

Astra Energy Limited

Response to the Commerce Commission’s Statement of Issues in relation to the proposed merger of NPD and Gull to form Astra Energy

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1. Executive summary

- 1.1 This submission sets out Astra Energy Limited (**Astra**), NPD Group Investments Limited (including its subsidiaries) (**NPD**) and GNZ Holdco Limited (including its subsidiaries) (**Gull**) (**the applicants**)' response (**Response**) to the Commerce Commission (**Commission**)'s Statement of Issues dated 17 March 2026 (**SOI**) published in relation to the proposed acquisition by Astra of all of the shares in NPD and Gull (the **Transaction**).
- 1.2 This Transaction provides a unique opportunity to secure and amplify the competitive impact of NPD and Gull, both of which have already made a lasting competitive impact in the New Zealand fuel markets since their launch in 1969 and 1999 respectively. The "Gull effect" (primarily in the North Island) and the "NPD effect" (primarily in the South Island) are core to the culture of each organisation and recognised across New Zealand as being value drivers for New Zealand consumers, highly trusted and respected for delivering value to customers.
- 1.3 Even when merged, these businesses would face fierce competition from bigger, better resourced, and more structurally integrated competitors. The Z Energy group, with a quarter of all sites across New Zealand, is significantly larger than its next largest competitor, BP. It is owned by the global oil major, Ampol, has the Caltex national supply chain integrated with the other majors including pipelines, storage and import terminals. Its fighting brand U-Go launched less than a year ago and is already about a quarter of the size of NPD and a third of the size of Waitomo.
- 1.4 Having approved Ampol's "switch out" of Gull for the much bigger Z Energy, the Commission must now give Gull and NPD a fighting chance to secure the synergies, supply chain improvements and national market presence needed to sustainably compete with the Z/Caltex/U-Go market leader and the other majors and independents. Even merged, Gull and NPD remain fundamentally different in their cost structures, supply chain links, and business approach from the majors - ensuring the disruptive impact of both parties on coordination will remain. Gull and NPD have the track record, the "kiwi battler" cultural alignment, and - merged - the capability to provide sustainable, strong competition to Z Energy and the other majors while driving innovative offerings, and New Zealand-orientated investment in supply chain security for the benefit of kiwi consumers across the country.
- 1.5 The current supply situation reinforces how critical it is for competition to have independent challengers that have integrated supply. If Gull were also supplying NPD, in terms of NZ fuels resilience, NPD would have access to [REDACTED] litres of fuel annually from the merged entity's Mount Maunganui terminal, critical to NPD's business continuity (and NZ consumers) when fuel is on allocation by the majors. [REDACTED]. Without the merger, Gull in the South Island and NPD more generally, remain vulnerable to supply constraints biting harder on them in both retail and commercial markets than the majors with their vertically integrated supply chains.¹
- 1.6 While the applicants appreciate that in this uncertain global fuel supply environment that the Commission would want to look carefully at this merger, the economic fundamentals mean there is no reason for the Commission not to be satisfied that no substantial lessening of competition would arise.
- (a) If looked at **nationally**, this Transaction would not even make it onto the Commission's desk. It falls well within the Commission's safe harbour concentration indicators. Post-merger national retail supply is not concentrated

¹ In this respect, enhanced scale and vertical integration provides for energy security and resilience, in the context of NZ's relatively weak position in an increasingly volatile world. This may not be a temporary phenomenon but one that could be protracted and have lasting effect on consumer outcomes, [REDACTED].

(top three firms have under 70% share combined). There are **15 national competitors** providing retail fuel with different combinations of service offerings, and the merged entity's share of sites sits well below 20%. The applicants would need to double their volumes to breach the Commission's safe harbour.

- (b) Given the quantity and diversity of competition there is no world in which the merged entity will not continue to fight hard for every sale, everywhere. That is what the Commission's concentration indicators are designed to capture, and they do that accurately here.
- (c) The picture is the same **locally**. When looking at a 2km radius/5 minute drive time overlaps are predominantly in cities with lots of surrounding competition. There are fewer overlaps and far more remaining competitors, than in any of the fuel mergers the Commission has previously approved, for example:
 - (i) Z-Chevron (merging 200 Z sites with 150 Chevron sites - cleared with a divestment of 19 sites) overlapped in approximately **100** local areas, including six where the number of competitors reduced from 2 to 1, and 11 where it reduced from 3 to 2; and
 - (ii) Ampol-Z (cleared with a divestment of Gull's 115 sites) overlapped in **67** local areas including nine areas in which the number of competitors reduced from 2 to 1.
 - (iii) NPD/Gull, overlap in **less than 20** locations. There are **none** where competitors reduce from **2 to 1**, **none** where they reduce from **3 to 2**, and **in every local area at least three - and in many cases many more - local competitors will remain**.

1.7 The industry is now characterised by three vertically integrated suppliers (Z Energy/Caltex/U-Go, BP and Mobil - "**majors**"), with offshore supply and terminal storage across the country, vertical integration throughout their supply chain, and a retail business model including staffed and unstaffed sites. The majors' brands represent over 50% of all retail sites in New Zealand, they provide wholesale supply of almost all fuel sold by independent distributors, and they can switch sites from staffed to unstaffed with ease.

1.8 While Gull and NPD champion the low price model, they are **two of 5 providers with 80 - 100 sites each** who do the same (the other three are Waitomo, Allied and GAS). And there are five other retail fuel suppliers, including one which has a terminal and entered in 2020, and two which are owned by grocery retailers. All of the 12 non-"major" industry participants hold themselves out as low-priced fuel providers and market disrupters, and many are in the areas Gull and NPD compete in.

A pro-competitive merger

1.9 The proposed transaction combines and leverages the complementary competitive advantages of NPD and Gull, including NPD's comprehensive retail network in the South Island as well as the economies of scope arising through NPD's commercial business together with associated logistics support, and Gull's comprehensive retail network in the North Island as well as its ability to source fuel independently of the majors via its own terminal in Mt Maunganui.

1.10 NPD and Gull are recognised by consumers as the fairest price operators,³ and industry groups such as the Automobile Association support the merger⁴ because they understand

² [REDACTED]

³ [REDACTED]

⁴ [NZ Herald - Gull-NPD merger should bring fuel prices down -AA](#).

that Gull and NPD's business models are predicated on driving lower prices for Kiwi consumers, and for the effect they have on the pricing of the majors. While Gull and NPD's business models are different, the outcome is the same: more retail fuel at lower prices, and an expectation of more commercial volumes at lower prices.

- 1.11 NPD and Gull would be materially less able to compete with the majors if the merger does not proceed. The "real chance" standard applied by the Commission requires the counterfactual to be commercially realistic. Significant national expansion in any relevant timeframe is not realistically achievable for either NPD or Gull. This is a declining industry with 13 other well-resourced competitors, many with capital or business adjacency advantages (including vertically integrated subsidiaries of oil majors, and competitors using fuel as a loss leader for grocery).
- 1.12 NPD, although it will look for opportunities to expand, [REDACTED], and Gull [REDACTED] for similar reasons, and so will continue to expand incrementally based on economically viable business cases. NPD will lack access to Gull's terminal at Mt Maunganui, so logically the cost of its product procurement in the North Island is likely to be materially higher, even when the current supply constraints ease. In the meantime, if the current crisis escalates, [REDACTED]. Gull for its part will lack the in-house logistics and commercial customer base to deliver the economies of scope generated by a thriving commercial business. Its progress in building that business is likely to be significantly slower without the merger.
- 1.13 This complementarity is reflected in the substantial merger synergies outlined in the Applicant's Clearance Application.⁵ The merger synergies include [REDACTED]. In the SOI, there is no comment on the extent to which these synergies generate positive competition effects that offset any adverse effects identified in specific markets. It is important the Commission ensures its assessment of incentives of the merged entity in this phase of the process takes these effects into account. Cost savings can be expected to be shared with consumers as competitive pressure continues to be brought to bear.
- 1.14 In the SOI, the Commission also finds staffed and unstaffed sites should be considered as one market (at paragraphs 43 and 44). This is correct and an orthodox approach. But the Commission then outlines a methodology for consultation in the SOI (at paragraph 71) that assumes unstaffed sites will only price competitively if there is another unstaffed site within the notional 2km boundary. This contradicts the market definition and ignores the reality that staffed sites compete with unstaffed sites for the same customers using identical fuel offerings, differentiated in terms of presentation and service.
- 1.15 While some consumers may prefer staffed or unstaffed sites, a large proportion will purchase from both staffed and unstaffed sites. Service and pricing in each area, will respond to offerings from all competitor sites.⁶ Even if customers purchasing exclusively from one type of site do exist (in either the unstaffed or staffed camp), operators of both staffed and unstaffed sites cannot confine their offering to those "marginal" groups - they both need volume from everyone. The theory proposed for consultation does not fully take into account the reality of consumer behaviour.
- 1.16 The technical economic analysis mirrors those real world observations. Unstaffed sites cannot raise price in the absence of other nearby unstaffed sites because consumers expect a discount relative to the staffed site commensurate with the forgone amenity value at the unstaffed site. In this regard, the unstaffed model is predicated on low prices. On

⁵ See Attachment A5 to the Clearance Application (**Application**) - [REDACTED].

⁶ [REDACTED]

the flipside, consumers at staffed sites expect there to be a higher price, but will be reflecting on the value received for that differential.

- 1.17 Competition is not locked in time, it is highly dynamic in these markets. Staffed sites can be converted to unstaffed sites, and the rate at which U-Go has scaled to a fully-fledged competitor in less than a year is a powerful example. There are no material barriers to that conversion (as described further in section 4 below). The Commission's product market definition of a single retail fuel market of staffed and unstaffed sites is correct.

New Zealanders need this

- 1.18 Approving this merger is critical to the promote competition into the future. The applicants urge the Commission not to be deflected from the economic fundamentals by ad hoc perceptions (such as Z Energy's self-serving suggestion that Gull is not a disruptor), or by any moment in time strategy adopted by one of 15 market participants that might, at best, impact a handful of locations. The economic complementarity is undeniable, the synergies are clear, and the business incentives for the merged entity to continue to compete hard in delivering low price fuel offers are clear.
- 1.19 Declining this merger would hand the market to Z Energy group to take where it sees fit. The other vertically integrated majors BP and in some locations, Mobil, would offer limited price competition, with U-Go strategically deployed to strangle low price competitors threatening traction or scale. This is not a criticism of Z Energy. It would be acting economically rationally. NPD and Gull together can drive a better future for fuel competition in New Zealand that is more aligned with consumers' best interests than will be the case if they remain separate.
- 1.20 The Transaction would be positive for New Zealand, delivering improved fuel prices for consumers nationwide by combining Gull and NPD's respective strengths, leveraging the knowledge and resources each has developed as customer-led retailers in the fuel industry. It would create a truly national, independent fuel retailer, combining Gull's predominantly North Island and NPD's predominantly South Island retail footprint with the added benefit of breaking the wholesale fuel supply deadlock the Commission identified in its retail fuel market study. Astra Energy would be well positioned to compete vigorously with the international majors, generating long-term consumer benefits, and better placed to strengthen New Zealand's fuel resilience.

2. Balancing pro-competitive effects

- 2.1 It is not controversial that under New Zealand competition law the “substantial lessening of competition” standard must be considered having regard to the net effects of both the positive and negative impact on competition.⁷
- 2.2 Given the geographic complementarity of the Gull and NPD networks, any lost rivalry between the parties is very much at the margin and, in any event, invariably occurs where there is also the presence of a range of other players competing hard for volume from the same customer base.⁸ In these circumstances, there will be minimal impact from the minor loss of competition between Gull and NPD.
- 2.3 By contrast the positive impact on competition is significant. That positive impact (summarised below) decisively outweighs any potential or modelled negative competition impact which might arise at the margins where the parties overlap.
- 2.4 The applicants provided the Commission with detailed analysis of the merger business case [REDACTED]. These documents are not referenced in the SOI and it is not clear whether they have featured in the Commission’s deliberations to date. They outline merger-specific efficiencies that are both likely and timely, and which would enhance rivalry (and therefore have pro-competitive effects) in the fuel market.
- 2.5 [REDACTED].
- 2.6 [REDACTED] These cost savings will be relevant to each and every market impacted by this merger. The variable nature of some of these cost savings mean they can be expected to be shared with consumers. When competitive pressure becomes particularly acute (as was the case, for example, recently when U-Go entered the market), the merged entity will be better positioned to respond.
- 2.7 These cost savings will support the competitive potential of the merged entity. They will also assist to provide the robustness and resilience as competitive pressures inevitably build over time in a sunset industry.
- 2.8 [REDACTED].⁹ This means that the upside [REDACTED] is effectively available to be shared with consumers in a competitive environment.

⁷ *ANZCO Foods Waitara Ltd v AFFCO New Zealand Ltd* [2006] 3 NZLR 351 (CA) at [249] per Glazebrook J, as cited at [3.118] of the Commission’s *Mergers and Acquisitions Guidelines*. [“...the concern is with the net effect on competition and ... it is thus necessary to balance the pro-competitive effects (including efficiencies) against the anti-competitive effects in the relevant market ... This is despite the existence of the authorisation power in s 58 of the Act.”]

⁸ See further section 4 and **Appendix 5** for details of competitors in the overlaps area.

⁹ [REDACTED]

3. Market definition

Retail fuel markets

- 3.1 In the SOI, the Commission applies a single product market for all fuel types, excludes truck stops from its assessment, and finds that it is not necessary to define separate markets by service level, as it is appropriate to consider differentiation on service in its unilateral effects analysis.¹⁰ The Applicants agree. The appropriate framing for consideration of retail impacts of this transaction is a single product market for retail fuel supply.
- 3.2 However, the Commission then considers for consultation (at paragraph 71) a methodology for identifying sensitive sites that effectively ignores constraint from staffed sites, and any other sites that do not regularly price below the Applicants. The suggestion seems to be that unstaffed sites will only be constrained to price competitively if there is another unstaffed site/ low-priced rival within the notional 2km boundary, which contradicts the Commission's own market definition. This in effect creates a highly temporal and unclear market definition which is inconsistent with New Zealand and equivalent overseas regulator precedent.¹¹
- 3.3 This methodology is premised on a misunderstanding of NPD's interview with the Commission and ignores:
- (a) the reality that staffed sites compete with unstaffed sites for the same customers. Unstaffed sites cannot raise price in the absence of other nearby unstaffed sites because consumers demand and expect a discount relative to the staffed site commensurate with the forgone amenity value at the unstaffed site.¹² The unstaffed model is predicated on this. On the flipside, consumers at staffed sites expect there to be a higher price, but will be thinking about the value received for that price;¹³ and
 - (b) the proven and demonstrated ability of the operator of any staffed site to readily convert it to an unstaffed site. The applicants set out further detail on this point below (paragraph [4.34]-[4.35]), effectively showing that there are no material barriers to converting a staffed site into an unstaffed site.
- 3.4 The SOI acknowledges that regardless of the boundaries of any relevant markets, what matters is that it factors in **all** applicable competitive constraints.¹⁴ It is not appropriate, however, to both leave market definition open and also not take into account all relevant competitive constraints in considering potential unilateral effects.
- 3.5 In order to properly assess whether there are adverse unilateral effects in any local market it is essential that the analysis considers product substitutability and competitive constraints, even if the precise boundaries of a market are not defined.¹⁵

Terminal storage facilities/wholesale fuel supply

- 3.6 As set out in the Application, and consistent with previous Commission fuel merger decisions, terminal storage facilities for fuel operate in a separate market from the market for supply of fuel from those facilities. The SOI does not comment on terminal fuel storage

¹⁰ SOI at [44]

¹¹ NZCC, *Z Energy Limited and Chevron New Zealand [2016] NZCC 10*, [130]. Viva Energy - proposed acquisition of Liberty Oil (2019) ([Link](#)); BP Australia Pty Limited - proposed acquisition of Woolworths' retail service station sites (2017) ([Link](#)); Caltex Australia Petroleum Pty Ltd - proposed acquisition of assets from Milemaker Petroleum (2017) ([Link](#)).

¹² Contrary to the characterisation of NPD's interview on 10 February 2026 at [65], NPD did not state that [REDACTED].

¹³ <https://www.stuff.co.nz/nz-news/360953419/i-tried-cheap-and-expensive-petrol-station-paying-more-worth-it>.

¹⁴ SOI at [42].

¹⁵ Merger and Acquisition Guidelines at [3.7 to 3.12].

facilities, but as noted in the Application, on a conservative basis and to isolate the effects of the Transaction, a regional geographic market for supply of terminal storage facilities at Mount Maunganui could be considered here.¹⁶

- 3.7 At the next level of the supply chain, for wholesale supply of fuel, as set out in the Application, given the de minimis volumes supplied by Gull, Gull does not distinguish between different purchaser groups of wholesale supply of fuel.
- 3.8 Nevertheless, in order to consider the vertical effects theory of harm outlined in the SOI, the Commission has proposed defining a market for 'wholesale supply of fuel to retail fuel suppliers from Gull's Mount Maunganui terminal'.
- 3.9 Gull's position is that it does not supply that market at all, [REDACTED]. Even if Gull were to be treated as supplying such a market, this is an extremely narrow market definition not capable of satisfying the hypothetical monopolist test, including for the following reasons:
- (a) Fuel supplied by Gull from its Terminal is no different from fuel supplied by its competitors (whether from their terminal storage at Mount Maunganui or other regions that are substitutable for distributors). In particular, Z Energy, BP and Mobil have fuel storage capacity at Mount Maunganui.
 - (b) Not only are customers capable of switching from Gull to alternative suppliers, they barely currently purchase from Gull at all. Gull has only recently attempted to supply independent distributors and supplies [REDACTED] [REDACTED], as set out in the Application.
 - (c) The relevant regional market is wider than Mount Maunganui. Gull itself supplies retail fuel to Auckland from its Tauranga terminal, whilst others use fuel purchased from the Wiri terminal. Given the small volumes it supplies, Gull does not have information about where most independent retail fuel suppliers purchase fuel from but attaches at **Appendix 2** information on who these suppliers may purchase from, based on information from the Commission's Retail Fuel Market Study.¹⁷ The majors all have further significant storage at other substitutable supply locations such as Wiri, where Gull has no presence.
- 3.10 The Applicants note that there is no proper basis for considering wholesale supply of fuel from Gull's terminal at Mount Maunganui as a separate market from wholesale supply of fuel provided by Z, BP, Mobil from Mt Maunganui and other substitutable fuel storage facilities in the region. The Commission should take a consistent approach to market definition to that set out in previous decisions in its analysis of fuel markets in this regard.¹⁸

¹⁶ As noted in the Application, consistent with Z Energy/Chevron at [84].

¹⁷ Commission's Retail Fuel Market Study - Appendix I.

¹⁸ Z Energy/ Chevron at [84-85].

4. Transaction will not give rise to unilateral effects in local retail markets

- 4.1 There are less than 20 locations where the parties overlap. In all of the [REDACTED] local areas that the SOI identifies as areas of further interest ([REDACTED] of which include an overlap based only on planned sites, not current competition) (**overlap areas**)¹⁹ the Applicants will remain constrained by a number of effective rivals post-merger.
- 4.2 The Transaction will not give rise to unilateral effects in local retail markets for the following reasons:
- (a) In local markets where Gull and NPD compete today, the merged entity will remain constrained by competitors. The Transaction will not cause any 3-2 or 2-1 reductions in the number of competitors in the small number of areas where Gull and NPD both compete locally.
 - (b) The Commission's methodology is dismissive of the strength of other constraints in overlap areas of the merged entity including staffed sites (and non-price competition as well as price competition from them), other unstaffed brands, and the threat/ease of converting staffed sites to unstaffed, without a clear evidential foundation, and the Commission does not appear to include in its analysis of loss of future planned or potential competition any third party planned sites;
 - (c) The merged entity will continue to offer low price fuel to kiwi consumers. The SOI's pricing analysis does not properly reflect limitations in the data, the role of off-board discounts and it places disproportionate weight on NPD's approach to pricing in markets where there are a number of low priced competitors, including, but not limited to, Gull;
 - (d) The Proposed Transaction will result in pro-competitive effects, including through increased supply chain resilience, that will be passed through to competition in local markets, which have not been taken into account in the SOI.
- 4.3 Gull and NPD are both low cost operators. Gull is the pioneer of the unstaffed site. In any area in which they compete, both Gull and NPD consistently price at the low end of the local market. Which is cheaper will alternate over time depending on local conditions and strategies (including brand recognition levels in the particular area). Gull prices at equally low levels in competition with a range of other competitors around the North Island. Fundamentally, both are, in the way they show up in market, low-price competitors.
- 4.4 Evidence from consumer surveys indicates that the public reflection is that both offer value for consumers. Each has different cost structures, and different advantages/disadvantages and so, for different reasons, is able to price at the lower end of the market at different times and in different locations, and this constantly changes. This is not a middle market player taking over a maverick. It is a merger of two consumer champions that will enable them to compete harder. Competition in local markets can be expected to be enhanced not eroded.

Overlaps analysis

- 4.5 In each local area where both Gull and NPD have a site offering retail fuel there are at least two other competitors, often many more. Specific details of the competitors in each local

¹⁹ **Appendix 5** sets out further details of the [REDACTED] local areas the SOI identifies as of further interest. This Response refers to these as 'the overlap areas', but some refer to areas where the overlap comes only from a planned site. **Appendix 5** details Gull and NPD's views on the competitive characteristics of these local areas, competitors in each area and the specific competitor sites NPD and Gull use in considering how to price in those areas.

area, and how Gull and NPD consider those competitor offerings in their pricing, is set out in detail in **Appendix 5**.

- 4.6 A narrow focus only on where Gull and NPD are closest to each other ignores how consumers choose where to refuel, particularly given many sites owned by other brands will be better placed for consumer convenience (for example, off the main arterial road).
- 4.7 In a number of these local markets there are Waitomo, Allied, g.a.s, PaknSave and other non-major brands. The SOI recognizes the constraint these other brands may place on Gull and NPD, but gives it insufficient weight in the SOI. [REDACTED]²⁰ There are other brands with more localized footprint, that are also strong competitors. For example, [REDACTED].
- 4.8 However, also of importance is the fact that in each area there will be a constraint from Z Energy, BP and/or Mobil stations, some of which may be unstaffed sites.
- 4.9 The Commission references in the SOI the effect that unstaffed sites within a five-minute drive time reduced their prices for Regular 91 by up to 3.8 cpl in the eight weeks following the entry of a new unstaffed site. As noted in the NERA report, this time period is too short to give sufficient weight to, as prices will often rise again after new entry, but it also ignores the constraint from stations owned by Z Energy, BP or Mobil.
- 4.10 Z-owned and BP stations are prominent in almost all areas identified in Attachment A of the SOI. Of the [REDACTED] local areas, using the Gull site as the centre, almost all ([REDACTED]) have either a Z- or Mobil-owned station (each with a proven ability to convert quickly and easily to the unstaffed model) within a 2 km radius. The remaining areas do not have any other retail fuel stations within 2 km. Further, in relation to the [REDACTED] areas that do not meet this criterion, when assessed by reference to the linked NPD site, there is a Z- or Mobil-owned station within 2 km. Of the [REDACTED] local areas, [REDACTED] contain at least two Z- or Mobil-owned stations within a 2 km radius.²¹
- 4.11 A unilateral effects analysis of these areas must consider the likelihood that at least some of these staffed sites competitors will be converted into low-cost unstaffed sites in the coming years. Even if they do not, the number and nature of competitors at these locations continue to constrain the merged entity.

Constraint from competitors

- 4.12 The methodology set out in paragraphs [71] - [72] of the SOI to identify areas for focus is not an appropriate screening method for determining areas of potential concern for the following reasons, expanded on further below:
 - (a) The methodology assumes the parties only compete on price - whereas consumer surveys indicate competition occurs on a range of factors (location, price, brand, loyalty),²² with geography also being a key criterion;
 - (b) In screening out higher priced suppliers (i.e. the majors) the Commission does not take account of the ongoing in-market constraint they provide on NPD and Gull (which is shown in consumer surveys indicating Z Energy is the number 1 choice for

²⁰ [REDACTED]

²¹ For the [REDACTED] areas that do not meet this threshold:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

²² The Commissions noted in the SOI that "fuel retailers compete across a range of attributes as consumers' purchasing decisions are decided by a combination of location, price, and service quality and offering at [64].

many consumers²³) and the potential for those players to turn staffed sites to unstaffed sites with ease (as shown by recent U-Go and Mobil Express unstaffed plays).

- (c) The temporal aspect to this analysis (i.e. based on whether other market participants 'regularly price' below the Applicants) is not set out. Even if this analysis covered a lengthy period, recent evidence shows rivals can quickly change their strategy (see the discussion on U-Go's entry at 4.33), making this screening factor highly susceptible to error.
- (d) The Commission states it has considered the constraint from any rival sites within a 5-minute drive time. However, it then takes a blanket approach of dismissing the competitive constraint from any rival that is further away than the nearest competing Gull or NPD site, even when within the same (already narrow) geographic market. This is akin to narrowing the market definition to a radius of the distance between the relevant Gull and NPD site and taking the view that there are no constraints outside that radius in any of those markets.

Competition is not only on price

- 4.13 While price is an important competitive factor, it is not the only factor that constrains fuel retailers. The experience of both Gull and NPD is that significant investment in non-price factors is important to win and retain customers.
- 4.14 Gull and NPD have built a strong and reputable brands in the North and South Island respectively through sustained investment in their retail sites, including the introduction of innovative pump-and-pay systems, ongoing development of the Gull app, NPD's (and Gull's) investment in a premium version of the unstaffed offering that includes high quality lighting for safety, canopies for comfort and generous space allocation for accessibility by large vehicles, and the consistent offering of fair prices to consumers. These factors matter to consumers and show that Gull and NPD (like other fuel retailers) compete, and are competitively constrained, across multiple dimensions, not solely on price. See **Appendix 4** for more information on the factors consumers value, from Gull consumer surveys.
- 4.15 There is no separate sub-market for unstaffed retail fuel. This is because the major fuel retailers are able to effectively compete with, and constrain, lower-cost operators. The majors do not compete solely on price; rather, they leverage their scale to deploy broad, market-wide branding and promotional strategies.
- 4.16 The Commission's fuel monitoring work recognises these dynamics, noting:²⁴

We also acknowledge that fuel retailers often seek to implement a strategy of differentiation to reduce directly competing solely on price. Some fuel retailers invest in higher quality and additional complementary offerings, such as better forecourts, having attendants to help with refuelling, and providing retail and café facilities to appeal to those consumers that wish to refuel at staffed stations rather than unstaffed stations. Location of retail fuel stations is also a key differentiator, because driving further to purchase fuel can be costly to motorists in terms of time and fuel. Therefore, a staffed fuel station strategically placed on a major artery will often be more attractive to motorists than an unstaffed station that requires additional driving time to get to. This differentiation in retail fuel station offerings can justify differences in prices to the extent that it reflects a higher willingness to

²³ [REDACTED]

²⁴ [ComCom - Technical-attachment-Analysis-of-impact-of-new-unstaffed-retail-petrol-stations-on-fuel-prices](#) at [11-14].

pay by some consumers for additional quality, convenience and services, combined with higher costs of supplying those services.

- 4.17 A focus only on price within a local area is inconsistent with the Commission's approach to product market definition (i.e., a single market for all service levels) and ignores the economics of product differentiation.
- 4.18 Z, BP or Mobil are present in almost all of the local overlap markets. Gull and NPD pricing is responsive to (and constrained by) their price changes, even where Gull and NPD's prices already sit below the level of the majors.
- 4.19 Consistent with this logic, [REDACTED]^{25 26 27}[REDACTED].²⁸ [REDACTED].
- 4.20 Consistent with other points made in this Response, and contrary to the apparent assumption in the SOI, Gull and NPD do not set prices based exclusively off each other's price movements. Whilst in locations where a Gull is proximate to an NPD, it is not unexpected that each site takes account of their competitors' prices and does not suggest that Gull and NPD are only reacting to each other. **Appendix 5** shows that Gull and NPD consider competitors in each local market, in each of which there will be at least 2 other competitors post-merger [REDACTED], and they will still be constrained by these competitors', including their pricing decisions.

Constraint from NPD and Gull on each other

- 4.21 The Commission stated that it "*considers that the Applicants likely compete closely with one another and face limited constraint from remaining retail fuel suppliers when the Parties are geographically proximate to one another with few rivals as proximate.*"
- 4.22 The Commission appears to have formed this perception based on the ad hoc observations in the public submissions it received stating that:
- (a) Unstaffed sites are main drivers of competition; and
 - (b) The parties are the two primary discount leaders and are the two operators of unstaffed sites that tend to run promotion discount days.
- 4.23 For the reasons stated above, this does not reflect third party constraints on NPD and Gull. It is also not consistent with more balanced and comprehensive market survey data, [REDACTED].

²⁵ [REDACTED]

²⁶ [REDACTED]

²⁷ [REDACTED]

²⁸ [REDACTED]

- 4.24 [REDACTED].
- 4.25 [REDACTED].
- 4.26 [REDACTED].
- 4.27 [REDACTED].
- 4.28 [REDACTED].

“Gull effect” is alive and well

- 4.29 There are multiple examples demonstrating that Gull and NPD each compete strongly in markets where the other is not present. For example, the “Gull effect” at Gull Mangawhai has delivered significant value to consumers over the past six months, notwithstanding the absence of any NPD or Waitomo competitors in the local market.²⁹ see further **Appendix 5**.
- 4.30 The Kantar reports reflect that Gull and NPD are the two highest-rated petrol brands in terms of fair pricing. Given the predominantly separate geographic dispersion of Gull and NPD sites, and the minor (and often only recent) overlaps, it would be simply implausible to suggest that these reputations for fair pricing arise from the limited areas in which Gull and NPD sites overlap. Both Gull and NPD have developed national reputations for fair pricing because each competes aggressively in all locations in which it operates, and not merely in areas of overlap. The economic drivers for that behaviour will be enhanced by the Transaction, not reduced.

Constraint from higher priced suppliers’ ability to switch sites to unstaffed

- 4.31 NPD and Gull compete with BP, Z and Mobil in local areas. Staffed sites constrain NPD and Gull from raising prices because of the customer demand for differential between staffed and unstaffed sites, and how quickly staffed sites can switch to unstaffed. This is a clear constraint on any attempt by Astra to implement price increases post-merger, as shown by [REDACTED].³⁰
- 4.32 As Gull described in the Application, [REDACTED]³¹Gull’s estimates here relate to the conversion of a site that is not already owned by the relevant final provider (for example, converting an existing Waitomo site to a Gull site). This is consistent with NPD’s [REDACTED].³²
- 4.33 These estimates do not reflect the potentially even shorter timeframe to convert existing owned sites into low-cost unstaffed sites of the same provider, as can be seen through market activity by Z (to U-Go) and Mobil (to Mobil Express) and [REDACTED].
- (a) U-Go opened its first site in April 2025 and as at 1 April 2026 has 29 unstaffed stations between Timaru and Whangarei.³³ The U-Go network is being expanded through a conversion of existing strategically located Z and Caltex sites.³⁴
- (b) In 2025, Mobil converted 14 sites to its new self-service station model ‘Mobil Express’, with further conversions planned in 2026. These stations allow customers to pay directly at the pump, offering 24/7 access to fuel without in-store staff. The

²⁹ <https://www.rnz.co.nz/news/national/585873/tiny-northland-town-becomes-centre-of-impressive-low-petrol-prices>.

³⁰ [REDACTED]

³¹ [REDACTED]

³² [REDACTED]

³³ <https://ugoselfserve.co.nz/>.

³⁴ [Z announcement of U-GO network](#).

locations of the Mobil Express stations are currently in Auckland, Christchurch, Tauranga, Masterton, and Hastings showing that the new model will be implemented nationwide.³⁵

4.34 [REDACTED]

4.35 [REDACTED]^{36 37 38 39}

4.36 Whilst the constraint from these staffed sites should be taken into account in the local area overlaps analysis in their current form, each staffed site can also be taken into account as a potential unstaffed site.

Constraint from third party planned sites

4.37 The methodology used by the Commission also does not take into account the dynamic nature and the changing landscape of the retail fuel markets. This includes in particular the rapid expansion of low-cost subsidiaries of the major fuel suppliers. This constraint from potential entry is particularly significant because these conversions would mostly be undertaken by one of the majors, each of which would operate the low-cost unstaffed model off the back of their existing competitive advantages relating to scale and vertical integration, as well as advantages from their existing infrastructure on-site.⁴⁰

4.38 For example, as explained below, in relation to the [REDACTED] overlap areas identified, at least [REDACTED] new sites have opened or been announced in [REDACTED] areas, over the period the Commission has been considering this Application. These are significantly more dynamic markets than most considered by the Commission, that would typically not see that level of change over the period of the first phase of an application.

4.39 The current analysis does not take account of potential planned sites of third parties, and this should be included in any analysis.

Pricing data limited in capturing competitive effects

4.40 In emphasising Gaspary pricing data, and relying mainly on prices for 91, the SOI potentially ignores two critical limitations in this data:

(a) [REDACTED].

(b) The use of 91 prices as a benchmark is also not representative. It understates the Gull effect on total retail fuel prices in New Zealand by ignoring the fact that Gull has driven price competition in supply of premium 95 fuel. This is an important value dimension of competition which is ignored in the analysis to date.

The Commission has not adequately considered the effect of off board discounts and loyalty schemes

4.41 The Commission's analysis to date has only considered on board prices, and not off-board discounting, including in its conclusions about Gull's pricing relative to competitors

³⁵ [Mobil Instagram Post - ExxonMobil_Aus \(22 December 2025\)](#).

³⁶ [REDACTED]

³⁷ [REDACTED]

³⁸ [REDACTED]

³⁹ [REDACTED]

⁴⁰ For example, sites converted from a staffed to unstaffed offering can be expected to have canopies (making them more attractive to customers on rainy days) and large, prominent pricing boards as legacies of their time as a more premium offering.

(including NPD). The observations are in that respect overly superficial, and inconsistent with the Commission fuel team's observations over time.

- 4.42 Over-reliance on on-board prices understates the constraint from rivals with non-transparent and sophisticated loyalty programs. This is a perverse outcome - to penalize the most transparent price player in the sector (Gull) - given the Fuel Team's criticism of the use of loyalty schemes and the analysis undertaken by the Commission in this context:⁴¹

Discount and loyalty programmes can soften board price competition. Their use can create 'customer stickiness' to a brand and can focus consumer attention on the level of discount offered, rather than on the actual price paid for fuel. This may reduce the likelihood that a consumer will shop around for the best deal. The resulting lack of mobility could have a negative impact on competition and limit the benefits to consumers.

A number of importers offer discount and loyalty programmes, which provide discounts off retail board prices using both cards (eg, Everyday Rewards programme), supermarket dockets and apps promoted by fuel wholesalers. The average level of discounts for each quarter is estimated using information disclosed to us, including revenue, volumes sold and retail board prices.

- 4.43 By not taking into account off-board discounts in its price analysis, the analysis likely unfairly overstates Gull's effective price differential for the purposes of the analysis. This, in turn, artificially limits the number of competitors that are able, under the Commission's tests, currently "constrain" and will "constrain" Astra. NERA makes a similar observation in its report.⁴²

Disproportionate weight placed on NPD approach

- 4.44 On the one hand, the SOI indicates that Gull is not constrained by NPD on price, in that it has chosen a different price strategy which the SOI indicates is more similar to that of other unstaffed sites. On the other hand, the SOI indicates the parties are each other's closest competitor. Both propositions cannot hold true simultaneously.
- 4.45 The SOI also characterizes Gull (at paragraph [89]) as having become less competitive and its pricing having softened following acquisition by Allegro with the suggestion that it is no longer drives low prices. The evidence basis for these comments are 3-4 ad hoc consumer submissions in the consultation process.⁴³ Regardless of what an isolated individual might believe, it is simply untrue and not backed by the data. Gull has consistently offered low prices with its positioning in market unchanged in any material way pre and post Allegro acquisition, as evidenced in the Gaspy data set out in the NERA Report.⁴⁴

⁴¹ Quarterly Fuel Monitoring Report for the quarter ended 31 December 2025 at pg 12.

⁴² **Appendix 1** at [32].

⁴³ Consumers make similar observations about NPD, see [REDACTED]. The parties' view is that neither set of ad hoc observations are correct.

⁴⁴ **Appendix 1** - Figure 3.

- 4.46 The Commission says in the SOI it has identified differences between the pricing practices of Gull and NPD has expressed concerns that NPD's competitive conduct in the markets it operates in may not continue with the transaction.⁴⁵
- 4.47 [REDACTED].
- 4.48 [REDACTED].^{46 47 48 49 50}
- 4.49 This formula for driving strong results is only sensitive to the merger to the extent that the merger will facilitate more of the same, particularly given the complementary nature of the Gull business. Given the success of NPD's approach, it is wrong to assume there is any material prospect of that approach being abandoned in the merger scenario, and to do so would be inconsistent with the clear and economically rational intention of the parties (in the context of the retention of both brands) to continue to do what each party is already doing in their respective regions of New Zealand.
- 4.50 [REDACTED].
- 4.51 [REDACTED].⁵¹
- 4.52 In summary, the scaled national network and the efficiencies which the merger will generate the competitive potential of NPD and Gull will be permanently throttled to the long-term detriment of consumers.

Pro-competitive effects in local markets

- 4.53 As described in Section [2] above, the positive impact of the merger on competition must also be factored into this unilateral effects analysis.
- 4.54 The merger will lead to increased supply chain resilience for the Applicants, giving them more certainty of supply to local markets, economies of scale enabling them to bring more fuel through the Gull Terminal, economies of scope enabling more effective and reliable distribution networks, and with corresponding low-cost fuel supplied at more locations across New Zealand.
- 4.55 Gull's Terminal Gate Prices are lower than those of other importers for diesel, 91 and 95, and lower than those of Z Energy (which as the largest importer has significant economies of scale) for diesel and 95.⁵² As shown by the work carried out by the Fuel Monitoring Team referred to in paragraph [4.16] above, Gull passes this on in lower fuel prices to consumers and, increasing the volumes it imports will result in increased fuel available at lower prices for consumers.

⁴⁵ SOI at [94].

⁴⁶ [REDACTED]

⁴⁷ [REDACTED]

⁴⁸ [REDACTED]

⁴⁹ [REDACTED]

⁵⁰ [REDACTED]

⁵¹ [REDACTED]

⁵² <https://www.comcom.govt.nz/assets/Quarterly-fuel-monitoring-report-Quarter-ending-December-2025-5-March-2026.pdf>

5. Transaction will not give rise to unilateral effects in local markets via removal of potential competition

- 5.1 In taking into account speculative possibilities for expansion by the Applicants, beyond those planned and not in accordance with the economic realities of expansion for each of them, the SOI departs from the principles set out in the Merger and Acquisition Guidelines, and case law.

In Commerce Commission v Woolworths Limited (CA), above n 40 at [98], the Court held that “the existence of a ‘doubt’ corresponds to a failure to exclude a real chance of a substantial lessening of competition”. However, the Court also indicated at [97] that we should make factual assessments using the balance of probabilities.

- 5.2 Future potential entry at the scale hypothesised in the SOI is simply speculative and cannot be based on a factual assessment of the economic realities of the New Zealand fuel sector. As discussed further below, there is no real chance that in the counterfactual Gull and/or NPD would expand at scale across New Zealand. The scale of expansion is [REDACTED]. [REDACTED]. In terms of site-by-site expansion, the Commission has not identified any particular sites where this concern is likely to arise and, as shown by Waitomo’s recent announcement of a site opening in Whakatāne, any potential entry is strongly constrained by competitors.
- 5.3 The theory of harm in the SOI appears to be that, absent the Transaction, one Party may have entered (or expanded into) local markets currently served by the other, and that the loss of this potential entry may prevent a more competitive outcome from emerging.
- 5.4 This theory of harm raises two key questions:
- (a) whether, absent the Transaction, either party would be likely to enter or expand into local markets currently served by the other (beyond the disclosed planned sites provided to the Commission); and
 - (b) if so, whether the loss of that potential future competition would be likely to result in a substantial lessening of competition, having regard to the presence of other competitive constraints and alternative sources of entry.
- 5.5 Neither question can be answered in the affirmative as such potential entry is, in fact, too remote. No local markets are specified in the SOI as markets where this concern arises, and no analysis has been undertaken in the SOI of the constraints already present in those markets from rivals. Suggested future entry suggested in the SOI is speculative, remote, and unsupported by contemporaneous evidence.
- 5.6 Accordingly, these concerns do not meet the legal threshold for establishing a substantial lessening of competition in any local markets.

Lack of credible likelihood of future entry or expansion

- 5.7 The Applicants have already provided all expansion plans that are sufficiently developed, committed, or otherwise certain ([REDACTED] and [REDACTED]). The competitive effects of those planned sites is appropriately considered in assessment of unilateral effects in local retail markets.
- 5.8 In the counterfactual, Gull and NPD would not rationally be expected to systematically enter local markets where the other is already present. In particular:
- (a) [REDACTED].

- (b) [REDACTED].^{53 54}
- (c) The Commission recognised this in its Retail Fuel Market Study:⁵⁵

Our analysis on the location of NTIs in proximity to those of the majors was based on a total of 515 currently active retail sites of Allied, Challenge, GAS, Gull, McFall, McKeown, NPD, RD, Southfuels and Waitomo. H4.1 We find that Gull, Waitomo and Challenge are most likely to locate their new retail sites within close proximity (2km driving distance) to those of the majors. H4.2 Our analysis shows that resellers and distributors are generally not located within close driving distance of their respective wholesale fuel suppliers. H4.3 Finally, our analysis on the location of NTI sites shows that resellers and distributors are generally not building new retail sites in locations close to existing unmanned retail sites.

- 5.9 No meaningful inference can be drawn from the observation that approximately 45% of NPD's North Island sites are located within 2 km of a Gull site. This reflects historical development patterns and broader commercial considerations, rather than evidence of likely future entry absent the Transaction. A vast majority of these North Island sites are in the big cities where it is simply logical, by reference to the larger consumer pool and demographics of the relevant areas, that a low priced competitor would likely have opportunity to grow volumes.
- 5.10 The presence and strategic responses of the major fuel retailers also materially constrain the expansion strategies of Gull and NPD, further reducing the likelihood of mutually disciplining entry in hypothetical future markets.
- 5.11 In the North Island, which has been the recent focus of NPD expansion, there are more than 10 established major and challenger brands with significant footprints and also continued incremental expansion. The SOI does not analyse the extent to which these other brands would constrain NPD in a counterfactual in which it built out further across the North Island. In any event, this [REDACTED].
- 5.12 [REDACTED]⁵⁶
- 5.13 [REDACTED].
- 5.14 [REDACTED].
- 5.15 [REDACTED]⁵⁷ underscoring that NPD's growth in the North Island in the absence of this Transaction [REDACTED]. Any suggestion by the Commission that NPD would be able to do so at scale across any/all than more than a few local markets is not commercially realistic.
- 5.16 In the absence of the Transaction, there is no credible basis to conclude that Gull and NPD would be likely to enter or expand into each other's local markets in a manner that would materially improve competitive outcomes relative to the status quo.

⁵³ [REDACTED].

⁵⁴ [REDACTED].

⁵⁵ Retail Fuel Market Study - Appendix H.

⁵⁶ See above at [5.8(b)] and footnote 54.

⁵⁷ [REDACTED]

Industry context: limited scope for future entry

- 5.17 The retail fuel sector is widely recognised as a mature, and increasingly constrained/sunset, industry. Opportunities for greenfield development are limited due to planning restrictions, scarcity of suitable sites, and declining long-term demand for fossil fuels.
- 5.18 Consistent with this industry context, recent expansion by retail fuel operators (including Gull and NPD) has increasingly focused on site conversions, redevelopments, and opportunistic acquisitions, rather than systematic greenfield entry.
- 5.19 This structural reality also significantly limits the likelihood and extent of future entry into hypothetical local markets that are not already the subject of concrete expansion plans.

Unstaffed sites and alleged competitive effects

- 5.20 The SOI places significant weight on a report, that found unstaffed site entry brings lower prices into a local market, but this report examined only a short post-entry period (approximately eight weeks).⁵⁸ That timeframe is insufficient to draw reliable conclusions about sustained competitive effects in retail fuel markets.
- 5.21 By contrast, the 2019 Retail Fuel Market Study relied on daily, site-level pricing data over a materially longer period (January 2011 to February 2019) to assess competitive dynamics. The disparity in the scope and duration of the datasets further underscores the limitations of the analysis relied upon in the SOI.⁵⁹
- 5.22 The competitive impact of unstaffed entry by the Majors and the ongoing supply constraints faced by non-major participants cannot be ignored. The evidence does not support a concern that the Transaction would remove a significant source of future competitive constraint.

Expansion by other retail brands with similar price/service

- 5.23 The SOI considers loss of potential future competition between the Applicants through potential entry, by one of the parties into local markets in which the other is currently present or entry by both Applicants into local markets where neither is currently present, without detailed analysis of any of these local markets.⁶⁰
- 5.24 It does not set out the scale of expansion it considers likely, how this expansion will be funded [(REDACTED)], how constraints from supply and logistics will be addressed (and their cost) if such expansion is in areas where one Applicant does not currently have significant presence, (e.g. Gull in the South Island), or adduce any evidence showing that such expansion is economically feasible for the Applicants.
- 5.25 Potential competition loss cannot be assessed by reference to the Applicants in isolation as this risks materially overstating any loss of future competition by ignoring the potential competitive constraints that would be imposed by other retail fuel suppliers. Analysis of loss of potential future competition must look both at the likely expansion of the applicants themselves, and of other suppliers with similar price/service offerings.
- (a) There are numerous competitors who have been, and are likely to continue, actively expanding their respective fuel retail site networks. Pak'nSave/ New World. Foodstuffs have over 50 sites across New Zealand, many which are larger than many challenger sites and therefore able to store larger volumes. It is able to offer

⁵⁸ Commerce Commission, Focus Report: Impact of new unstaffed retail petrol stations on fuel prices (2 April 2024).

⁵⁹ Fuel market study [3.97]

⁶⁰ Statement of Issues (17 March), at 77 - 86.7.

loss-leader prices to bring consumers into its wider retail offering, potentially cross-subsidising its fuel offering.

- (b) U-GO, after opening its first site in April 2025, now has a network of 28 unstaffed stations offering 24/7 fuel that extend geographically from Timaru to Whangārei.⁶¹
- (c) Mobil have converted 14 of its existing sites into self-service retail fuel stations across the North and South Island, with plans to continue expanding its unstaffed station network this year.⁶²
- (d) In 2025 Allied Petroleum opened new unstaffed sites at Upper Moutere (Tasman), Thames (Waikato), and Waipukurau (Hawkes Bay). These site openings align with Allied's stated goal of *'ongoing investment in a 24/7 fuel stop network that spans the length of the country'*.⁶³
- (e) From opening its first Fuel Stop at Te Uku in 2012, Waitomo, now has a network of unstaffed fuel stops with over 105 sites across New Zealand. In 2024, Waitomo opened 11 new sites and is said to have a further 10 sites in the pipeline for Development.⁶⁴
- (f) TasmanFuels was established in 2020 and now has more than 10 unstaffed stations across the North and South Island.⁶⁵

5.26 These examples evidence that the Applicants are not uniquely positioned to expand low-cost retail fuel services nationwide. First, as set out above⁶⁶, the Applicants do not expect significant further expansion by them in the counterfactual for a range of reasons. Even to the limited extent expansion would occur in any local markets, this would be constrained by competitor expansion and the likely continued expansion of the identified competitors should serve to mitigate the risk of any loss of potential future competition that may arise from the Merger.

⁶¹ <https://ugoselfserve.co.nz/>.

⁶² [Mobil Instagram Post - exxonmobil aus \(22 December 2025\)](#).

⁶³ [Allied home page](#).

⁶⁴ [Waitomo website background page](#).

⁶⁵ [Star News Media Release 12 March 2026](#).

⁶⁶ [REDACTED]

6. Transaction will not give rise to unilateral effects in a national market

- 6.1 No separate national market exists for supply of retail fuel to consumers, for the reasons set out comprehensively in NERA's report in **Appendix 1**. There are national dimensions (but which play out in consumers' decisions in local markets) relating to brand strategy, discounting approach and some cost allocation, but these factors are insufficient to define a separate national market for supply of retail fuel to consumers.
- 6.2 Adoption of a national fuel market definition is inconsistent with the Commission's previous decisions in retail fuel markets.⁶⁷
- (a) Adoption of a national market definition to consider unilateral effects from the Transaction is inconsistent with the facts of this merger: for the most part NPD and Gull do not overlap. Even if there were a national market, NPD and Gull only account for well below 20% of the sites in any such market, combined. The low combined shares of supply and presence of many large and small rivals in the market rule out the possibility of national level concerns.⁶⁸
 - (b) Gull and NPD are not predominantly each other's closest competitors. Even where they do overlap, [REDACTED]. The SOI materially overstates the constraint on each other at an organisational level and the extent that plays into their respective expectations for future growth;
 - (c) On any dimension of competition, Z Energy is the clear market leader, with a vertically integrated model that enables it to compete strongly against all types of offerings across the country and throughout the supply chain. At present, it only faces constraint from BP and Mobil, the latter of which is for sale in New Zealand.
 - (d) In addition, Waitomo, Allied, G.A.S. and a range of others operate nationally.
 - (e) The applicants do not set national price caps or have rigid national pricing rules. As shown by the Commission's fuel monitoring work pricing varies regionally and National promotions are designed to promote brand strength, but do not change the fact that there are differentials in every local market.
 - (f) Whilst pricing strategies may be developed centrally (at the national level) by the merger applicants, they do not take the form of rules and are not rigid in their application, allowing for the necessary discretion to adapt to local market conditions. As a result, national pricing strategies applied to local markets do not result in identical outcomes. There is no incentive for, or ability to sustain, prescriptive national pricing strategies. For instance, a uniform price increase applied to local markets with intense competition would erode volumes and could entirely offset any intended margin uplift.
 - (g) The constraint on brand-wide pricing strategies that promote uniform price increase are strengthened by greater variability in local competitive conditions. Given that the post-merger entity will have an expanded geographic network across New Zealand, the variability in local competitive conditions will increase, further incentivising adaptive national pricing strategies capable of achieving locally responsive pricing.

⁶⁷ **Appendix 1** at [4] - [20].

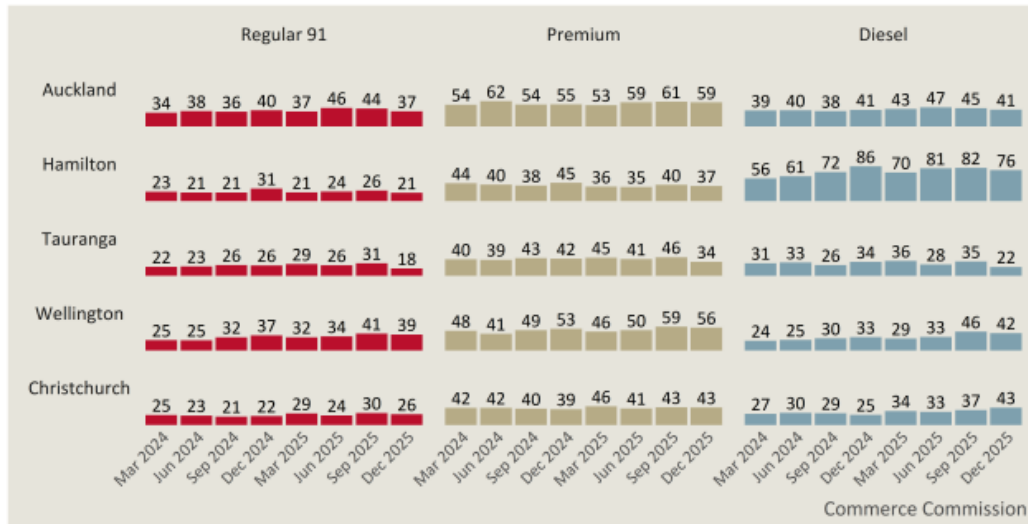
⁶⁸ This is consistent with the framework for identifying whether national level concerns can lead to an SLC in any market adopted by other competition authorities. See for example CMA Clayton, Dubilier & Rice Holdings, LLC of Wm Morrison Supermarkets Limited (2022). [Link to Full Text Decision 24 March 2022](#)

6.3 Fuel prices in New Zealand vary significantly regionally, as shown in the Commerce Commission’s fuel price monitoring work and reports about specific regions, as set out in NERA’s Report at **Appendix 1**.⁶⁹

Retail price variation in New Zealand

Retail price variation is calculated as the daily difference between the most and the least expensive site for each fuel type in a city, averaged over the quarter. The retail prices include the average discount for that fuel type. ‘Premium’ includes sales of both Premium 95 and Premium 98.²⁰

Figure 12: Retail price variation (cpl) within New Zealand cities.



Note: Starting Q4 2025, we have removed sites that are not accessible to the public from this figure. As a result, the retail price variations shown in this figure are not directly comparable to the figure in previous quarterly reports.

6.4 While brands may have national discount strategies, how these are applied will vary by brand and, with the exception of Gull (whose discount strategies are highly transparent and off-board discounts very limited), in their regional application. Even with a national discount, the price still shows up as a local price, with significant customer price variability throughout the country.

6.5 Off-board discounts by other market participants are frequent, often regional or location specific. In addition, price strategies will vary in local areas depending on whether a new store has opened recently. These pricing patterns underscore the fact there is no national market for supply of retail fuel to consumers.

Competition is not determined by point in time price strategy

6.6 Properly considered in the framework of economic incentives, NPD’s current pricing strategy is not the result of personal preference, but the **structural** features of NPD’s

⁶⁹ https://www.comcom.govt.nz/assets/pdf_file/0020/351146/Weaker-competition-in-some-local-markets-appears-to-be-contributing-to-variation-in-retail-petrol-prices-April-2024-.pdf

Differences in costs can explain some of the variation observed in retail prices, but not all. We consider another major driver is the presence of relatively weaker competition in some areas compared to others. For many years, the major importers (BP, Mobil, and Z) have made efforts to differentiate their retail fuel offerings, which has led to competition on many factors other than just price. Three specific elements of this strategy often include: loyalty programmes, convenience services, and location. One of the findings of the Commerce Commission’s 2019 Retail Fuel Market Study was that higher discounts through loyalty programmes are associated with higher margins for fuel companies. This was confirmed by analysis in our fuel monitoring report for the quarter ending June 2023.¹⁵ Loyalty programmes can reduce direct competition on board prices by making it harder for consumers to compare post-discount prices.

business and the market more generally which the merged entity can also be expected to benefit from and be influenced/constrained by (as relevant).

- 6.7 Many other brands will continue to offer national or near-national discount programs e.g. Z Energy/U-Go, BP, Mobil/Mobil Express, Waitomo, Pak'nSave. These players are fully capable of competing hard on price: e.g. U-Go.

The table below illustrates the discounts and promotions by competitors taken from their respective websites. It also includes the 'Taglines' used to market their offerings.

Table [2] - Competitor Discounts

Competitor	Regular Discounts	Taglines/branding around discounts
Z Energy	<p><u>Z Rewards</u> 6c off per litre (up to 100L) 3 x 20 cents off per litre discounts on fuel when joining for the first time points system that can be used for purchasing instore items</p> <p><u>Fuelup</u> Fuelup Supermarket Voucher when shopping at New World and PAK'nSAVE which can be used to save 6c per litre</p> <p><u>New World Clubcard</u> 8 cents per litre up to 100L when filling up using a New World Clubcard</p> <p><u>Airpoints Dollars</u> Users can earn Airpoints Dollars on fuel, Barista Made Drinks and a variety of other services through their online application</p>	'Rewarding reasons to visit Z'
Caltex	<p><u>Caltex Pumped</u> Users of the application can save 6 cents per litre up to 50 litres. They may also choose to stack the discount when spending more than \$40 on fuel. This means that on visit 2 the consumer could use a 12c off per litre or on visit 3 an 18c off per litre discount. Every Wednesday, the discount is 10 cents off per litre.</p> <p><u>SuperGold</u> SuperGold card holders get an extra 2c off per litre which can be combined with other Caltex discounts.</p> <p><u>Airpoints</u> 1 Airpoints dollar for every 100 litres of fuel.</p> <p><u>Fuelup</u> Fuelup Supermarket Voucher when shopping at New World and PAK'nSAVE which can be used to save on fuel.</p>	'Love a deal? Look no further'
BP	<p><u>Everyday Rewards</u> Members get an instant 6 cents per litre off fuel by scanning their card, and have access to a 10 cents per litre discount once a week</p> <p><u>Reward points</u> Members collect points for every \$1 spent at the bp shop, café or on bp car washes. 2000 points can be used for \$15 off at the pump.</p>	'Welcome to Everyday Rewards - our loyalty programme where you get instant fuel discounts on every fill, collect points to earn \$15 vouchers or travel rewards, earn free coffees, car washes and even freebies. If you're on the road to bp, your rewards start now!'

RD Petroleum	<p><u>Fuel Cards</u> Used for discounted fuel at RDP, BP, and G.A.S sites across New Zealand with no annual, card or transaction fees.</p>	'We've got all of your fuel stops covered.'
Mobil	<p><u>Mobil Smiles Rewards and Promotions</u> 6c per litre on fuel up to 100 litres Points are earned per purchase that can be used on fuel purchase or treats in-store. <u>Four Fills Promotion</u> 20 cents off per litre discount coupon with every 4th fill using the Mobil NZ app until 31 December 2026. <u>Mobil Refer a Friend Campaign</u> 25 cents per litre discount after referring a friend to download the Mobil NZ app.</p>	'Instant Fuel savings with Mobil Smiles Driver Rewards Programme'
G.A.S	<p><u>Everyday Rewards</u> Offers a card that can be used to get at least 6 cents off per litre. <u>Points system</u> 1 point for every litre purchased and 1 point for every \$1 spent on almost everything in-store. 2000 points will result in a \$15 voucher that can be redeemed at G.A.S, Woolworths or Petstock.</p>	'Helping everyday Kiwis enjoy more choice, more convenience and more rewards!'
Waitomo	<p><u>Waitomo Application</u> Users can unlock a spinning wheel every \$20 or more spent and bank every dollar spent to reach \$150 and unlock a scratch to win. These features provide an opportunity to win prizes such as fuel discounts.</p>	'Download our wicked Waitomo app'
Challenge	<p><u>Save on Fuel</u> My Challenge members receive a minimum discount of 6 cents per litre every day. SuperGold and Grey Power card holders receive a minimum discount of 8 cents per litre everyday. There are no minimum spend criteria. <u>Earn Rewards</u> My Challenge members earn 1 Point for every \$1 spent on eligible purchases that can be redeemed for rewards at the store.</p>	'Save, Earn, Give'
TasmanFuels	<p><u>TasmanFuels application</u> Gives users access to intermittent personalised offers on fuel payments.</p>	'Our new App makes fuel payments simple and easy, within the comfort of your vehicle. Be alerted to discounts and personalised offers.'
PAK'nSAVE	<p><u>Fuelup Voucher</u> 6 cents off every litre of fuel if consumers spend at least \$1 at the supermarket.</p>	'Save BIG on fuel at PAK'nSAVE Beep Beep! It makes cents to fill up with PAK'nSAVE.'
New World	<p><u>Fuelup Voucher</u> 6 cents off every litre of fuel when spending money at the supermarket <u>Clubcard discount</u> 8 cents per litre discount for Clubcard members up to 100 litres.</p>	'Earn great fuel savings by shopping at New World'

7. Wholesale distribution markets

- 7.1 The SOI does not identify any potential anti-competitive effects from the merger in relation to wholesale distribution markets. But it fails to take account of the relevance of this for the other markets in which it is considering unilateral, coordinated or vertical effects.
- 7.2 This section describes the importance of taking into account key aspects of the wholesale market. For the reasons set out in the Commission's Retail Fuel Market Study (**Fuel Market Study**), it is critically relevant to competition in the retail market.
- 7.3 A range of changes were introduced to the industry following the Fuel Market Study but these have yet to result in significant changes in the profile of suppliers of wholesale fuel for distribution (whether to commercial or retail customers).
- 7.4 In announcing its findings in the Fuel Market Study, the Commission noted that:

The Commission believes the core problem is that an active wholesale market for fuel does not exist in New Zealand.

"The major fuel companies, Z Energy, BP and Mobil, share a joint infrastructure network which includes the Marsden Point refinery, coastal shipping operations and storage terminals at regional ports. They use this network to supply 90% of the nation's fuel through their own branded retail sites or via other distributors or resellers via exclusive long-term wholesale supply contracts. The only other fuel importer is Gull, with a terminal in Mt Maunganui," Ms Rawlings says.

"The combination of infrastructure sharing and restrictive supply relationships gives the major fuel companies an advantage. There is a reduced ability for importers to compete for customers of the majors and for distributors and dealers to obtain competitive wholesale supply terms."

The Commission acknowledges there are some positive industry developments underway. These include fuel company innovations like pay at the pump technology benefiting consumers, the establishment of Timaru Oil Services new import terminal in Timaru, expansion by Gull and resellers including Waitomo and NPD, and the electrification of vehicles.

"While these developments could improve outcomes for consumers over the long-term, they do not address the core problem we have identified with the wholesale market." ⁷⁰

- 7.5 The introduction of a Terminal Gate Price regime and a disclosure regime regulating wholesale supply contracts to allow greater contractual freedom for resellers to compare offers and switch suppliers has increased supply by non-major fuel retailers across New Zealand and given more contractual certainty.
- 7.6 However, the spot price regime for Terminal Gate Pricing differs from Australia in only requiring/ offering a short term (1 week) spot price, which, unlike the 3month price in Australia, provides insufficient certainty to enable longer term lower TGP pricing, something Gull has regularly highlighted to the Commission.
- 7.7 Whilst contractual terms are now reviewed regularly, independent distributors are still almost entirely supplied by the majors.

⁷⁰ <https://www.comcom.govt.nz/news-and-media/news-and-events/2019/retail-fuel-market-study-recommends-changes-to-benefit-competition-and-consumers/>.

- 7.8 To improve competition in retail markets, the Commission has made several recommendations to help consumers make more informed purchasing decisions. These include regulations to require retailers to display premium fuel prices on price boards and fuel cap stickers to help consumers understand what grade of fuel their vehicle requires.
- 7.9 As set out in **Appendix 2**, wholesalers still purchase fuel almost entirely from the majors. The merger aims to break this distribution gridlock, and bring competition to a level of the fuel sector that the Commission identified in the Fuel Study as crucial for a competitive sector, and driving downstream to better retail competition. In addition to providing a new option to commercial customers in the North Island, the merger will have these pro-competitive effects on the wider sector, and these are relevant not only to any coordinated or vertical effects theory of harm (as explained in the following sections) but also to the wider benefits of the merger for competition in retail supply of fuel in New Zealand.

Merger is pro-competitive from a wholesale perspective

- 7.10 The Commission's fuel monitoring demonstrates that Gull has bought a low-price model to its Terminal Gate Price offering⁷¹ and expansion of its model at this level could drive lower costs for distributors, commercial customers and consumers throughout the supply chain.
- 7.11 [REDACTED].⁷²

⁷¹ <https://www.comcom.govt.nz/assets/Quarterly-fuel-monitoring-report-Quarter-ending-December-2025-5-March-2026.pdf> at [table 6].

⁷² REDACTED].

8. Transaction will not give rise to coordinated effects

- 8.1 The SOI identifies four of twelve market features for coordination as present. It cites Z-Chevron and a small number of submissions from individual consumers as evidence to support a potential theory of harm, but does not verify the consumer impressions with data analysis and does not address the significant changes in industry structure and demand since the Z-Chevron decision, including ongoing challenger entry and expansion.
- 8.2 The changes that the SOI indicates the Transaction will bring which could increase coordination are also not grounded in evidence:
- (a) overlaps will only be removed in a very small number of local markets;
 - (b) NPD is disruptive, but so is Gull - and in any event there are a wide range of other low priced suppliers to prevent coordination;
 - (c) the cost structure of Astra will not replicate that of the majors (but it will be lower than for either NPD or Gull in the counterfactual);
 - (d) and the market is too fragmented, with participants having different pricing strategies, and ongoing entry/exit for assumptions around collusive outcomes to occur in the manner set out in paragraph [108].

Features of market do not support risk of coordination

- 8.3 The retail fuel market in New Zealand does not currently have the structure to make successful coordination possible in local markets for the reasons set out in the Application, and the merger does not change that.
- 8.4 As outlined in the Application, the market structure has changed significantly since the Commission's decision in Z Energy/Chevron and in the Retail Fuel Market Study, with a range of dynamic challengers expanding or entering. As outlined in sections 4, their pricing, expansion and integration differs, with strong competition for volumes across the country.
- 8.5 Demand is not stable as fuel is a sunset industry, with consumers moving to EV and customers looking to reduce demand where possible. There have been ongoing supply shocks in recent years (e.g. COVID-19, the Ukraine invasion, and the current US-Iran War), which make coordination at a local retail level across the 15 industry participants, who are each present in different local markets, difficult.
- 8.6 The participants have different cost structures, pricing and brand strategies, logistics arrangements and geographies. The Commission has not provided any evidence that an implicit agreement exists between a group of firms in the sector, let alone in relation to NPD and/or Gull in any local retail market in which they are present.
- 8.7 This market structure does not lend itself to coordinated effects, as set out in the below table.

Features of markets which make coordination easier	Present Y/N	Comment
Homogenous product	Y	Commission cites this factor
Small number of competitors absent destabilising competitors OR	N	

Strong competition from outside the coordinating group	N/A	
Similar size	N	
Similar cost structure	N	
Limited innovation	Partial	But some - station offering
Stable demand	N (CC - Y)	Commission cites this factor, referencing the Z Energy/Chevron dissent.
Lack of supply shocks	N	COVID, War
Transactions frequent and small in size	Y	
Readily observable prices	Y - But	Commission notes use of Gaspy to monitor fuel prices and that off-board discounts are not visible to rivals. Acknowledges discount offerings can be complex
Readily observable volumes	N	
Interrelationships between forms through association or ownership	N	But may be the case for some other market participants - e.g. majors

- 8.8 Of the twelve market features which make coordination easier, the Commission cites four to indicate retail fuel markets are vulnerable to coordination, as shown in the table below. Of these, transparency of price is only partial, and demand is no longer as stable as it was in 2016 as this is now a sunset industry. The Commission references *Z-Chevron* dissenting opinion of Dr. Jill Walker as evidence for inelastic demand. This evidence no longer reflects industry conditions, which as outlined in section 4 above and in the Application have changed significantly in the past decade.⁷³
- 8.9 As shown by the variety of regional pricing, and the lack of any evidence referred to in the SOI, there is no current evidence of coordinated effects in the retail fuel market, either locally or across a national dimension (as shown by the range of discounting options on offer).
- 8.10 If coordination is currently present in any local market, NPD and Gull make it more difficult and the merged entity will continue to play this role.
- 8.11 The factors the Commission outlines to support a theory of coordination brought about by the merger are:
- (a) Reduction in independent unstaffed fuel sites in some local markets.
 - (b) Removal of a disruptive price competitor (NPD);
 - (c) More similar cost structure post-merger to the majors; and

⁷³ Even if the Commission now considers the majority decision was in error, it would only amplify the impact of that error to use competitive dynamics that are now a decade old, to justify intervention in this Transaction. Unlike *Z Energy/Chevron*, this Transaction is between almost entirely complementary businesses, in a market that is now demonstrably declining at an accelerating rate.

- (d) Inability to distinguish between unilateral and coordinated effects
- 8.12 The merger will change the number actual of participants in only [REDACTED] local markets and [REDACTED] additional local markets if potential competition is taken into account. Across those [REDACTED] areas the Commission has not provided any evidence of current coordinated effects.
- 8.13 For the reasons outlined in section [4] above, Astra rejects the suggestion that NPD is any more disruptive than Gull, whether in local overlap markets or more broadly.
- (a) As shown by [REDACTED], as Z Energy commented about Gull in its submission on the SOPI in this case. Neither statement is reliable without proper analysis.
- (b) The Commission relies almost exclusively on evidence from [REDACTED]. This evidence is drawn from too small a pool of consumers to support any finding of fact. This evidence is also not consistent with [REDACTED] that shows that there are a range of competitors in the industry who can be characterised as bringing low price options to local areas – and that in many areas it is Gull that is bringing those low prices to consumers.⁷⁴
- (c) The pricing behaviour of both Gull and NPD shows local pricing is dynamic, differentiated between locations and not coordinated.
- 8.14 The majors are three vertically integrated suppliers (with offshore supply and terminal storage across the country, and vertical integration throughout their supply chain, and a retail business model that includes staffed and unstaffed sites). Astra’s cost structure will not be similar to the majors in any meaningful way, for a number of reasons:
- (a) Gull/Astra only has one terminal and will remain dependent on third party supply in other areas, particularly the South Island but also lower North Island. By contrast, the majors all have co-owned infrastructure, integrated borrow and loan arrangements (or equivalent bilateral arrangements), in contrast with Gull;
- (b) Gull/Astra does not have the same mix of site and service offerings;
- (c) Neither Gull nor NPD has a significant business supplying fuel to retail fuel suppliers currently [REDACTED] – and winning this business would mean winning contracts from the Majors, not enabling stable market shares – this is the opposite of conditions in which coordinated effects arise;
- (d) The same dynamic applies to [REDACTED].
- 8.15 [REDACTED].⁷⁵
- 8.16 The Commission cites in paragraph [107] of the SOI about a report it undertook into high localised pricing on Waiheke Island as evidence of underlying costs not supporting competition in a local market, as evidence of the likelihood of this transaction giving rise to coordinated effects. But neither Gull nor NPD are present on Waiheke Island. This example is simply irrelevant as evidence of any competition that exists now between the parties or that might change post-Transaction.

⁷⁴ See further **Appendix 4** [REDACTED].

⁷⁵ See footnote 47 above for more detail on this point.

9. Transaction will not give rise to vertical effects

- 9.1 There is no prospect of the Transaction giving rise to vertical effects relating to the wholesale supply of retail fuel.
- 9.2 For the reasons described above, the market definition used in the SOI, which isolates wholesale supply to retail fuel suppliers from Gull's Mount Maunganui terminal, is not a functionally separate market. The relevant market is wholesale supply of fuel to a group of commercial customers from a particular region. BP, Z and Mobil are all significant wholesalers of fuel from the Mount Maunganui region.

Vertical effects theory of harm

- 9.3 The Commission is considering whether the Transaction would increase the merged entity's ability and incentive to use its position in wholesale fuel supply from its Mount Maunganui terminal to foreclose downstream rivals by refusal to supply or raising costs. In particular, it is considering whether the merged entity would have an increased ability or incentive to charge higher prices for terminal supply or decline to respond to fuel tenders.
- 9.4 A firm can only foreclose competitors if it has market power at a relevant level in the supply chain, as if it does not, its competitors could switch to other suppliers or purchasers.⁷⁶ Gull does not have market power in supply of retail fuel to independent distributors such that a vertical foreclosure theory of harm could occur.
- 9.5 **Ability.** Gull would not have the ability to foreclose third-party fuel distributors who compete with NPD to supply commercial customers post-merger because:
- (a) To the extent that it supplies a [REDACTED] volume of fuel to [REDACTED] and would not be foreclosed if Gull ceased supply;
 - (b) These customers have alternative sources of fuel at competitive spot-market prices, in accordance with the Terminal Gate Price regime which is monitored by the Commission;⁷⁷
 - (c) The relevant market is wider than a geographic market for Gull's Mount Maunganui terminal. Gull is not the only fuel supplier providing wholesale fuel supply from this region. A number of other fuel suppliers [Z Energy, Mobil and BP] also supply fuel from the Mount Maunganui terminal area. Whilst as noted above, there are reasons for considering a market for wholesale supply of fuel as wider than from a single port, there is no possibility of vertical effects however the market is defined; and
 - (d) Its inability to foreclose competitors will not change post-Merger.
- 9.6 **Incentive.** The rationale for the merger is to increase the supply overall, potentially by bringing additional shipments through the Gull terminal, rather than by terminating some supply contracts to instead supply to NPD.⁷⁸ Gull's incentives are to maximise supply volumes and to continue to receive margins on those sales rather than drive those sales to

⁷⁶ Commerce Commission Merger and Acquisition Guidelines at [5.7].

⁷⁷ Fuel Industry Act 2020, s 9.

⁷⁸ See Attachment A5 of the Application, [REDACTED].

a third party competitor by switching to supply NPD instead. This theory contradicts the incentives for the merger set out in the Transaction documents.

9.7 Gull currently has plans to increase supply to commercial customers (and the merger does not change its incentive to do this), and to expand to win distribution volumes from the major retailers, bringing low price competition to a further dimension of the sector.

9.8 **Effect.** Even if supply were terminated to those currently supplied by Gull there would be no effect on the market for downstream distribution of retail fuel, due to the de minimis volumes currently supplied by Gull to third parties. Whilst the merged entity will not have the ability or incentive to foreclose, even if it did, there is no prospect such foreclosure could lead to a substantial lessening of competition in a market however narrowly defined. There are many readily available alternative sources of fuel available to third parties wishing to distribute fuel. This is shown by the fact Gull only supplies a very small proportion of supply provided by independent distributors.

9.9 In fact, the merger is likely to increase Gull's incentive to supply reasonably-priced fuel at wholesale from its Terminal.

No likelihood of vertical effects

9.10 A foreclosure theory of harm must be founded in commercial reality. Gull supplies barely any fuel at wholesale. It sells de minimis volumes to a couple of independent distributors [REDACTED]⁷⁹ and nothing to independent retailers. It is not a major supplier to commercial customers. It does not hold detailed information about wholesale supply of fuel in NZ for this region but notes that Allied, BP, NPD, Fern, Gull, Z and Mobil are all listed by the Commission as distributors of retail fuel in the Commission's monitoring reports.

9.11 As a result, the parties estimate that their supply of wholesale fuel at national level to be less than 1% [REDACTED]. Gull simply does not have a level of market power in this supply which would make foreclosure economically viable for it. A foreclosure strategy is also directly counter to its aim from the merger, which is to grow supply to commercial customers, including independent fuel distributors.

9.12 In this context, the Transaction can only be pro-competitive from a vertical supply perspective.

⁷⁹ Application at [73].

Appendix 1- NERA Report

See Attachment.

Gull/NPD merger – review of SOI

Report for Webb Henderson and A&B
Competition lawyers

2 April 2026

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Public Version

1. Instructions

1. The Commerce Commission (“**the NZCC**”) has issued a statement of issues in respect of the proposed Gull/NPD merger, dated 16 March 2026 (“**the SOI**”). We have been asked by counsel to Gull (Webb Henderson) and NPD (A&B Competition Lawyers) to review the SOI.
2. We have assessed the competitive effects of transactions and behaviour in fuel markets in both New Zealand and Australia. Our most recent merger projects have been engagements by Clifford Chance on behalf of Viva Energy in Australia.
3. We specifically comment on five issues raised by the SOI:
 - A. Is there a national market for the retail supply of fuel?
 - B. Unilateral effects at the local level.
 - C. National pricing strategy of merged entity.
 - D. Coordinated effects in local retail markets.
 - E. Vertical effects.

2. Is there a national market for the retail supply of fuel?

4. One of the concerns set out in the SOI is the extent to which Gull and NPD compete at a national level in the retail supply of fuel.¹ We understand the NZCC is testing whether there are any relevant and sufficiently material national or brand-wide dimensions of competition. In other words, the NZCC is exploring whether such parameters, set at a national level, could justify treating the retail supply of fuel as having a national dimension of competition.
5. The idea that there could be a national market for the retail supply of fuel is novel, at least in New Zealand and Australia.² The NZCC and ACCC have found local markets for the retail supply of fuel because it is at the local level where consumers make their purchasing decisions. Indeed, this fact is described by the NZCC at [46] of the SOI.
6. As stated at [40] of the SOI, the conceptual framework used to define a market in a merger involves applying the hypothetical monopolist test (“**the HMT**”). Applying the HMT at the geographic level here will result in local markets for fuel retailing, rather than a single national market. We would not expect a consumer in, say South Auckland, to drive to Wellington in response to a SSNIP.
7. This implies that fuel retailers within any given local market do not face any material constraint from fuel retailers in, for example, other cities. The competitive constraint is therefore local.
8. The NZCC itself has not previously considered national dimensions of competition in the retail supply of fuel. For instance, in its *Z Energy/Chevron* decision, it defined the starting point for the appropriate geographic market to be a 2km radius, with any constraints from stations

¹ [9.3] of the SOI.

² These are the countries in which we have analysed competition effects in fuel markets.

further away being treated on a case-by-case basis. This definition was grounded in the following logic (footnotes omitted):³

A primary reason for a customer's choice of a service station is location. This means that the markets that service stations fall within are localised but geographically differentiated.

9. The NZCC did not define a national market for the retail supply of fuel despite the use of strategies such as off-board discounts and other promotions by the Parties, which the NZCC recognised as being offered “normally on a national basis but sometimes are more targeted.”⁴
10. The NZCC has previously considered the impacts of the use of national- or brand-level strategies by fuel retailers, such as those set out at [47] of the SOI. For instance, in the market study into the retail fuel sector, it was recognised that while some retailers adopt more price aggressive strategies in general than others, the competitive effect of such strategies is observed locally, and primarily in areas “close to where the competitor is located”.⁵ The study also noted retail sites that are further away from such a price aggressive competitor “may not need to adjust their price”, reiterating the localised impact of such strategies.
11. Further, in that same 2019 market study the NZCC identified national- and brand-level strategies such as discounts and loyalty programmes to be a “prominent feature of New Zealand’s retail markets.”⁶ However, such strategies have not previously been used as a basis for defining a national retail fuel market, or a distinct unilateral effects theory.
12. Similarly, the ACCC’s prior decisions relating to the retail supply of fuel have defined the geographic dimension of the retail fuel products market as:⁷
 - A. Local areas in the vicinity of each target site; and
 - B. City-wide metropolitan areas.⁸
13. Figure 1 below is a copy of Figure 12 of the NZCC’s fuel monitoring report for the December 2025 quarter. It highlights the localised nature of competition in the retail fuel market. The report states that retail price variation is calculated as the daily difference (in cpl) between the most and the least expensive site for each fuel type in a city, averaged over the quarter. This shows that price varies materially even within cities. Also striking is how the level of variation differs across fuel types – for example, compare the variation across Hamilton for diesel versus regular 91, and how much higher the diesel variation is across Hamilton as opposed to the other cities.

³ NZCC, *Z Energy Limited and Chevron New Zealand [2016] NZCC 10*, [130].

⁴ NZCC, *Z Energy Limited and Chevron New Zealand [2016] NZCC 10*, [176].

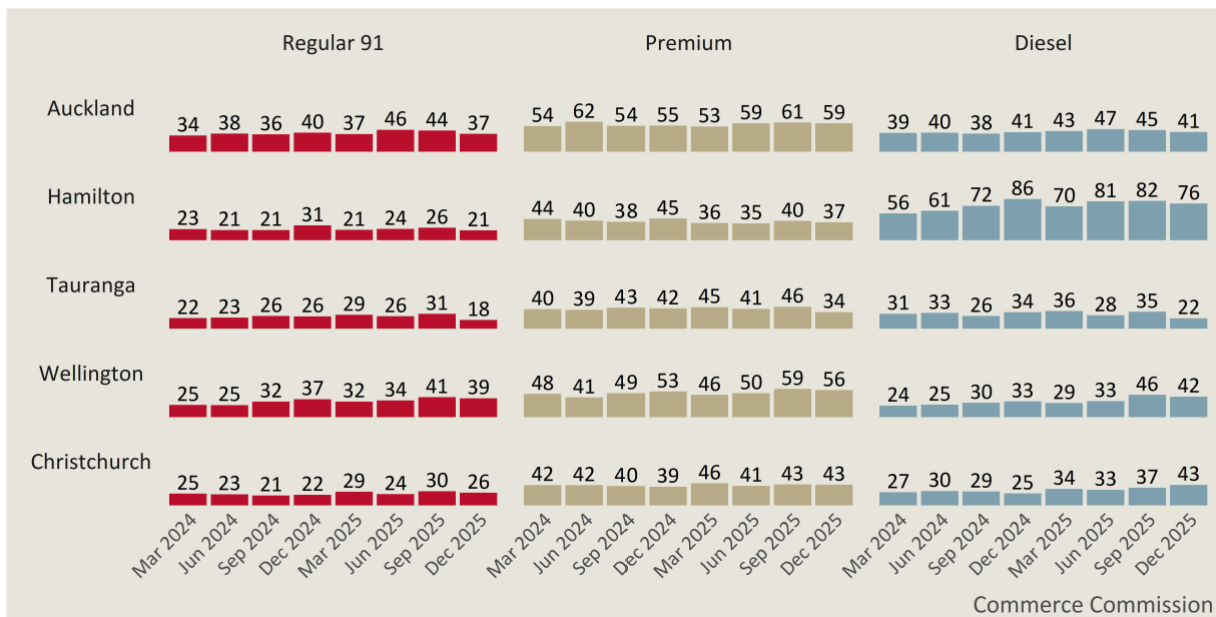
⁵ NZCC, *Market study into the retail fuel sector*, December 2019, [3.128]

⁶ NZCC, *Market study into the retail fuel sector*, December 2019, [X60]

⁷ Including but not limited to: Viva Energy – proposed acquisition of Liberty Oil (2019) ([Link](#)); BP Australia Pty Limited - proposed acquisition of Woolworths' retail service station sites (2017) ([Link](#)); Caltex Australia Petroleum Pty Ltd - proposed acquisition of assets from Milemaker Petroleum (2017) ([Link](#)).

⁸ The ACCC considers the competitive dynamics across broader geographic markets because in Australian metropolitan areas, retail petrol prices follow cycles and price outcomes can depend on behaviours of fuel retailers across a given city. The cyclical pricing pattern generally occurs across a city as whole.

Figure 1: Retail price variation within New Zealand cities, cpl



Source: NZCC, Quarterly Fuel Monitoring Report for the quarter ended 31 December 2025

14. The fact that fuel prices vary and behave differently by location within New Zealand illustrates that the retail supply of fuel markets is localised and that defining a national market would be inappropriate.

15. In its decision to decline the merger of Foodstuffs North Island and Foodstuffs South Island, the NZCC stated (footnote omitted, emphasis added):⁹

*Although grocery retailers typically compete for consumers in small local areas there are also some regional and national dimensions to competition between the major grocery retailers. Several important aspects of the retail grocery offer, such as **centralised pricing** and product acquisition, are set uniformly across the retail banners of the Parties and Woolworths at a national or regional (island) level. This means that there are also some regional and national dynamics to competition in retail grocery markets that have an impact on the nature and intensity of competition between grocery retailers.*

16. As described above, unlike retail grocery pricing, retail fuel pricing in New Zealand is not “centralised”. Instead, prices are set locally based on the characteristics of each market (for example, local demand and traffic patterns, and the level of competition among nearby retailers). While the NZCC in the *Foodstuffs* decision did “not consider it necessary for us to conclusively determine the scope of the relevant geographic markets as the impact of the Proposed Merger could take place on different dimensions”, what appears to be a key argument for considering the possibility of a national retail grocery market (centralised pricing) does not apply to the case of fuel retailing.

17. Given that competition occurs at the local level, from a conceptual perspective there is likely to be a tension in also defining a national market. For example, what would it mean if a firm was found to have market power at the national level, but to face effective competition in local

⁹ [2024] NZCC 22, 30 September 2024, [487].

markets? How could a firm exercise market power at the national level if it is constrained at the local level?

18. At [47] of the SOI, the NZCC states (emphasis added):

*While pricing for particular retail fuel sites is often set and adjusted based on local competitive dynamics, evidence gathered to date suggests **that fuel retailers may also consider national dynamics** in introducing national discount schemes, applying brand-wide competitive strategies, or responding to those of their competitors ...*

19. However, there are explanations for a firm to establish a national brand and strategy, which are consistent with competing at the local level. For example:

- A. There are likely to be efficiencies in running a national brand and strategy (including national discounts), rather than having separate local brands and strategies.
- B. While consumers might generally make fuel purchasing decisions locally, they will be in other parts of the country at times, where they may need to make buying decisions as well. Accordingly, national brand and strategy consistency can be important to minimise consumers' search costs.
- C. Regarding the national discount day promotions specifically, an economic explanation for these is that there is a group of cost-conscious consumers in each geography who can and are willing to plan their fuel purchase for that discount day. We understand that the national discount is overlaid on whatever the local price is, meaning the post-discount price varies across geographies.

20. Brand-level or national-level strategies are also likely to reflect and respond to the intensity of competition in local markets. For example, the decisions by Z and Mobil to convert some full-service sites to unstaffed sites (U-GO and Mobil Express) can reasonably be presumed to have been implemented to respond to competitive pressures in the local markets in which those sites operate.

3. Unilateral effects at the local level

21. A key component of the SOI's analysis of unilateral effects at the local level is the criteria set out at [71]. It is notable that these criteria are focussed purely on sites that regularly price similarly to or below Gull and NPD. Accordingly, the criteria imply that the pricing of higher service level brands does not provide a constraint on the pricing or quality of unstaffed brands. This is inconsistent with the NZCC's approach to product market definition (i.e., a single market for all service levels) and ignores the economics of product differentiation.

22. To see this, suppose that Z, BP, and Mobil each have a full-service site in a particular local market. Now suppose Gull enters this local market with an unstaffed site. Gull would need to price lower than the full-service sites, given Gull would be offering a lower quality product, with no additional services or facilities. In other words, the price level of the full-service sites within the given local market would be relevant to Gull's pricing decisions.

23. If those full-service sites were to lower their prices, Gull would likewise need to adjust its own price downwards. Similarly, if those full-service sites were to raise their prices, then Gull could

too. But Gull could not raise its price if the full-service sites did not, because then consumers would be paying closer to the full-service price without receiving the full service.

24. Consistent with this logic, as shown in Table 1, [REDACTED]^{10 11}

Table 1:

[REDACTED]

25. [REDACTED] Table 2 sets out [REDACTED].

Table 2:

[REDACTED]

26. Table 3 sets out [REDACTED].

Table 3:

27. The criteria in [71] of the SOI appear to imply that full-service sites impose no meaningful constraint on unstaffed sites. We agree sites that are closer in product (or geographic) space will generally impose a stronger constraint on each other. However, the constraint from sites that are further away in the product dimension (i.e., full-service sites) cannot be ignored. Consumers will expect a lower price in exchange for the fewer services available at an unstaffed site. If the price differential between full-service and unstaffed sites reduced, consumers would switch to the higher quality full-service site.¹²

28. The first sentence of [82] of the SOI states (footnote omitted):

Previous Commission analysis has concluded that entry of unstaffed sites has a significant effect on the prices of surrounding sites.

29. We have reviewed that analysis, including the technical attachment.¹³ The analysis on the impact of new unstaffed retail petrol stations found that the entry of unstaffed sites within a local market had a statistically significant impact on prices of both staffed and unstaffed sites within that market. However, the study did not test the extent to which full-service sites impose a constraint on unstaffed sites. In other words, it does not address the two-way nature of competition between unstaffed and full-service sites.

30. We also note that the panel event study only measures the price impacts over an eight-week window pre- and post-entry of an unstaffed site. In our view, this timeframe is far too short to form any views about the sustainable competitive effects of the entry. Competition analysis generally considers a much longer timeframe. For example, footnote 95 of the Commission's *Mergers and Acquisitions Guidelines* states:

¹⁰ [REDACTED]

¹¹ [REDACTED]

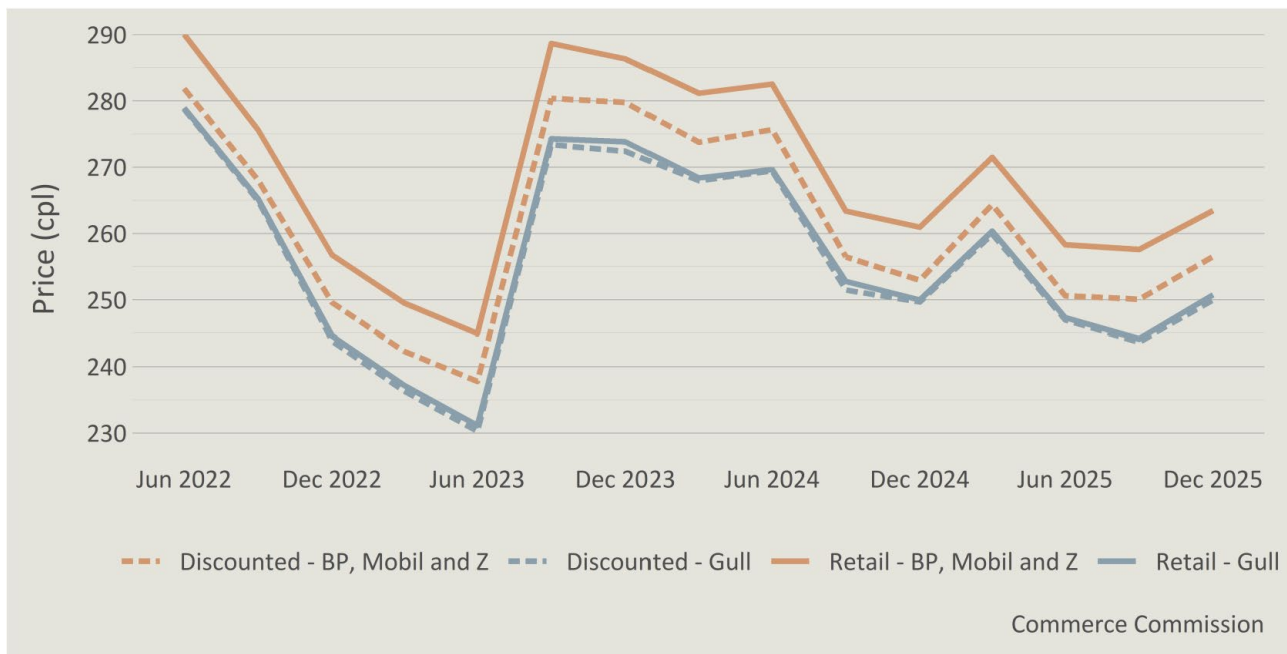
¹² Staffed versus unstaffed is just one dimension of quality. Other dimensions might include the types of facilities available at a site, the availability of payment options, accessibility from the road, and safety and cleanliness.

¹³ NZCC, *Technical attachment – Analysis of impact of new unstaffed retail petrol stations on fuel prices*.

In general, we consider entry and expansion within two years is sufficiently timely. However, this timeframe may vary depending on the facts of the case. For example, in Commerce Commission v New Zealand Bus Ltd, see n 57 above, at [155] the court adopted a three year timeframe.

31. The NZCC’s analysis indicates that the price effects following the entry of an unstaffed site peak at around 2 weeks post-entry, with prices falling by 2.9 cents per litre for staffed sites and 3.8 cents per litre for unstaffed sites compared to the week prior to entry. However, by the eighth week, the price effect had reduced to 1.7 cents per litre for staffed sites and 3.1 cents per litre for unstaffed sites. These patterns indicate that even within the limited post-entry window examined in the study, the impact of entry is not constant and is strongest immediately after entry and diminishes over time.
32. Further, we note that comparing board prices across brands does not provide a full picture of the nature and extent of competition within a local market. In particular, loyalty discounts and other off-board incentives are not reflected in posted board prices. As a result, the use of board prices alone to assess competitive impacts can materially misstate the effective prices faced by consumers and the competitive constraints between retailers.
33. Figure 11 (Figure 2 below) from the December 2025 fuel monitoring report shows that the discounted prices of the three majors are often materially lower than their retail prices, and closer to Gull’s retail and discounted prices.

Figure 2: Retail and discounted prices for Regular 91



Source: NZCC, Quarterly Fuel Monitoring Report for the quarter ended 31 December 2025

34. Another dynamic that is important to the unilateral effects analysis is the phenomenon of full-service sites being repositioned to unstaffed sites. Based on information provided to us by the Parties, we understand that within the last year, Z and Mobil have converted a number of sites from full-service to unstaffed:
 - A. Z has closed stores and rebranded 29 sites as U-GO since April 2025.

B. Mobil has closed stores and converted 14 sites to unstaffed since April 2025.

35. The speed and number of these repositionings imply the costs of doing so are relatively low. The ongoing threat of this type of repositioning will provide a further constraint on the merged entity. Of the [REDACTED] local areas identified by the NZCC with a Gull as the central site, [REDACTED] have either a Z- or Mobil-owned site (or sites) within a 2km radius.

4. National pricing strategy of the merged entity

36. As stated at [89] of the SOI, the NZCC's view is that the Gull and NPD brands have different competitive strategies. At [89.1] and [89.2], the NZCC describes what it appears to be characterising as the different strategies of NPD and Gull. From these descriptions, we find it difficult to understand how Gull's [REDACTED] differs from its [REDACTED] and how either is any different from NPD's current strategy [REDACTED]. All of these descriptions are generic. They do not provide any information on how the incentives of the merged entity would change as a result of the proposed merger.

37. The NZCC summarises its view of the Parties' differing pricing strategies at [89.3]:

Our assessment of prices within the local markets where the Parties overlap suggests that NPD is often a price aggressive player in the market, whereas Gull is no longer the price-leader that it once was.

38. Relatedly, at [83] the SOI states:

Submissions received have voiced concerns that the merged entity may price differently and less competitively than today. Two submissions noted that Gull's prices rose following, or that it has been less price competitive since, a change in its ownership. Three submissions stated that, with the Proposed Merger, the merged entity may discount less and/or Gull could pressure NPD to raise prices.

39. We have sought to test these views and submissions about Gull's pricing using data. On 24 March 2026, we received a copy of the Gaspay dataset via NPD. The data covers the period between 31 January 2016 and 22 March 2026, although for our analyses we exclude the data prior to June 2020 because of concerns about data coverage.¹⁴ The data includes daily average board prices for all fuel types at all retail fuel sites in New Zealand, by brand. Our analysis is based on Regular 91 fuel prices.

40. We also use data on importer costs sourced from the Ministry of Business, Innovation, and Employment ("**MBIE**").¹⁵ This data shows the cost of purchasing and importing fuel to New Zealand.

41. In the time available, we have only been able to carry out a preliminary analysis of the dataset. Other important caveats are:

A. Observations in the data are crowdsourced from Gaspay app users and include prices but not volumes. Accordingly, the average of observed prices over a week will be different from the average price per litre sold. This is likely to [REDACTED].¹⁶

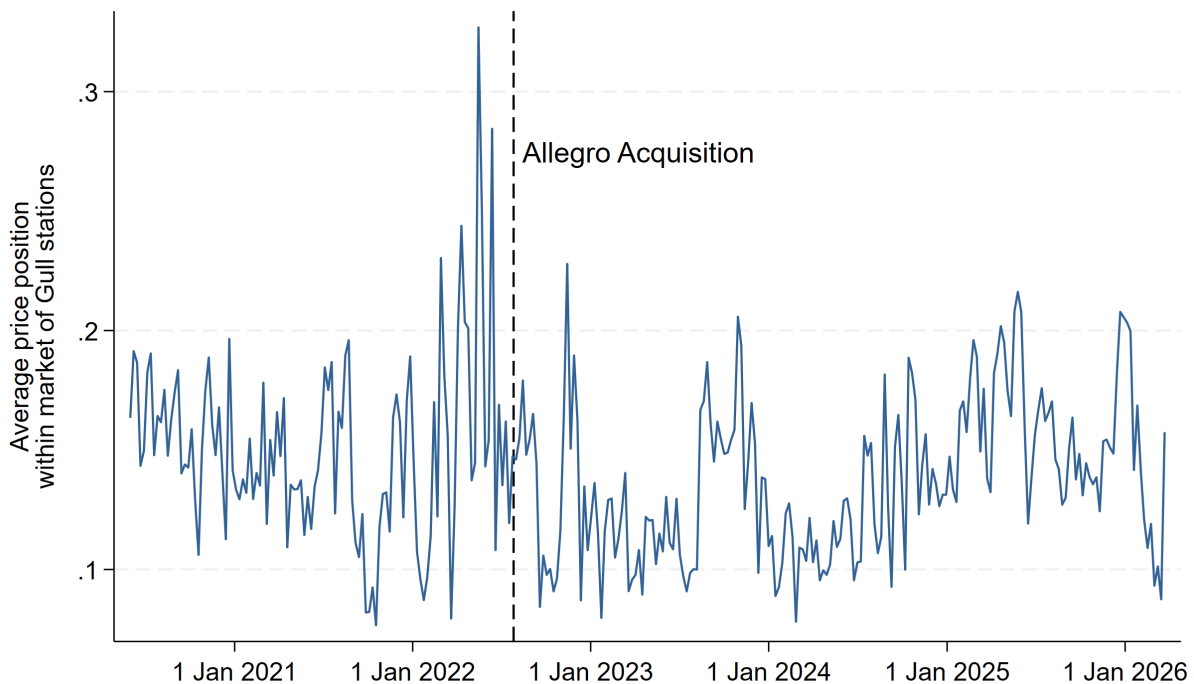
¹⁴ In the dataset that we were provided, the number of observations prior to this day were sparse.

¹⁵ MBIE, *Weekly fuel price monitoring*.

¹⁶ [REDACTED].

- B. Further complicating the analysis is that the prices in this data generally reflect the advertised “board” prices, which do not include offboard discounts.
42. Figure 3 below is constructed by identifying where each Gull station falls relative to the range of prices in its local market. For example, a value of 0 indicates that it is the cheapest in the local market, while 0.5 indicates that it is priced halfway between its most expensive and least expensive competitors.¹⁷ These values are averaged across all the Gull stations operating at that time. When interpreting Figure 3, it is important to keep in mind that the line is accordingly a function of not just the pricing strategy of Gull, but also the pricing strategy of every other brand it competes with in local markets. This helps to explain the volatility in the line.
43. The key things to note from Figure 3 are:
- A. The change of Gull ownership in July 2022 had no apparent effect on its relative pricing position in the markets it competes in.
 - B. Gull has consistently pursued a pricing strategy that places it at the lower end of the market range, with little change in relative position since June 2020. Indeed, since Allegro ownership Gull has generally averaged, across its markets, in the bottom 20% of the price range.

Figure 3: Relative price position of Gull in local markets¹⁸



¹⁷ The market range is defined by setting a value of 1 to the highest priced station in the local market and 0 to the lowest priced station in the local market, based on average weekly prices within any given local market. A value of 0.5 indicates that a site is priced at the midpoint within the local market range. We define the local market as the area within a 2km radius of the site.

¹⁸ This includes all the local markets Gull is present in.

Source: NERA analysis of Gaspy data

44. The NZCC is seeking submissions on “whether it would be commercially rational for the merged entity to soften the pricing approach at NPD sites nationally post-merger” ([95.4] of the SOI).
45. As already noted, there is no evidence that Gull’s change in ownership has resulted in any change in pricing strategy for Gull. But more importantly, for competition analytical purposes, it needs to be assumed that NPD’s status quo pricing strategy is set with the objective of maximising profit. Accordingly, for it to be appropriate to predict a post-merger change in that pricing there would need to be an expected merger-induced change in the objective pricing incentives of the merged entity for the NPD sites.
46. The most obvious potential change in incentives could occur in local markets where Gull and NPD sites overlap. But that is already dealt with in the SOI’s unilateral and coordinated effects analysis at the local market level (and which we discuss in other sections of this report).
47. With the merger, NPD would become part of a larger network of sites, with a national as opposed to primarily South Island footprint. However, as set out in Section 2 of this report, competition in fuel retailing is fundamentally localised: consumers are sensitive to prices at nearby rival stations.
48. Given these dynamics, it is not clear how becoming a part of a larger network of sites with a national footprint would, in itself, be reason for the merged entity to consider it optimal to raise prices or soften its pricing approach.
49. If anything, the merger is more likely to result in *downward* pricing pressure because of synergies. For present purposes we focus on synergies that are likely to reduce the marginal costs of the merged entity, because we would expect marginal cost reductions to be passed through by the merged entity most quickly.¹⁹ Reviewing the synergies set out in the merger documents, the following would appear to reduce marginal costs:
 - A. [REDACTED]^{20 21 22}

5. Coordinated effects in local retail markets

50. The unilateral and coordinated effects theories set out in the SOI sit uncomfortably. In the context of a discussion about coordinated effects, [106.1] of the SOI plays down the level of differentiation between retailers offering different levels of service. However, the criteria adopted for the unilateral effects analysis (at [71]) appear to emphasise the level of differentiation between retailers, in effect ignoring any constraint on unstaffed sites from full-service ones (as discussed in section 3 above).

¹⁹ As recognised by the NZCC at [3.122] of the *Mergers and Acquisitions Guidelines*: “Even a monopoly that experiences a decrease in its marginal costs will have an incentive to lower its price.”

²⁰ [REDACTED]

²¹ [REDACTED].

²² [REDACTED].

51. At [108], the SOI sets out four reasons why the NZCC considers “that the Proposed Merger may change the conditions in the local retail fuel markets such that coordination is more likely, more complete or more sustainable”. It is unclear to us how the first ([108.1]) and fourth ([108.4]) of these are different – they both relate to a reduction in the number of independent unstaffed retail fuel suppliers within the overlap markets, which is of course correct.

52. We focus our comments on the other two reasons.

53. The final sentence of [108.2] states:

Therefore, in some local markets we are considering if a potential loss of NPD’s approach to pricing may be seen as the removal of a maverick, such that coordination may become more likely, complete or sustainable.

54. The basis for this proposition appears to be the following, earlier sentence from [108.2]:

Our local market analysis finds that NPD’s unstaffed sites typically have the lowest price in their respective markets more often than other rivals (including Gull).

55. Our understanding is that the NZCC is drawing this conclusion from an analysis of just 2025 pricing data.²³ We would suggest analysis over a longer time period would be appropriate. But leaving that aside for the moment, as discussed in section 4 above our analysis shows that Gull has consistently pursued a pricing strategy at the low end of the market, with little change since June 2020, which is when our analysis begins.

56. Accordingly, the evidence suggests both Gull and NPD are low-cost providers in their markets, making it inappropriate to pull one out and identify it as more of a “maverick” than the other. [108.3] of the SOI states:

Following the Proposed Merger the merged entity may have a cost structure that is similar to large rivals. The Proposed Merger would result in a retailer with a national footprint, joining a number of others including the major importers (Z, BP and Mobil). Furthermore, we consider that players within each local market would have an understanding of volumes and potentially, gross margins at their rivals’ sites, given their knowledge of board prices, local traffic flows, number of pumps and site offering.

57. We break this paragraph up into its constituent sentences in Table 4 below and comment on each.

²³ Footnote 49 of the SOI.

Table 4: Commentary on [108.3] of SOI

Sentence from [108.3] of SOI	NERA comment
"Following the Proposed Merger the merged entity may have a cost structure that is similar to large rivals."	This seems unlikely, when the merged entity would be running a largely unstaffed site model, whereas Z, BP, and Mobil have a material proportion of full-service sites. For example, [REDACTED] ^{24 25}
"The Proposed Merger would result in a retailer with a national footprint, joining a number of others including the major importers (Z, BP and Mobil)."	It is correct that the merged entity would have a national footprint – indeed, for the reasons discussed in section 4 of this report, this is likely to be pro-competitive. But the merged entity would still have a distinct business model from Z, BP, and Mobil. As well as largely being an unstaffed site model, the merged entity would operate a separate, and simpler, supply chain than Z, BP, and Mobil. The latter share key infrastructure, as described by the NZCC in its market study ([X82]): <i>"This includes a complex mix of interrelated arrangements covering everything from the processing of crude oil, coordinated scheduling of distribution of refined fuel by pipeline and coastal shipping vessels, and access to a nation-wide fuel inventory through shared terminal storage facilities under the 'borrow and loan' arrangement..."</i> ²⁶
"Furthermore, we consider that players within each local market would have an understanding of volumes and potentially, gross margins at their rivals' sites, given their knowledge of board prices, local traffic flows, number of pumps and site offering."	While board prices are transparent, off-board discounts and therefore actual prices are more difficult to observe, making coordination harder to sustain. (At [106.3] of the SOI, the NZCC states: <i>"Off-board discounts such as loyalty programmes are also visible to rivals, as they are publicly advertised to customers on their websites. However, we acknowledge that discount offerings can be complex, including the ways they can be stacked or accumulated over time."</i>)

6. Vertical effects

58. As stated at [114] of the SOI, the NZCC is considering whether the merged entity would have the ability and incentive to foreclose rivals in the downstream market by refusing to supply fuel from its Mount Maunganui terminal, or by raising rivals' costs by charging higher prices for terminal supply.

59. Regarding ability, [115] of the SOI states (footnote omitted):

²⁴ [REDACTED].

²⁵ [REDACTED].

²⁶ [REDACTED].

We consider that the merged entity may have the ability to foreclose rivals:

115.1 the merged entity may have some market power for the wholesale supply of fuel, as [REDACTED]; and

115.2 we understand that the merged entity has a mechanism to foreclose rivals as terminal owners have the freedom to decline supply and set the price of fuel they supply to rivals.

60. For the following reasons it seems unlikely the merged entity would have the ability to foreclose rivals:
- A. The only place Gull imports fuel is at Mount Maunganui. BP, Z Energy, and Mobil also import fuel there.²⁷
 - B. BP, Z Energy, and Mobil also import fuel at other locations in the North Island. There are five fuel import terminals²⁸ in the North Island, with those at Marsden Point, Mount Maunganui, and Wellington being the main terminals.²⁹
 - C. We are instructed that Gull's view is that [REDACTED]. Furthermore, other fuel retailers, including NPD, clearly obtain fuel from a terminal in the North Island currently, and not one owned by Gull. A total of 20 retail brands operate sites in the North Island.³⁰ Of these, 14 brands are not owned by Gull or one of the majors.³¹ Given that only [REDACTED] of these 14 brands [REDACTED] supplied by Gull at the wholesale level [REDACTED] other brands, including [REDACTED], operating a combined 266 sites³² across the North Island are supplied by one of the majors. Therefore, the number of sites that are supplied by wholesalers other than Gull is more than double the number of Gull's 116 sites in the North Island. We also note that [REDACTED]. It is clear that access to wholesale supply is readily available to a number of independent brands, with this combined network being larger than Gull's own retail network in the North Island.
 - D. It appears there is significant overlap in the geographic areas that are supplied by the terminals. For example, most of Gull's retail sites in the North Island are supplied by its terminal at Mount Maunganui.³³ The catchment area of the Mount Maunganui terminal is a 400km economic radius from the terminal, stretching across most of the North Island, from Whangārei to Palmerston North.³⁴ This suggests it is not just terminals operated by other importers at Mount Maunganui that compete against Gull's terminal, but also terminals in other locations, particularly those at Marsden Point and Wellington. The Marsden Point terminal is the largest in New Zealand, with a total capacity of 290 million litres,³⁵ [REDACTED]³⁶

²⁷ NZCC, *Quarterly Fuel Monitoring Report For the quarter ended 31 December 2022*, p. 40.

²⁸ MBIE, *About our fuel system*, [Link](#).

²⁹ MBIE, *About our fuel system*, [Link](#).

³⁰ [REDACTED].

³¹ [REDACTED].

³² Excluding truck stops and marine stops.

³³ NZCC, *Retail fuel market study*, [4.110.1].

³⁴ [REDACTED]

³⁵ Channel Infrastructure NZ, *Terminal and Pipeline Services*, [Link](#).

³⁶ [REDACTED].

- E. The SOI does not acknowledge the existence of the terminal gate pricing regime.
61. Regarding incentives, the SOI acknowledges that Gull currently supplies fuel to independent distributors ([113]) from its terminal at Mount Maunganui. This indicates that it is currently not profit maximising for Gull to foreclose these customers by either refusing to supply or charging high prices for terminal supply. In other words, margins from retail sales diverting to Gull sites from foreclosing these retailers would not be sufficient to offset the lower wholesale margins.
62. For this calculus to change with the merger, there would need to be a material increase in margins from retail sales diverting to the combination of Gull and NPD sites. That seems unlikely:
- A. The merger would add just 18 sites in the North Island to Gull’s existing 116 sites, compared to:³⁷
- i. A total of 941 sites in the North Island; and
 - ii. A total of 319 sites in the North Island belonging to independents (including supermarkets).

³⁷ These site counts exclude truck stops and marine stops.



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Appendix 2 - Competitors

Part A: Competitor Descriptions

This Appendix sets out descriptions of competitors to Gull and NPD, based on information sourced from those competitors' websites and other data.

Z Energy

1. Z Energy, established in 2011, is a modern energy company that has a nationwide footprint across their retail, fuel and supply infrastructure network. It also has a growing network of EV chargers at selected sites. Since 2022, Z Energy has comprised the New Zealand arm of the Ampol Group, which is an independent Trans-Tasman energy company, with a supply chain and operations in multiple international markets.⁸⁰
2. Z Energy has a significant quantity of branded service stations and truck stops across New Zealand. Consumers can use the Z App to pay for the services provided, as well as to access the Z Rewards feature where discounts and promotions are regularly available to users.⁸¹ Like BP, Z Energy is focusing on expanding its EV charging infrastructure. It also launched in 2025 a new low-cost self-service station brand (U-GO).⁸²
3. The U-Go and Caltex branded service stations fall within the wider Z Energy Group. Together these brands account for close to half of Z Energy Group's total service stations.
4. Z Energy also has 9 terminal storage facilities located in both the North and South Islands, including at Mount Maunganui. In addition, Z Energy has three additional joint venture terminal facilities.⁸³

U-GO

5. U-GO is New Zealand's newest fuel-only service station that opened its first site in April 2025. The U-GO network has been an initiative of Z Energy to meet a wider range of customer needs. Whilst U-GO is operated by Z, the intention is to provide a distinctive offering and brand that appeals to different customer bases. The U-GO network is being expanded through a conversion of existing Z and Caltex sites.⁸⁴
6. There are now 29 unmanned stations between Timaru to Whangārei that offer 24/7 fuel to consumers. The mission of U-GO is to provide fast and convenient self-service with low price offerings. There are no co-located shops or associated loyalty programme or fuel cards.⁸⁵

Caltex

7. Caltex has been fuelling motorists and businesses in New Zealand since 1936. At the majority of Caltex service stations, retailers also sell a wide variety of Lubricants. Since 2016, Caltex has been operated by Z Energy under licence from Chevron International.
8. Caltex has a nationwide footprint of over 150 sites, made up of its branded service stations and truck stops. Caltex offers a variety of different rewards and promotion features that can be used to obtain discounted fuel by consumers. The 'Caltex App', can be used to find the

⁸⁰ <https://www.z.co.nz/about-z/our-story>.

⁸¹ [Z Website - Find a station](#).

⁸² [Z energy expansion priorities](#).

⁸³ <https://www.z.co.nz/for-businesses/fuels-and-services/terminal-gate-pricing/terminal-locations>.

⁸⁴ [Z announcement of U-GO network](#).

⁸⁵ <https://ugoselfserve.co.nz/>.

best price in the area, earn Airpoints, and pay for fuel from the car.⁸⁶ In relation to expansion, Caltex service stations are likely to decrease as Z Energy converts existing Caltex sites into unmanned U-Go stations.⁸⁷

BP

9. BP has been in New Zealand since 1946 and now provides a series of service stations, truck stops, fuel terminals, and a logistics operation that together are responsible for employing roughly 3,000 New Zealanders. Additionally, BP provides EV charging ports, cafes, and carwash facilities.
10. BP has a national network of well over 200 service stations. The BPme app allows users to pay from their car for fuel at these stations and access exclusive deals and cost savings.⁸⁸
11. Its recent expansion focus has been adding EV hubs, with a network of over 250 EV charging bays across New Zealand. BP also opened a new site in Karaka, south of Auckland, in April 2025 to serve the expanding local population in that area. This serves as a reminder that BP has the capacity to extend its fuel retail site network where commercially viable.⁸⁹
12. BP has terminal storage facilities located across both the North and South Islands, including at Mount Maunganui.

RD Petroleum

13. RD Petroleum was established in 2005 and is a joint venture between BP Oil New Zealand Limited and Dunedin based Wilson Holdings Limited. RD Petroleum Ltd supplies bulk fuel, home heating diesel, lubricants, fuel storage products, and aviation fuel across the South Island to the rural, residential and commercial sectors. In relation to its Bulk Fuel distribution, RDP has a centralised dispatch team that is focused on farm deliveries and Commercial bulk deliveries to contractors and transport companies.
14. RD Petroleum also has an 'ever-increasing' network of rural service sites across the South Island, where consumers can save at the pump with a RD Petroleum fuel card. There are over 26 Fuel retail sites spread from Invercargill to Rai Valley (halfway between Nelson & Blenheim). Some of these sites are self-service.⁹⁰

Mobil

15. Mobil Oil New Zealand Ltd is New Zealand's oldest oil company, with predecessor companies having first established a presence in 1896. Mobil operates six storage terminals/coastal bulk plants and one major pipeline, is a joint owner of two terminals with other major fuel suppliers and is a shareholder in the country's sole refinery.⁹¹
16. Mobil has over 150 fuel stations across New Zealand that are often accompanied by a convenience store and/or a car wash facility. Mobil has an online application which facilitates the Mobil Smiles Driver Rewards Programme where users can earn Smiles points which may be redeemed instantly to earn discounted prices.⁹²

⁸⁶ <https://www.caltex.co.nz/caltex-app>.

⁸⁷ <https://www.caltex.co.nz/>.

⁸⁸ https://www.bp.com/en_nz/new-zealand/home.html.

⁸⁹ [Karaka site media release](#).

⁹⁰ <https://www.rdp.co.nz/rdp-fuel-sites/>.

⁹¹ [Mobil about us page](#).

⁹² [Mobil Home Page](#).

17. In 2025, 14 Mobil sites were converted to the new self-service station model, 'Mobil Express', with further conversions planned in 2026. These stations will allow customers to pay directly at the pump, offering 24/7 access to fuel without in-store staff. The Mobil Express stations are currently located in Auckland, Christchurch, Tauranga, Masterton, and Hastings indicating that the new model will likely be deployed nationwide.⁹³

GAS (Gasoline Alley Services)

18. GAS is a 100% New Zealand-owned fuel service station network. The majority of the stations are independently owned and operated in rural areas or within the major urban centres. GAS has an online app which is linked to an Everyday Rewards account where consumers receive fuel discounts applied to every purchase, using a pay-in-car functionality.
19. In 1999 the first GAS station was established an hour north of Auckland and by the end of 2000 the company had 14 stations located between Te Hana (Northland) and Kingston (Otago). By 2006 there were 75 petrol stations and by 2011 the network had reached 120 stations. There are now over 126 stations in New Zealand. GAS do not appear to be actively developing unmanned sites.⁹⁴

Allied Petroleum

20. Allied Petroleum was formed in 1993 to distribute fuel to Canterbury farmers and are kiwi owned and operated as a fully owned subsidiary of the HWR group which consists of key players in the petroleum and lubricant sectors. Allied operate as a supply partner and nationwide diesel fuel supplier as well as supplying fuel storage, fuel on-the-go, and lubricants. Allied have a large fleet of trucks as part of their delivery service and are responsible for carrying over 25% of New Zealand's day to day fuel needs.
21. Allied provide a variety of payment options, including Allied Fuel cards designed for the needs of a heavy commercial fleet. It also has a Mobilcard option for businesses needing petrol in more locations for their light vehicles.
22. Allied operates an extensive network of 24/7 fuel stops across the country in both metropolitan locations and highways where there is a focus on providing access to large diesel vehicles. Allied has over 109 primarily unmanned sites.
23. Allied has consistently expanded the unmanned 24/7 network. For example, in December 2025 Allied opened a new unmanned site at Upper Moutere, Tasman, In April 2025, a new unmanned site was opened in Thames, and In December 2023 an unmanned site in Waipukurau (Hawkes Bay). Unmanned site expansion is indicative of Allied's goal of 'ongoing investment in a 24/7 fuel stop network that spans the length of the country'.⁹⁵

Waitomo

24. Waitomo Fuel was founded in 1947 and is based in Hamilton. Waitomo is one of New Zealand's largest independent fuel suppliers and is family owned. Waitomo's mission is stated to be to disrupt the fuel retail market by delivering innovative, low-cost, and sustainable fuel solutions for Kiwis. This is facilitated by its logistics fleet of more than 40 trucks and 2 depots located in Hamilton & Mount Maunganui. Waitomo Fuel also has a range of commercial customers that benefit from tailored commercial pricing and access to a fast-expanding network.⁹⁶

⁹³ [Mobil Instagram Post - exxonmobil_au \(22 December 2025\)](#).

⁹⁴ [GAS home page](#).

⁹⁵ [Allied home page](#).

⁹⁶ [Waitomo background](#).

25. In 2012, Waitomo opened its first Fuel Stop in Te Uku. Since then, its network of unmanned Fuel Stops has expanded rapidly, with over 80 sites now extending from Paihia to Gore after it moved into the South Island in 2019. The Waitomo app allows for contactless payment from a consumer's vehicle and also provides a 'spin and scratch' feature where consumers can earn cost-savings.
26. The expansion strategy of Waitomo does not look to be subsiding. In 2023, Waitomo opened its first hydrogen refuelling site, with construction on other hydrogen refuelling sites currently underway in Hamilton, Palmerston North and Wiri. In 2024, Waitomo opened 11 new sites including entering into the Nelson region for the first time. There are currently a further 10 sites in the pipeline for development.⁹⁷

Challenge

27. Challenge is 100% owned and operated by Kiwi families across New Zealand since April 1, 2025, having previously been owned by Z Energy. The business was formed in 1998 and looks to provide value for money and genuine customer satisfaction. They provide discounting through 'My Challenge' - earn/save/give where people receive a minimum 6 cent per litre fuel discount and 1 point for every \$1 spent which can be redeemed for rewards in store. Challenge offers a range of complimentary services including Trailer Hire, Vehicle Servicing, Tyre Services, and Car Washes.⁹⁸ Challenge has over 70 fuel stations and is focused on a network that prioritises customer service as opposed to automation.⁹⁹

TasmanFuels

28. TasmanFuels is New Zealand's youngest oil company established in 2020, supplying its customers out of its terminal in Timaru. The Terminal operates 4 tanks with a total capacity of 32 million litres.¹⁰⁰ TasmanFuels also operate a network of unmanned Fuel retail sites. Tasman Fuels opened its first fuel station in Christchurch approximately three-and-a-half years ago and has since expanded to have more than 10 stations throughout the country. In 2025, it opened a station in Ashburton and were shown on the Gaspy app as the cheapest in town in accordance with their aim to bring competition wherever they open. TasmanFuels has an online app that is designed to allow consumers to pay for fuel directly at the pump and receive personalized discounts.¹⁰¹

Costco

29. Costco is an American based membership warehouse dedicated to supplying products in bulk quantities at low prices. To become a Costco member in New Zealand costs \$60 per year for a Gold Star Membership or \$55 for a Business Membership. In September 2022, Costco opened a West Auckland warehouse location which includes a self-service fuel station. Daily fuel prices are accessible through the Costco App that also provides updates on warehouse savings. The West Auckland location has 27 filling points and supplies fuel at low prices.¹⁰² Costco are planning a second location in South Auckland, which will include a fuel site.¹⁰³

Fern

30. Fern provides bulk fuel deliveries, storage systems, oil and lubricant solutions, and 24/7 fill stations. In 2022, Fern emerged as a new structure resulting from the merger between

⁹⁷ <https://waitomogroup.co.nz/history>.

⁹⁸ [Challenge Background](#).

⁹⁹ [Challenge Media Releases](#).

¹⁰⁰ [TasmanFuels home page](#).

¹⁰¹ [Star News Media Release 12 March 2026](#).

¹⁰² <https://www.costco.co.nz/>.

¹⁰³ [RNZ media release on Costco new site](#).

Farmlands Fuel and South/North Fuels. Fern is a key player in the business fuel delivery sector and has key strategic partnerships with Farmlands and FMG. Currently the Fern fill stations network, whilst relatively small, extends across both the South and North Islands.

McKeown

31. McKeown was founded in Oamaru in 1996 and initially started out supplying bulk fuel across the South Island. Whilst it continues to be a major supplier of fuel products, McKeown has developed a network of unmanned 24 hour, 7 days per week. With the first site opening in 2009, McKeown now has over 45 unmanned sites between Bluff and Blenheim. These sites cater to both petrol and diesel vehicles of McKeown card users and other consumers. McKeown highlights its ability to *'not only survive but continue to grow in an extremely competitive environment'*.

Foodstuffs

PAK'nSAVE Fuel

32. PAK'nSAVE is a supermarket chain operated by Foodstuffs. In 2002, the first PAK'nSAVE fuel site in Tamatea, Napier, was opened. PAK'nSAVE has over 40 fuel stations across New Zealand. Each PAK'nSAVE store is individually owned, and it is the owner's decision whether to add fuel to the business, or to invest putting in a fuel offer as part of a new store. These fuel sites offer competitive fuel prices and discounting promotions that are linked to customer expenditure at a PAK'nSAVE supermarket. It also offers the competitive advantage of being able to do grocery shopping and filling up at the same time. The stations are also unmanned allowing for relatively low operating costs and as a result, lower prices.¹⁰⁴

New World Fuel

33. New World is a supermarket chain operated by Foodstuffs. There are over 10 supermarkets that have on-site fuel stations in New Zealand which are unstaffed. These sites offer vouchers for grocery customers who spend \$1 or more in addition to other promotional discounts from time to time. Additionally, New World offers Fuelup vouchers to grocery customers which can be used at Z petrol stations.¹⁰⁵

McFall Fuel

34. McFall Fuel is a fuel and lubricant distribution specialist operating across the North Island. Additionally, it has a small number of unmanned fuel stops where consumers can access discounts through the McFall Fuelcard. In April 2025 they introduced a McFall Fuel EV Charging Card giving access to a wide network of public EV chargers across the country.¹⁰⁶

¹⁰⁴ [PAK'nSAVE Fuel Home Page](#)

¹⁰⁵ [New World Fuel Home Page](#)

¹⁰⁶ [McFall Fuel Home Page.](#)

Part B: Number of retail sites nationally

- The Parties have sought to reconcile website information with Gaspoly data to describe the number of sites each competitor has across New Zealand. Each of the NPD and Gull figures have been manually updated to be accurate.
- Z Energy, BP, Mobil and their subsidiary brands ('majors') have [REDACTED] sites on Gaspoly. This accounts for over half of the retail sites in New Zealand. There are 5 further retailers (including NPD and Gull) that have over 80 sites.

Competitor	Brand (Gaspoly site number)	Number of sites (Gaspoly Data) ¹⁰⁷	Retail sites listed on website
Z Energy	Z Energy [REDACTED]	[REDACTED]	227 ¹⁰⁸
	Caltex [REDACTED]		165 ¹⁰⁹
	U-Go [REDACTED]		29 ¹¹⁰
BP	BP [REDACTED]	[REDACTED]	265 ¹¹¹
Mobil		[REDACTED]	250 ¹¹²
RD Petroleum	RD Petroleum (BP owns 49%)	[REDACTED]	26 ¹¹³
g.a.s		[REDACTED]	126 ¹¹⁴
Gull		[REDACTED] (124 Actual) ¹¹⁵	124
NPD		[REDACTED] (118 Actual) ¹¹⁶	118
Allied Petroleum		[REDACTED]	109 ¹¹⁷
Waitomo		[REDACTED]	105+ ¹¹⁸
Challenge		[REDACTED]	76 ¹¹⁹
Foodstuffs	PAK 'n Save [REDACTED]	[REDACTED]	40 ¹²⁰
	New World [REDACTED]		6 ¹²¹
Tasman Fuels		[REDACTED]	11 ¹²²
Costco		[REDACTED]	1 ¹²³
McKeown		[REDACTED]	46 ¹²⁴
Fern		[REDACTED]	12 ¹²⁵
Totals (15)		[REDACTED]	1736

¹⁰⁷ From March 2026

¹⁰⁸ <https://www.z.co.nz/find-a-station>.

¹⁰⁹ <https://www.caltex.co.nz/find-a-station>

¹¹⁰ <https://www.ugoselfserve.co.nz/find-ugo>

¹¹¹ https://www.bp.com/en_nz/new-zealand/home/products-and-services/find-your-nearest-bp.html

¹¹² <https://www.mobil.co.nz/en-nz/find-station?longitude1=-180&longitude2=180&latitude1=-73.98532218231789&latitude2=53.404962700223095&zoom=2>

¹¹³ <https://www.rdp.co.nz/rdp-fuel-sites/>

¹¹⁴ <https://www.gas.kiwi/gas-station-finder>.

¹¹⁵ The Application at [17].

¹¹⁶ The Application at [11] (since the Application, NPD Terrace end has opened).

¹¹⁷ https://alliedpetroleum.co.nz/assets/resources/Allied_FuelMap_01092025.pdf

¹¹⁸ <https://waitomogroup.co.nz/about>,

¹¹⁹ <https://challenge.net.nz/>.

¹²⁰ <https://www.paknsave.co.nz/store-finder?srsId=AfmBOopvKgBQg-CEMWlkozoOZi61c3YtWSwAjk9q3foq0jWP-j8fCo>.

¹²¹ <https://www.newworld.co.nz/fuel/new-world-fuel-voucher>.

¹²² <https://www.ashburtoncourier.co.nz/featured/tasman-fuels-coming-to-ashburton/>.

¹²³ <https://www.1news.co.nz/2025/11/12/location-of-second-nz-costco-store-revealed/>.

¹²⁴ <https://mckeown.co.nz/network-locations/>

¹²⁵ <https://fernenergy.co.nz/fuelstops/>

Part C: Distributors

1. The below table sets out where independent distributors, who supply fuel to retail sites, may source their fuel from, according to the Commission's Retail Fuel Market Study December 2019 (Attachment I), which may be significantly out of date.¹²⁶ Gull does not hold current information on who supplies these distributors. [REDACTED.]¹²⁷

Fuel Supplier	Distributor
Z Energy	Challenge
	Fern ¹²⁸
	Mckeown
BP	g.a.s
	McFall Fuel
	RD Petroleum
Mobil	Waitomo
	Allied

¹²⁶ https://www.comcom.govt.nz/assets/pdf_file/0028/193915/Retail-fuel-market-study-Final-report-5-December-2019.PDF

¹²⁷ https://www.comcom.govt.nz/assets/pdf_file/0028/193915/Retail-fuel-market-study-Final-report-5-December-2019.PDF

¹²⁸ In 2022, Fern emerged as a new structure resulting from the merger between Farmlands Fuel and South/North Fuels.

Appendix 3 - NPD Counterfactual [REDACTED]

Appendix 4 - Gull supplementary material [REDACTED]

Appendix 5 - Overlap locations

Part A: Competitive constraints for specific Gull sites

This Appendix sets out each of the Gull sites identified in Attachment A of the SOI as a site where Gull may compete closely with NPD, and where there may be limited remaining competitive constraint from alternative fuel suppliers.¹²⁹ As described below, for each of these sites Gull faces strong competitive constraint from a range of retailers, who will continue to constrain the merged entity.

[Note: information on planned sites and specific competitor information has also been redacted from this table].

Gull site	Retailers pre and post merger	Description
[REDACTED]	2km: 6 to 5 5 minute: 4 to 4	[REDACTED]
[REDACTED]	2km: 5 to 4 5 minute: 5 to 4	[REDACTED]
[REDACTED]	2km: 6 to 5 5 minute: 6 to 5	[REDACTED]
[REDACTED]	2km: 6 to 5 5 minute: 6 to 5	[REDACTED]
[REDACTED]	2km: 1 to 1 5 minute: 2 to 2	[REDACTED]
[REDACTED]	2km: 7 to 6 5 minute: 7 to 6	[REDACTED]
[REDACTED]	2km: 6 to 5 5 minute: 7 to 6	[REDACTED]
[REDACTED]	2km: 5 to 5 5 minute: 5 to 5	[REDACTED]
[REDACTED]	2km: 8 to 7 5 minute: 7 to 6	[REDACTED]
[REDACTED]	2km: 1 to 1 5 minute: 1 to 1	[REDACTED]

¹²⁹ SOI at [62].

Gull site	Retailers pre and post merger	Description
[REDACTED]	2km: 4 to 3 5 minute: 5 to 4	[REDACTED]
[REDACTED]	2km: 5 to 4 5 minute: 5 to 4	[REDACTED]
[REDACTED]	2km: 6 to 5 5 minute: 6 to 5	[REDACTED]
[REDACTED]	2km: 8 to 7 5 minute: 7 to 6	[REDACTED]
[REDACTED]	2km: 7 to 6 5 minute: 7 to 6	[REDACTED]