³⁷ and in this case the scope of the market should not impact how we assess competition concerns arising from the Proposed Arrangements.

Customer dimension

147. As set out in *Contact/Manawa*, we do not consider it necessary to define separate markets for any particular customer group when assessing any relevant wholesale electricity market. This is because the product markets identified likely capture the differences in requirements that the different customers may have (ie, the generators, independent retailers, and customers).¹³⁸

Temporal dimension

148. A temporal dimension of market definition was raised as potentially relevant to our assessment of market definition because of the way electricity prices can spike throughout the day due to high consumer demand during peak hours (morning and evening) and super peak hours (those periods of the day that typically have the highest demand, carrying the highest electricity prices).¹³⁹ This contrasts with baseload which is the minimum amount of electricity needed across the whole day. In addition to this, there is 'intermittency risk' (eg, when the wind stops blowing for a few days)¹⁴⁰ and 'dry year risk' (when cover is needed for several weeks).¹⁴¹
149. We do not consider that a temporal dimension would materially affect our assessment of the Proposed Arrangements. In addition, we consider that while demand and the types of generation assets used may vary at different times, the underlying market mechanisms are the same, and parties manage this variation using their hedging strategies. Accordingly, we do not propose to consider this further for the purposes of our assessment of the Proposed Arrangements.

¹³⁷ As discussed above, certain factors may mean that various types of hedges are in fact substitutable. This is affected by the specific profile of any underlying flexible generation assets, the existing hedge book or generation assets of the purchaser, and the extent to which the hedge type protects against spot price volatility.

¹³⁸ *Contact/Manawa* at [80]-[83].

¹³⁹ []

¹⁴⁰ This intermittency risk has been referred to by Market Development Advisory Group (**MDAG**), the EA and the Commission as the majority of new renewable generation capacity will be intermittent generation. In order for the system to balance supply and demand over the course of hours, days, weeks and months, this intermittent generation must be firmed so that the peaks and troughs of generation can be aligned with those of demand (at a system level). MDAG "Price discovery in a renewables-based electricity system: Final Recommendations Paper" (11 December 2023) EA <www.ea.govt.nz>. EA "Generation investment pipeline" (16 September 2025) <www.ea.govt.nz>. *Contact/Manawa* at [37]-[40].

¹⁴¹ []

Telecommunications and broadband markets

150. [

] ¹⁴² [

] ¹⁴³

151. We agree that broadband/telecommunications markets are distinct from the supply of physical electricity or hedges because they involve different products, different infrastructure ownership and regulation, different pricing structures, and different market characteristics, even though they both have some common retail competition.

Conclusion on market definition

152. While we have not concluded on the relevant market(s), for the purposes of our analysis we consider that there are likely separate national markets for the wholesale supply of physical electricity and electricity hedge contracts. We consider that these markets adequately capture the competitive dynamics of the Proposed Arrangements, and our assessment is premised on this basis.
153. We agree that telecommunications and broadband markets are distinct from the supply of physical electricity or wholesale supply of hedges but have not considered it necessary to precisely define each.
154. We have not considered it necessary for the purposes of assessing the Proposed Arrangements to reach a view on whether there are separate customer and temporal dimensions of the relevant market(s).

With and without the Proposed Arrangements

155. As noted above, to determine whether the benefits and detriments identified by the Applicants are specific to the Proposed Arrangements, we assess:
- 155.1 what is likely to occur in the future with the arrangement (the factual); and
- 155.2 what is likely to occur in the future without the arrangement (the counterfactual).
156. We have considered all submissions and evidence received on what is likely to occur in the future with (factual) and without (counterfactual) the Proposed Arrangements.

¹⁴² []

¹⁴³ []

157. In this context the Commission is necessarily engaging in a future-focussed assessment. As such, there is scope for there to be a range of potential factuals and counterfactuals.
158. The Commission must consider all “likely” factual and counterfactual scenarios in order to identify all the likely benefits and detriments relevant to its authorisation assessment.¹⁴⁴
159. For the “likely” threshold to be met, Courts have held that there must be a real and substantial chance of the factual or counterfactual arising.¹⁴⁵ It must be more than a mere possibility but that need not be more likely than not.¹⁴⁶ However, Courts have also observed that, inherently, the factual and counterfactual are “necessarily incapable of accurate assessment.”¹⁴⁷ As such, there is no legal burden or evidential standard of proof for the Commission to be satisfied that factual or counterfactual scenarios and the benefits and detriments arising from them are likely.¹⁴⁸ For the Commission to be satisfied, it simply needs to have made up its mind on all the material before it.¹⁴⁹

The situation with the Proposed Arrangements

160. The factual in the assessment of an authorisation application is the future with the conduct for which authorisation is sought. Here, that involves the Applicants entering into and giving effect to the Proposed Arrangements.
161. The Applicants submitted that, with the Proposed Arrangements, Genesis will invest in the operating expenditure and capital expenditure to recertify Unit 2 and ensure it remains in the market and provide each of the Counterparties with a financial hedge.¹⁵⁰ Interested parties did not disagree with this view.

Applicants’ submissions

162. The Applicants further submitted that in future with the Proposed Arrangements:¹⁵¹
- 162.1 there will be commercial incentives for Genesis to make more capacity available to the market than without the Proposed Arrangements;

¹⁴⁴ Authorisation Guidelines at [44] and [45].

¹⁴⁵ *NZME Ltd v Commerce Commission* at [86(a)], citing *Port Nelson v Commerce Commission* [1996] 3 NZLR 554 (CA) at 562-563.

¹⁴⁶ *NZME Ltd v Commerce Commission* at [86(a)], citing *Port Nelson v Commerce Commission* [1996] 3 NZLR 554 (CA) at 562-563.

¹⁴⁷ *NZME Ltd v Commerce Commission* at [85], citing *Woolworths Ltd v Commerce Commission* (2008) 8 NZBLC 102,128 at [113].

¹⁴⁸ *NZME Ltd v Commerce Commission* at [86(c)], citing *Z v Dental Complaints Assessment Committee* [2008] NZSC 55 at [96] per Elias CJ and [96] per Blanchard, Tipping and McGrath JJ.

¹⁴⁹ *NZME Ltd v Commerce Commission* at [86](c)], citing *Z v Dental Complaints Assessment Committee* [2008] NZSC 55 at [26] per Elias CJ and [96] per Blanchard, Tipping and McGrath JJ.

¹⁵⁰ Application at [1.9].

¹⁵¹ Application at [1.10].

162.2 energy security will be delivered across dry winters while New Zealand pursues net zero carbon emissions by 2050; and

162.3 more firming options and hedge products will be available compared with the counterfactual, which will advance downstream retail competition.

Interested parties' submissions

163. Some interested parties have told us that with the Proposed Arrangements:

163.1 the dominant market power they consider is held by the Gentailers will be further entrenched due to the certainty the Gentailers will have in being able to access firming capacity on the terms of the Proposed Arrangements;¹⁵²

163.2 the terms of the Proposed Arrangements being agreed to by the Applicants gives rise to a further information asymmetry between the Gentailers and the smaller independent retailers with regards to hedge products;¹⁵³ and

163.3 although the Application states that the Counterparties are not precluded from on-selling capacity obtained under the option and Genesis will offer remaining capacity to interested parties,¹⁵⁴ interested parties are generally sceptical that this on-selling of capacity to them will occur on terms they are able to agree to (eg, due to the shape or price of the hedge).¹⁵⁵ They consider that there remains uncertainty as to whether they will have access to firming capacity with the Proposed Arrangements.¹⁵⁶

Our assessment

164. Our view is that, with the Proposed Arrangements, Genesis will invest in the recertification of Unit 2 such that it remains operational for the duration of the Proposed Arrangements.

165. The benefits and detriments identified by the Applicants and interested parties will be discussed in detail as part of our assessment of benefits and detriments.

¹⁵² Pulse Energy submission on SOPI (26 August 2025) at 2. []

¹⁵³ Haast Energy submission on SOPI (13 August 2025) at 3. emhTrade submission on SOPI (1 September 2025) [Public] at 4-8. Pulse Energy submission on SOPI (26 August 2025) at 2. Electric Kiwi submission on SOPI (27 August 2025) at [10]-[11]. Waikato-Tainui submission on Draft Determination (14 October 2025) at [21].

¹⁵⁴ Application at [5.4(j)-(k)].

¹⁵⁵ Haast Energy submission on SOPI (13 August 2025) at 2. Lodestone submission on SOPI (27 August 2025) at 1. Electric Kiwi submission on SOPI (27 August 2025) at [45].

¹⁵⁶ Haast Energy submission on SOPI (13 August 2025) at 3. Lodestone submission on SOPI (27 August 2025) at 1.

Proposed Arrangements. The terms of the Proposed Arrangements are materially more onerous for the Counterparties than previous HFOs and MSOs. The evidence we have received suggests that it is unlikely that any interested parties outside of the Counterparties would be prepared to accept those terms.¹⁶⁰

171.2 In addition, [

].¹⁶¹

171.3 Because we do not consider it likely that enough parties will bilaterally accept the terms that Genesis requires to keep Unit 2 operational, we do not consider this to be a 'likely' counterfactual.

172. In relation to multilateral arrangements:

172.1 We do not consider there to be a real chance that parties outside of the Counterparties are likely to accept the terms Genesis has determined that it requires to keep Unit 2 operational, even on a multilateral basis.

172.2 While some parties have told us they would consider joining a multilateral arrangement [],¹⁶² based on the evidence we have received, we do not consider there to be a real chance that these parties would accept the terms required by Genesis.¹⁶³

172.3 We therefore also consider there is no likely counterfactual in which Genesis enters a multilateral arrangement with a broader range of potential counterparties.

173. We also accept Genesis' submission that it will be difficult to conclude bilateral or wider multilateral arrangements for Huntly-backed firming options within the timeframes Genesis requires to recertify Unit 2 for winter 2026. We understand that it is not possible for Genesis to delay recertification and secure energy supply for winter 2026. We understand that the Health and Safety in Employment Act 1992 and

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[]] []

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] []
] []

¹⁶¹ []
¹⁶² [] []
] []

¹⁶³ []
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[]]

associated WorkSafe Approved Code of Practice prohibit Genesis from operating Unit 2 for winter 2026 without prior recertification.¹⁶⁴

174. Accordingly, we consider that there is only one ‘likely’ counterfactual, in which Genesis would follow through with its publicly stated plans to shut down Unit 2.

175. We expand our reasoning in respect of each of these points below.

Counterfactual 1: Shutdown of Unit 2

Genesis’ submissions- shutdown of Unit 2

176. As noted above, Genesis submitted that, without the Proposed Arrangements, Unit 2 will be retired in January 2026.¹⁶⁵ Genesis does not require Unit 2 to meet its own contractual commitments and, [

].¹⁶⁶

177. To stay operational, Genesis has indicated that Unit 2 requires approximately [], as well as ongoing capital and operating expenditure, to recertify it and bring it to the standard of the other Rankine Units until 2035.¹⁶⁷ This means that a significant volume of hedge contracts are required to financially incentivise Genesis to cover the fixed costs of the Rankine Units.¹⁶⁸ Accordingly, the cost of recertifying Unit 2 for Genesis’ own use alone is not economic; it requires other industry participants to underwrite this cost.

178. Genesis submitted that bilateral offers for Huntly firming capacity prior to the Proposed Arrangements have not had a historically high uptake,¹⁶⁹ and that bilateral arrangements with third parties for firming capacity would not provide it with sufficient certainty to make the necessary investment to continue to operate Unit 2.¹⁷⁰

Interested parties’ submissions - shutdown of Unit 2

179. Some submitters expressed the view that Genesis is not likely to close Unit 2 even if the Proposed Arrangements do not proceed.¹⁷¹ For example, [] told us that it considers that Genesis will maintain Unit 2 for at least another five years because

¹⁶⁴ Section 20 of the Health and Safety in Employment Act 1992. WorkSafe Approved Code of Practice for the Design, Safe Operation, Maintenance and Servicing of Boilers 1996.

¹⁶⁵ Application at [1.6], [3.12]-[3.13] and [4.8].

¹⁶⁶ Interview with Genesis (21 August 2025) at 6, lines 8-10. Genesis Board Paper “Huntly Strategic Energy Reserve: For Approval” (June 2025) at [3.1].

¹⁶⁷ Application at [1.5]-[1.6] and [1.9]. Genesis Board Paper “Huntly Strategy Energy Reserve: For Approval” (June 2025) at [3.3].

¹⁶⁸ Application at [1.9]. Genesis Board Paper “Huntly Strategy Energy Reserve: For Approval” (June 2025) at [3.3]-[3.5] and [3.16].

¹⁶⁹ Application at [4.10]. Genesis response to RFI dated 1 September 2025 (6 September 2025) at [1(a)(ii)].

¹⁷⁰ Application at [4.5]-[4.10].

¹⁷¹ Pulse Energy submission on SOPI (26 August 2025) at 2. 2degrees submission on SOPI (27 August 2025) at 2. Electric Kiwi submission on SOPI (27 August 2025) at [5] and [25]-[28].

there are no realistic alternatives in the short to medium term.¹⁷² In response to our Draft Determination, emhTrade expressed the view that a failure by Genesis to recertify Unit 2 in time for winter 2026 would not automatically lead to its permanent closure.¹⁷³

180. Other parties expressed scepticism that it is uneconomic for Genesis to continue to operate Unit 2 given the tight supply conditions for other thermal-backed generation (specifically, the gas shortage) and limited additional firming capacity coming into the market.¹⁷⁴
181. Some parties noted that the Government Frontier Proposals could alter our assessment of the likely counterfactual such that the Commission should reassess the counterfactual. For example, the proposals could:¹⁷⁵
 - 181.1 lead to greater availability and reduced cost of capital for Genesis, which could lead to a change in the economics of the investment required to recertify Unit 2; and
 - 181.2 lead to greater availability of LNG, which could incentivise Genesis to retain Unit 2 irrespective of the Proposed Arrangements.
182. On the other hand, some interested parties submitted that the details behind these two actions are still emerging and the timeframes for implementation are unclear, and so it would be difficult to scope or quantify a counterfactual scenario where these two measures were in place.¹⁷⁶ Similarly, Genesis expressed the view that the proposals do not change the likely counterfactual and, in addition, it remains highly uncertain whether a number of these proposals will eventuate, the specific form of these proposals, and the timeframes for their implementation.¹⁷⁷

Our assessment - shutdown of Unit 2

183. Genesis' submission that it is incentivised to close Unit 2 in the absence of entering a sufficient number of hedges is supported by contemporaneous evidence that Genesis provided to the Commission. For example:
 - 183.1 A number of Genesis' internal documents between 2018 and 2021 emphasised the need to enter into a sufficient number of arrangements to underpin the viability of the Rankine Units, or to transition them out if sufficient arrangements could not be reached.¹⁷⁸ These documents also noted

¹⁷² []

¹⁷³ emhTrade response to Draft Determination (10 October 2025) at 3.

¹⁷⁴ Pulse Energy submission on SOPI (26 August 2025) at 2. []

¹⁷⁵ Lodestone submission on Draft Determination (10 October 2025) at 2. emhTrade submission on Draft Determination (10 October 2025) at 2-3.

¹⁷⁶ MEUG submission on Draft Determination (10 October 2025) at 2. emhTrade submission on Draft Determination (10 October 2025) at 3.

¹⁷⁷ Genesis response to RFI dated 15 October 2025 (20 October 2025) at 1 and 6-8.

¹⁷⁸ See for example Genesis Board Paper "Huntly Backup Strategy: For Approval" (December 2021) at [3.15]. Genesis Board Paper "Pillar 4: Huntly Backup Strategy" (December 2021) at 4.

that there is a misalignment between Genesis and other parties regarding the amount of money that Genesis required to keep the Rankine Units operational versus parties' expectations as to the amount they should pay in annual premiums under any Huntly-backed firming arrangements. The documents noted that, "once all avenues for additional payments have been exhausted, Genesis will consider transitioning unprofitable units [Rankine Units] out of the portfolio."¹⁷⁹

183.2 Genesis updated Transpower's Planned Outage Coordination Process Portal on 29 June 2023 to reflect the closure of Unit 2 from 26 January 2026.¹⁸⁰

183.3 A February 2023 Board paper noted that Genesis [] and that the limited uptake of MSOs did not adequately compensate thermal generation. It noted that a report prepared for Genesis by Sapere concluded that recovering the costs associated with retaining Unit 2 was not possible via the spot market. The paper indicated that Genesis would announce that Unit 2 would be decommissioned at the end of its certification period.¹⁸¹

183.4 A paper prepared for the Board in June 2025 concluded that the value of Unit 2 to the wider sector for security of supply is higher than its value to Genesis in terms of Genesis' own portfolio and meeting its own contractual commitments. It noted that [] are needed,¹⁸² with only 85MW entered into to date.¹⁸³ The paper noted that the Proposed Arrangements underwrite the investment needed (with 150MW of Core Capacity and an additional 75MW of Additional Baseload Capacity accounted for via the Counterparties' options under the HFO HSER, as well as the possibility of selling additional MW via HFOs to third parties). The paper further indicated that, in the absence of the Proposed Arrangements, Genesis "expect[s]" that Unit 2 will be retired from January 2026.¹⁸⁴

184. The Commission observes that there is an external perception that, given the constrained electricity supply, particularly in dry winters, it must be economically rational for Genesis to continue to operate the Rankine Units for the foreseeable future. However, based on the evidence the Commission has received, the Commission is satisfied that the economic incentives on Genesis if it does not enter sufficient hedge arrangements weigh in favour of the closure of Unit 2, particularly

¹⁷⁹ Genesis Board Paper "Huntly Backup Strategy: For Approval" (December 2021) at [3.27].

¹⁸⁰ Transpower "POCP – Outage: HLY_2" (29 June 2023) <www.customerportal.transpower.co.nz>. Genesis response to RFI dated 20 August 2025 (9 September 2025) at [3.3].

¹⁸¹ Genesis Board Paper "Wholesale Markets and Huntly Update: For Discussion" (February 2023) at [3.7] and [3.22].

¹⁸² Genesis Board Paper "Huntly Strategic Energy Reserve: For Approval" (June 2025) at [3.4].

¹⁸³ Genesis, NZX Market Release (12 August 2024) <https://media.genesisenergy.co.nz/genesis/investor/2024/huntly_firming_options_august_2024.pdf>.

¹⁸⁴ Genesis Board Paper "Huntly Strategic Energy Reserve: For Approval" (June 2025) at [3.4].

suggest that this is a consideration the Commission should take into account in assessing the likelihood of a counterfactual where Unit 2 is shut down.

188. The Commission acknowledges that, following winter 2024, there was strong political interest in ensuring security of supply and energy affordability. The Applicants' negotiations for the Proposed Arrangements began as a consequence of political pressure in light of the security of supply issues arising from winter 2024,¹⁹⁰ and Genesis' June 2025 Board Paper noted that there is "increasingly strong political sentiment against" an outcome in which Unit 2 closed.¹⁹¹
189. However, there is insufficient evidence to find that there is a real chance of political intervention (of any nature) to prevent the closure of Unit 2. The October 2024 Government Policy Statement (**GPS**) suggests that such intervention is unlikely. In the GPS, the Government regards wholesale buyers and sellers of wholesale electricity as responsible for managing security of supply risks, and states "neither the Government nor the Electricity Authority nor the System Operator¹⁹² will step in to insulate wholesale market participants from risk or to protect them from their failure to manage their own energy supply risks."¹⁹³
190. We do not consider that the Government Frontier Proposals alter this conclusion. While the Government has expressed a willingness to invest in new firming capacity, the policy package does not cover investment in existing capacity.
191. We therefore do not consider that Government intervention to prevent the shutdown of Unit 2 without the Proposed Arrangements is a relevant consideration regarding the likelihood of the counterfactual that Unit 2 is shut down absent the Proposed Arrangements.
192. For these reasons, the Commission considers that, in the absence of the Proposed Arrangements, there is a 'real chance' that Genesis will shut down Unit 2 in accordance with its publicly stated plans. Accordingly, we accept it as a 'likely' counterfactual.

Potential counterfactual 2: Bilateral arrangements for Unit 2 capacity

193. We have also assessed whether there is a likely counterfactual in which, in the absence of the Proposed Arrangements, Genesis enters and gives effect to bilateral arrangements to underwrite Unit 2.
194. In such a scenario, interested purchasers would compete to acquire Huntly-backed firming capacity from Genesis. Genesis would then underwrite Unit 2 on the basis of a series of hedge contracts between two counterparties on differentiated terms,

¹⁹⁰ Interview with Genesis (21 August 2025) at 3, lines 13-22 and 20, lines 1-5.

¹⁹¹ Genesis Board Paper "Huntly Strategy Energy Reserve: For Approval" (June 2025) at [3.1]-[3.5].

¹⁹² Transpower is the System Operator. In its role as System Operator, Transpower operates the wholesale electricity market and manages system security.

¹⁹³ New Zealand Government "Statement of Government Policy to the EA under section 17 of the Electricity Industry Act 2010: New Zealand electricity industry" (October 2024) at [21].

rather than a multilateral agreement involving a number of parties all agreeing to the same terms.

Applicants' submissions - bilateral arrangements for Unit 2 capacity

195. Genesis submitted that entering into and giving effect to bilateral arrangements for Huntly-backed firming capacity is not a likely counterfactual. In particular, Genesis noted that:¹⁹⁴

195.1 it needs to enter [] of hedge contracts in order to adequately cover the fixed costs of the Rankine Units;¹⁹⁵

195.2 the volume and investment Genesis requires can only be secured within the necessary timeframe by the arrangements being entered into multilaterally;¹⁹⁶

195.3 other potential counterparties are unlikely to accept terms of the duration and magnitude necessary to secure the future of Unit 2. Prior MSOs/HFOs did not have a sufficiently high uptake on terms acceptable to Genesis.¹⁹⁷ Only 85MW of HFOs were secured by market participants for 2025, despite Genesis receiving bids totalling 270MW,¹⁹⁸ because the other bids did not meet its expectations as to the requisite price.¹⁹⁹

195.4 It will not be able to enter into a sufficient number of bilateral agreements in time to make the investment to recertify Unit 2 for winter 2026.²⁰⁰

196. Accordingly, Genesis submitted that a counterfactual in which bilateral arrangements are entered into is not likely.

197. The Counterparties broadly supported Genesis' submission that it would have been difficult to achieve the effect of the Proposed Arrangements bilaterally:

197.1 [

] ²⁰¹

197.2 [

¹⁹⁴ Genesis response to RFI dated 1 September 2025 (6 September 2025) at 3-4. For further detail, see paragraph 177177.

¹⁹⁵ Annexure 3 at [1.5].

¹⁹⁶ Annexure 3 at [1.15]-[1.18].

¹⁹⁷ Annexure 3 at [1.15].

¹⁹⁸ Genesis "Genesis Energy confirms 85MW of Huntly Firming Options" (12 August 2024) <www.genesisenergy.co.nz>.

¹⁹⁹ Annexure 3 at [1.15(b)].

²⁰⁰ Genesis response to RFI dated 1 September 2025 (6 September 2025) at 3.

²⁰¹ Contact response to RFI dated 1 September 2025 (5 September 2025).

199. Several interested parties submitted that entering a series of bilateral arrangements for Huntly-backed firming capacity would be a realistic alternative to the Proposed Arrangements. For example, Pulse suggested that Genesis could hold a competitive tender for Huntly-backed firming capacity in line with its approach to MSOs and HFOs in 2022 and 2024.²⁰⁵ Electric Kiwi noted that support from market participants could take many different forms and could include continuing current arrangements and entering alternative arrangements to manage revenue risk.²⁰⁶

200. These submissions inferred that Genesis' approach to bilaterally negotiating HFOs in the past is an indicator that it can (and should) do the same in a scenario without the Proposed Arrangements.

201. A number of interested parties expressed that they would be interested in pursuing bilateral arrangements with Genesis for HFOs absent the Proposed Arrangements, although the commercial terms they were interested in differed. These parties include independent generators such as [REDACTED],²⁰⁷ financial intermediaries such as [REDACTED]²⁰⁸ and [REDACTED],²⁰⁹ and independent retailers such as [REDACTED], [REDACTED], [REDACTED], and [REDACTED].²¹⁰

[]

Our assessment - bilateral arrangements for Unit 2 capacity

202. Our view is that bilateral arrangements for Unit 2 capacity is not a likely counterfactual and accordingly we do not need to factor this into our assessment of benefits and detriments. In reaching that view, we have assessed the following issues:

202.1 the commercial terms that Genesis would likely require Counterparties to agree to in order for a series of bilateral arrangements to have a realistic prospect of keeping Unit 2 operational; and

202.2 whether it is likely that a sufficient number of bilateral arrangements on these terms would be entered into by interested parties. We have tested the appetite for bilateral arrangements in respect of each group of interested parties:

202.2.1 the Counterparties to the Proposed Arrangements;

202.2.2 independent retailers, independent generators, and industrial customers; and

202.2.3 financial intermediaries.

Genesis' commercial requirements to keep Unit 2 operational

203. As noted above in relation to counterfactual 1, we are satisfied that Genesis requires a certain level of investment within a particular timeframe to keep Unit 2 open, and that the Proposed Arrangements set out the minimum terms required to keep Unit 2 in operation.

204. The weight of evidence we have received demonstrates that Genesis' expectations as to the level of risk that Counterparties should take on under the Proposed Arrangements are an order of magnitude greater than under prior HFOs and MSOs. These expectations were recorded in Genesis' internal documents,²¹¹ and some Counterparties supported the suggestion that there were a number of terms which they would have preferred, which were more commercially balanced, but that Genesis required as a bottom line.²¹²

205. We note that some interested parties expressed the view during consultation that Genesis' commercial requirements to retain Unit 2 are too onerous and its expectations transfer an unreasonable level of risk and cost.²¹³ However, Genesis' risk appetite and commercial position is a matter for Genesis, not the Commission, to determine.

²¹¹ For further detail, see paragraph 183.1.

²¹² []

²¹³ [] []

206. Accordingly, we consider that in order to conclude that there is a real chance that Genesis would enter bilateral arrangements to keep Unit 2 open, we would need to be satisfied that it is likely Genesis could enter bilateral arrangements that offer Genesis similar certainty and financial incentives as the Proposed Arrangements, and that such arrangements could be negotiated within the requisite timeframe to recertify Unit 2 for winter 2026. In other words, enough parties would need to be likely to enter into bilateral arrangements with Genesis on the same or similar terms to the Proposed Arrangements.

Are bilateral arrangements likely to be entered into by a sufficient number of parties?

207. As noted above, during consultation, we heard that a number of interested parties would be interested in purchasing Huntly-backed firming capacity bilaterally on terms that would be suitable to their needs.²¹⁴ These included the Counterparties, independent retailers and generators, industrial customers, and financial intermediaries.
208. However, the Commission's assessment is that the terms that these parties indicated they would be willing to sign up to would not meet Genesis' requirements to keep Unit 2 operational. It is unlikely that these parties would be interested in taking on the level of risk that would offer Genesis the same certainty as the Proposed Arrangements. We expand on each of these parties in more detail below.
209. We note that even if it were possible to enter sufficient bilateral arrangements to justify keeping Unit 2 open, negotiations for any such arrangements would likely take a substantial amount of time and would be highly unlikely to conclude within the necessary timeframe to recertify Unit 2 for Winter 2026.

Would the Counterparties enter into bilateral arrangements?

210. We considered whether the Counterparties (ie, the other Gentailers) would have entered into bilateral contracts of the size and magnitude of the Proposed Arrangements.
211. As noted above, some counterparties indicated they would have entered into the Proposed Arrangements bilaterally. However, [

].²¹⁵ Accordingly, in order for Genesis to achieve the requisite MW of hedge contracts, [] capacity would need to be made up by additional bilateral counterparties.

²¹⁴ See for example Lodestone submission on SOPI (27 August 2025) at 1. []

].²¹⁵ Accordingly, in order for Genesis to achieve the requisite MW of hedge contracts, [] capacity would need to be made up by additional bilateral counterparties.

[]

Would independent retailers, generators and industrial customers enter into bilateral arrangements?

212. During consultation, it was clear that the types of bilateral arrangements that independent retailers, independent generators, and industrial customers were interested in were very different to terms agreed between Genesis and the Counterparties to the Proposed Arrangements.
213. These parties overwhelmingly told us that prior HFOs and MSOs had not been suitable for their needs. They would be interested in less complex or more standardised arrangements with fewer risks than prior HFOs and MSOs.²¹⁶ However, as noted above, the Proposed Arrangements are more onerous, complex and risky for counterparties than prior HFOs and MSOs. The Proposed Arrangements are therefore even less likely to be suitable for the needs of these parties. We consider that these parties can be ruled out as realistic bilateral counterparties to arrangements that would enable Genesis to underwrite the ongoing operation of Unit 2.

Would financial intermediaries enter into bilateral arrangements?

214. Financial intermediaries are firms that participate in electricity markets by buying and selling hedge contracts, but do not physically generate or consume electricity. Financial intermediaries play an important role in electricity markets, including by providing liquidity for hedge contracts (helping to ensure there are always contracts available to buy and sell) and by repackaging hedge contracts to suit the needs of smaller parties.
215. As noted above, some pre-existing holders of HFOs, such as financial intermediaries indicated that they would be interested in entering Huntly-backed firming contracts and accordingly, on the face of it, they presented the most likely group to participate in bilateral arrangements.

215.1 [] told us that it is interested in 20MW.²¹⁷

215.2 [] told us that is interested in discussing the purchase of 20-50MW.²¹⁸

²¹⁶ [] indicated that it had previously participated in Genesis' offers but had not made it to the final stage because the offer was too complex for their needs. It would be interested in less complex peak options on a shorter-term basis. [] [] told us that whether it would be interested in bilateral agreements would depend on whether the terms of the agreements were structured for smaller players and pricing reflected the risk each party was reasonably taking. It expressed concerns about outage risks.

[] [] indicated that it would be interested in a simpler synthetic risk management arrangement with a fixed strike price. [] [] indicated that it would be interested in something less complex than the HFOs. [] also stated that the HFOs were overly complex and onerous. []

²¹⁷ []

²¹⁸ []

215.3 [] indicated that it had approached Genesis about being part of the negotiations for the Proposed Arrangements.²¹⁹ [] told us it is interested in up to 50MW, demonstrated by its historic purchase of similar products.²²⁰

216. However, we note that these expressions of interest were based on publicly available information about the terms of the Proposed Arrangements. All parties reasonably noted that they could not make a firm decision about whether they would enter such an arrangement without further detail about the terms and conditions of the Proposed Arrangements. Because we were unable to provide the full terms of the Proposed Arrangements and seek a clear view as to whether financial intermediaries would be interested in commercial discussions on the precise terms of the Proposed Arrangements, the Commission has made its assessment by seeking to understand the risk appetite and commercial needs of these parties.
217. While financial intermediaries have the financial ability to bear more risk than many other interested parties, on balance the evidence that we have received demonstrates that a number of terms required by Genesis in order to retain Unit 2 are likely to be unattractive to them.
218. We have carefully weighed the evidence that we have received about the financial intermediaries' risk appetites and needs. On balance, the Commission's assessment is that while financial intermediaries might reluctantly consider accepting some terms, we consider that the combined effect of these terms overall would likely be to rule out financial intermediaries as likely counterparties. These terms include (but are not limited to):
- 218.1 **Duration of the agreement.** The Proposed Arrangements have a duration of 10 years with the option to exit after 5 years. For parties without their own generation assets, the 10-year duration introduces significant uncertainty and risk because it is a long time to commit to a particular price where market conditions are forecast to change. The current outlook is subject to a lot of uncertainty, which makes long-term hedges even riskier.²²¹
- 218.2 However, exercising the exit option comes with an early exit fee of four years' worth of premiums. The early exit fee is onerous and unattractive, and for most purchasers outside of the Applicants is an unrealistic 'exit' option. Only a party with the requisite funds and the ability to offset the break fee (eg, a

²¹⁹ []

²²⁰ []

²²¹ The generation development pipeline is signalling a significant increase in supply over the next 3-4 years but little confirmed investment further out. This could put downward pressure spot market prices in the near term. However, forecasts of demand vary significantly over the next 10 years. Depending on the pace of electrification, some forecasts see energy demand increasing by between 19% and 53% by 2035. Accordingly, spot pricing in the future is very uncertain. For further information see Concept Consulting "Generation investment survey: 2023 update" EA (2023) <www.ea.govt.nz>. MBIE "Electricity Demand and Generation Scenarios (EDGS)" (6 March 2025) <www.mbie.govt.nz>.

party with a significant generation portfolio or alternative dry-winter hedge arrangements) would be likely to agree to the penalty.

218.3 Financial intermediaries expressed the view that a duration of this length was unattractive.²²² For example, [] indicated that it would prefer something shorter with an extension,²²³ and would sign up to a 10-year product only if no other options were available.²²⁴ In respect of [

].²²⁵ [] indicated that it would need to be careful about tenure, and would consider an agreement with a 5 year renewal option.²²⁶ It indicated that the early exit fee of the Proposed Arrangements did not seem a very compelling option to exercise.²²⁷ Some financial intermediaries also expressed some concern about signing up to a particular fixed price, taking into account how market conditions and power prices might evolve in the next 10 years.²²⁸

218.4 **Premium.** Whilst not directly comparable, the premium costs agreed under the Proposed Arrangements are higher than Genesis' previous MSO and HFO products,²²⁹ and exceed the level of premiums previously agreed with financial intermediaries by a []. The market clearing premium for HFOs in 2024 was [].²³⁰ [

]²³¹ Generally speaking, we understand that counterparties to hedge contracts would expect premiums to be discounted when the hedge contract lasts for a substantial period of time to reflect the risk of electricity prices changing due to changing market conditions (whereas 1-2 year contracts, such as prior MSOs and HFOs, would be priced at a higher premium).

218.4.1 The specifics of the premium were not able to be disclosed to financial intermediaries, but some financial intermediaries had generally expressed reservations about the premiums payable in light of the other terms of the contract. For example, [] and [] indicated that if the terms of the contract substantially transferred suspension risks to the

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Genesis response to RFI dated 20 August 2025 (9 September 2025) at 6.

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Application – Additional Information.

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Genesis response to RFI dated 20 August 2025 (9 September 2025) at Annex 1.

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Applicants "Strategic Energy Reserve – Huntly Firming Option: Term Sheet" (18 June 2025) (**Term Sheet**) at 2.

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218.7.1 The specifics of these terms were not able to be disclosed to financial intermediaries and so we were unable to seek their comment on it. However, financial intermediaries raised concerns about how plant outage risks would be shared between Genesis and any contract holder. [] noted that these were of critical importance to the quality of the contract. If Genesis was putting all plant risk on [] as buyer, [] expects the premium to reflect that.²³⁸ However, these risks are not mitigated by lower premiums.

219. Outside of these contract terms, financial intermediaries also variously noted that:²³⁹

219.1 They would expect the allocation of risk onto the Counterparties and the quality of contract terms to affect the premium price (downward).

219.2 The efficiency modifiers, running profiles, and nomination lead times of the Proposed Arrangements would be likely to favour cost over flexibility due to the Applicants' abilities to be flexible through the rest of their portfolios. However, [] indicated that it would value flexibility over cost. This would have a 'critical influence' on the attractiveness of any hedge products to it.

220. For the above reasons, we consider that there remains too much uncertainty as to whether financial intermediaries will be willing or able to enter bilateral arrangements on Genesis' required terms. We consider that if further information about these terms was released to these parties, the likelihood that they would remain interested in entering bilateral arrangements on these terms would decrease, not increase. Accordingly, we do not consider that there is a 'real chance' that there is a likely counterfactual in which these parties entered into bilateral arrangements with Genesis.

221. For completeness, we note that these terms would also rule out independent generators, independent retailers, and industrial customers but, as noted above, we understand that the entire structure of the Proposed Arrangements would be unsuitable for those parties.

Conclusion on bilateral agreement - counterfactual 2

222. It appears that there is a mismatch of expectations between Genesis and interested parties as to the reasonable terms of any bilateral arrangement. While there seemed to be an expectation on the part of some parties that better terms could be

²³⁷ Genesis response to RFI dated 1 September 2025 (6 September 2025) at 4-5.

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²³⁹ [] []
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negotiated as part of any bilateral process,²⁴⁰ as noted above, we do not consider it likely that Genesis would agree to less onerous terms proposed by interested parties, or that interested parties would be in a position to agree to the terms required by Genesis.

223. Accordingly, we do not consider that there is a ‘real chance’ that a series of bilateral arrangements of the magnitude and terms required by Genesis would even have been reached between Genesis and the Counterparties.
224. For the above reasons, we consider that a counterfactual in which Genesis enters a sufficient number of contracts to underwrite Unit 2 bilaterally is not ‘likely’. In other words, on the evidence, we do not think there is a real chance that this will happen absent the Proposed Arrangements.

Potential counterfactual 3: Multilateral agreement with a greater number of parties

225. Finally, we have considered whether there is a ‘likely’ counterfactual in which Genesis enters into a multilateral agreement with a greater number of parties.
226. As noted at paragraph 170 above, in order to conclude that this is a ‘likely’ counterfactual, we would need to be satisfied that additional interested parties would enter multilateral arrangements with Genesis and the Counterparties on broadly the same terms as the Proposed Arrangements (such that Genesis would still have sufficient certainty to keep Unit 2 operational). In other words, this potential counterfactual would involve arrangements similar to the Proposed Arrangements, just with the inclusion of additional counterparties.

Applicants’ submissions - multilateral agreements, counterfactual 3

227. Genesis, Contact and Mercury have indicated that they would have entered into multilateral arrangements with additional parties, although they expressed doubt that practically this could have been done in the time available.²⁴¹
228. Similarly, Meridian indicated that it would have entered into the Proposed Arrangements if the arrangements were extended to additional parties. Meridian, however, considered it unlikely that the negotiations of the Proposed Arrangements could have been concluded in the time available if additional parties had been involved.²⁴²

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[] []

²⁴¹ Genesis response to RFI dated 1 September 2025 (6 September 2025) at 4. Contact response to RFI dated 1 September 2025 (5 September 2025). Mercury response to RFI dated 1 September 2025 (5 September 2025).

²⁴² [Meridian response to RFI dated 1 September (5 September 2025) at 3.]

229. The Applicants also all noted that they are open to including additional counterparties in the factual once the Proposed Arrangements have been authorised and entered into.²⁴³
230. We heard from market participants that a primary reason other parties have not been invited to be part the Proposed Arrangements is because it is unclear which entities, outside of the Counterparties, have the requisite balance sheets to support the Proposed Arrangements (in particular, the annual premium).²⁴⁴

Interested parties' submissions - multilateral agreements, counterfactual 3

231. As noted above in relation to counterfactual 2, some parties, primarily pre-existing holders of HFOs, such as financial intermediaries, indicated that they would be interested in entering Huntly-backed firming contracts, including potentially on a multilateral basis with the Applicants.²⁴⁵

Our assessment - multilateral agreements, counterfactual 3

232. We have carefully assessed the information provided to us by interested parties about their ability and incentives to enter a multilateral arrangement on the terms set out in the Proposed Arrangements.
233. Our view on the basis of the evidence received is that there is not a 'real chance' that multilateral arrangements would be agreed with a wider range of counterparties in the absence of the Proposed Arrangements. This is for the same reasons that we have set out above in relation to the possibility of bilateral contracts.²⁴⁶
234. The Counterparties are more able to manage and have a direct interest in the type of insurance that the Proposed Arrangements offer. In particular, their size and scale can make it easier to manage the risks allocated to them under the Proposed Arrangements within their generation portfolios. For example, in a suspension event, the Counterparties could fall back on their own generation and storage (for what they would hope would be for only a short duration) to manage the suspension event (ie, conceptually they have insurance against an insurance failure), whereas other interested parties are more likely to be exposed to extremely elevated spot prices during the suspension event because they do not have a fall-back position.
235. We also note that some of the financial intermediaries' interest in the multilateral arrangements appeared to be predicated in part on concern that there would not be other Huntly capacity available to purchase from Genesis.²⁴⁷ However, that is not the case. The interest of these parties in multilateral arrangements may fall away given

²⁴³ Genesis response to RFI dated 1 September 2025 (6 September 2025) at 4. Contact response to RFI dated 1 September 2025 (5 September 2025) at [2]. Mercury response to RFI dated 1 September 2025 (5 September 2025) at [2]. Meridian response to RFI dated 1 September (5 September 2025) at 3.

²⁴⁴ Genesis response to RFI dated 1 September 2025 (6 September 2025) at 1-2. []

²⁴⁵ [] []

²⁴⁶ See paragraphs 222 to 224.

²⁴⁷ []

that a significant amount of Huntly-backed capacity remains uncontracted and may be offered on less onerous terms.

236. For the above reasons, we consider that there remains too much uncertainty as to whether these parties would be willing or able to enter Genesis' required terms. We consider that if further information about these terms were released to these parties, it is likely that their interest in entering the multilateral arrangements would decrease, not increase.
237. On balance, while we understand that there might be a possibility for the arrangements to occur on a broader multilateral basis such that they include other interested parties as initial counterparties, we consider this possibility to be too remote to meet the 'real chance' threshold. We consider it unlikely that any additional parties are likely to enter into the current terms on a broader multilateral basis alongside the Applicants, irrespective of whether they have previously signed HFOs.
238. Accordingly, we have excluded a wider multilateral arrangement as a 'likely' counterfactual.

Our assessment of benefits and detriments

239. Given we consider we have jurisdiction in respect of section 58(1)-(2) of the Act, the Commission will grant authorisation if it is satisfied, on the evidence before it, that the proposed conduct will result, or will be likely to result, in a benefit to the public which would outweigh the lessening in competition that would result or be likely to result.²⁴⁸ In making this assessment, the Commission considers the evidence and makes judgements about how much weight to give to the evidence.
240. In *Godfrey Hirst*, the Court of Appeal observed that the Commission must consider a broad range of benefits and detriments in applications for authorisation. This may include efficiencies and non-economic factors.²⁴⁹
241. In particular, the Commission must have regard to efficiencies when weighed together with long-term benefits to consumers, the promotion of competition, and any economic and non-economic public benefits. The Court stated that "[w]here possible these elements should be quantified; but the Commission and the courts cannot be compelled to perform quantitative analysis of qualitative variables."²⁵⁰
242. The Commission's approach is to quantify benefits and detriments to the extent that it is practicable to do so.²⁵¹ Regarding the weight that can be given to qualitative

²⁴⁸ Section 61(6) of the Act. Authorisation Guidelines at [18.2].

²⁴⁹ *Godfrey Hirst NZ Ltd v Commerce Commission* [2016] NZCA 560 (CA) at [24] and [31].

²⁵⁰ *Godfrey Hirst NZ Ltd v Commerce Commission* [2016] NZCA 560 (CA) at [36].

²⁵¹ *Telecom Corporation of New Zealand Ltd v Commerce Commission* [1992] 3 NZLR 429 (CA) at 447. *Air New Zealand and Qantas Airways Limited v Commerce Commission* (2004) 11 TCLR 347 (HC) at [319]. *Ravensdown Corporation Ltd v Commerce Commission* High Court, Wellington API68/96 (16 December 1996) at [47] to [48].

factors, the Court of Appeal said in *Godfrey Hirst* that “[q]ualitative factors can be given independent and, where appropriate, decisive weight.”²⁵²

Benefits

Summary

243. As noted above, we have assessed the benefits of the Proposed Arrangements against what we consider to be the only likely counterfactual, in which Unit 2 is shut down and its capacity is removed from the market.
244. Against that backdrop, we are of the view that the key benefits resulting from the Proposed Arrangements are:
 - 244.1 improved security of supply, particularly during ‘dry’ winters;
 - 244.2 lower wholesale electricity prices (or reduced price volatility); and
 - 244.3 greater availability of hedge contracts being offered to third parties on terms more suitable to them.
245. We have assessed whether the Government Frontier Proposals would materially alter our assessment of the benefits. To the extent that the proposals are implemented during the Authorisation period, the public benefits of the Proposal Arrangements may be slightly smaller. However, we are satisfied that the Proposed Arrangements will still give rise to public benefits, particularly in the short term (ie, 1-5 years). Moreover, to the extent that these proposals reduce the frequency with which Unit 2 is dispatched or Counterparties call their Option MWs, we would expect any public detriments arising from the Proposed Arrangement to simultaneously reduce.
246. We consider the likelihood and magnitude of these benefits in more detail throughout the rest of this section.

Improved security of supply

Summary

247. The Applicants submitted that the Rankine Units provide socially valuable firming capacity by supporting management of seasonal energy risks, and that maintaining the operation of Unit 2 with the Proposed Arrangements represents a public benefit.²⁵³
248. This submission was widely supported by interested parties and energy security modelling undertaken by Transpower. We are satisfied that this benefit will likely eventuate compared to the counterfactual in which Unit 2 is retired. In this

²⁵² *Godfrey Hirst NZ Ltd v Commerce Commission* [2016] NZCA 560 (CA) at [38].

²⁵³ Application at [10.13].

counterfactual, the capacity of Unit 2 will be removed from the market and security of supply during dry years will be threatened.

249. Accordingly, we have placed weight on the likelihood of a public benefit arising in the form of enhanced security of supply.

Applicants' submissions

250. The Applicants submitted that to maintain secure energy supply and ensure energy affordability, New Zealand requires flexible generation that can vary output to balance variations in weather while further investment is made in renewables.²⁵⁴
251. The Applicants submitted that a key supply-side response to the winter 2024 issues was the deployment of additional thermal generation from the Rankine Units to cover demand in times where supply was constrained.²⁵⁵ The Rankine Units provide socially valuable firming capacity to support the management of seasonal energy risks as they can be turned on in response to calls.²⁵⁶ Therefore, maintaining the operation of Unit 2 with the Proposed Arrangements presents a public benefit.²⁵⁷

What measures to maintain security of supply might the Applicants take if Unit 2 is closed?

252. The Applicants provided information about what they would do to protect against dry winter risk if Unit 2 closed and they did not have access to the firming capacity. Aspects of their responses included measures to maintain security of supply, whereas others relate more to managing risk. In the absence of the Proposed Arrangements, the Applicants submitted that:
- 252.1 Each Counterparty would naturally first look to satisfy its own contractual obligations from the capacity it had available and then make independent decisions as to what capacity to offer into the market.
- 252.2 Each Counterparty would also continue to explore alternative firming options, but those alternatives would likely be less efficient than utilising an asset that is currently in the market, such as what would occur under the Proposed Arrangements.
253. Genesis indicated that it is able to cover its [] and contractual obligations with only two Rankine Units. []

].²⁵⁸

254. Mercury submitted that in the absence of the Proposed Arrangements, []

²⁵⁴ Application at [1.1], [1.3] and [10.11]. Genesis Board Paper "Huntly Backup Strategy: For Approval" (December 2021) at [3.13].

²⁵⁵ Application at [1.4], [4.3] and [10.12].

²⁵⁶ Application at [5.4(h)] and [10.13].

²⁵⁷ Application at [10.12].

²⁵⁸ Genesis response to RFI dated 20 August 2025 (9 September 2025) at [6].

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255. Meridian submitted that in the absence of the Proposed Arrangements, it would

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256. Contact has some of its own thermal assets and also has a battery energy storage system (**BESS**) and solar assets under construction. However, Contact submitted [

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257. []²⁶²

Interested parties' submissions on security of supply benefits

258. Most interested parties agreed that the Proposed Arrangements will improve energy security in the short-term as gas supply remains constrained.²⁶³ Some parties noted

259 [

] Applicants “Annexure 5: Confidential submission by Mercury on the counterfactual” (4 August 2025) (**Annexure 5**) at 1.

260 Applicants “Annexure 6: Submission by Meridian on the counterfactual” (4 August 2025) (**Annexure 6**) at 3-4.

261 Applicants “Annexure 4: Confidential submission by Contact on the counterfactual” (4 August 2025) (Annexure 4) at 1.

262 Interview with Contact (26 August 2025) at 13, lines 16-19.

263 [] Interview with Transpower (18 August 2025) at 4-6. Interview with the EA (4 August 2025) at 4. WEL Networks submission on SOPI (21 August 2025) at 1. Fletcher Building submission on SOPI (26 August 2025) at 1. Energy Resources Aotearoa submission on SOPI (27 August 2025) at [3]. MEUG submission on SOPI (4 September 2025) at [9]. Interview with Consumer NZ (26 August 2025) at [15.1]. Lodestone submission on SOPI (27 August

that Huntly is the only short-term option available to provide firming capacity in the market at the moment.²⁶⁴ Waikato-Tainui noted that improved security of supply supports the intent of Te Ture Whaimana, supporting the social, economic and cultural wellbeing of the iwi and communities within the Waikato River catchment.²⁶⁵

259. However, emhTrade expressed the view that the Commission had double counted and overstated the public benefit arising from security of supply because it had identified separate benefits for security of supply and lower wholesale prices.²⁶⁶ emhTrade submitted that the benefit from security of supply is quantitatively the same benefit that arises from lower wholesale electricity prices.²⁶⁷
260. In addition, following release of the Government Frontier Proposals, some submitters queried whether the benefits of the Proposed Arrangements identified in the Draft Determination were overstated. For example, emhTrade was of the view that any benefits are only likely to apply for 1 or 2 years (before the Proposals come into effect), and that it is unlikely that the granting of a 10-year Authorisation will create benefits over 1-2 years that will outweigh the detriments over a decade.²⁶⁸

Transpower modelling on security of supply

261. The feedback received during consultation is also broadly supported by modelling undertaken by Transpower. Transpower, as the System Operator, is responsible for publishing the medium-term security of supply assessment (**SOSA**) annually. The analysis assesses whether there is enough electricity generation in the system to meet total demand across the country under a range of supply and demand scenarios over the following 10 years.
262. The 2025 SOSA shows that the New Zealand Winter Energy Margin (**NZ-WEM**)²⁶⁹ falls below the lower security standard²⁷⁰ by 2026 due to the reduction in expected gas supply.²⁷¹ The NZ-WEM is forecast to recover in 2027 in the reference case, which includes Unit 2. However, in the 'reduced Rankine' scenario (ie, if Unit 2 is

2025) at 1. 2degrees submission on SOPI (27 August 2025) at 1. Interview with Nova Energy (26 August 2025) at [3.1]. Interview with MEUG (25 August 2025) at 1-2.

264 Interview with Lodestone Energy (2 September 2025) at [13.1]. Interview with Nova Energy (26 August 2025) at [3.1]. Interview with Octopus (25 August 2025) at 1. Interview with Pulse Energy (22 August 2025) at [4.2]. Interview with Consumer NZ (26 August 2025) at [15.1].

265 Waikato Tainui submission on Draft Determination (14 October 2025) at [19]. Te Ture Whaimana is the primary direction-setting document for the Waikato River and activities which affect it.

266 emhTrade submission on Draft Determination (10 October 2025) at 1.

267 emhTrade submission on Draft Determination (10 October 2025) at 1.

268 emhTrade submission on Draft Determination (10 October 2025) at 3.

269 The NZ-WEM is the difference between the expected amount of energy that can be supplied and expected demand during the period 1 April to 30 September each year expressed as a percentage of demand. The current NZ-WEM is calculated by the EA to be 14%-16% and is published in Part 7 of the Code.

270 Falling below the lower security standard means that the margin of available generation for a given year falls below 14%.

271 Transpower "Security of Supply Assessment 2025" (30 June 2025) <www.static.transpower.co.nz> at 7.

decommissioned), the NZ-WEM remains below the lower security standard out to 2035. Transpower submitted that energy insecurity is likely to continue at least for the short-term (ie, 3-5 years).²⁷² Transpower considers that retiring Unit 2 will further exacerbate the current energy constraints, especially in dry winter years. Transpower also expressed the view that the Rankine Units will be needed for 10 years, if not more, to safeguard energy security.²⁷³

263. Transpower also publishes a monthly update of the electricity risk curves (**ERCs**), which forecast the potential risk to energy supply for the next 12-24 months, taking into account fuel availability (hydro storage, gas and coal) and the availability of generation capacity to make use of that fuel. Retaining Unit 2 mitigates the potential risk of energy shortage in winter 2026.²⁷⁴ By comparison, removing Unit 2 from the market leads to the ERCs shifting upward, indicating a higher probability of not meeting demand due to increased risk of supply shortages.²⁷⁵

Government Frontier Proposals

264. As noted above, on 1 October 2025, the Government released its policy package in response to the report commissioned from Frontier Economics, some of which are intended to improve security of supply in dry years. We have considered the impact of these proposals on our assessment of benefits relating to security of supply below.

Our assessment of security of supply

265. Based on the views of interested parties and the energy security assessment by Transpower, we are satisfied that security of supply benefits will likely eventuate compared to a counterfactual in which Unit 2 is retired. The evidence broadly supports that, under this counterfactual, security of supply during dry winters may be threatened.
266. We do not consider that the alternative measures that the Applicants indicated that they would take to address security of supply in the counterfactual would be sufficient to negate these benefits. All Applicants noted the limited alternatives available to manage seasonal dry-year risk.²⁷⁶ The Applicants indicated that they would primarily rely on existing generation investment programmes to meet the security of supply shortfall, though it was noted that consent and build time

²⁷² Interview with Transpower (18 August 2025) at 2.

²⁷³ Interview with Transpower (18 August 2025) at 3.

²⁷⁴ In their most recent updates, the base case ERCs have assumed that Unit 2 closes in February 2026 and a sensitivity case has been produced assuming Unit 2 is retained. Transpower “August 2025 Energy Security Outlook” (25 August 2025) <static.transpower.co.nz> at 1 and 5.

²⁷⁵ Transpower states in its August 2025 Energy Security Outlook that: “... we look at the impact on the ERCs if the third Rankine Unit were to remain available in 2026, which is currently awaiting Commerce Commission approval. This lowers the NZ Watch curve by up to 680 Gigawatt Hours (GWh) and results in no SSTs crossing any ERCs.” Transpower “August 2025 Energy Security Outlook” (25 August 2025) <static.transpower.co.nz> at 1.

²⁷⁶ Annexure 6 at 3. Annexure 5 at 1. Annexure 4 at 1.

constraints limited their ability to accelerate these programmes to meet near-term risks.²⁷⁷ Other options to manage security of supply are unlikely or less attractive:

- 266.1 Gas-backed swaptions with other generators are unlikely to be a realistic alternative due to the lack of certainty about gas supply. Diesel-backed swaptions would come at a significantly increased cost.²⁷⁸
 - 266.2 Investment in alternative forms of thermal generation, such as open cycle gas turbines, would require a significant long-term increase in gas availability to be justified, and lead times are expected to be at least 3-4 years given consenting timeframes and global purchase lead times for these generating units.²⁷⁹
 - 266.3 Accelerating mass market retail flexibility, such as EV charging flexibility and time-of use pricing,²⁸⁰ could provide some relief for high demand winter peaks but would not reduce consumption overall. Rather, it would only time-shift consumption and is unlikely to resolve dry year energy risk.
 - 266.4 Some Applicants could use or expand their demand response incentives with their major electricity customers to ensure security of supply.²⁸¹ However, although customers subject to demand response mechanisms may receive some financial compensation to adjust their demand, there is an opportunity cost to the economy associated with a demand-side response strategy.
267. We do not consider the Government Frontier Proposals likely to materially alter security of supply in the short term (ie, 1-5 years). While some of the Government Frontier Proposals are intended to address security of supply, the timing is uncertain. For example, new firming generation is yet to be invested in and will take time to come to market, and the procurement of an LNG facility is contingent on positive responses to the Government's request for proposals process. In addition, the use of LNG as a fuel depends on its relative price to coal and currently LNG is more expensive than coal. Accordingly, we do not consider that this will materially alter our assessment of the security of supply benefits (discussed above) in the short term (within 5 years).
268. To the extent that the Government Frontier Proposals come to fruition during the Authorisation period, the security of supply benefits may slightly reduce depending on the duration of the overlap. However, having Unit 2 in the market (in addition to any intervention from the Government Frontier Proposals) would still assist in improving security of supply in the economy in case of outages and in dry year sequences.

²⁷⁷ Annexure 6 at 3. Annexure 5 at 1. Annexure 4 at 1.

²⁷⁸ Annexure 6 at 3.

²⁷⁹ Annexure 4 at 1.

²⁸⁰ Annexure 5 at 1.

²⁸¹ Annexure 6 at 3.

269. Overall, given the importance of security of supply to the economy, we accept that security of supply is a primary benefit arising from the Proposed Arrangements. This view is supported by almost all interested parties. Accordingly, we have placed weight on the security of supply benefit as part of our overall assessment.
270. We note that emhTrade expressed the view that we should quantify the security of supply benefits.²⁸² We have not attempted to quantify this benefit as we do not consider it is necessary for us to reach a view on the net benefits of the Proposed Arrangements. Given that security of supply is a broad/cascading benefit throughout the wider economy, any quantification would include a large degree of uncertainty and require modelling assumptions that would make it difficult to estimate in practice. We are satisfied that a qualitative assessment provides a suitable indication of the appropriate magnitude.
271. We also consider that there are likely to be flow-on benefits associated with improved security of supply in the form of lower and more stable wholesale electricity prices (compared to a counterfactual in which Unit 2 is disestablished). We discuss these flow-on benefits and respond to emhTrade's submission that we have double counted benefits by separately considering benefits from lower wholesale prices, below.

Lower wholesale electricity prices

Summary

272. The Applicants submitted that the Proposed Arrangements will result in lower average wholesale electricity prices compared to a counterfactual where Unit 2 is retired, producing public benefits in the form of additional consumer surplus and a transfer of surplus from producers to consumers.
273. We have quantified the effect of removing Unit 2 from the market and are satisfied that the Proposed Arrangements would produce a public benefit in the form of higher consumer surplus (between the factual and counterfactual) in the range of \$13.5m – \$15.8m over the next five years. We have placed weight on the creation of surplus in our overall assessment of benefits.
274. The Applicants also estimated a transfer of surplus from producers to consumers and submitted that this is a benefit. While we agree that the Proposed Arrangements would involve a transfer of surplus from producers to consumers, such a transfer reflects a reallocation of surplus within the economy rather than an increase in total surplus (both producer and consumer).
275. Accordingly, we have only placed weight on increases in consumer surplus in the range of \$13.5 - \$15.8m over the next five years as a significant benefit.

²⁸²

emhTrade submission on Draft Determination (10 October 2025) at 1.

Applicants' submissions on wholesale electricity prices

276. As a flow-on effect of greater security of supply, the Applicants submitted the Proposed Arrangements will result in lower average electricity prices by inserting additional capacity into the supply stack compared to a counterfactual where Unit 2 is retired.²⁸³ The Applicants submitted that this would result in additional consumer surplus relative to the counterfactual and a transfer of surplus from producers to consumers.²⁸⁴
277. The Applicants refer to analysis by Concept Consulting which estimates that, if one Rankine Unit is removed, prices will increase by around 10%–12% between 2026 and 2028 and will increase by 6% in the long term.²⁸⁵ NERA, on behalf of the Applicants, estimates that lower average wholesale electricity prices will translate to public benefits in the forms of:²⁸⁶
- 277.1 a (partial) consumer surplus benefit of \$13.5m – \$15.8m; and
- 277.2 a transfer of surplus to consumers of \$2.13b – \$2.24b.

Interested parties' submissions on wholesale electricity prices

278. As part of our consultation, we sought feedback about the likelihood that the Proposed Arrangements would result in lower average wholesale prices and on NERA's estimation (on behalf of the Applicants) of the magnitude of these benefits.
279. In general, most interested parties agreed that keeping Unit 2 in the market as a result of the Proposed Arrangements will result in lower and less volatile average wholesale prices, particularly during dry years.²⁸⁷ Waikato-Tainui submitted that affordable and stable energy prices support oranga whaanau by strengthening community resilience and reducing energy hardship.²⁸⁸
280. Some parties were doubtful of the magnitude of public benefit expressed in the Application:
- 280.1 Haast Energy noted that consumer surplus benefits would only benefit consumers to the extent that any cost savings are passed through to retail prices and hedge offerings.²⁸⁹

²⁸³ Applicants "Annexure 1: NERA Report prepared for Bell Gully" (4 August 2025) (**Annexure 1**) at [17].

²⁸⁴ Annexure 1 at [18].

²⁸⁵ Application at [10.15]–[10.16].

²⁸⁶ Annexure 1 at [30] and Table 2.

²⁸⁷ Transpower submission on SOPI (26 August 2025) at [16]. Energy Resources Aotearoa submission on SOPI (27 August 2025) at [9] and [23b]. Fletcher Building submission on SOPI (26 August 2025) at 1. WEL Networks submission on SOPI (21 August 2025) at 1. Interview with the EA (20 August 2025) at [3]. Interview with Octopus (25 August 2025) at 3. Interview with Nova Energy (26 August 2025) at [15.1]. Interview with Lodestone Energy (2 September 2025) at [27.1].

²⁸⁸ Waikato-Tainui submission on Draft Determination (14 October 2025) at [19].

²⁸⁹ Haast Energy submission on SOPI (13 August 2025) at 2.

280.2 [] expressed scepticism as to the magnitude of consumer surplus benefit claimed.²⁹⁰

280.3 As noted above, emhTrade expressed the view that the Commission had double counted the public benefit arising from security of supply.²⁹¹ emhTrade submitted that the benefit from security of supply is quantitatively the same benefit that arises from lower wholesale electricity prices.²⁹²

280.4 emhTrade also submitted that the Commission should risk-adjust the benefit of Unit 2 being available in the factual due to possible delays in recertification.²⁹³

281. emhTrade also expressed the view that the benefits identified by the Commission in the form of lower wholesale prices were relatively insignificant.²⁹⁴

Our assessment of wholesale electricity prices

282. The evidence before us supports the Applicants' submission that the price setting mechanism of the New Zealand electricity market is such that, all else equal, if additional capacity is offered into the supply stack, the wholesale electricity price would fall. Therefore, against a counterfactual where Unit 2 is retired, and assuming that opportunities arise for Unit 2 to be dispatched, we agree with the Applicants that we would expect wholesale prices to on average be lower with the Proposed Arrangements.

283. While we acknowledge that security of supply and lower wholesale prices are related benefits, our assessment intentionally considers each separately. By retaining the capacity of Unit 2, the Proposed Arrangements contribute to ensuring supply can meet demand under a wider range of scenarios (enhancing security of supply). This is a separate benefit from lower wholesale prices. The benefits are reflected in improved system resilience and a reduced likelihood of brownouts (demand-side response) and blackouts.

284. Wholesale prices are related to security of supply in that they reflect supply and demand conditions at a particular point in time. The Proposed Arrangements improve supply which will lead to lower wholesale prices. We are satisfied that our approach does not double count security of supply benefits by separately considering benefits arising from lower wholesale prices.

285. To quantify these benefits, we tested NERA's assessment of the likely impact of the removal of Unit 2 on price. Key to NERA's estimates of the relevant consumer surplus benefit and any transfer of surplus to consumers are NERA's assumptions regarding how prices would evolve in the factual and counterfactual. NERA assumes that

²⁹⁰ []

²⁹¹ emhTrade submission on Draft Determination (10 October 2025) at 1.

²⁹² emhTrade submission on Draft Determination (10 October 2025) at 1.

²⁹³ emhTrade submission on Draft Determination (10 October 2025) at 1-2.

²⁹⁴ emhTrade submission on Draft Determination (10 October 2025) at 1.

counterfactual prices would be 10% higher in year 1 and 12% higher in years 2 and 3 based on analysis by Concept Consulting.²⁹⁵

286. To test the suitability of these price scenarios, we employed an alternative approach to estimate the effect on price of removing Unit 2 from the market. We used data on actual generation from Unit 2 and the EA's price sensitivity scenarios to estimate the effect of removing Unit 2 from the market between 7 April 2023 and 4 April 2025.²⁹⁶ More details on our approach and our results can be found in Annexure A.
287. We found that removing Unit 2 will result in prices being, on average, 11.8%–13.2% higher.²⁹⁷ This largely aligns with NERA's price change assumptions and so we are satisfied with NERA's estimated range for the public benefit.
288. As outlined in Annexure A, we consider there to be a range of qualitative factors and modelling limitations that affect our consideration of the appropriate range for the magnitude of this public benefit. Some of these considerations (such as our analysis period reflecting dry year conditions) suggest that we overstate the effect on price that would occur. However, other factors (such as NERA only estimating these benefits over a 5-year period) would suggest that we understate the public benefits.
289. On balance, we consider that these factors are likely to cancel out to some extent, and we see no reason to think that they would materially diminish the magnitude of these public benefits such that it would change our conclusions.
290. NERA additionally raised that the Proposed Arrangements will result in public benefits arising from a transfer of surplus from producers to consumers in the range of \$2.13b – \$2.24b. As discussed in Annexure A, we have placed less weight on these public benefits. Such a transfer reflects a reallocation of surplus within the economy rather than an increase in total surplus (both producer and consumer). We therefore place weight only on increases in total surplus in our overall assessment of the Proposed Arrangements.
291. In relation to Government Frontier Proposals, we do not consider these to be likely to impact our assessment of the benefits in the short to medium term (ie, the next 10 years). As discussed above, the Government Frontier Proposals that may have pricing effects (eg, investment in new firming capacity; the proposal to fund an LNG import facility) will take time to come to market and will have the most impact in the medium to long term. Accordingly, we do not consider that Government Frontier Proposals will materially alter our assessment of wholesale prices (discussed above) in the short to medium term.

²⁹⁵ NERA considers 2 scenarios. In the first prices in years 4 and 5 are 10% and 8% higher, respectively. In the second scenario, prices are 11% and 10% higher, respectively.

²⁹⁶ The EA considers price sensitivity with respect to volume changing by -5%, -4%, -3%, -2%, -1.5%, -1%, -0.5%, 0.5%, 1%, 1.5%, 2%, 3%, 4%, and 5%. EMI "Sensitivity of price to changes in load" EA <www.emi.ea.govt.nz>. Due to data availability, we exclude the following dates from our analysis: 7 April 2024, 22 October 2024, 16 November 2024, and 14-21 January 2025.

²⁹⁷ Where 11.8% reflects a simple average, and 13.2% reflects a generation weighted average.

292. To the extent that the Government Frontier Proposals come to fruition during the Authorisation period, the lower wholesale prices benefit may slightly reduce. However, having Unit 2 in the market (in addition to any intervention from the Government Frontier Proposals) may still improve security of supply and fuel diversity which in turn can be expected to push wholesale prices down.
293. Accordingly, we do not consider that Government Frontier Proposals will materially alter our assessment of wholesale prices (discussed above) in the short to medium term.
294. Overall, we consider that the Proposed Arrangements will produce sizeable consumer surplus benefits. Even if we exclude benefits arising from any transfer of surplus from producers to consumers on the basis that this constitutes a neutral transfer, we consider the public benefit of the Proposed Arrangements is likely to fall in the range of \$13.5m – \$15.8m.
295. We note emhTrade’s submission that this range “seems decidedly insignificant”.²⁹⁸ However, the legal test for authorisations requires us to focus on the relative magnitude of benefits and detriments to consider the net effect, as opposed to focussing on the absolute monetary amount.

Improved incentive to offer hedges to third parties

Summary

296. The Applicants submitted that the Proposed Arrangements will result in more hedge products being made available to third parties (ie, interested parties outside the Counterparties) compared to a counterfactual in which the capacity of Unit 2 is removed from the market.²⁹⁹ The Applicants also submitted that the Proposed Arrangements improve their ability and incentive to offer these hedge contracts on terms that are better tailored to buyers’ needs.³⁰⁰
297. As part of our consultation, we sought feedback about the benefits of third-party access to hedge products, as well as the likelihood and magnitude of these benefits in the factual. A number of parties submitted that Genesis’ prior HFOs and MSOs had not been suitable for the needs of many interested parties.
298. Nevertheless, these contracts were offered prior to the HFO being in place and Genesis has stated as part of the Application that it intends to design products that are suitable for the needs of interested parties. Genesis told us that it is already engaging with independent retailers, generators, and industrial customers to understand their needs. If the certainty created by the Proposed Arrangements enables Genesis to offer hedge contracts to third parties on terms that are fair and reasonable and more suitable for their needs, this would represent a further, significant, public benefit.

²⁹⁸ emhTrade submission on Draft Determination (10 October 2025) at 1.

²⁹⁹ Application at [9.5].

³⁰⁰ Application at [9.5]-[9.8]. Interview with Mercury (21 August 2025) at 13, lines 8-29.

299. The Commission accepts that the Proposed Arrangements provide the Applicants with the ability to offer a greater number of hedges to third parties compared to a counterfactual in which Unit 2 exits the market. We also accept that at least Genesis has a greater incentive to sell hedges backed by this capacity compared to a scenario in which Unit 2 exits the market.
300. The Commission takes note of Genesis' commitment in the Application to design products that are suitable for the needs of interested parties (such as financial intermediaries, independent retailers, generators, and industrial customers). In making our Determination, we have placed weight on a public benefit arising in the form of access to hedge contracts for a broader range of participants.
301. The Commission expects Genesis to promptly follow through on that commitment. We expect these products to be offered on fair and reasonable terms, and to take into account that Genesis has already secured the capital and tenure it deems necessary to commit to keeping three Rankine Units in market.
302. In order to track Genesis' progress in delivering on this commitment, the Commission intends to liaise with the EA to obtain information that Genesis is required to provide to the EA on a regular basis about the extent to which Genesis is offering and entering into contracts with third parties.

What parties would benefit from access to Huntly-backed firming capacity and why?

303. Our consultation indicated that there are two broad categories of parties who would be interested in access to hedges backed by Huntly capacity. At a high level, these are:
- 303.1 parties who have previously purchased or sought access to HFOs and MSOs. Outside of the Counterparties, we understand purchasers of these contracts have historically included financial intermediaries, who repackage and on-sell hedge products to other parties;³⁰¹ and
- 303.2 parties for whom HFOs and MSOs have not historically been suitable, such as smaller independent generators and retailers.
304. The importance of access to Shaped Hedge contracts for the second category of parties was generally supported by independent retailers and generators during consultation.³⁰² Shaped Hedge contracts are important for these market participants to manage risk in the electricity sector. We also heard that challenges accessing suitable risk management products have represented barriers to entry and expansion in retail and generation markets.³⁰³ As the electricity system becomes more reliant on intermittent generation (wind and solar), spot market pricing

³⁰¹ See paragraphs 0 to 224.

³⁰² Interview with 2degrees (19 August 2025) at 3. Interview with Electric Kiwi (22 August 2025) at [6.1]. Electric Kiwi submission on SOPI (27 August 2025) at [47]. Interview with Pulse Energy (22 August 2025) at [5]. Interview with Octopus (25 August 2025) at 3.

³⁰³ []

entirely true: its 2024 HFOs were primarily purchased by financial intermediaries and not by Gentailers, and a number of interested parties, including independent retailers and smaller Gentailers indicated that they had expressed interest in these products over the years.³¹¹ However, the submission that some third parties (such as industrial customers, independent generators, and independent retailers) have not purchased MSOs and HFOs was supported by those parties, who indicated that these products were unsuitable for them in terms of size, duration, and allocation of risk.³¹² Interested parties expressed that there had been a trend of Genesis' hedge contracts being 'take-it-or-leave-it', with limited room for negotiation to ensure that terms are suitable.³¹³

310. That being the case, our assessment is that these parties' lack of interest in MSOs and HFOs is not necessarily indicative of their demand for risk management products supported by Huntly. Financial intermediaries also told us that HFOs are an important input to their businesses, enabling them to repackage and synthesise risk management contracts more suited to smaller interested parties.³¹⁴

Applicants' submissions on access to Shaped Hedges

311. The Applicants submitted that the Proposed Arrangements give rise to a greater ability and incentive for them to provide Shaped Hedge products to interested parties on terms that are more beneficial to those third parties because:

311.1 by design, there is remaining capacity not allocated to the Applicants (including Genesis' pre-existing commitments).³¹⁵ Genesis has told us that, "With the viability of Unit 2 underpinned as a result of the Arrangements, Genesis is in a position to, and intends to, design new risk products that are suitable to a broader range of participants (in terms of volume, term, etc.) in order to best utilise that capacity. While there has been very limited demand for these products outside of the four large generators to date, the presence of Unit 2 means that Genesis is incentivised to continue attempting to design

311 [] []

312 [] [] [] [] [] []

[] Interview with MEUG (25 August 2025) at 4. MEUG submission on SOPI (4 September 2025) at [9.2]. The submissions are supported by the work of the EA, which recently concluded that OTC super-peak hedge contract prices trade at a substantial unquantified premium over ASX baseload prices adjusted for shape. The EA concluded that "while the evidence points to scarcity being a driver, 4 there is also a plausible driver that has competition implications (ie, refusing to supply products on appropriate terms to Counterparties who are downstream competitors), indicating that some level of market power could have been in play. EA "Reviewing risk management options for electricity retailers" (27 February 2025) <www.ea.govt.nz>.

313 [] []

314 [] []

315 Interview with Genesis (21 August 2025) at 4, lines 15-33. Interview with Mercury (21 August 2025) at 15, lines 31-37 and 16, lines 1-6. Interview with Contact (26 August 2025) at 4, lines 6-17. Application at [9.7].

products that meet other participants' (eg, independent generators and retailers, large industrials) stated needs.”; ³¹⁶

311.2 Counterparties would, all else equal, be longer on electricity in the factual, reducing their exposure to dry year risk and providing greater incentives to offer additional hedge products;³¹⁷ and

311.3 Counterparties are free to exercise their option at their discretion (provided their fuel contributions are met) without any constraint on how they act in the market having done so.³¹⁸ Counterparties could therefore compete against Genesis as sellers in the hedge market.³¹⁹

312. However, Genesis has confirmed that the Commission's suggestion in the Draft Determination that 135MW would be available to sell to third parties “risks suggesting a greater degree of specificity as to available capacity than is the case in practice.” Genesis noted that there could be more than 135MW theoretically available when all three Rankine Units are running but likely to be less when only two units are running if one is on maintenance outage.”³²⁰

313. Genesis has stated that it is already engaging with independent retailers, independent generators and industrial customers to understand their needs.³²¹

314. We note that Genesis' June 2025 Board paper indicated that additional capacity contracts to the Proposed Arrangements could be sold commercially.³²²

Interested parties' submissions

315. As explained above, interested parties during consultation consistently supported the view that hedges are an important input into their businesses.³²³ Waikato-Tainui submitted access to hedge products accessible to iwi would present a tangible

³¹⁶ Application at [9.5].

³¹⁷ Annexure 1 at [13(C)]-[14]. [] []

³¹⁸ Application at [1.10(c)] and [5.4(j)].

³¹⁹ [] []

³²⁰ Genesis submission on Draft Determination (10 October 2025) at [4.2].

³²¹ Genesis response to RFI dated 1 September 2025 (6 September 2025) at 8. Estelle Sarney “Genesis engaging with market on short-term flexibility products” (1 September 2025) <www.genesisenergy.co.nz>. Genesis submission on Draft Determination (10 October 2025) at [3].

³²² Genesis Board Paper “Huntly Strategy Energy Reserve: For Approval” (June 2025) at [2.1(b)].

³²³ [] [] Electric Kiwi submission on SOPI (27 August 2025) at [47]. [] []

pathway for iwi to participate in energy markets, diversify investment portfolios, and advance aspirations for energy sovereignty consistent with mana motuhake.³²⁴

316. However, there was less consensus between interested parties about the amount of additional firming capacity that would be offered to the market as a result of the Proposed Arrangements:

316.1 Some submitters supported the Applicants' suggestion that more firming capacity may be offered to the market:

316.1.1 Energy Resources Aotearoa noted the existence of previous hedge offers as evidence of Genesis' willingness to offer more contracts in the future.³²⁵

316.1.2 Other interested parties submitted that Genesis may be able to offer hedges for uncontracted volumes to a broader range of interested parties because the Gentailers would have underwritten the capital and operating expenditure of Unit 2.³²⁶

316.2 emhTrade submitted that it was unlikely that Genesis would sell the entire 135MW of spare capacity because some of this would be required by Genesis to cover outages on other units.³²⁷ As noted at paragraph 312 above, Genesis confirmed that the specific amount of spare capacity offered to the market cannot be specified in advance given unpredictable outages of the Rankine Units.

316.3 Other parties expressed scepticism that the Applicants would have incentives to offer hedge cover to third parties at all.

316.3.1 Interested parties submitted that, having underwritten Unit 2 through the Proposed Arrangements, Genesis is no longer incentivised to supply additional hedges to third parties.³²⁸ Rather, interested parties submitted that the Gentailers will remain incentivised to limit access to hedging arrangements for third party retailers to cover their own exposure³²⁹ or prioritise supply of Shaped Hedges to their retail arm.³³⁰

³²⁴ Waikato-Tainui submission on Draft Determination (14 October 2025) at [19].

³²⁵ Energy Resources Aotearoa submission on SOPI (27 August 2025) at [10].

³²⁶ Interview with Transpower (18 August 2025) at 7. WEL Networks submission on SOPI (21 August 2025) at 1.

³²⁷ emhTrade submission on Draft Determination (10 October 2025) at 2. Interview with emhTrade (1 September 2025) at [19].

³²⁸ [] []

³²⁹ []

³³⁰ 2degrees submission on SOPI (27 August 2025) at 2. []

316.3.2 Interested parties also noted that a significant proportion of the firming capacity would be locked up between the Applicants, leaving little to no volume for the broader market.³³¹

316.3.3 Interested parties submitted that there are no mandatory obligations in the Proposed Arrangements to offer hedges to third parties, and the Commission's Draft Determination did not mandate such obligations through conditions.³³²

317. A number of submitters also expressed doubt that hedges offered by Genesis would be on terms suitable for smaller interested parties. Submitters were concerned that:

317.1 Genesis would be able to dictate the terms of these products;³³³

317.2 products might not be suitable, just as previous HFO products have not been suitable;³³⁴

317.3 prices could be different compared to the prices agreed in the Proposed Agreement given differences in contract terms;³³⁵ and

317.4 despite Genesis' stated willingness to engage in discussions with third parties to offer hedges that would suit their needs, ongoing conversations with Genesis raised concerns about how these commitments will translate into flexible and fairly priced products. Mercuria noted that its conversations raised doubts about whether bespoke products will be adequately customised.³³⁶ It also expressed concern that Genesis would not price products at levels that would support robust competition.³³⁷ [

].³³⁸

Our assessment of access to Shaped Hedges

318. We considered whether the Applicants would have the ability and incentive to offer hedges to interested parties under the Proposed Arrangements.

³³¹ 2degrees submission on SOPI (27 August 2025) at 2. Mercuria submission on SOPI (1 September 2025) [Public] at 2.

³³² Lodestone submission on SOPI (27 August 2025) at 2. Mercuria submission on SOPI (1 September 2025) [Public] at 2. Electric Kiwi submission on Draft Determination at 1. IEGA cross-submission on Draft Determination (17 October 2025) at 1-2.

³³³ []

³³⁴ Interview with 2degrees (19 August 2025) at 3. Interview with Electric Kiwi (22 August 2025) at [5.1]. IEGA cross-submission on Draft Determination (17 October 2025) at 1.

³³⁵ Interview with 2degrees (19 August 2025) at 3. Lodestone submission on SOPI (27 August 2025) at 1. Haast Energy submission on SOPI (13 August 2025) at 3.

³³⁶ Mercuria submission on Draft Determination (13 October 2025) at [1].

³³⁷ Mercuria submission on Draft Determination (13 October 2025) at [3].

³³⁸ []

319. The Commission accepts that the preservation of Unit 2 in the factual provides the Applicants with greater ability and incentive to offer Shaped Hedges to interested parties compared to a counterfactual in which Unit 2 is retired. In particular, we note that:
- 319.1 Unit 2 provides the market with capacity that would not be available to the market in a counterfactual where Unit 2 is retired.
 - 319.2 Security of supply benefits arising from the Proposed Arrangements reduce the Applicants' dry-year risk, so that in principle each may have a greater ability and appetite to reallocate resources that would otherwise have been held to mitigate this risk. This could include selling hedges to interested parties backed by more flexible and potentially cheaper resources than those provided by the Proposed Arrangements.
320. In relation to the concern of interested parties that Genesis may not be incentivised to offer hedge contracts that align with the needs of purchasers or be priced at competitive levels, the Commission notes that:
- 320.1 there is more capacity available to contract in the factual. Genesis likely has a commercial incentive to generate revenue certainty from the Rankine Units by contracting out residual uncontracted capacity. We note that the Proposed Arrangements only cover Genesis' risk relating to 225MW or almost one Rankine Unit of capacity. Genesis has two additional Rankine Units, with 135MW of spare capacity, for which Genesis must pay the associated operating and capital expenditure. To elect not to sell this capacity in the form of hedge contracts would expose Genesis to greater spot price volatility risk, with reduced revenue certainty, potentially affecting the value of the Rankine Units in their portfolio;³³⁹
 - 320.2 Genesis has more certainty that the risk of their own plant failure can be adequately managed with the third Rankine Unit still in service; and
 - 320.3 Genesis has stated in its Application that:
 - 320.3.1 with the viability of Unit 2 underpinned, Genesis is in a position to, and intends to, design new risk products that are suitable to a broader range of participants; and

³³⁹

For example, while some interested parties expressed that Genesis would be incentivised to withhold additional capacity to benefit from high prices during dry sequences, we accept Genesis' submission that dry sequences severe enough to lead to significant wholesale prices are relatively infrequent and unpredictable. The long lead time needed to prepare Unit 2 to generate from cold and the volatile nature of hydrology in New Zealand makes committing a Rankine Unit to meet an expected dry sequence and high price period risky. Sudden rainfall, as seen in August 2024 just after the Tiwai demand response and Methanex gas deal were called, could suppress prices unexpectedly resulting in significant losses from committing unhedged capacity from Unit 2. Selling any residual capacity through hedges provides revenue certainty to Genesis and mitigates the impact of a sudden change in conditions if Unit 2 is called by a hedge counterparty.

320.3.2 Genesis is already working to understand the needs of interested parties.³⁴⁰

321. On balance, compared to a situation in which Unit 2 is retired and the capacity is not available, Genesis must be at least marginally more likely to enter into arrangements on terms that are mutually beneficial. Similarly, the Counterparties must also be at least marginally more willing to enter into arrangements with third parties in the factual as they have reduced their own dry year risk.
322. The Commission takes note of Genesis' commitment in the Application to design products that are suitable for the needs of interested parties (such as financial intermediaries, independent retailers, generators, and industrial customers). The Commission expects Genesis to promptly follow through on that commitment. We expect these products to be offered on fair and reasonable terms and to take into account that Genesis has already secured the capital and tenure it deems necessary to commit to keeping three Rankine Units in market. Accordingly, in making our Determination, we have placed weight on a public benefit arising in the form of access to hedge contracts for a broader range of participants.

Assessment of potential conditions – reporting obligation

323. The Commission acknowledges the concerns of submitters that, notwithstanding Genesis' stated commitment to engaging with third parties, the hedge contracts it offers for unallocated capacity will not align with the needs of purchasers or be priced at competitive levels.³⁴¹ Genesis has publicly announced that it is working to understand the needs of market participants. However, these discussions are in their early stages and there is uncertainty amongst interested participants as to the volume and form of hedge contracts Genesis will offer. We acknowledge that smaller market participants have reported having difficulties accessing suitable firming commitments in the past. To the extent that, in the factual, products that are unsuitable to third parties are offered to the market, the public benefits that would flow from the Proposed Arrangements would be smaller.
324. In light of the submissions received, the Commission considered whether it would be appropriate to impose a condition requiring Genesis to report to the Commission on Genesis' progress toward agreeing further hedge contracts with third parties.
325. However, the EA already gathers the information that the Commission would seek to obtain under a reporting obligation from Genesis (as well as the other Applicants). In particular, the EA gathers:
- 325.1 granular information about all hedge contracts entered into by the Applicants, including but not limited to quantity, contract type, premium,

³⁴⁰ Genesis has stated it is keen to expand its HFO product range over the next year or so to "produce energy security and price stability options for all market participants" and is seeking feedback on the design of future firming products. Genesis submission on Draft Determination (10 October 2025) at [3.2].

³⁴¹ For example, Mercuria submission on Draft Determination (13 October 2025) at [3].

suspension clauses and trading periods (per clause 13.219(1) of the Code);³⁴²
and

325.2 granular information about the requests for hedge contracts from third parties to the Applicants and responses to those requests (whether the Applicant agrees or declines to make the trade) (per a notice issued by the EA under clause 2.16 of the Code).³⁴³

326. The Commission notes that the EA has the power under s 47A(1) of the Electricity Industry Act 2010 to provide this information to the Commission, as it is information that would assist the Commission to exercise its functions in relation to authorisations under Part 5 of the Act. We note the ability to share information is underscored by a Memorandum of Understanding between the EA and the Commission.³⁴⁴ The EA's power is not subject to the consent of any party from which the information originated. The EA can share even highly commercially sensitive confidential information with the Commission.

327. The Commission considers accessing the relevant information in this way is sufficient to enable it to monitor the extent to which Genesis is delivering on its commitment to make hedge contracts available to third parties. The Commission intends to liaise with the EA to obtain this information on a regular basis. Accordingly, no separate condition requiring the provision of this information directly to the Commission is necessary.

Assessment of potential conditions - other conditions

328. The Commission acknowledges the views of some submitters that the Commission should impose other conditions to ensure that greater access to hedge contracts materialises. Interested parties proposed various conditions, including conditions that would require:

328.1 Genesis to offer hedge contracts to third parties. Proposed conditions ranged from high level requirements (eg, a general obligation to offer and sell hedge contracts to third parties) to more specific requirements (eg, mandating the sale of a certain volume of contracts, or requiring Genesis to offer bespoke and/or fair, reasonable and non-discriminatory terms); and/or

328.2 the Applicants to publicly disclose other types of information, such as the contractual terms of the Proposed Arrangements and/or other the availability, uptake and pricing of third-party hedging products offered by Genesis. Interested parties suggested that disclosing this information would improve their ability to negotiate hedge contracts with Genesis because it would remedy the information disadvantage operating on third parties.

³⁴² For the full list, please see [here](#).

³⁴³ Electricity Authority "Over-the-counter bids and offers notice: Frequently asked questions" (16 September 2025) ([here](#)).

³⁴⁴ Commerce Commission "Memorandum of Understanding between the Commerce Commission and the Electricity Authority" (16 April 2024) <www.comcom.govt.nz>.

329. The Commission has carefully considered whether it would be appropriate to impose condition(s) of this nature. However, the Commission does not consider that issuing such conditions would be appropriate in this case for the following reasons:
330. In relation to the category of conditions described at paragraph 328.1;
- 330.1 the Commission does not consider that it is appropriate to specify the volume of Huntly-backed hedge contracts that Genesis must enter, noting that Genesis assesses its hedge position across its entire portfolio, meaning that any obligation to sell a specific volume of hedge contracts relating to the Proposed Arrangements could have unintended consequences on Genesis' commercial incentives to enter other hedge contracts; and
- 330.2 the Commission is not well placed to determine whether contracts offered by Genesis to third parties have been offered on fair and reasonable terms. Accordingly, imposing a condition requiring Genesis to offer contracts on fair and reasonable terms would be resource intensive, difficult to monitor and enforce, and disproportionate to the likely benefits. In addition, any work by the Commission to monitor Genesis' contracts would overlap with work undertaken by the EA in relation to its level playing field measures. The Commission considers this would not be a good use of its limited resources.
331. In relation to the category of conditions described at paragraph 328.2, the Commission does not consider that disclosure of information would materially alter the negotiating position of third parties. While the Commission appreciates that a number of terms are not publicly available that would be of interest to third parties, those terms have been negotiated in the context of the wider Proposed Arrangements, in which the Counterparties have taken on a significantly greater level of risk than under prior MSOs and HFOs.³⁴⁵ Commentary received through consultation suggests that these terms are unlikely to be relevant to the types of arrangement sought by third parties.³⁴⁶ Moreover, bilateral arrangements in the market are not typically publicised and, in that regard, the Proposed Arrangements are not materially different from industry practice. Accordingly, we are not convinced that information disclosure would materially improve the magnitude or likelihood of this benefit.
332. Accordingly, the Commission does not impose any conditions on the grant of this authorisation.

³⁴⁵ For example, as noted above from paragraph 204, the level of risk taken on by the Counterparties under the Proposed Arrangements are an order of magnitude greater than that taken under prior MSOs and HFOs. In addition, the premium is higher than under prior MSOs and HFOs and the strike price reflects the notional cost of coal, which for most parties is an unattractive methodology for determining the strike price because it is uncertain.

³⁴⁶ See paragraphs 212-221 above.

Detriments

333. As part of our assessment, we have assessed the detriments that potentially arise from the Proposed Arrangements against a counterfactual that Unit 2 will be retired.
334. The Applicants submitted that there will be no public detriments stemming from a lessening of competition as a result of the Proposed Arrangements because:
- 334.1 the competitive effect of the Proposed Arrangements is that more capacity is made available than would otherwise be the case and at lower wholesale electricity prices than would be anticipated;³⁴⁷ and
- 334.2 the Proposed Arrangements are unlikely to result in coordinated effects.³⁴⁸
335. The Applicants, however, do refer to detriments that may arise as a result of increased emissions stemming from continued operation of the coal-powered Unit 2.³⁴⁹
336. As part of our assessment, we have assessed the likelihood and magnitude of the following detriments based on consultation with the Applicants and interested parties:
- 336.1 coordination facilitated by multilateral negotiations between the Applicants;
- 336.2 disincentives to invest in additional generation and firming capacity;
- 336.3 increased carbon emissions; and
- 336.4 other concerns such as entrenching market power in the Applicants.
337. We consider each of these detriments in detail below.

Facilitate coordinated behaviour

Summary

338. The Applicants submitted that coordination as a result of the Proposed Arrangements is unlikely, even though the Applicants are aware of the price the others would pay to access the Option Capacity, because this is no different to any other market arrangement.³⁵⁰
339. The Applicants also noted that there is no increase in coordination compared to the counterfactual because, in the counterfactual, the capacity that is the subject of the Proposed Arrangements would be removed from the market entirely.
340. As part of our consultation, we sought feedback about whether the Proposed Arrangements are likely to facilitate coordination between the Applicants. We

³⁴⁷ Application at [10.20].

³⁴⁸ Application at [9.10]-[9.13].

³⁴⁹ Annexure 1.

³⁵⁰ Application at [9.11].

received mixed evidence on whether the Proposed Arrangements would be likely to facilitate coordination in the wholesale electricity market relative to the counterfactual:

- 340.1 Submitters noted that any scenario where four large players have an agreement, have visibility of each other's actions, and are potentially sharing information would be problematic as this reduces the competitive tension among the Applicants.
- 340.2 However, other interested parties noted that the electricity sector is generally transparent, and interested parties could reasonably infer each other's actions in the market. Submitters noted that the Proposed Arrangements are unlikely to change this industry dynamic.
341. We accept that the Proposed Arrangements introduce some additional transparency (in terms of pricing and timing when a call option is exercised) between Genesis and each of the Counterparties relative to a counterfactual in which Unit 2 is retired.
342. However, we consider the Proposed Arrangements are unlikely to change the dynamics in the market in any meaningful manner as players already closely monitor each other in the ordinary course of business and the Proposed Arrangements will not materially alter this. In addition, certain information about the Applicants' actions can be inferred by interested parties monitoring the EA's regular data publication within a relatively short period of time. The EA publishes all bids and offers for electricity on the spot market daily (for the prior day). So, for example, if Genesis started a Rankine Unit in response to a call, this would be reflected in the spot price because of the additional generation available.

Applicants' submissions on potential for coordinated behaviour

343. The Applicants submitted that the Proposed Arrangements are unlikely to result in market-wide coordination because:
- 343.1 in the counterfactual where there is no Unit 2, there will be less Huntly generation capacity available and it will all be controlled by a single firm (Genesis), which would result in less competition than the factual;³⁵¹
- 343.2 although the Applicants will know to some extent the price the others would pay to access the Option Capacity, this is no different to any other market arrangement. While Genesis' wholesale arm would know when a Counterparty exercised its option, the other Counterparties may not;³⁵²
- 343.3 Genesis engaged the services of PWC to independently examine the process used to establish the price to limit the information flow among the Applicants. Other Applicants did not have visibility of the costs of running the Rankine Units.³⁵³ Genesis informed us that the [

³⁵¹ Application at [9.9]-[9.10].

³⁵² Application at [9.11].

³⁵³ Interview with Genesis (21 August 2025) at 9, lines 15-30.

]. Genesis conducted some modelling to estimate how often the Counterparties will call on their option. The Counterparties have no visibility on when others are calling their option.³⁵⁴

344. The Applicants cite our decision in *Contact/Manawa*, where we observed that:³⁵⁵

344.1 coordination is less likely when demand and supply are highly volatile, and these options are more likely to be called in a dry winter when volatility is high;

344.2 asymmetry in suppliers' net positions limit the sustainability of coordination; and

344.3 it is not possible to establish if a deviation from a coordinated agreement is driven by a desire to reduce losses from a short position or a decision to undermine coordination.

345. The Applicants state that there are a range of factors which a supplier considers when contemplating the offer of hedges. This undermines the scope for any coordination due to the large number of parameters that would need to be agreed across multiple trading periods each day.³⁵⁶ For instance:

345.1 [] would consider [] among other parameters to make the most economic decision about whether to exercise its call options under the Proposed Arrangements. It claims that many factors affect when an option is called, so it is unclear how other Counterparties will think about this. In addition, calling an option does not mean that Genesis will turn Unit 2 on and, when the call is exercised, Genesis will treat it like any other hedge in its hedge book.³⁵⁷

345.2 [] and [] told us that it will be difficult to infer when other Counterparties have called their options. They can monitor hydrology/other generation (including when Huntly is turned on) but would not be aware if an Applicant called its option.³⁵⁸ Even if Counterparties can make inferences, this is no different to knowing any other transaction due to publicly available information in the market.³⁵⁹

³⁵⁴ Application at [9.11] and [9.13].

³⁵⁵ Application at [9.12]. *Contact/Manawa* at [173]-[207].

³⁵⁶ Application at [9.13].

³⁵⁷ []

³⁵⁸ [] []

[]

³⁵⁹ [] []

]

Interested parties' submissions on potential for coordinated behaviour

346. We received mixed evidence on whether the Proposed Arrangements would likely facilitate coordination in the wholesale electricity market. Parties that did not express coordination concerns (or were neutral) informed us of the following:

346.1 The Applicants are still incentivised to use the lowest cost fuel available to them and Huntly costs more than renewables.³⁶⁰ Accordingly, Huntly will be used infrequently and, if a Counterparty is able to infer when others will call their option, it is unclear how that would be detrimental to competition.

346.2 While it is likely for Gentailers to infer that Counterparties called their option(s) by observing reductions in the coal stockpile, this is general market information which other Counterparties could infer too. Industry players closely watch each other in the ordinary course of business and there is public information published (eg, EA thermal dashboard/Genesis quarterly reports on coal).³⁶¹

346.3 [] was doubtful whether the Proposed Arrangements increase the possibility of coordination and, if it does, it should not really “trigger alarm bells”. The main concern is the potential for the unilateral exercise of market power during periods of system stress rather than coordinated effects now.³⁶²

346.4 [] acknowledged that it may be possible for the Applicants to coordinate, but this is required to deliver electricity when there is lack of supply. Such coordination may still be within the realms of public interest.³⁶³

347. Parties that expressed concerns about the Proposed Arrangements' likelihood of facilitating coordination told us the following:

347.1 [] noted that any scenario where four large players have agreement and visibility of each other's actions would be problematic and would reduce the competitive tension among the Applicants.³⁶⁴ [] argued that a coal input as part of the pricing mechanism does not vary significantly, which enhances visibility among the Applicants to the exclusion of other interested parties.³⁶⁵

347.2 Haast Energy and Pulse expressed concerns that information sharing by the Applicants in relation to pivotal firming generation may weaken competition, especially in dry years. Common knowledge of option pricing and fuel cost arrangements reduces competitive uncertainty and risks facilitating coordinated behaviour. They consider that an insider information advantage

³⁶⁰ Interview with Transpower (18 August 2025) at 6.

³⁶¹ Interview with MEUG (25 August 2025) at 9. EA “Thermal fuel information” <ea.govt.nz>.

³⁶² []

³⁶³ []

³⁶⁴ []

³⁶⁵ []

is problematic where Unit 2 can materially influence price formation during dry or peak periods.³⁶⁶

347.3 [], [], [] and [] state that the Applicants could infer if another Applicant has exercised its option based on its understanding of each other's generation make-up, knowledge of when each Applicant is experiencing pressure on its portfolio, observing a Rankine Unit start up unexpectedly, and industry knowledge of the levels of the coal stockpile.³⁶⁷ Submitters stated that this may increase the likelihood for coordination.

Our assessment of potential for coordinated behaviour

348. We are of the view that the Proposed Arrangements will not facilitate or enhance the likelihood of coordinated behaviour because:

348.1 asymmetry in the Applicants' generation assets (varying proportions of wind, solar, hydro, and geothermal assets) makes coordination and its sustainability unlikely;

348.2 the market is generally transparent due to public information disclosure (half hourly auction/trading results, monthly Energy Security Outlook (**ESO**) by Transpower, the EA's thermal fuel dashboard (coal, diesel, gas), daily hydro storage updates, and daily disclosure of the previous trading days' market offers and scheduling inputs);

348.3 the information exchanged between Genesis and each of the Counterparties is limited and unlikely to materially increase transparency that would increase the risk of coordination in the market;

348.4 the Proposed Arrangements are unlikely to add anything of significant commercial value as any action taken by an Applicant will be public in a relatively short period of time (can be within 24 hours); and

348.5 industry players closely monitor each other in the ordinary course of business and the Proposed Arrangements will not alter this.

349. Based on the reasons above, we consider that the Proposed Arrangements are unlikely to facilitate or enhance coordination relative to the counterfactual. We have therefore not placed weight on this detriment as part of our overall assessment.

³⁶⁶ Haast Energy submission on SOPI (13 August 2025) at 2-3. Pulse Energy submission on SOPI (26 August 2025) at 1-2.

³⁶⁷ []
[]

Disincentivise investment in new generation and firming capacity

Summary

350. The Applicants submitted that they will continue to invest in renewable projects or other forms of firming and the Proposed Arrangements are unlikely to disincentivise their investment commitments. Some of the investment commitments have been publicly announced and others are already being built.
351. We have received mixed evidence from interested parties:
- 351.1 Some submitters told us that the Proposed Arrangements would crowd out or incentivise the delay of investment in new firming capacity. The improved security of supply from the Proposed Arrangements may lower wholesale prices which may disincentivise investment in new generation due to likely low returns.
- 351.2 Some submitters told us that declining gas availability incentivises the sector to invest in more generation assets to meet future demand. They see the Proposed Arrangements as complimenting investment in new generation opportunities as opposed to crowding it out.
352. We consider that the Proposed Arrangements would at most produce only a small public detriment, to the extent that some investment in firming is delayed at the margin. This is because:
- 352.1 the relevant long-run average price for long term investment still provides an incentive for generators to invest despite lower prices in the short-run; and
- 352.2 declining gas, growing reliance on intermittent renewables, and the aging nature of the Rankine Units will likely incentivise market participants to invest in firming capacity.

Applicants' submissions on incentives to invest in new generation and firming capacity

353. The Applicants submitted that they will continue to invest in other renewable plants or other forms of firming even with the Proposed Arrangements.³⁶⁸ They claim that each of the Applicants have independent, long-term strategies to grow their respective portfolios.
354. Mercury has publicly stated its intention to continue with its existing pipeline projects when presenting its FY25 full year results to investors.³⁶⁹
355. Meridian claims that it has a strong appetite for investment in new renewable generation and battery storage.³⁷⁰ Additionally, Meridian sees no way that it could

³⁶⁸ Application at [10.24].

³⁶⁹ Mercury "Full Year Results FY25" (19 August 2025) <www.mercury.co.nz> at 18. Interview with Mercury (21 August 2025) at 11, lines 1-6.

³⁷⁰ Interview with Meridian (19 August 2025) at 6, lines 16-27. Application at [10.24(d)] and [10.29].

further accelerate its pipeline in the counterfactual to alleviate dry year risk in the near-term given the length of the consenting and build processes.³⁷¹

356. Meridian is [

].³⁷²

357. Genesis and Contact submitted that they are equally incentivised to progress their existing investment commitments.³⁷³

358. Genesis strongly disagrees with any suggestion that continued operation of Unit 2 would crowd out investment. This is because:³⁷⁴

358.1 The events of winter 2024 serve as an example that immediate solutions are necessary to respond to current market challenges, yet the reality is that it will be some time before new capacity will be available to the market. The primary role of keeping Unit 2 in the market is to meet the current shortfalls in renewable generation.

358.2 Even with the trend of renewables replacing thermal generation (such as Unit 2), there will still be a need for thermal capacity given that growing reliance on renewables exposes the sector to climatic conditions.

358.3 Given that a third Rankine Unit will be more expensive than any likely renewable investment, all interested parties are incentivised to invest in these cheaper alternatives.

359. The Applicants have further expressed that:

359.1 Thermal generation is complementary to investment in new renewable generation as it is utilised at different times.³⁷⁵ A third Rankine Unit would be called upon when there is a shortfall of generation elsewhere in the system (eg, due to adverse weather conditions especially during dry years). Conversely, intermittent renewables are intended to be utilised in all years and year-round.³⁷⁶

359.2 Security of supply benefits from the Proposed Arrangements, including access to additional firming, will support intermittent renewable investment.³⁷⁷ This

³⁷¹ Annexure 6 at 4.

³⁷² Interview with Meridian (19 August 2025) at 7, lines 23-32.

³⁷³ Application at [10.24(a)]-[10.24(b)].

³⁷⁴ Application at [10.25]-[10.29].

³⁷⁵ Application at [10.29]. Interview with Genesis (21 August 2025) at 16, lines 20-31. Interview with Mercury (21 August 2025) at 8, lines 4-36 and 9, lines 1-13. Interview with Contact (26 August 2025) at 16, lines 33-41 and 17, lines 1-19.

³⁷⁶ Interview with Mercury (21 August 2025) at 10, lines 1-10.

³⁷⁷ Interview with Meridian (19 August 2025) at 6, lines 16-27. Interview with Mercury (21 August 2025) at 11, lines 30-40. Interview with Contact (26 August 2025) at 16, lines, 38-41 and 17, lines 1-8.

extends to demand growth and investment by large industrials who require long-term certainty of wholesale prices.³⁷⁸

- 359.3 While lower wholesale electricity prices may affect investment decisions at the margin, this will not be material.³⁷⁹ Investments in the pipeline would have priced in a third Rankine Unit already, and investment decisions are made based on long-run prices given that wind and solar are 30-year investments.³⁸⁰

Interested parties' submissions on incentives to invest in new generation and firming capacity

360. Interested parties have submitted that the Proposed Arrangements could affect incentives to invest in several ways.
361. Lower average wholesale electricity prices as a consequence of the Proposed Arrangements may disincentivise investment at the margin.³⁸¹ Some interested parties expressed that this would only have a minimal impact because prices would remain sufficiently high to incentivise investment in cheaper intermittent renewables and that investment decisions are based on long-run prices.³⁸²
362. We heard diverging views on whether security of supply benefits would support investment:
- 362.1 Some interested parties expressed concerns that the Proposed Arrangements would crowd out or incentivise the delay of investment in new firming capacity.³⁸³ Regarding renewables, we heard that the slow ramp up ability of Unit 2 is not ideal for firming intermittent renewables³⁸⁴ and that, to the extent the Proposed Arrangements reduce price volatility, this would reduce incentives to invest in BESS which relies on price arbitrage opportunities.³⁸⁵ Waikato-Tainui submitted that if incentives for investment in renewable firming technologies were reduced, this would risk delaying iwi investment opportunities in renewable infrastructure.³⁸⁶

³⁷⁸ Interview with Contact (26 August 2025) at 16, lines 33-41 and 17, lines 1-14. Interview with Mercury (21 August 2025) at 13, lines 25-29. Interview with Meridian (19 August 2025) at 17, lines 34-36 and 18, lines 1-6.

³⁷⁹ Interview with Mercury (21 August 2025) at 11, lines 30-40. Interview with Meridian (19 August 2025) at 6, lines 16-27

³⁸⁰ Interview with Meridian (19 August 2025) at 7, lines 5-12.

³⁸¹ Interview with the EA (20 August 2025) at 4. Electric Kiwi submission on SOPI (27 August 2025) at [24]. Interview with MEUG (25 August 2025) at 8.

³⁸² Interview with the EA (20 August 2025) at 4. []

³⁸³ IEGA submission on SOPI (27 August 2025) at 3. []

³⁸⁴ []

³⁸⁵ Interview with MEUG (25 August 2025) at 8.

³⁸⁶ Waikato Tainui submission on Draft Determination (14 October 2025) at [21].

362.2 Others considered incentives to invest would improve due to improved security of supply.³⁸⁷ For example, interested parties considered that the riskiness of investments is likely to be reduced by providing long-term certainty (through the 10-year term) regarding the retention of firming capacity in the market and via any reduction in the volatility of spot prices.³⁸⁸

363. Interested parties also expressed that the current market context will influence incentives to invest in the factual:

363.1 The sector is simultaneously facing growth in expected demand while declining gas availability has reduced generation capacity.³⁸⁹ The sector requires investment to recover lost gas capacity, let alone meet future demand. Interested parties claim the Proposed Arrangements complement other investment opportunities because the capacity of Unit 2 is insufficient to resolve these issues and meet the firming needs of the market.³⁹⁰ They claim the Proposed Arrangements provide time to develop new capacity or alternative firming solutions.³⁹¹

363.2 As mentioned above (see paragraphs 261 to 262), Transpower's latest SOSA and Energy Security Outlook show that retaining a third Rankine Unit reduces the risk that New Zealand will not have enough electricity, especially during dry periods when hydro lakes are low.³⁹² Current consented projects are insufficient, so additional as-yet unconsented generation will be needed over the next decade.

363.3 In this context and given the intention for the energy sector to decarbonise, interested parties expressed that there are plenty of opportunities and existing momentum in renewables investment.³⁹³ This is because:

363.3.1 Renewables generally have lower marginal costs than Unit 2, so there will be opportunities for new investment to undercut the Proposed Arrangements.³⁹⁴

³⁸⁷ []

³⁸⁸ Interview with Transpower (18 August 2025) at 6. Energy Resources Aotearoa submission on SOPI (27 August 2025) at [3(c)].

³⁸⁹ MBIE "Fact Sheet: Challenges facing the electricity system" <www.mbie.govt.nz>. This sets out that electricity demand is set to rise by 50% in 2050 and domestic gas is declining by almost 50% below projections made 3 years ago.

³⁹⁰ [] Interview with Transpower (18 August 2025) at 3 and 6. Energy Resources Aotearoa submission on SOPI (27 August 2025) at [11]. WEL Networks submission on SOPI (21 August 2025) at 1.

³⁹¹ [] Interview with Transpower (18 August 2025) at 3. WEL Networks submission on SOPI (21 August 2025) at 1. Lodestone submission on SOPI (27 August 2025) at 1.

³⁹² Transpower submission on SOPI (26 August 2025) at [4]-[10], Table 1 and Figure 1.

³⁹³ Interview with Transpower (18 August 2025) at 1. Energy Resources Aotearoa submission on SOPI (27 August 2025) at [11].

³⁹⁴ Interview with the EA (20 August 2025) at 6. Energy Resources Aotearoa submission on SOPI (27 August 2025) at [11].

- 363.3.2 Intermittent renewables are a complement rather than a substitute for thermal generation; Unit 2 is generally offered at times when there is a shortage of intermittent renewable fuel supply.³⁹⁵
- 363.3.3 There is limited investment in alternatives to the Proposed Arrangements given uncertainty surrounding thermal generation and decarbonisation.³⁹⁶
- 363.3.4 [] claims that Unit 2 is an old plant (40–50 years old), meaning the sector will require new investment in more efficient options and to maintain firming capacity after Unit 2’s eventual retirement.³⁹⁷
- 363.3.5 MEUG considers that the Gentailers are incentivised to delay investment to keep the spot price high.³⁹⁸

Our assessment of incentives to invest in new generation and firming capacity

364. We consider the Proposed Arrangements could, in principle, affect incentives to invest in two ways:
- 364.1 First, lower wholesale electricity prices if Unit 2 remains in the market could reduce investment incentives at the margin.
- 364.2 Second, preserving the firming capacity of Unit 2 through the Proposed Arrangements may incentivise generators to delay investment in new, more efficient firming capacity.
365. However, we consider that, in practice, any impact on incentives to invest is likely to be marginal.

Effect of lower wholesale prices in the factual

366. Investment decisions in the energy sector are grounded in a range of factors including generators’ projections of their ability to earn a return on the investment in the future. One of the factors that influences the level of return on investment that a generator may expect to achieve is the projected spot price for wholesale electricity. Higher spot prices generally provide generators with increased profitability which in turn improves investment levels.
367. At a plant level, if future long run average spot prices exceed the long run average cost of generation, then investment is likely to be profitable. All else being equal, a

³⁹⁵ Energy Resources Aotearoa submission on SOPI (27 August 2025) at [11].

³⁹⁶ [Interview with MEUG (25 August 2025) at 6. Interview with Transpower (18 August 2025) at 2.]

³⁹⁷ []

³⁹⁸ Interview with MEUG (25 August 2025) at 8.

decrease in the average spot price would affect investment decisions at the margin by reducing the expected return on investment.

368. Given that we estimate the Proposed Arrangements are likely to reduce average spot prices by between 12% and 13% in the near term compared to a counterfactual of Unit 2 being retired,³⁹⁹ we would also expect the Proposed Arrangements to decrease incentives to invest. However, we consider that any decreased incentive to invest is likely to be marginal because:

368.1 Generators consider long-run prices when making investment decisions. While NERA considers that prices may still be 6% lower in the factual by 2037 (suggesting that the Proposed Arrangements would have a longer-term effect on prices),⁴⁰⁰ we understand that generators consider a much longer 30 to 40-year time horizon when considering investment in intermittent renewables. While shorter term elevated prices may still influence average prices over a longer time horizon, we consider that the relevant long-run average price still provide an incentive for generators to invest.

368.2 There is already an investment pipeline under construction which is unlikely to be abandoned because of the Proposed Arrangements.⁴⁰¹

368.3 The investment pipeline is predominantly comprised of intermittent renewable generation projects that would have considerably lower short-run marginal costs relative to thermal plants. Therefore, any reduced average price would likely remain above the price that makes these investments economically rational. Additionally, this provides opportunities for new investment to effectively ‘undercut’ the Rankine Units.

368.4 Intermittent renewables tend to be offered to market at different times to the Rankine Units. Renewables are generally offered year-round while Unit 2 will predominantly be offered as backup supply during times of scarce intermittent renewable supply. In other words, Unit 2 will only affect a limited number of trading periods,⁴⁰² and will often be supplied in times where hydro, solar, and wind plants are constrained. Any reduction in price when an investment is unlikely to be dispatched would not materially affect the decision to invest in that plant.

369. Balancing these factors, while lower wholesale electricity prices are likely to reduce investment incentives at the margin, this is likely to be offset to some extent by the factors described above. As a result of these conflicting factors, the effect of lower

³⁹⁹ As discussed in Annexure A.

⁴⁰⁰ Annexure A at [26].

⁴⁰¹ For example, as of 18 September 2025, the EA’s Generation Investment Pipeline dashboard notes that there is 831MW of new capacity already committed and 3.58 gigawatt of new capacity expected to be commissioned in 2026. EA “Generation investment pipeline” (16 September 2025) <www.ea.govt.nz>.

⁴⁰² We estimate that Unit 2 was dispatched in approximately 30% of trading periods in the 2-years to April 2025, and on average in 25% of trading periods in a year between 2014 to 2024.

average wholesale electricity prices on investment incentives is likely to produce, at most, only a small public detriment.

370. We are therefore of the view that lower wholesale electricity prices in the factual relative to the counterfactual as a result of the Proposed Arrangements will not disincentivise investment to any material extent. To the extent that wholesale market participants are already anticipating that Unit 2 will remain, wholesale electricity prices may remain slightly elevated over the short-to-medium term (but lower compared to a scenario where Unit 2 exits the market), further creating incentives for counterparties to invest in new generation. The worst-case scenario would be neutral or a marginal detriment, which we do not view as likely.

Potential to delay investment

371. We have additionally heard that the Proposed Arrangements may have the effect of delaying investment in new, more efficient firming options. By preserving Unit 2 for an additional 10 years, there may be a reduced urgency for such investment by interested parties.

372. For the reasons stated above, we consider it likely that interested parties will remain incentivised to progress their investment pipelines in conjunction with the Proposed Arrangements. This is because:

372.1 New generation is needed due to declining availability of gas. This is confirmed by Transpower's SOSA reports which suggests more firming investment is required in both the factual and counterfactual to meet energy demands.⁴⁰³

372.2 The time to plan, consent, build, and commission a new plant further limits the extent to which investment can be delayed. Given the aging nature of the Rankine Units, new firming capacity will be necessary in the future. We consider interested parties will remain incentivised to make such investment to manage their dry year risk. We note that new options for renewable firming capacity (outside of thermal generation) are coming to market (such as BESS).

373. We further consider that the Counterparties are incentivised to minimise the frequency with which they call their options, which they can achieve by investing in sufficient generation to remain long on generation, or investing in cheaper alternative firming options. Renewable firming technologies are cheaper than high marginal cost coal plants. Therefore, the counterparties are likely to continue to seek to develop renewable firming options to eliminate the need to rely on more costly firming capacity from Unit 2.

374. To the extent that the Proposed Arrangements may delay the introduction of additional and/or more efficient firming capacity, we would consider this to be a public detriment. However, in light of declining gas, growing reliance on intermittent

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Transpower submission on SOPI (26 August 2025) at 3, Figure 1.

renewables, and the aging nature of the Rankine Units, we consider there remains an incentive for interested parties to invest in firming capacity and that, even if the Proposed Arrangements were to enable the delay of investment, the time to build new generation limits the extent to which this can be delayed.

375. Consequently, we consider that the Proposed Arrangements would at most produce only a small public detriment to the extent that some investment in firming is delayed at the margin.

Increase carbon emissions

Summary

376. Genesis argues that any increased carbon emissions from operating Unit 2 will be mitigated via the Emissions Trading Scheme (**ETS**).
377. On balance, we consider that this detriment is likely to be relatively small and can be internalised to a large extent by purchasing/using carbon credits under the ETS.

Applicants' submissions on carbon emissions

378. The Applicants noted that it is likely that more carbon would be emitted by the Applicants under the factual scenario against any counterfactuals where Unit 2 is, and is not, retired.⁴⁰⁴ However, the Applicants submitted that:
- 378.1 The extent of any increase in emissions would depend on the extent to which Unit 2 is needed under the factual, the carbon intensity of alternative plants under the counterfactual, and any deferred electrification downstream in the counterfactual as a result of high electricity prices.⁴⁰⁵
- 378.2 Negative externalities arising as a consequence of any increase in carbon will be internalised given that the parties would effectively pay for carbon emissions under the ETS by surrendering more carbon units.⁴⁰⁶

Interested parties' submissions on carbon emissions

379. We received submissions which indicated the need for thermal generation despite their carbon emissions. For example:
- 379.1 Transpower submitted that renewables play a huge role in energy generation and a small uptick in coal usage does not outweigh security of supply benefits.⁴⁰⁷
- 379.2 Electricity sector emissions are already low by international standards and retaining Unit 2 in the market supports the electrification drive.⁴⁰⁸ Applicants and other interested parties retain strong incentives to invest in new

⁴⁰⁴ Annexure 1 at [33]-[34].

⁴⁰⁵ Annexure 1 at [33].

⁴⁰⁶ Annexure 1 at [35]-[38].

⁴⁰⁷ Interview with Transpower (18 August 2025) at 5-6.

⁴⁰⁸ Energy Resources Aotearoa submission (27 August 2025) at [12].

renewable generation given the high cost of thermal generation (ie, it is cheaper to produce other forms of electricity).⁴⁰⁹

380. Waikato-Tainui submitted that prolonging the operation of a coal-based Rankine Unit conflicts with Tu Ture Whaimana’s intent to restore and protect the health and wellbeing of the Waikato River. They also submitted that, while emissions are priced under the ETS, they still represent a public and cultural detriment to iwi aspirations for a clean, regenerative energy future.⁴¹⁰
381. One submitter additionally expressed the view that retaining Unit 2 would potentially produce 880,000 tonnes of carbon dioxide (CO₂), adding more than 1% to New Zealand’s annual CO₂-equivalent greenhouse gas emissions, and if the coal is of higher grade, the CO₂ produced could be up to twice that amount.⁴¹¹

Our assessment of carbon emissions

382. We acknowledge that Unit 2, when it is operational, will emit more carbon than would be the case if it was decommissioned, although we note that it is used relatively infrequently.
383. On balance, we consider that this detriment will be internalised to some/a large extent by purchasing/using carbon credits. We also understand that Genesis intends to transition to biomass (with lower emissions) over time and replace the use of coal.⁴¹²
384. To the extent that there is a remaining public detriment, we consider that in the short- to medium-term (ie, the next 10-years) there are few alternatives to thermal firming capacity. Absent the Proposed Arrangements, it is likely that Unit 2 would be replaced by the increased use of other carbon emitting plants, such as the Whirinaki diesel generator operated by Contact, resulting in little to no change in the volume of carbon emissions and likely using more expensive fuels.
385. Consequently, we consider that the Proposed Arrangements would at most produce only a small public detriment due to carbon emissions at the margin, but this is likely to be largely mitigated by carbon credits.

Other concerns raised

Entrench market power

386. As part of our consultation and response to our Draft Determination, some submitters expressed concerns that an unintended consequence of the Proposed Arrangements is to entrench the market power of the Gentailers in the supply of

⁴⁰⁹ Energy Resources Aotearoa submission (27 August 2025) at [11].

⁴¹⁰ Waikato Tainui submission on Draft Determination (14 October 2025) at [21].

⁴¹¹ Ross Boswell submission on Draft Determination (30 September 2025) at 1.

⁴¹² Malcolm Johns “Genesis committed to biomass at Huntly Power Station” (13 December 2024) <www.genesisenergy.co.nz>.

peak/super-peak hedge products.⁴¹³ The concern expressed was that concentration of long-term firming capability among the Gentailers for a decade risks further entrenching their control over flexible generation and limiting access for independent retailers, independent generators, and other new entrants.⁴¹⁴ Waikato-Tainui submitted that this would undermine the objective of equal participation envisaged under Whakatupuranga 2050 and principles of settlement legislation.⁴¹⁵

387. Haast Energy noted that the EA's level playing field measures⁴¹⁶ recognise the competition risks arising from the Gentailers' control of flexible generation, and the importance of hedge availability to support retail competition.⁴¹⁷
388. The Applicants told us that any incentive Genesis might otherwise have to exercise market power in the spot market with the Rankine Units is constrained because each of the Counterparties could enter into secondary trades, effectively competing against Genesis as sellers. The presence of the Counterparties in the Proposed Arrangements weakens Genesis' market power.⁴¹⁸
389. Our view is that the Proposed Arrangements are unlikely to entrench market power because:
- 389.1 Genesis would need to pay the Counterparties for any excess of the spot price over the fixed price at the Huntly node if the option were called;
- 389.2 the Proposed Arrangements allow for capacity to be shared among the Counterparties and the Counterparties are free to enter into secondary trades, further competing with Genesis (and each other) and limiting Genesis' market power. This is particularly the case when compared to a counterfactual in which Unit 2 is closed and the capacity associated with the remaining two Rankine Units is controlled by Genesis alone; and
- 389.3 there will be more remaining Rankine Unit capacity under the factual arrangements than the counterfactual, meaning that access for independent retailers, independent generators, and other new entrants remains available.
390. Accordingly, we do not think that it is likely that the Proposed Arrangements will give rise to detriments in the form of entrenchment of market power.

⁴¹³ Lodestone Energy submission on SOPI (27 August 2025) at 2. Pulse Energy submission on SOPI (26 August 2025) at 2. 2degrees submission on SOPI (27 August 2025) at 2. Electric Kiwi submission on SOPI (27 August 2025) at [8], [32] and [36]-[39]. Haast Energy submission on SOPI (13 August 2025) at 1-3. Mercuria submission on Draft Determination (13 October 2025) at 1. Electric Kiwi submission on Draft Determination (10 October 2025) at 1.

⁴¹⁴ Haast Energy submission on SOPI (13 August 2025) at 3.

⁴¹⁵ Waikato Tainui submission on Draft Determination (14 October 2025) at [21].

⁴¹⁶ The Authority's level playing field work aims to impose principles-based non-discrimination obligations on the four large Gentailers. EA "Level playing field measures" (May 2025) <www.ea.govt.nz>.

⁴¹⁷ Haast Energy submission on SOPI (13 August 2025) at 3. EA "Level playing field measures" (May 2025) <www.ea.govt.nz>.

⁴¹⁸ Application at [9.3].

Information asymmetries about the terms of the Proposed Arrangements

391. Several interested parties expressed concern that the Applicants could have a substantial information advantage over other generators and retailers in relation to the operation of the wholesale electricity market, including pricing outcomes.⁴¹⁹ In particular, the Proposed Arrangements give rise to information asymmetries that could be harmful to third parties as interested parties are not privy to the terms of the Proposed Arrangements aside from the key terms released as part of the Authorisation.
392. For example, emhTrade expressed concern that the lack of transparency disadvantages third parties negotiating for hedge contracts compared to the Applicants' detailed knowledge of contract terms including strike price formulations and renewal clauses.⁴²⁰ Waikato-Tainui was of the view that the complexity of the hedge structure and coal procurement obligations associated with the Proposed Arrangements may create information asymmetries that disadvantage smaller players and iwi investors.⁴²¹ As discussed in the coordination section (see paragraphs 337 to 346), our view is that the Proposed Arrangements are unlikely to disadvantage third parties because:
- 392.1 bilateral arrangements in the market are concluded between parties and not publicised. The Proposed Arrangements are not materially different to current industry practice;
- 392.2 even if the terms of the Proposed Arrangements are not known by other market participants, the actions of the Applicants may be observable in the market as the industry is generally transparent, and market participants monitor each other. Any action taken by the Applicants will be public in a relatively short period of time (can be within 24 hours); and
- 392.3 the Applicants are aware of the contract terms anchoring the Proposed Arrangements, [].⁴²² These factors will not be transparent to each Counterparty making it difficult to estimate another counterparty's strike prices with any degree of certainty at any given time. [].⁴²³
- 392.3.1 []

⁴¹⁹ 2degrees submission on SOPI (27 August 2025) at 3. Pulse Energy submission on SOPI (26 August 2025) at 2. []

[] IEGA cross-submission on Draft Determination (17 October 2025) at 2.

⁴²⁰ emhTrade submission on SOPI (1 September 2025) [Public] at 4.

⁴²¹ Waikato Tainui submission on Draft Determination (14 October 2025) at [21].

⁴²² HFO Framework Agreement v2 at [2.1]-[3.21] and [7.1]-[7.9].

⁴²³ HFO Framework Agreement v2 at [2.1]-[3.21] and [7.1]-[7.9].

],⁴²⁴

392.3.2 []; and

392.3.3 [].

393. Consequently, we consider it unlikely that the Proposed Arrangements would exacerbate information asymmetry. To the extent that it does on the margin, we consider that it would at most produce only a small public detriment.

Exclusion of other interested parties in the Proposed Arrangements

394. Some interested parties submitted that the exclusion of parties other than Gentailers from the Proposed Arrangements lessen competition compared to a counterfactual in which Genesis, for example, conducted an open tender process for Huntly capacity.⁴²⁵ Waikato-Tainui cited the complexity of the hedge structure and coal procurement obligations as limiting the participation of smaller players and iwi investors.⁴²⁶

395. However, as discussed earlier (see paragraphs 172 to 174), we have concluded that this is not a likely counterfactual, and so this is not a relevant detriment we can place weight on.

396. However, we note that in the Framework Agreement, provision is made for additional parties to become a party to the Proposed Arrangements. [

] ⁴²⁷ We have recorded elsewhere in this Determination our expectations on Genesis that interested parties wishing to access Huntly capacity will not be excluded from accessing hedge contracts, whether as additional counterparties to the Proposed Arrangements if that is their preference or by purchasing hedge cover that better suits their needs, as Genesis has indicated it is committed and incentivised to do.

Balancing of benefits and detriments

397. On the basis of the available evidence, our view is that authorising the Proposed Arrangements is more likely than not to lead to a net public benefit. That is, the

⁴²⁴ Genesis submission on Draft Determination (10 October 2025) at [3.2b].

⁴²⁵ Electric Kiwi submission on SOPI (27 August 2025) at [5] and [27]. Pulse Energy submission on SOPI (26 August 2025) at 1.

⁴²⁶ Waikato-Tainui submission on Draft Determination (14 October 2025) at [21].

⁴²⁷ Genesis response to RFI dated 1 September 2025 (6 September 2025) at 1.

Proposed Arrangements will be likely to result in benefits to the public that would outweigh the detriments.

398. Given the difficulty in producing quantitative estimates for several of the likely impacts, and given that we do not consider quantitative estimates are necessary to enable us to reach a view on the likely net public benefit, we have made this assessment qualitatively in accordance with the Court of Appeal's decision in *Godfrey Hirst*.
399. We consider that the Proposed Arrangements are likely to produce significant security of supply public benefits through the preservation of firming capacity at Huntly relative to a counterfactual in which Unit 2 is retired. We have placed material weight on this public benefit, consistent with evidence from a range of interested parties regarding the likelihood and magnitude of this benefit.
400. As a flow-on from the security of supply benefit, we expect lower average wholesale electricity prices compared to the counterfactual in which Unit 2 is retired. While there is uncertainty regarding the exact magnitude of this public benefit, the evidence before us indicates that lower wholesale prices will produce a sizeable public benefit in the form of higher consumer surplus (relative to the counterfactual), potentially in the range of \$13.5m – \$15.8m over a five-year period.
401. The Commission accepts that the Proposed Arrangements provide Genesis with a greater ability and incentive to offer a greater number of hedges to interested parties compared to a counterfactual in which Unit 2 exits the market. The Commission takes note of Genesis' commitment in the Application to design products that are suitable for the needs of interested parties (such as independent retailers, generators, and industrial customers), and places weight on a public benefit in the form of access to hedge contracts for a broader range of participants arising. As noted above, the Commission intends to liaise with the EA to obtain information on a regular basis to monitor the extent to which Genesis is delivering on its commitment to make hedge contracts available to third parties.
402. Despite assessing these public benefits qualitatively, we are satisfied that the magnitude of these benefits is likely to outweigh the detriments in aggregate.
403. We do not place material weight on the public detriments that we have assessed. The evidence before us suggests that each would only be of limited magnitude and likelihood. In summary:
 - 403.1 We are satisfied that the Proposed Arrangements will not increase the risk of coordination in the wholesale market. Asymmetry in the Applicants' generation assets weakens coordination sustainability, and general market transparency means that the limited amount of information exchanged through the Proposed Arrangements is unlikely to add anything of significant commercial value to the Applicants.
 - 403.2 While lower wholesale prices may disincentivise investment incentives at the margin, generators consider long-run average prices rather than

short/medium term variations, Unit 2 will often be dispatched when intermittent renewables (that comprise much of the pipeline) are constrained, and any reduction in price volatility due to greater security of supply would counteract this effect.

- 403.3 We are not satisfied that a material public detriment would arise from any delay in investment. The market requires additional firming capacity on top of that retained through the Proposed Arrangements, and the time it takes to invest minimises parties' abilities and incentives to delay any new investment.
- 403.4 We have seen no evidence to suggest that the ETS will be ineffective at internalising public detriments arising from increased carbon emissions.
- 403.5 We consider it unlikely that the Proposed Arrangements will entrench market power because Genesis would need to pay the Counterparties for any excess of the spot price over the fixed price at the Huntly node. Further, sharing capacity with Counterparties limits Genesis' market power in the factual.
- 403.6 We are not satisfied there is a likely detriment arising from interested parties being excluded from the Proposed Arrangements.
- 404. The exact magnitude of any public benefits and detriments are likely a function of the frequency of dry years over the period for which authorisation is sought. However, we consider that the scenarios that result in the largest public detriments are the same as those which produce the largest public benefits.
 - 404.1 Under favourable weather conditions (wet winters), Unit 2 is unlikely to be regularly required, resulting in the Proposed Arrangements having a broadly neutral impact (ie, limited differences in benefits and detriments between the factual and the counterfactual). The exception to this is the security of supply impact. Even under favourable weather conditions, market participants face risks associated with plant outages and the threat of weather conditions changing. Preserving Unit 2 provides certainty of supply in the event of such supply constraints, minimising the risk market participants face and leading to a lower forward electricity price curve. That is, interested parties expect electricity prices to be relatively lower in the future compared to a counterfactual where Unit 2 exits the market.
 - 404.2 Under dry year conditions, Unit 2 would be dispatched, producing the largest magnitude of security of supply benefits, including the largest reduction in average wholesale prices. However, this may allow Counterparties to engage more frequently while exercising their call options, produce the most carbon emissions, disincentivise more investment at the margin due to a larger price reduction, and result in the largest entrenchment of market power if other interested parties are not offered hedges by Genesis. For the reasons outlined above, we place limited weight on the likelihood and magnitude of each of these public detriments. The security of supply and lower wholesale price benefits significantly outweigh these public detriments.

405. Consequently, we are satisfied that, in all scenarios, the Proposed Arrangements will likely produce a net public benefit.

Length of the Proposed Arrangements

Summary

406. The Commission can grant authorisation for such period as it considers fit.⁴²⁸
407. Having regard to the need for Genesis to recover the upfront investment over a commercially palatable time and given our overall assessment of the likely benefits and detriments, on balance we consider it appropriate to authorise the Proposed Arrangements for 10 years.

Applicants' submissions on duration

408. The Applicants submitted that authorisation for the Proposed Arrangements should be granted for a period of 10 years to provide the requisite certainty in terms of the investment in the third Rankine Unit.⁴²⁹
409. In particular, Genesis noted that [

].⁴³⁰ This is also reflected in the exit fee after 5 years, which is required to recover the front-loaded capital costs and other expenditure.

Interested parties' submissions on duration

410. We received mixed feedback about the 10-year duration.
411. Several parties supported the 10-year duration, for example on the basis that:
- 411.1 The 10-year period was proportionate to the certainty and investment required to give effect to the Proposed Arrangements, including operational costs, maintenance, and employing/training staff to support the initiative.⁴³¹
- 411.2 In the electricity sector, 10 years is not a significantly long lead time for developments⁴³² and, in fact, the Rankine Units might be required for even

⁴²⁸ Section 61(2) of the Act.

⁴²⁹ Application at [4.9].

⁴³⁰ Genesis response to RFI dated 20 August 2025 (9 September 2025) at 9-10.

⁴³¹ Interview with Transpower (18 August 2025) at 8. Interview with MEUG (5 August 2025) at [12.2].

⁴³² []

longer, particularly given the intermittent nature of renewables and deep dry year risk,⁴³³ as well as the limitations/reduction in the gas market.⁴³⁴

411.3 The 10-year period requested could be seen as time needed to afford the industry time to plan for the following decade.⁴³⁵

411.4 The 10-year term is also not out of step with some long-term hedges in the electricity market⁴³⁶ and would provide greater certainty for the risk profile in the market, which should lead to lower prices.⁴³⁷

412. Other parties expressed the view that a minimum of 5 years would provide sufficient certainty for Genesis to keep the Rankine Unit operational.⁴³⁸

413. Waikato-Tainui proposed introducing a statutory review at the 5-year mark to reevaluate the Proposed Arrangements.⁴³⁹

414. Some parties expressed the view that the timeframe was too long because of concerns that the Proposed Arrangements would:

414.1 remove the competitive constraint between the Gentailers;⁴⁴⁰

414.2 result in a perceived lack of incentives to invest in renewables;⁴⁴¹ and

414.3 lock up a significant volume of flexible generation,⁴⁴² possibly leading to incentives to control the flexibility in the system and entrench market power.⁴⁴³

⁴³³ Interview with Transpower (18 August 2025) at 3. In addition, it is unknown how much of the current generation pipeline will receive consent across the next 10 years, which is why it is envisaged that Unit 2 would play a crucial role during this period. Transpower sees the need for thermal power stations as a back-up until 2050. Transpower “Whakamama I Te Mauri Hiko: Empowering our Energy Future” (March 2020) <static.transpower.co.nz>.

⁴³⁴ Transpower submission on SOPI (26 August 2025) at [8], [10], [18] and [23].

⁴³⁵ []

⁴³⁶ Interview with the EA (20 August 2025) at 5. EA “Electricity hedge prices and conditions for this winter” (11 June 2025) <ea.govt.nz>.

⁴³⁷ []

⁴³⁸ [] []

⁴³⁹ [] []

⁴⁴⁰ []

⁴⁴¹ []

⁴⁴² []

⁴⁴³ Waikato-Tainui submission on Draft Determination (14 October 2025) at [26].

⁴⁴⁰ []

⁴⁴¹ Interview with Consumer NZ (26 August 2025) at [16.1].

⁴⁴² 2degrees submission on SOPI (27 August 2025) at 4. Interview with Consumer NZ (26 August 2025) at [16.1]. Waikato-Tainui submission on Draft Determination (14 October 2025) at [21].

⁴⁴³ emhTrade submission on SOPI (1 September 2025) [Public] at 6.

415. Participants also suggested the timeframe was unnecessary because another alternative was likely to be found within this timeframe.⁴⁴⁴

Our assessment

416. We accept Genesis's submission that the 10-year period is required to recover the necessary investments to maintain and keep Unit 2 operational and deliver the other benefits of the Proposed Arrangements.
417. We have not found credible evidence that another effective alternative energy source could be deployed within this timeframe, or that Gentailers would be disincentivised to continue investing in renewables.
418. Having regard to the need for Genesis to recover the upfront investment over a commercially feasible time and given our overall assessment of the likely benefits and detriments, on balance we consider it appropriate to authorise the Proposed Arrangements for 10 years.

Determination

419. The Commission's determination is to grant authorisation for the Proposed Arrangements set out in the Application under sections 58(1) and 58(2) of the Act due to the public benefits that will result, or be likely to result, from the Proposed Arrangements.

Dated this 5th day of November 2025

John Small

Chair

444

[]

Annexure A: Further details on methodology to assess the price effect of the Proposed Arrangements

420. This Attachment outlines further details on our methodology to estimate the price effects of the Proposed Arrangements to test NERA's quantification of any consumer surplus public benefits that arise from the Proposed Arrangements.

Overview of NERA's model

421. NERA, on behalf of the Applicants, submitted that against a counterfactual where Unit 2 is retired, the Proposed Arrangements would result in lower average electricity prices because the supply curve would have additional capacity in it.⁴⁴⁵
422. Referring to analysis by Concept Consulting, NERA estimates that if one Rankine Unit is removed, prices would increase by around 10%–12% between 2026 to 2028, and increase by 6% in the long term.⁴⁴⁶
423. As a consequence of lower average electricity prices, NERA submitted that this will result in both additional consumer surplus relative to the counterfactual and a transfer of surplus from producers to consumers.⁴⁴⁷
424. To model these public benefits, NERA estimates each as the net present value (NPV) over a 5-year period, using:⁴⁴⁸
- 424.1 Concept's modelled price scenarios to estimate factual and counterfactual prices;^{449, 450}
 - 424.2 Average demand for electricity between June 2020 to May 2025 to estimate the factual quantity;⁴⁵¹
 - 424.3 Literature on retail price elasticity of demand and data showing that wholesale electricity prices make up approximately 47% of retail electricity prices, to estimate counterfactual volumes.⁴⁵²
425. Using this approach, NERA submitted that the Proposed Arrangements will result in public benefits in the form of:⁴⁵³
- 425.1 a (partial) consumer surplus benefit of \$13.5m – \$15.8m.
 - 425.2 a transfer of surplus to consumers of \$2.13b – \$2.24b.

⁴⁴⁵ Annexure 1 at [17].

⁴⁴⁶ Application at [10.15]-[10.16].

⁴⁴⁷ Annexure 1 at [18].

⁴⁴⁸ For further details on NERA's analytical framework, see Annexure 1.

⁴⁴⁹ Annexure 1 at [23]-[27] and Table 1.

⁴⁵⁰ NERA use two scenarios for prices in 2029 and 2030, given that NERA do not model these two years.

⁴⁵¹ Annexure 1 at [24].

⁴⁵² Annexure 1 at [28]-[29].

⁴⁵³ Annexure 1 at [30] and Table 2.

Appropriateness of NERA's price change scenarios

426. Key to testing NERA's model is assessing the suitability of the price change assumptions used.
427. Consequently, we have employed an alternative analytical approach to estimate the effect on price of removing Unit 2 from the market to verify the appropriateness of NERA's estimated range of public benefits. Our approach combines publicly available data from the EA on:
- 427.1 Rankine Unit-level generation to identify actual generation from Unit 2 in each trading period;⁴⁵⁴
 - 427.2 plant level generation to identify total national dispatched electricity in each trading period;⁴⁵⁵ and
 - 427.3 EA price sensitivity scenarios to provide an estimate of the change in price in each trading period, given various magnitudes of changes in demand.^{456, 457}
428. This data allows us to estimate the proportion that Unit 2's output comprised of total national generation in a given trading period between 7 April 2023 – 4 April 2025.⁴⁵⁸ We then match each trading period to an appropriate demand change scenario by:
- 428.1 Estimating the percentage of total national generation in a trading period that was generated by Unit 2.
 - 428.2 Rounding this proportion to the nearest demand change scenario. For example, if Unit 2 generated 2.1% of total generation in a trading period, we would match this to the 2% scenario.⁴⁵⁹
 - 428.3 Assigning the price change that is modelled to occur in that matched scenario to the trading period.
429. As shown in Table 1, we find that removing Unit 2 would have increased the wholesale electricity price by 26.6%–28.9% on average in trading periods where Unit 2 was dispatched, and by 11.8%–13.2% on average across all trading periods.

⁴⁵⁴ EMI "Wholesale datasets: Unit_level_generation_IR" (5 September 2025) <www.emi.ea.govt.nz>.

⁴⁵⁵ EMI "Wholesale datasets: Generation output by plant" (18 September 2025) <www.emi.ea.govt.nz>.

⁴⁵⁶ The EA considers price sensitivity with respect to volume changing by -5%, -4%, -3%, -2%, -1.5%, -1%, -0.5%, 0.5%, 1%, 1.5%, 2%, 3%, 4%, and 5%. EMI "Sensitivity of price to changes in load" (2 December 2024) <www.emi.ea.govt.nz>.

⁴⁵⁷ We use real time data for the North Island.

⁴⁵⁸ Due to data availability, we exclude the following dates from our analysis: 7 July 2024, 22 October 2024, 16 November 2024, and 14-21 January 2025.

⁴⁵⁹ We consider that the EA's scenarios which increase demand is a sufficient proxy for measuring the effect of an equivalent reduction in supply. In theory, given the supply stack is unchanged, the scenarios are effectively equivalent. In both cases, vSPD effectively identifies the next cheapest combination of offers to dispatch the required volume, with the resulting price being the marginal offer. We note that in practice, differences in the shape of the demand and supply curve may affect the accuracy of this proxy.

Table 1 Estimated effect on price of removing Unit 2 at Huntly between 7 April 2023 – 4 April 2025

	Dollar increase in price	Percentage increase in price
Average price change (all trading periods (TP) ⁴⁶⁰)	\$19.7	11.8%
Weighted Average price change (all TP)	\$22.9	13.2%
Average price change (TP Unit 2 dispatched)	\$63.2	26.6%
Weighted Average price change (TP Unit 2 dispatched)	\$70.1	28.9%

Source: Commerce Commission analysis of EA data

430. NERA’s model implicitly considers the price increase across all trading periods by applying the price change to total annual generation. Therefore, we consider the 11.8%–13.2% range to be the appropriate comparison to NERA’s model.⁴⁶¹
431. Our estimated range suggests that NERA’s assumption that prices increase by 10% in year 1 then 12% in years 2 and 3 are suitable. Consequently, we are satisfied that our approach is consistent with NERA’s estimated range for the public benefit that arises due to lower wholesale prices in the factual. While NERA’s assumed price increases are on the lower end of our estimated range, this enables us to consider NERA’s analysis to produce a more conservative estimate.
432. As a sensitivity, we adjust NERA’s analysis to take a more conservative view on the retail elasticity of demand, where we assume these elasticities remain unchanged in future years.⁴⁶² Under this sensitivity, we still find a net consumer surplus benefit in the range of \$5.4m – \$5.8m.⁴⁶³ This sensitivity does not affect the magnitude of any transfer of surplus from producers to consumers.
433. This sensitivity intentionally produces a conservative estimate; we accept NERA’s argument that retail elasticities are likely to increase over a longer period due to a greater ability for interested parties to react to the supply-side shock of Unit 2’s removal.⁴⁶⁴ A conservative estimate, however, allows us to account for other uncertainties in the model, and, in any event, still identifies a sizeable public benefit.

⁴⁶⁰ All electricity transactions are settled in 30-minute increments called trading periods (TPs).

⁴⁶¹ Our estimation of the average effect in all TPs includes TPs where no effect occurred. Consequently, we account for Unit 2 only being dispatched approximately 30% of the time over our analysis period.

⁴⁶² NERA’s retail elasticity of demand parameters affect the change in dispatched generation as a result of the change in price.

⁴⁶³ For simplicity, we assume the factual price in years 4 and 5 remains unchanged from Concept’s year 3 factual price. We then estimate years 4 and 5 counterfactual prices by applying NERA’s estimated price change scenarios, which can be found in Annexure 1 at Table 1.

⁴⁶⁴ Annexure 1 at [28]-[29] and Appendix A.

434. We have additionally adjusted the model to provide no consumer surplus benefits in 2026. This sensitivity reflects emhTrade's submission that there are risks when recertifying an aging thermal generator that may cause delays that result in no front-year benefit.⁴⁶⁵ Even after this adjustment we still observe that the Proposed Arrangement could produce consumer surplus benefits in the range of \$12.5m – \$14.5m over a five-year period.

Qualitative considerations for the appropriate magnitude for consumer surplus benefit

435. While our alternative approach suggests that NERA's assumed range for the effect on price is reasonable, there are a range of qualitative factors and assumptions/limitations to each model that affect our interpretation of the results. Each affect the appropriate magnitude of this proposed public benefit.
436. We consider that the modelling may overstate the public benefit in several ways:
- 436.1 We do not account for any delays in, or partial, pass through of wholesale prices to retail prices. Each would reduce the gain in consumer surplus during the analysis period.
- 436.2 Our analysis uses data from the past 2 years which reflects dry year conditions in which it is likely that Unit 2 was used more frequently, and prices were more volatile than average. Our estimate of the average effect in all trading periods, which we place the most weight on, is positively correlated with the frequency that Unit 2 was dispatched.
- 436.3 The price sensitivity scenarios reflect the immediate price impact in individual trading periods. Over the medium to long run, we would expect this effect to reduce as the market is better able to react to the supply shock of Unit 2 being removed, for example through new investment.
437. However, these factors must be weighed up against several factors that may mean we understate the public benefit. These include:
- 437.1 NERA only modelled a 5-year period, while authorisation is sought for 10 years. Concept estimate that wholesale prices may be on average 6% higher in the counterfactual by the end of the authorisation period.⁴⁶⁶ We have not attempted to model the impact of this on consumer surplus given uncertainty in how the market will develop and being unavailable for price sensitivities over a longer-time horizon. However, we expect that if prices remained on average lower in the factual beyond the initial 5 years that NERA modelled, a meaningful magnitude of public benefit would be attained.

⁴⁶⁵ emhTrade response to Draft Determination (10 October 2025) at 1.

⁴⁶⁶ Annexure 1 at [26].

- 437.2 NERA only calculates one portion of the consumer surplus benefit because modelling the supply and demand curves in each half hour trading period in both the Factual and Counterfactual was beyond the scope of their report.⁴⁶⁷
438. While NERA's approach excludes the effect of hedging, which may reduce the 'effective price' paid for wholesale electricity and therefore affect the flow through of higher wholesale prices to consumers, we consider this is only relevant in the short run. New hedge contracts are priced to reflect expectations of future spot prices, and so over time, new hedge contracts would price-in the effect of removing Unit 2. Therefore, the exclusion of hedges in this modelling is only relevant with respect to hedges agreed prior to the market pricing-in the effect (or expected effect) of the retirement of Unit 2.
439. Additionally, NERA only considers Concept's estimate of the price effect of removing a Rankine Unit under average weather conditions.⁴⁶⁸ The true price effect of removing Unit 2 depends on the frequency of dry years we experience over the period authorisation is sought for. For example, []⁴⁶⁹ However, despite this, we consider that using an average scenario is suitable. Given uncertainty regarding the frequency of dry years that will occur, it is not feasible to assign robust weights to any particular likelihood of more or less adverse weather conditions occurring.
440. On balance, we consider that average wholesale electricity prices are likely to reduce as a result of the Proposed Arrangements and that this will produce sizeable consumer surplus benefits.
441. Even if we exclude benefits arising from the transfer of surplus from producers to consumers on the basis that this constitutes a neutral transfer, we consider the public benefit of the Proposed Arrangements could fall in the range of \$13.5m – \$15.8m over the next five years.
442. While we acknowledge that each of the modelling approaches of NERA and the Commission may overstate the public benefit in some ways, each underestimates the effect in others. On balance, we consider that these effects are likely to cancel out to some extent, and we see no reason to consider it likely that the magnitude would be materially diminished by any of these factors. We take further comfort that this public benefit would be sizeable given that we still identify a public benefit of \$5.4m against our conservative estimate.
443. We are not currently minded to place weight on public benefits arising from a transfer of surplus from producers to consumers, as submitted by NERA on behalf of

⁴⁶⁷ Annexure 1 at [20].

⁴⁶⁸ Annexure 1 at footnote 8.

⁴⁶⁹ Commerce Commission assessment of Applicants "Annexure 7: Confidential letter to Genesis from Concept Consulting on the effect of retiring Unit 2 dated 25 July 2025" (4 August 2025) at Table 1. [

the Applicants.⁴⁷⁰ While we are satisfied NERA's estimated range of this potential surplus transfer is appropriate (for the same reasons we are satisfied with NERA's estimation of the gain in consumer surplus), such a transfer reflects a reallocation of surplus within the economy rather than an increase in total surplus (both producer and consumer). We therefore consider such a transfer to be a neutral transfer.

444. We consider weight should be placed on increases in total surplus (as a result of increases in consumer surplus), rather than on a reallocation of existing surplus. In addition, as discussed above, we are satisfied that this consumer surplus benefit already produces a sizeable public benefit.

⁴⁷⁰ Annexure 1 at [30] and Table 2.