

# Improving Hedge Disclosure Obligations – Preferred options

Consultation paper

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## Executive summary

The Electricity Authority Te Mana Hiko (Authority) is seeking stakeholder views and feedback on preferred options to amend the Electricity Industry Participation Code 2010 (Code) to improve the hedge disclosure obligations for certain risk management contracts, specifically those conducted over-the-counter (OTC).

The hedge disclosure obligations were first introduced in 2009 by the Authority's predecessor, the Electricity Commission. They currently require parties engaged in certain risk management contracts to disclose specific details like price, quantity, grid zone, trade date, and effective date. That information is then published in anonymised form on the hedge disclosure system. The purpose of the current requirements is to enable easy comparison of electricity prices, help participants analyse their historical contract data, and assist the Authority in evaluating market competitiveness.

In July 2023, the Authority published a consultation paper identifying issues with the hedge disclosure obligations. The Authority's assessment indicated that these requirements are not fit for purpose to support effective risk management and market performance during the transition to 100% renewable generation. They have limited transparency, especially for newer, more sophisticated contract types like Power Purchase Agreements (PPAs) and demand response. Additionally, the current requirements do not provide enough information on contract shapes and prices, making it difficult for some participants to assess prices and negotiate contracts.

Concerns have also been raised about competition in the market for OTC contracts (contracts market). The limited information disclosed under the current requirements constrains the Authority's ability to effectively evaluate the competitiveness and efficient operation of the market.

Feedback from industry stakeholders on the Authority's July 2023 consultation paper largely supported increasing transparency in the contracts market. However, views were mixed on the specific details and extent of change required.

After considering industry feedback and conducting further analysis, including analysing international developments, we have decided to propose amendments to the Code. The proposed Code amendments seek to:

- **ensure OTC contract definitions remain fit for purpose**, including clarifying that PPAs are captured alongside other contracts for difference (CfDs), fixed-price physical supply (FPPS) contracts and options contracts, and reducing the threshold for qualifying CfDs
- **require disclosure of more contract information**, to better facilitate price comparison by industry participants and contract type identification by the Authority
- **increase information published**, to include all disclosed information on individual contracts, except for sensitive commercial information
- **future proof the hedge disclosure obligations**, anticipating and providing for the emergence of new types of risk management contracts and providing a more efficient process to increase the collection of contract information.

The proposed Code amendments will promote reliability, competition and efficiency in the electricity industry for the long-term benefit of consumers, by providing participants with a wider range of information to design an effective risk management strategy. The proposed amendments will also enhance the Authority's ability to perform its market monitoring,

market facilitation and enforcement functions under the Electricity Industry Act 2010 (Act), as well as its ability to support market development.

In developing these Code amendments, we have sought to take a balanced approach. We are proposing to collect and publish more information to ensure we have robust data for understanding price trends and monitoring market performance, while ensuring appropriate protection of participants' commercially sensitive information.

At the same time, we are not proposing to mandate disclosure of request for proposal (RFP) including bids and offers, instead relying on the voluntary sharing of such information, in alignment with the Voluntary Code of Conduct developed by the OTC Electricity Market Working Group (OTC Working Group). We consider this strikes an appropriate balance between mandatory rules and giving the market room to innovate and adapt.

While these proposed changes have associated costs and benefits, we believe that the benefits of increased transparency in the contracts market outweigh the costs.

We welcome feedback on these proposed Code amendments. Your input is valuable as we work to enhance transparency and efficiency in the wider contracts market.

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# 1. What you need to know to make a submission

## What this consultation is about

- 1.1. The purpose of this paper is to consult with stakeholders on the Authority's proposed changes to improve the hedge disclosure obligations in subpart 5 of Part 13 of the Code.
- 1.2. The Authority published a consultation paper: *Improving Hedge Disclosure Obligations: Collection and Publications of Risk Management Information* (consultation paper) in July 2023 which sought feedback on issues with the existing hedge disclosure obligations and suggested high-level options for improving the obligations and the hedge disclosure system. We received 14 submissions on the consultation paper, from the parties listed in Table 1. The submissions are published on the Authority's website.

**Table 1: List of submitters**

Submitters	
<ul style="list-style-type: none"><li>• Contact Energy Limited (Contact)</li><li>• Flick Electric Co.</li><li>• Genesis Energy Limited (Genesis)</li><li>• Independent retailers (comprising 2degrees, Electric Kiwi, Flick Electric and Pulse Energy)</li><li>• Manawa</li><li>• Mercury Energy Limited (Mercury)</li><li>• Meridian Energy Limited (Meridian)</li><li>• Nova Energy Limited (Nova)</li><li>• Octopus Energy</li></ul>	<ul style="list-style-type: none"><li>• Transpower Limited (Transpower)</li><li>• Major Electricity Users' Group (MEUG)</li><li>• emhTrade</li><li>• Helios Energy NZ (Helios)</li><li>• Energy Link</li></ul>

- 1.3. This paper:
  - (a) summarises feedback received on the consultation paper
  - (b) explains the Authority's proposed changes to the hedge disclosure obligations in the Code, and
  - (c) sets out the regulatory statement for the proposed Code amendment pursuant to section 39(2) of the Act.

## How to make a submission

- 1.4. The Authority's preference is to receive submissions in electronic format (Microsoft Word) in the format shown in Appendix B. Submissions in electronic form should be emailed to [WholesaleConsultation@ea.govt.nz](mailto:WholesaleConsultation@ea.govt.nz) with "Hedge Disclosure Obligations Preferred Options Paper" in the subject line.
- 1.5. If you cannot send your submission electronically, please contact the Authority ([WholesaleConsultation@ea.govt.nz](mailto:WholesaleConsultation@ea.govt.nz) or 04 460 8860) to discuss alternative arrangements.
- 1.6. Please note the Authority intends to publish all submissions it receives. If you consider that the Authority should not publish any part of your submission, please:
  - (a) indicate which part should not be published,

- (b) explain why you consider we should not publish that part, and
  - (c) provide a version of your submission that the Authority can publish (if we agree not to publish your full submission).
- 1.7. If you indicate part of your submission should not be published, the Authority will discuss this with you before deciding whether to not publish that part of your submission.
- 1.8. However, please note that all submissions received by the Authority, including any parts that the Authority does not publish, can be requested under the Official Information Act 1982. This means the Authority would be required to release material not published unless good reason existed under the Official Information Act to withhold it. The Authority would normally consult with you before releasing any material that you said should not be published.

### **When to make a submission**

- 1.9. Given the consultation falls over the Christmas break, the consultation period is for 8-weeks to give stakeholders adequate time to consider the proposals and make a submission. Please deliver your submission by 5pm on Tuesday 8 February 2024.
- 1.10. Authority staff will acknowledge receipt of all submissions electronically. Please contact the Authority [WholesaleConsultation@ea.govt.nz](mailto:WholesaleConsultation@ea.govt.nz) or 04 460 8860 if you do not receive electronic acknowledgement of your submission within two business days.

## **2. Issues the Authority would like to address**

### **The existing arrangements**

- 2.1. Participants use risk management products to manage spot price risk in the wholesale electricity market. Spot prices fluctuate with changes in demand and supply, posing challenges for participants. Fluctuations are expected to continue as the share of intermittent generation in the electricity supply increases.
- 2.2. This volatility creates uncertainty in cash flow for both generators and retailers. Retailers typically sell electricity to customers at a fixed price, but they deal with unpredictable wholesale spot prices over the supply period. Generators must balance their operational and investment costs against fluctuating revenue due to spot price volatility. Risk management contracts provide participants with stability by offering a predetermined price for electricity over a defined period. This helps participants to manage their costs and revenue effectively.
- 2.3. However, while these contracts offer advantages, they may not always be the optimal risk management strategy for every participant. While risk management contracts mitigate spot price volatility, they introduce the risk of financial interdependence between participants. If one participant defaults on its risk management contract, it could potentially create financial distress for the counterparty.
- 2.4. A range of risk management products are available to participants to manage their spot price risk, including exchange-traded contracts (ie, Australian Security Exchange (ASX) contracts), bilateral agreements (OTC contracts) and internal arrangements (vertical integration). The visibility of these contracts varies widely.

Standard hedging products on platforms like ASX, such as futures and options, are generally visible to the market, with future price curves being published on the Authority's Electricity Market Information (EMI) website. In contrast, the market has limited visibility of OTC contracts, and visibility is even lower for internal arrangements.

### Internal arrangements

- 2.5. This project is focused on enhancing transparency in OTC contracts. While internal arrangements (vertical integration) are not within the scope of this project, its use within the industry as a risk management tool and existing complexities with internal arrangements provide important context to this review. Internal arrangements refer to the practice where integrated generator-retailers transfer electricity internally between their generation and retail businesses. This strategy is employed to mitigate risks associated with fluctuating spot prices. Internal transfer pricing (ITP) is disclosed in the market. Effective from 30 November 2021, the Authority introduced new disclosure requirements in Part 13 of the Code. These mandate all retailers with more than one percent of installation control points (ICPs) to annually disclose their retail gross margin and generator-retailers to disclose their ITP.
- 2.6. To help with interpretation of this disclosed information, the Authority developed benchmarks and indicators, making them publicly available on the EMI website. Going forward the Authority will continue to publish retail gross margins for all retailers with more than one percent of ICPs and the generator-retailers' ITP disclosures. Despite these efforts, industry concerns remain regarding internal arrangements.<sup>1</sup>

### OTC contracts

- 2.7. The current hedge disclosure obligations were introduced in 2009 in subpart 5 of Part 13 of the Code to bring more transparency to the contracts market. Under the current Code, participants are required to disclose information about certain risk management contracts: options contracts, CfDs, and FPPS contracts (including fixed-price fixed-volume and fixed-price variable-volume contracts). Information is disclosed and published through the approved system; the Electricity Hedge Disclosure System (hedge disclosure system), a web portal operated by NZX as the Wholesale Information and Trading System (WITS) manager.
- 2.8. The current hedge disclosure obligations have limitations. There is no clear classification for PPAs, shaped products and swaptions. The requirements for disclosure vary; participants need to provide more detailed information for CfDs and FPPS contracts, including price and grid zone location. In contrast, for an options contract, they are only required to disclose the trade, effective and end dates along with the quantity.
- 2.9. The requirement to disclose contract price and location varies depending on the term of the contract, as described in Table 2. This information must only be disclosed for CfDs and fixed-price physical supply contracts with a term of less than 10 years.

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<sup>1</sup> [Independent Retailers.pdf \(ea.govt.nz\)](#)

**Table 2: Disclosure requirements based on CfD and fixed-price physical supply contract term**

Criteria	Quantity	Price	Grid zone area
Greater than 10 years	Full disclosure	No disclosure	No disclosure
Less than 10 years	Full disclosure	Full disclosure	Full disclosure

## Identified issues and areas for improvement

- 2.10. On 11 July 2023, the Authority published the consultation paper which outlined issues with the current hedge disclosure obligations and identified high-level options for improvement.
- 2.11. The consultation paper identified four main issues with the current requirements and hedge disclosure system:
- The forward price curve is now available through different sources.** Information on contracts traded on the ASX is shared with the Authority and published on its website, undermining the need for disclosure of CfDs and options contracts so participants can formulate their own historic contract curves (which is one of the reasons for the current Code requirements).
  - The hedge disclosure obligations do not accommodate the growing diversity in types of contracts available.** Diversity in OTC contracts has increased over time, however, the Code requirements are limited to three types of contracts (Options, CfDs, as well as FPPS contracts).
  - Information disclosed is not sufficient to evaluate market efficiency.** Information collected and published for each type of contract as currently stated in the Code is insufficient for participants to evaluate market efficiency and design an effective risk management strategy.
  - The current hedge disclosure system delivers poor user-experience and low-quality data.** The design of the hedge disclosure system is not fit to support current and future changes in the contracts market.
- 2.12. The consultation paper discussed high-level options for improvement in three areas:
- improving the risk management information collected
  - improving the risk management information published
  - improving the hedge disclosure system.

## Submitters' feedback

- 2.13. Most submitters agreed with the Authority's identified issues regarding the contracts market. They recognised the importance of the hedge disclosure obligations in assessing the competitiveness of OTC contracts, as it encompasses details about the quantity, location and duration of hedges.
- 2.14. While submitters largely agreed that the current requirements do not accommodate the growing changes in the contracts market, they expressed a range of



perspectives on the usefulness of hedge disclosure information. A limited number of submitters told us they use the information published on the hedge disclosure system to elicit a forward price curve. Others told us they are less likely to use this information due to several factors including having ASX as their principal source for generating a forward price curve and the lack of sufficient information in the current hedge disclosure system to derive a price curve. Some other submitters told us this information serves as a resource for examining historical trends or for comparing price after a competitive tender.

- 2.15. A majority of submitters agreed with the identified areas of improvement to address these issues. Out of the three identified areas of improvement, improving the information published and refining the hedge disclosure system were identified as areas that could yield greater value than improving the information collected (we note, however, that currently all information which is collected under the Code is published, so improving information published necessarily requires improving information collected). Table 3 outlines a summary of submissions.

**Table 3: Summary of submissions on identified issues and areas of improvement**

	Agree	Somewhat agree	Disagree	No response
<b>Identified issues</b>	10	2	0	1
<b>Areas of improvement</b>	6	1	1	5
<b>Use published information to elicit forward price curve</b>	4	-	4	5

- 2.16. Some submitters pointed out further issues in addition to those identified by the Authority. The independent retailers acknowledged the impact of the transition on spot price volatility, while highlighting what they regarded as another root cause for market failure: market power/competition issues. They suggested that the Authority should improve its monitoring of the contracts market, such as through an occasional audit of the accuracy of information disclosed. The independent retailers argued that an improved monitoring role could enhance competition and improve market behaviour in the contracts market in relation to both price and terms offered.
- 2.17. Despite the widespread agreement on the issues identified, a number of submitters raised concerns about the options for improvements to the hedge disclosure obligations. Meridian, Manawa and Genesis specifically emphasised that any changes should be substantiated by evidence to demonstrate that the benefits outweigh the costs. They suggested the Authority elaborate further regarding the rationale behind its request for additional information on OTC contracts.

### Authority's view

- 2.18. After considering feedback from the consultation, the Authority has decided to proceed with its proposal to improve the hedge disclosure obligations, by collecting and publishing more information about the three categories of risk management contracts defined in the Code.
- 2.19. While the majority of submitters expressed clear support for improving the information available on the OTC contracts, we acknowledge submitters' concerns

about potential increased compliance costs, which may risk discouraging participation in the contracts market. To address these concerns, we are proposing to minimise compliance costs by providing a standardised template for similar contracts, limiting disclosure requirements to specific, identifiable information, and improving the hedge disclosure system's design to make it streamline information disclosure.

- 2.20. The Authority considers that its proposal aligns with its statutory objectives. A transparent and reliable contracts market is crucial for increasing confidence in the electricity market. The proposed Code amendments will promote competition and efficiency in the electricity industry for the long-term benefit of consumers, by providing participants with a wider range of information to design an effective risk management strategy. The proposed amendment will also enhance the Authority's ability to perform its market monitoring, market facilitation and enforcement functions under the Act, as well as its ability to support market development, to further promote competition and efficiency in the electricity industry.

### **Why the Authority is addressing these issues now**

- 2.21. There is a growing reliance on the contracts market for supplying risk management products as the sector transition to 100% renewable generation. Renewable energy sources are inherently variable, with their output largely depending on weather conditions. A well-functioning contracts market is essential to ensure that this inherent variability of generation does not negatively impact confidence in the market or investment in renewable energy projects.
- 2.22. The Authority proposes to improve hedge disclosure obligations for three key reasons: to improve transparency of the contracts market, OTC market competitiveness, and strengthen regulatory oversight.

### **Transparency of the contracts market**

- 2.23. Currently, newer and more sophisticated forms of OTC contracts such as PPAs, shaped, and demand response contracts are not visible under the existing hedge disclosure obligations.
- 2.24. Even if these contracts are disclosed under the existing contract categories, not enough information is collected about them to identify the contract type.
- 2.25. This lack of visibility restricts participants' ability to determine accurate transaction prices for contracts and the Authority's ability to effectively monitor the contracts market. A reliable measure of market access to hedging products involves observing the volume of contracts market trades occurring months and years ahead of the actual delivery.
- 2.26. To make the contracts market data truly valuable, price and quantity information for OTC contracts is essential. This comprehensive data is crucial for participants to identify contract prices and evaluate market competitiveness effectively.
- 2.27. These newer types of contracts, less visible under the current hedge disclosure obligations, are becoming increasingly relevant and suited to participants' risk management as intermittent generation increases. They are likely to comprise a significant portion of the contracts market in future, with participants relying more on the contracts market to manage increasing price volatility.

- 2.28. The Ministry of Business, Innovation and Employment has recently consulted on whether extra measures to support new renewable generation during the transition are needed, such as government-backed CfD schemes and PPAs.<sup>2</sup> Transpower insight paper also suggested that work is needed to deliver a more liquid PPA market to support renewable investment.<sup>3</sup>
- 2.29. Increasing visibility on PPAs and other newer types of contracts will give insights to all participants on how to modify their risk management strategy in the evolving electricity sector.
- 2.30. With the current industry trends, transparency is also at risk of declining unless additional mechanisms for capturing data are developed. This makes enhancing transparency essential for the near term, ensuring market participants can make well-informed decisions.

### OTC market competitiveness

- 2.31. In recent years some participants have raised concerns about the competitiveness of the contracts market. In late 2022, disruptions to some participants' access to exchange-traded risk management contracts increased their reliance on the contracts market to execute their risk management strategies, putting increased focus on the performance of the market.
- 2.32. We understand that some affected participants found it challenging to secure alternative risk arrangements in the contracts market. Some participants suggested at the time that counterparties were either refusing to deal, or refusing to deal on reasonable terms, with affected parties.<sup>4</sup> The Authority investigated this issue and found that OTC market behaviour and activity did not appear to change significantly as the disruptions to access to exchange-traded contracts unfolded.<sup>5</sup>
- 2.33. In September 2023, some independent retailers filed a complaint with the Commerce Commission, citing limited access to OTC hedge products. This indicates some participants have ongoing concerns about OTC market competitiveness.

### Regulatory oversight

- 2.34. The Authority's functions under the Act include undertaking market-facilitation measures and monitoring the operation and effectiveness of those measures (section 16(1)(f)). Other relevant functions include undertaking industry and market monitoring, and carrying out and making publicly available reviews, studies, and inquiries into any matter relating to the electricity industry (section 16(1)(g)), as well as monitoring, investigating and enforcing compliance with the Code (section 16(1)(c) and (d)). These functions are important, as they enable the Authority to identify and respond to emerging issues to support market development, including through amendments to the Code.

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<sup>2</sup> [Measures for Transition to an Expanded and Highly Renewable Electricity System \(mbie.govt.nz\)](https://mbie.govt.nz)

<sup>3</sup> [Corporate PPA Final \(publish\).pdf \(transpower.co.nz\)](https://transpower.co.nz)

<sup>4</sup> [Open letter - Notice of information request and request for feedback on proposed scope.pdf \(ea.govt.nz\)](https://ea.govt.nz)

<sup>5</sup> [Open-Letter-Stage-2-December-20221381881.2.pdf \(ea.govt.nz\)](https://ea.govt.nz)

- 2.35. Increased information on OTC contracts would enhance the Authority's ability to perform its market facilitation, monitoring and enforcement functions effectively and efficiently. Comprehensive information on trade quantity and price in the contracts market is necessary for assessing market liquidity, identifying new types of contracts, and evaluating hedge contracts accessibility.
- 2.36. By enhancing transparency through broader information collection and publication on OTC contracts, the Authority aims to increase market confidence and promote competition in, and efficient operation of, the electricity industry for the long-term benefit of consumers, consistent with our main statutory objective. Increased transparency will enhance price discovery for those trading hedge contracts, providing clarity on contract terms and facilitating negotiations in bids and offers.
- 2.37. An additional indirect market benefit could be increased participant confidence in market prices due to greater awareness of ongoing regulatory visibility of contract prices and availability.

### **Related work programmes**

Another related project the Authority is facilitating to improve hedge market performance is the work of the OTC working group.

#### **OTC working group**

- 2.38. Following its investigation in 2022 of concerns raised by some participants about OTC market behaviour (discussed above), the Authority facilitated an industry-led working group to consider whether the efficiency and competitiveness of the market could be improved. The group investigated the benefits of making more transparent appropriate expectations of the performance of the market and its participants.
- 2.39. In mid-2023, the working group formulated a voluntary Code of Conduct for those participating in the contracts market. By signing up to the voluntary Code, signatories commit to certain principles and behaviours supporting efficiency and competitiveness in the contracts market. Signatories commit to acting fairly, consistently and in good faith in terms of issuance and response to RFPs<sup>6</sup>.
- 2.40. The Authority is working with group's members to develop appropriate monitoring arrangements which give all parties confidence that signatories are keeping commitments made to one another.

## **3. What informed the preferred options**

- 3.1. The proposed changes to the hedge disclosure obligations have been informed by submitters' views on the consultation paper, our further research and analysis including investigation of international developments, and the ongoing work of the OTC working group.

### **Submissions**

- 3.2. The consultation paper outlined high-level options to improve the hedge disclosure obligations. Submitters broadly supported the principles of increasing transparency in the contracts market through improving the information collected and published

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<sup>6</sup> [Voluntary Code of Conduct for over-the-counter market participants | Electricity Authority \(ea.govt.nz\)](#)

on OTC contracts. There was mixed feedback on the details and extent of these changes. Submitters provided several suggestions and discussed some concerns which are summarised under three categories:

- (a) options to improve the information collected
- (b) options to improve the information published
- (c) options to improve the hedge disclosure system.

3.3. We discuss submitters' feedback and our response in relation to each proposed change in section 4.

### **International developments**

3.4. In addition to incorporating feedback from submitters, we also took further steps to understand international regulatory trends regarding OTC contracts reporting.

3.5. Many of the options presented in this paper have been considered and implemented in contracts markets in the US, the EU and Australia. Following the global financial crisis in 2008, these countries have implemented regulatory reforms to enhance transparency and oversight in these markets.

3.6. G20 countries committed to moving OTC contracts to recognised exchanges or trading platforms to increase reporting. Both the EU<sup>7</sup> and the US<sup>8</sup> have introduced regulatory frameworks requiring financial and non-financial firms to report their OTC contracts to a licensed trade repository, encompassing commodity derivatives including electricity.

3.7. In Australia, electricity derivatives were initially exempted from reporting obligations due to complexities associated with the electricity markets and the limited risk they pose to market stability<sup>9</sup>. Nonetheless, the Australian Financial Markets Association (AFMA) adopted a voluntary approach, collecting data on the contracts market through voluntary market participant surveys.

3.8. In June 2022, the Australian Competition and Consumer Commission (ACCC) undertook an inquiry into the national electricity market<sup>10</sup> to advise the government of any regulatory changes needed to ensure electricity markets are functioning properly. Its first recommendation was "*The Australian Energy Regulator should monitor contracts market trading by registered National Electricity Market participants as part of its wholesale monitoring functions*".

3.9. These reforms are under way. On 24 February 2023<sup>11</sup>, the Energy and Climate Change Ministerial Council endorsed a set of measures expanding the Australian Energy Regulator's (AER) monitoring powers in the gas and electricity markets. Submissions for the draft bill closed on 4 May 2023 and officials are using these submissions to shape the final legislative package for these reforms.

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<sup>7</sup> [EMIR Reporting \(europa.eu\)](http://emir.europa.eu)

<sup>8</sup> [Dodd-Frank Wall Street Reform and Consumer Protection Act](#)

<sup>9</sup> [ASIC Derivative Transaction Rules \(Reporting\) 2013 \(legislation.gov.au\)](http://legislation.gov.au)

<sup>10</sup> [Inquiry into the National Electricity Market - June 2023 report | ACCC](#)

<sup>11</sup> [Amending the Australian Energy Regulator Wholesale Market Monitoring and Reporting Framework – draft legislation and consultation paper | energy.gov.au](#)

- 3.10. These global developments and ongoing efforts have informed our decision-making process. Our proposal aligns with international best practice, fostering more transparent and competitive contracts markets.

### Evaluation criteria

- 3.11. The Authority has developed a set of criteria to evaluate proposed amendments, ensuring alignment with our main statutory objective for the long-term benefit of consumers. These criteria guide our decision-making process, focusing on critical aspects of market functioning and transparency.
- (a) **Enhanced competition** – improving visibility of OTC contract prices for all market participants reduces entry barriers for new players, fostering healthy competition in the electricity market. By offering equal access to risk management information, we empower new entrants and encourage market growth.
  - (b) **Efficiency in investment** – enhancing the availability of information about OTC contracts plays a crucial role in encouraging efficient investment in both electricity generation and demand response. With increased transparency, investors can anticipate market trends, assess risks more accurately, and make strategic investments. This leads to more substantial and smarter investments in the sector, driving growth in both generation and demand response initiatives.
  - (c) **Efficiency of regulatory oversight** – increasing the Authority’s access to information about OTC contracts enhances its ability to perform its monitoring functions effectively and efficiently. This enables the Authority to identify and respond to emerging issues to support market development, further increasing confidence in the market.
  - (d) **Administrative costs** – we acknowledge that disclosing more information could impose new costs on participants. Balancing increased transparency with manageable administrative costs is a crucial aspect of our evaluation.

## 4. Preferred options to improve hedge disclosure obligations

### Summary of preferred options

- 4.1. The proposed amendments to the hedge disclosure obligations seek to broaden the scope of information collected and published on OTC contracts. Participants will be required to submit more information about risk management contracts, including PPAs and contracts with a term longer than 10 years. A more comprehensive subset of this information will be published on the hedge disclosure system and on the Authority’s EMI website.
- 4.2. The proposed changes to disclosure and publication requirements for each contract type are summarised in Table 4. The specific data points, and the contracts captured by the phrase ‘all risk management contracts’ in the table, are discussed below. The proposed Code amendments can be found in Appendix A.

**Table 4: Comparison of existing and proposed disclosure and publication requirements (by contract type)**

<b>Data point</b>	<b>Existing disclosure requirement</b>	<b>Proposed disclosure requirement</b>	<b>Proposed publication requirement</b>
<b>Parties' details</b>	CfDs, FPPS and options contracts	All risk management contracts	Not published
<b>Trade, effective and end dates</b>	CfDs, FPPS and options contracts	All risk management contracts	Publish
<b>Contract type</b>	CfDs, FPPS and options contracts	All risk management contracts	Publish
<b>Quantity</b>	Total volume for CfDs, FPPS and options contracts	Total volume and volume for each trading period, for all risk management contracts	Publish total volume
<b>Price</b>	Contract price for CfDs and FPPS contracts of less than 10 years	Price for each trading period, for all risk management contracts	Publish contract price
<b>Location</b>	Grid zone location for CfDs and FPPS contracts less than 10 years	Node for all risk management contracts	Publish grid zone location
<b>Trading periods</b>	Whether contract applies to all trading periods, for CfDs and FPPS contracts	The trading periods during which the contract applies, for all risk management contracts	Publish whether the contract applies to all trading periods
<b>If specified in the contract:</b>			
<b>Premium</b>	None	All risk management contracts	Publish
<b>Contract profile</b>	Whether volume is flat or varies, for CfDs	Load type for all risk management contracts	Publish
<b>Contract characteristics (PPAs)</b>	None	Whether price is linked to load or generation, for all risk management contracts	Publish
<b>Contract characteristics (Options)</b>	None	For options contracts: option type, option style, whether it is a cap or floor option, whether buyer has the right to buy less than the contract quantity	Publish
<b>Fuel type</b>	None	All risk management contracts	Publish
<b>Whether there is an adjustment, suspension, force majeure, pass-through clause</b>	CfDs, FPPS contracts	All risk management contracts	Publish

Data point	Existing disclosure requirement	Proposed disclosure requirement	Proposed publication requirement
Whether there is a special credit clause	CfDs	All risk management contracts	Publish
Whether the contract has been traded on EnergyHedge <sup>12</sup>	CfDs	Not collected	Not published
Whether the contract has been prepared based on the ISDA	CfDs	All risk management contracts	Publish

- 4.3. The proposed amendments have been carefully designed to safeguard participants' anonymity and their commercially sensitive information. Identifying details, such as party names, will be kept confidential, and the grid zone area rather than node will be published for contract location to preserve participant anonymity.
- 4.4. These changes will not be retrospectively applied to contracts entered before the implementation of any resulting Code amendments. Existing agreements would be unaffected by any changes to the new disclosure requirements.
- 4.5. In addition to proposed changes to improve the risk management information collected and published, the Authority also proposes a range of minor, editorial and consequential changes to subpart 5 of Part 13 of the Code to ensure the hedge disclosure obligations remains fit-for-purpose. These changes are marked up in Appendix A and include updates to the audit provisions to clarify participants' obligations, and to the confidentiality provisions to clarify how information collected but not published on the hedge disclosure system will be treated.

## Options to improve the risk management information collected

### What the Authority proposed

- 4.6. In the consultation paper the Authority identified the following potential high-level options for improving the information collected under the hedge disclosure obligations:
- collect information on all OTC contracts excluding contracts traded on the ASX
  - require submission of entire contract
  - collect pre-negotiation bids and offers
  - remove grid zone areas and require participants to disclose node
  - require participants to disclose MW as well as MWh.

<sup>12</sup> A trading platform established and used by the five major generators late in 2004. It was disestablished in 2010 after the Electricity Commission established electricity hedge contract disclosure system and New Zealand electricity futures trade started on the ASX.



## Summary of submissions

- 4.7. Table 5 provides a summary of submissions on the high-level options identified to improve the risk management information collected. There was mixed feedback on how to improve information collected. They have been summarised in three categories – collecting information on all contracts, information disclosure requirements for each contract, and voluntary disclosure of bids and offers.

**Table 5: Summary of submissions on improving information collected for each contract**

Options	Agree	Somewhat agree	Disagree	No response
Collect information on all OTC contracts excluding contracts traded on the ASX	7	3	2	1
Require submission of entire contract	1	3	6	3
Collect pre-negotiation offers and bids	4	2	6	1
Remove grid zone area and require participants to disclose node	7	1	0	5
Require participants to disclose MW as well as MWh	8	0	2	4

## Collecting information on all OTC contracts

### Submitters' feedback

- 4.8. Most submitters supported extending the current disclosure requirements to capture all OTC contracts. They underscored the necessity for disclosure obligations to be formulated in a manner that captures a diverse range of contract types rather than being confined to a predetermined list of specific contracts. Almost all submitters supported disclosure of information on all OTC contracts excluding ASX-traded contracts.
- 4.9. Despite this broad agreement, a few submitters disagreed. These submitters raised concerns regarding the potential compliance burden associated with mandatory disclosure in relation to all OTC contracts. They argued it was unnecessary given information on bespoke contracts add little value to other participants because they require a great level of detail to understand and compare the contract. They also considered that such a requirement could potentially deter large participants from entering contracts with smaller counterparts.
- 4.10. A few other submitters expressed cautious agreement with disclosing more information. Meridian agreed with disclosure of information on all contracts except Exchanges for Physical. Energy Link supported the disclosure of all contracts assuming the threshold of 0.25 MW for CfDs and 1 MW for fixed-price physical supply are maintained.

### Authority's response

- 4.11. We understand that adhering to extensive hedge disclosure obligations can pose challenges for some participants, creating costs and potentially restricting participation in the contracts market.
- 4.12. We also acknowledge that while the majority of OTC contracts are relatively standard, some OTC contracts cover more bespoke products such as load

contracts and PPAs. It can be more difficult to collect data and derive meaningful insights from these contracts. For example, data on load contracts can only be valuable if the shape of load being hedged is available. However, the difficulty in defining meaningful data for reporting should not exempt such contracts from information disclosure. This presents an opportunity for collaborative problem-solving between the Authority and the sector to find effective solutions for these challenges.

- 4.13. Existing data from the hedge disclosure system and ASX identified that, in 2022, approximately 98.5% of contracts traded in the ASX and contracts market was for CfDs and FPPS contracts. The remaining 1.5% comprised a series of products including options and Cap300.
- 4.14. However, this data does not capture all OTC contracts. As stated by submitters, a range of products are not disclosed under the current hedge disclosure requirements in the Code. These products are usually more bespoke than traditional fixed-price variable volume contracts.
- 4.15. While CfDs and fixed-price physical supply contracts account for majority of turnover in the contracts market, improving visibility on other types of OTC contracts provide a better understanding for the Authority and participants on how the market is adapting to provide risk management products in response to changes in generation technology and price volatility.
- 4.16. The Authority is therefore proposing that hedge disclosure obligations apply equally to all OTC contracts (over a certain volume threshold) that fall under three broad categories: CfDs, options contracts, and FPPS contracts. Certain specialised contracts like swaptions, PPAs, shaped and caps are viewed as a subset of these primary categories.
- 4.17. By gathering comprehensive details on each OTC contract, we enhance our ability to recognise and categorise these subsets accurately. This expansion in disclosure requirements ensures a more nuanced understanding of the diverse contracts market, promoting transparency.
- 4.18. The Authority adopts the following working definitions for the different risk management contracts as follows:
  - (a) **CfD** means a financial derivative contract under which one or both parties make a payment based on the price of a specified quantity of electricity at a particular time. These contracts help parties mitigate the risk of price fluctuations.
  - (b) **Options contract** means a contract containing the right to buy or sell a financial derivative contract. It provides the buyer the right not the obligation to buy (call option) or sell (put option) electricity at either:
    - i. a fixed price in any trading period on any business day until the expiry day of the contract (American) or
    - ii. the difference between the average price of electricity over the contract period and the strike price at the settlement date (Asian).

This definition also includes contracts where the buyer has the right, not the obligation, to purchase a lower volume than that available during the contract duration, including swaptions.

- (c) **FPPS contract**, under the current Code, means a contract that provides for the physical supply of electricity and allows the buyer to purchase a variable amount of electricity linked to actual consumption of electricity at a fixed price or prices or a fixed amount of electricity at a fixed price or prices.
- (d) A **PPA** is a long-term agreement between an offtaker/purchaser and an asset owner/generator that allows the offtaker to purchase electricity on a long-term basis for a price level agreed by the parties. There are three types of PPAs: virtual, physical and private wire.

The Authority considers *virtual PPAs* to be a type of CfD. It is a financial contract in which the corporate offtaker and renewable energy generator agree a defined strike price for electricity generated by the generator's renewable energy project. The parties exchange the difference in the value of spot price and the strike price during the settlement period.

The Authority considers *physical* and *private wire PPAs* as subsets of fixed-price physical supply contracts. A physical PPA<sup>13</sup> is a long-term contract between an offtaker and generator to take a specified amount of electricity at a fixed price per MWh. It is considered a private wire PPA when the transfer of electricity is directly from the generator's facility to the corporate offtaker, rather than through the national grid.

- 4.19. We propose a small adjustment to the definition of fixed-price physical supply contract in the Code to ensure it captures physical PPAs. The proposed amendment would capture contracts in which the buyer purchases variable amounts of electricity linked to actual consumption *or generation*. The hedge disclosure system will be updated to allow participants to specify whether a contract is PPA.
- 4.20. We also propose amending the Code definition of CfD to reduce the existing threshold. Currently, participants must disclose information about CfDs which relate to a quantity of at least 0.25 MW, or which are exchange-traded CfDs. The 0.25 MW threshold reflected the size of Energy Hedge contracts when the Code definition was first developed and was included in the Code as the threshold to ensure disclosure of these contracts. Now, the contract unit for New Zealand electricity futures traded on ASX is 0.1 MW.
- 4.21. Rather than continuing to adopt a different approach to exchange-traded CfDs, we consider that the threshold for disclosing all CfDs should be reduced to 0.1 MW. This approach ensures a consistent standard across various CfD types and aims to balance disclosure requirements, minimising compliance costs while providing valuable information.
- 4.22. Options contracts are subject to very few disclosure requirements under the current Code. Participants are only required to disclose whether an options contract has been entered into along with a small subset of the contract information, specifically: parties, trade, effective and end dates, and quantity. The purpose of these Code requirements was to provide enough information to monitor the use of options contracts and assess whether additional information is required.

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<sup>13</sup> A physical PPA can also be known as sleeved PPA because it is generally sleeved by an intermediary party such as a retailer to supply the electricity for a sleeving fee.

- 4.23. The Authority considers that changes in electricity market dynamics warrant broadening the scope of information collected on options contracts. The main objective is enhancing transparent market activity and price trend analysis. The lack of transparency on all contracts impedes the transmission of price signals in the market and introduces uncertainty for participants.
- 4.24. More information on options contracts would allow participants to develop a comprehensive picture of price trends in the contracts market. It would also enable the Authority to assess the contracts market performance to ensure efficiency and competitiveness.
- 4.25. Given the Authority is proposing to collect significantly more information on options contracts, we propose amending the definition of options contract to impose a minimum threshold, limiting the application of the hedge disclosure obligations to contracts that relate to a quantity of electricity that equals or exceeds 0.1 MW of electricity, consistent with the proposed amendment to the definition of CfD.

#### ***Novel risk management contracts***

- 4.26. In our pursuit of transparency in the evolving landscape of OTC contracts, the Authority proposes the inclusion of a new category: ***novel contracts***. These contracts are entered into to manage spot price risk but are not captured by the prescribed categories of risk management contract discussed above. They could be direct bilateral negotiations or broker-mediated deals for financial contracts with electricity as the underlying asset.
- 4.27. Given the dynamic nature of novel contracts, we have not proposed adding a prescriptive definition in the Code for these contracts and have chosen to keep the disclosure of information in this category at a minimum, to enhance the Authority's ability to perform its market monitoring, market facilitation and enforcement functions.
- 4.28. Rather than applying the same information disclosure obligations for novel contracts, we propose requiring a participant who enters into a novel contract to notify the Authority of that fact and to provide a description of the key terms of the contract.
- 4.29. The purpose of this is to enable the Authority to identify the prevalence of novel contracts and whether a particular novel contract should be prescribed as a new category of risk management contract. This information would not be published on the hedge disclosure system. It would be used by the Authority to effectively monitor the contracts market in a minimally intrusive way. This decision also aligns with our commitment to keeping the Code as straightforward as possible, ensuring easy compliance, and understanding for market participants.
- 4.30. We also propose modifying the hedge disclosure system to provide for parties to voluntarily submit additional contract information about novel contracts if they wish to do so. If this information is voluntarily disclosed it would be published on the hedge disclosure system, alongside information on risk management contracts.
- 4.31. By increasing visibility on novel contracts, all participants can strengthen their hedging strategy using innovative contract types, and simultaneously, the Authority gains updated insights into market developments. This flexible approach empowers market participants, ensuring they can leverage new opportunities while contributing to a more informed and dynamic market environment.

- 4.32. Finally, we propose to future proof the Code by enabling the Authority to prescribe a new type of risk management contract which would be subject to information disclosure requirements, without having to amend the Code.
- 4.33. This would enable the Authority to respond quickly to emerging use of novel risk management contracts. It is proposed that the Authority would not be able to prescribe a new risk management contract type unless it is satisfied that doing so is for a relevant purpose and after consulting on the proposal.

### ***ASX-traded contracts***

- 4.34. Reduced compliance costs for participants is an important consideration in this project. Accordingly, under the proposed changes participants would no longer need to manually disclose each ASX-traded contract on the hedge disclosure system. Consequently, details of exchange-traded contracts at the individual contract level will not be publicly available to participants.
- 4.35. Currently, manually disclosed exchange-traded contract data is accessible in an anonymised format alongside details of other risk management contracts on the hedge disclosure system.
- 4.36. In June 2020, the Authority consulted on amending hedge disclosure obligations to secure better data about participants' activity on the exchange platform and to reduce compliance costs for industry participants by excluding exchange traded data from hedge disclosure obligations.
- 4.37. It decided at the time to retain the obligation for participants to manually disclose ASX-traded risk management contracts, but give the Authority discretion to exempt a party from the obligation to disclose exchange-traded contracts on a case by case basis. The reason for this position was that some participants considered there was value in accessing the contract-level data for ASX contracts from the hedge disclosure system<sup>14</sup>.
- 4.38. The Authority acknowledges that some participants may be using this data from the hedge disclosure system. The Authority is interested in hearing from the industry about whether the value participants derive from accessing this exchange-traded data outweighs the compliance cost involved in having to disclose this data through the hedge disclosure system.
- 4.39. In particular, we are interested in views on what additional value this data holds compared with the aggregated insights available on the Authority's EMI website. The Authority currently publishes various reports on its EMI website using a comprehensive set of participants' data on ASX-traded contracts. These reports cover historical trends on settlement price, forward price curves and trade volumes<sup>15</sup>.

Q1. Do you agree with the proposal to retain the existing categories of risk management contract (CfDs, fixed-price physical supply and options contracts), with the proposed changes to ensure these contract categories remain fit-for-purpose? If not, please explain why?

Q2. Do you agree with the proposed disclosure approach regarding the novel contracts? If not, please explain why?

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<sup>14</sup> [Securing access to exchange data – Decision Paper](#)

<sup>15</sup> [Electricity Authority - EMI \(market statistics and tools\) \(ea.govt.nz\)](#)

Q3. Do you support the proposal to exclude ASX-traded contracts from the hedge disclosure obligations, if it means losing access to detailed data at the individual contract level for these contracts? If not, please explain why?

Q4. If you do not support excluding ASX-traded contracts from the hedge disclosure obligations, please describe what additional value this data holds compared with the aggregated insights available on the Authority's EMI website.

## Information disclosure requirements for each contract

### Submitters' feedback

- 4.40. Submitters supported disclosing node rather than grid zone area and also disclosing MW as well as MWh. They suggested that these changes would eliminate the need for complex calculations and provide further granularity with limited compliance cost.
- 4.41. Nova did not support nodal disclosure and it suggested disclosure of specific node instead. Contact did not support the disclosure of MWh. It raised concerns around the complexity of disclosing this information for contracts with variable volume or those that deviate from baseload structures.
- 4.42. The majority of submitters did not support the submission of entire contracts. They cited complexities, cost of compliance and burden on the Authority to extract meaningful information as primary concerns.
- 4.43. A few submitters held different views. Helios highlighted that submitting the entire contract improves the Authority's monitoring capabilities. Mercury supported the idea of providing comprehensive and relevant information for each contract category instead of the full contract submission.

### Authority's response

- 4.44. We recognise that some participants are better able to manage their risk in response to spot price volatility than others. Our primary objective in improving information collected on OTC contracts is to increase transparency and minimise information asymmetry, ensuring useful information for all participants to create an effective risk management strategy. These proposed changes also enable the Authority to monitor and assess market competitiveness effectively.
- 4.45. While we recognise that disclosing more contract information will require additional time and effort from participants compared with the current requirements, we anticipate these costs to be minimal. Market participants engaged in regular trading activities typically maintain internal risk management systems and automated processes for data capture. For them, the cost of disclosing this data, or a portion thereof, with the hedge disclosure system is expected to be inconsequential. For market participants that trade irregularly, the administrative costs associated with disclosing information on all contracts are anticipated to be modest. Our detailed cost-benefit analysis in Appendix C demonstrates that the benefits derived from increasing transparency are expected to outweigh the additional costs.
- 4.46. However, the Authority is committed to finding the right balance – being comprehensive enough to encompass all contracts while avoiding unnecessary compliance costs on participants.

- 4.47. The Authority is proposing to require disclosure of the following information for each contract to improve transparency and competition in the contracts market.
- (a) **Parties' details** (each party's legal name and email address for notice)
  - (b) **trade date** (when the parties entered into the contract)
  - (c) **effective date** (the date the contract first applies)
  - (d) **end date** (the last date the contract applies)
  - (e) **contract type** (whether it is a CfD, FPPS contract, options contract or another contract type prescribed by the Authority)
  - (f) **quantity** (total volume in MWh and, if applicable, the specified volume of electricity for each trading period)
  - (g) **price/prices** for each trading period
  - (h) **premium** paid by the buyer to the seller, if applicable
  - (i) **trading periods** during which each price in the contract applies
  - (j) **location** (the relevant node at which each price is set in the contract)
  - (k) **contract profile** (whether the contract is for base load, peak load, or off-peak load)
  - (l) **contract characteristics (PPAs)** (whether the price is linked to consumption or generation of electricity)
  - (m) **contract characteristics (options)**, specifically the option type (call or put), the option style (for example, American or Asian), whether it is a cap or floor option and whether buyer has the right to call lesser volume than available for the contract duration (to identify swaptions)
  - (n) **fuel type** (for example, solar, wind, thermal or hydro), if specified in the contract
  - (o) whether there is an **adjustment, suspension, force majeure or special credit** clause, or other clauses providing for the **pass-through** of certain costs
  - (p) whether the contract uses any version of the **International Swaps and Derivatives Association Master Agreement** (ISDA Master Agreement)
- 4.48. In addition, we propose to futureproof the Code by providing a process for the Authority to add to this list of data points for a purpose connected to the purposes of the hedge disclosure obligations, by publishing a notice after following a process similar to that for prescribing additional types of risk management contracts. In particular, the Authority would be required to consult on any proposed new data points and consider any submissions received.
- 4.49. A high-level summary of how the proposals will change the collection of data points is outlined in Table 6 and discussed in detail below. We sought to ensure that our transparency initiatives are focused, efficient, and sensitive to the practical needs of market participants, fostering a marketplace that is both transparent and operationally streamlined.

**Table 6: Summary of proposed changes to information collected for each contract**

Status	Data points
No material change	parties' details, contract type trade, effective and end dates whether there are adjustment, suspension, force majeure, special credit, or pass-through clauses whether the contract uses any version of the ISDA Master Agreement
Expanded	price, contract profile, quantity, location, trading periods
New	contract characteristics (PPAs, options, swaptions) fuel type
Removed	whether the contract has been traded on Energy Hedge

- 4.50. The proposed amendment does not materially change the existing disclosure requirements in the Code for specific data points including the **trade, effective, and end dates** of the contract, **contract type** and **parties' details**, as well as whether there are **adjustment, suspension, force majeure, special credit, or pass-through** clauses as well as whether the contract uses any version of the **ISDA Master Agreement**. Some minor drafting changes have, however, been proposed to improve the clarity of these requirements.

### *Price*

- 4.51. Price is the most important data point for understanding the market, yet it is also the most commercially sensitive and complicated information to disclose. Some contracts involve a series of prices related to specified trading periods or electricity volume. This gets further complicated for contracts in which the quantity changes over the contract period. While many contracts operate on a baseload basis, in some contracts the volume fluctuates based on times of the day or month.
- 4.52. The overall cost to purchase electricity under the contract (contract price) is the most useful information for participants when developing their hedging strategy. However, the complex nature of shaped contracts makes it challenging to present the contract price in a manner that allows for an accurate comparison between contracts.
- 4.53. To overcome this issue, the Code currently requires participants to use the formula in clause 13.220 to calculate a contract price. This formula calculates a time weighted average contract price, factoring in the number of different prices within a contract, the number of trading periods to which each price in the contract applies, and the location factor for the relevant node at which the price is set in the contract. This provides a contract price that is adjusted for location factors corresponding to the relevant grid zone and corrected for losses.

$$CP = \left\{ \frac{\sum_{i=1}^n P_i \times TP_i}{\sum_{i=1}^n TP_i} \right\} / LF \times LAF$$

*CP* contract price

*n* the number of different prices within the contract



$P_i$  the price specified in the contract

$TP_i$  the number of trading periods during which each price in the contract applies

$LF$  the location factor, for the relevant node at which the price is set in the contract

$LAF$  a loss adjustment factor

- 4.54. The time weighted average calculation removes the load variation and provides a comparable contract price. While this method simplifies the comparison process, it reduces market transparency and increases compliance burden for participants.
- 4.55. Under proposed changes, participants would be required to disclose price or series of prices for each trading period and, if applicable, the contract premium. The hedge disclosure system would then use this information to calculate the 'contract price' based on the existing formula in clause 13.220. Disclosing granular data simplifies participants' disclosure requirements, removing the need to calculate a single contract price. It will also equip the Authority with comprehensive information, enabling a nuanced assessment of contract shapes and types, as well as how the market evolves in response to intermittent generation risks.

### ***Quantity***

- 4.56. Quantity (total volume in MWh) must currently be disclosed for all qualifying risk management contracts, enabling the creation of historic contract curves. For FPPS contracts where there is no fixed volume, parties must disclose the quantity reasonably likely to be supplied under the contract.
- 4.57. The Authority is proposing to expand the collection of information on quantity and require the disclosure of the specified volume of electricity for each price to be paid in relation to each trading period under the contract (if applicable). This information, like the detailed information on price discussed above, would not be published.
- 4.58. Instead, total contract quantity will continue to be published for each contract. Increased collection of quantity data aids the Authority in assessing market liquidity. It allows for a better understanding of emerging liquidity concerns and enhances visibility in addressing these issues effectively.
- 4.59. The Authority is not proposing to require disclosure in both MW and MWh. Currently the Code only requires participants to disclose quantity of contract traded in MWh. However, for monitoring purposes, the Authority can use the hedge disclosure system to convert MWh to MW.

### ***Contract profile and trading periods***

- 4.60. Contract profile, another complex item, is crucial for accurate market analysis. While majority of contracts are baseload, some offer variable price and volume for different trading periods. Current requirements only mandate participants to disclose, in relation to CfDs and FPPS, whether the contract applies to all trading periods within its term. Participants are also required to disclose, in relation to CfDs, whether the volume of electricity under the contract is flat or varies for different trading periods.
- 4.61. The Authority considers that this information is not sufficient to accurately understand changes in the contracts market. As the share of intermittent generation such as solar increases in electricity supply, we expect to see lower electricity demand during the day and higher prices during the evening peak hours. This in turn reduces the incentive for participants to seek baseload contracts and leads to higher demand for shaped products.

- 4.62. The Authority is proposing to require, in relation to all identified contracts, whether it is base load, peak load, or off-peak load, and the trading periods during which each price in the contract applies. This will provide greater transparency on contract profile, supporting participants' risk management strategy. This enhanced transparency enables participants to better understand contract prices.
- 4.63. This also allows the Authority to assess contract availability for peak demand periods and evaluate vulnerability of the market to the increasing share of intermittent generation.
- 4.64. The Authority proposes categorising contract profiles as follows:
- (a) *Peak load*: A contract for a higher average volume of electricity in trading periods 15 to 44 than in trading periods 45 to 48 and 1 to 14.
  - (b) *Base load*: A contract for a flat volume of electricity in every trading period during which a price in the contract applies.
  - (c) *Off-peak load*: A contract for a higher average volume of electricity in trading periods 1 to 14 and 45 to 48 (typically during low-demand hours) than in trading periods 15 to 44.

#### ***Contract characteristics (Options and PPAs)***

- 4.65. Understanding the contract price in respect of options contracts might be deemed more complex than other OTC contracts because of the additional components that might be included in the contract such as the premium. To overcome this complexity, the proposed changes require more comprehensive disclosure of contract characteristics in relation to options contracts, including option type (put or call), whether it is a cap option or a floor option, and option style (for example, Asian or American).
- 4.66. We also propose collecting information on whether the buyer has the right to call lower volume than available for the contract duration to help identify swaptions. In addition to collecting information on options contracts, we also propose collecting information on whether a contract is linked to consumption or generation. This will enable the identification of PPAs.
- 4.67. These proposals will enhance our ability to accurately recognise and categorise subsets of existing contracts.

#### ***Location***

- 4.68. Location at which price is set in the contract is crucial but sensitive, as it could potentially reveal the parties' identities. The current hedge disclosure requirements mitigate this risk by requiring participants to disclose grid zones rather than node. The country is divided into five grid zone areas: A, B, C, D, and E (Appendix D).
- 4.69. The Authority is proposing to require disclosure of location by the relevant node at which the price is set in the contract, rather than the grid zone area. The hedge disclosure system would then publish the corresponding grid zone area, using disclosed node to calculate location factor and a standardised contract price. Standardisation is achieved by multiplying the contract price by the relevant location factor. The location factor is published on the WITS website.

#### ***Fuel type***

- 4.70. We also propose collecting information on **fuel type**, if specified in the contract. Electricity prices are usually correlated with commodities that are used in the

generation of electricity. At times, participants hedge their electricity price risk by linking the contract price to fuel type such as gas, hydro, wind and coal.

- 4.71. This expansion in disclosure requirements ensures a more nuanced understanding of the diverse contract types and prices, promoting transparency.

Q5. Do you agree with the proposed approach to the disclosure of contract details including price, quantity, contract characteristics, contract profile, fuel type, trading period and location?

If not, please explain why and outline what you consider to be a more appropriate approach.

Q6. Are there any other datapoints you think should be disclosed for each contract?

## Voluntary disclosure of bids and offers

### Submitters' feedback

- 4.72. Submitters were divided on whether information should be collected on pre-negotiation bids and offers. Some submitters underscored the substantial benefit this option can present to the market, including increased transparency and a better understanding of market competitiveness and liquidity as well as promoting positive market behaviour.
- 4.73. However, the majority of submitters did not support this option. They raised concerns around compliance burden, possibly hindering market efficiency, and the associated challenges in providing this information. They suggested that challenges stem from the informal nature of this negotiation and the use of non-targeted methods in certain RFPs.

### Authority's response

- 4.74. The Authority recognises the benefits of collecting and publishing information on bids and offers, which include increasing transparency and encouraging appropriate market behaviour.
- 4.75. However, given this paper already proposes significant changes in the risk management information collected on executed contracts, we have opted not to further expand information disclosure obligations to bids and offers at this time. Submitters largely opposed this change as they believed it would potentially add to participants' compliance burden, without providing a very clear near-term benefit.
- 4.76. Instead, we propose continuous monitoring of voluntary disclosure of RFPs under the industry-led Code of Conduct established by the OTC Working Group. This voluntary code of conduct mitigates the necessity for mandatory disclosure of bids and offers, ensuring continued confidence in the contracts market.
- 4.77. It is important to note that the option of mandatory disclosure of bids and offers might be revisited in the future, depending on the uptake and effectiveness of the voluntary code of conduct.
- 4.78. Furthermore, our efforts are concentrated on maximising the benefits resulting from the proposed changes to the hedge disclosure obligations with respect to executed OTC contracts. This strategic approach ensures that the market's development

doesn't out-pace stakeholders' capacity to engage, and ability to adapt, to the exclusion of participants that could otherwise benefit from participation in the contracts market.

Q7. Do you agree with the proposed voluntary approach to the disclosure of bids and offers?

If not, please explain why and outline what you consider to be a more appropriate approach?

## Options to improve the risk management information published

### What the Authority proposed

- 4.79. Depending on what risk management information is collected under proposed changes, the Authority identified several potential, high-level options in relation to the risk management information published. Potential options were (noting information published will be anonymised):
- (a) continue with the status quo
  - (b) publish all information collected about OTC contracts
  - (c) publish a select range of information derived by industry needs
  - (d) publish no information.

### Submitters' feedback

- 4.80. Most submitters favoured the approach of publishing a subset of information tailored to industry needs. They emphasised that increased transparency through enhanced data sharing fosters improved market conduct. Some of these submitters, however, expressed concerns regarding the potential exposure of commercially sensitive information through the hedge disclosure system or in response to a request under the OIA.
- 4.81. However, a few submitters held a different view. Nova indicated their view that only information relevant to eliciting a forward price curve should be made public.

**Table 7: Summary of submissions on improving information published on OTC contracts**

Options	Agree
Continue with status quo	1
Publish all information collected about OTC contracts	1
Publish selected range of information – derived by industry needs	8
Publish no information	0

## Authority's response

- 4.82. The Authority considers publishing more information and insights on OTC contracts would increase confidence in the price information and, by extension, market competitiveness. Publishing this information would allow all market participants to follow price trends across both electricity contracting markets – ASX and OTC.
- 4.83. It would also minimise uncertainty about changes in trading activity on the ASX, as any substitution of activity to the contracts market would be visible.
- 4.84. Improved information on price and volume would help participants in setting contract terms and negotiating bids and offers. This information also sends efficient price signals to potential investors, guiding them in making strategic and impactful investment choices. Timing, quantity, and location are critical factors in investment decisions, ensuring the continued availability and reliability of electricity supply, which benefits both investors and consumers.
- 4.85. However, there should be a balance between increasing transparency in the contracts market and protecting commercially sensitive information. To achieve this balance, the Authority proposes to only publish a select range of disclosed information on OTC contracts. This data will be presented in an anonymised format to provide appropriate protections in relation to commercially sensitive information.
- 4.86. The information the Authority proposes to be published on the hedge disclosure system in relation to individual contracts, and how this will differ from the current publication status of different data points, is detailed in Table 8.

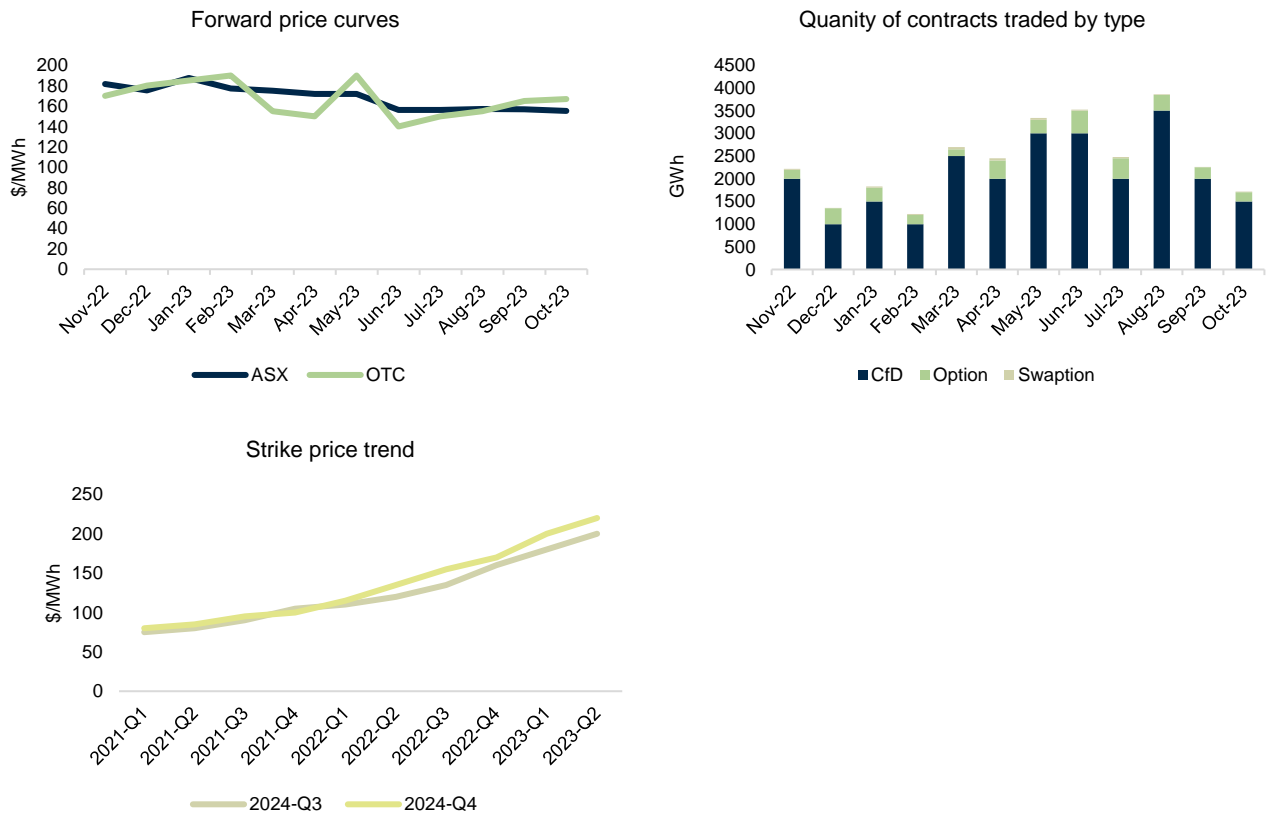
**Table 8: Data points for individual contracts published on the hedge disclosure system**

Data point	Current publication status	Proposed publication status
Parties' details	x	x
Trade, effective and end dates	✓	✓
Contract type	✓	✓
Quantity (total volume)	✓	✓
Contract price	✓	✓
Premium (if specified)	xx	✓
Whether the contract applies to all trading periods within its term	✓	✓
Grid zone area	✓	✓
Contract profile (load type)	xx	✓
Contract characteristics (Options, swaptions and PPAs)	xx	✓
Fuel Type	xx	✓
Whether there are adjustment, suspension, force majeure, special credit or pass-through clauses	✓	✓
Whether the contract uses the ISDA	✓	✓

✓ Publicly available    x not publicly available    xx not collected

- 4.87. We propose to keep the published information anonymised by removing the names of the parties, because while access to individual contracts increases understanding about contract prices their individual identities are not critical for the purpose of eliciting forward prices. Location will also continue to be anonymised by publishing information on grid zone area rather than node. New Zealand is grouped into five grid zone areas, with each grid zone containing a normalisation node for which contract prices would be normalised.
- 4.88. Under the proposal, a time weighted average contract price would continue to be published for all identified risk management contracts. It would continue to be calculated using the existing formula in clause 13.220 of the Code, considering the number of different prices in the contract, trading periods, and location factor. Weighted average price will be published along with load type for each contract to provide efficient price signals to the market without disclosing commercially sensitive information.
- 4.89. The Authority may also, from time to time, publish analysis or market insights that use other risk management information which is required to be disclosed but is not published on the hedge disclosure system. Any such publications will use aggregated data in anonymised form so that parties are not identified.
- 4.90. Improved disclosure of risk management information provides an opportunity for the Authority to provide more insights on the contracts market, facilitating market analysis for participants. This might include historic trends on average contract price, volume of transactions, and quantity of contracts traded by load type (baseload, peak load and off-peak load).
- 4.91. Figure 1 shows sample graphs that can potentially be developed using information disclosed on OTC contracts. Figure 1 is created using random numbers and does not reflect any real data.

**Figure 1: Potential insights on OTC contracts**



4.92. As part of improving the hedge disclosure system we consider an interactive interface to provide participants with sorting functions and bulk downloading of data. This allows participants to undertake further analysis of contract prices and market performance on a subset of data related to their needs.

Q8. Do you agree with publishing the proposed data-points in Table 8 for individual contracts on the hedge disclosure system?

If not, please explain why and outline what you consider to be a more appropriate approach?

Q9. What other insights and analysis on the risk management information do you think would be helpful to publish on the hedge disclosure system or EMI?

## Options to improve the hedge disclosure system

### What the Authority proposed

4.93. In the consultation paper the Authority proposed to update the design and operation of the hedge disclosure system and sought feedback on what improvements should be made.

### **Submitters' feedback**

- 4.94. Submitters provided a number of suggestions to improve the hedge disclosure system, and some identify this as the most beneficial change which could be made to improve the contracts market. Suggested changes included improved presentation of hedge disclosure data and user experience. This could entail streamlining the reporting system through a standardised template for comparable contracts or CSV files, automated download of information, and interactive interface.

### **Authority's response**

- 4.95. The Authority emphasises the importance of standardised reporting in the hedge disclosure system to streamline data collection. To achieve this, the hedge disclosure system will be updated to prescribe specific fields for reporting, ensuring consistency and comparability of data across contracts.
- 4.96. The existing data collection methods, including bulk upload and online forms, will remain unchanged, but they will be adapted to align with the new hedge disclosure obligations. Participants can utilise bulk upload for rapid submissions of large contract volumes, adhering to the new Code requirements. This approach eliminates manual data entry, saving time and minimising the risk of errors.
- 4.97. Additionally, participants can opt for online forms equipped with predefined fields and validation rules. These forms ensure data uniformity and compliance with specified criteria, enhancing accuracy in reporting.
- 4.98. The Authority is actively exploring the integration of Application Programme Interface (API) technology into the hedge disclosure system to further enhance the reporting process. APIs offer a streamlined, automated, and efficient way for participants to submit data directly from their internal systems to the hedge disclosure system. This integration not only reduces manual efforts significantly but also ensures real-time data accuracy. Collaborative efforts will be made to implement this advanced technology, fostering a more transparent, efficient, and technologically adept reporting framework within the industry.
- 4.99. Proposed changes in the hedge disclosure system will be collaboratively developed with interested participants through stakeholder workshops and market testing, ensuring effective implementation and adherence to industry needs.
- 4.100. These proposed changes to the design and operation of the hedge disclosure system will not result in amendments to the Code.

Q10. Do you agree with the proposed approach to improving the hedge disclosure system?

If not, please explain why and outline what you consider to be a more appropriate approach?

Q11. Do you support the option of using API to disclose risk management information, even if doing so requires investment and upgrade in your systems?



## 5. Regulatory Statement for the proposed amendment

### Objectives of the proposed amendment

- 5.1. The objective of the proposal is to ensure that hedge disclosure obligations remain fit for purpose in the face of an evolving electricity sector. The proposal ensures a robust set of hedge disclosure obligations which will:
- (a) increase market transparency, facilitating effective risk management strategies
  - (b) enhance confidence in market competitiveness, and
  - (c) strengthen regulatory oversight, by enhancing the Authority's market facilitation, monitoring and enforcement functions and supporting future policy development.

Q12. Do you agree with the objectives of the proposed amendment? If not, please explain why?

### The proposed amendment

- 5.2. The drafting of proposed amendment is shown as tracked changes in Appendix A.

### The proposed amendment's benefits are expected to outweigh the costs

- 5.3. Assessing the effect of proposed amendments is complex and not easily quantifiable. To provide a tangible perspective, the Authority has considered the costs and benefits of the proposed amendment against the status quo in Appendix C.
- 5.4. The analysis suggests that the proposal's benefits outweigh its costs. The changes are expected to increase market competition leading to lower retail costs for consumers, improve cost of capital in investment for renewable generation, and increase efficiency of regulatory oversight.
- 5.5. These figures offer a rough estimation of improving hedge disclosure obligations, providing stakeholders with preliminary understanding of the improvements' financial implications. These estimates serve as a valuable reference point in our decision-making process.

Q13. Do you agree that the benefits of the proposed amendment outweigh its costs?

### The proposed amendment is preferred to other options

- 5.6. The Authority has evaluated other options to improve information collected and published on OTC contracts:
- (a) *Status quo* – this means limited visibility of the contracts market for participants and the Authority. Lack of access to reliable, timely and accurate data undermine participants' ability to develop efficient hedging strategies, putting upward pressure on retail costs and prices. The greater ability to hedge against spot price volatility at prices that are visible to all market participants helps to lower barriers to entry and competition in the electricity market. It also limits new investment, which is the key policy objective of the

contracts market, enabling participants to make investment decisions at the lowest cost and the right time by providing robust price signals.

- (b) *Require submission of entire contract* – this means full visibility of all information in a contract, with significantly more complexity to disclose all details in OTC contracts which are usually bespoke in nature. This option increases compliance cost for participants to disclose contract information and burden on the Authority to extract meaningful insights.
- (c) *Require submission of pre-negotiation offers and bids* – there are benefits in collecting and publishing information on bids and offers including increased transparency and improved effective market behaviour. However, there are concerns around compliance burden and the associated challenges in providing this information. These challenges stem from the informal nature of negotiations and also the use of non-targeted method in certain RFPs. Given the upcoming changes in the risk management information collected on executed contracts, increasing disclosure requirements on bids and offers could potentially overburden the market. We consider following a voluntary disclosure process aligned with the industry-led Code of Conduct developed by the OTC Working Group to be the preferred option.
- (d) *Publish all information* – this means disclosing all information collected about OTC contracts which is unlikely to generate increase additional benefits compared with the status quo. Publishing all information on OTC contracts also creates the risk of disclosing commercially sensitive information, revealing the parties' identities and risk management strategies.
- (e) *Publish no information* – this means no visibility of contract prices and contracts market competition, significantly reducing participants' ability to determine the best risk management strategy. Participants' willingness to commit the necessary capital at the right times is shaped by reliable price signals. Lack of price signals also reduces investment incentives, leading to supply gaps and unreliability.

5.7. The Authority evaluated the preferred options relative to the alternatives outlined above and considers that the proposed amendment is the best option to achieve its statutory objectives.

Q14. Do you agree that the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's main statutory objective in section 15 of the Electricity Industry Act 2010.

### **The proposed amendment complies with section 32(1) of the Act**

- 5.8. The Authority's main objective under section 15(1) of the Act is to promote competition in, reliable supply by, and efficient operation of, the electricity industry for the long-term benefit of consumers. The Authority's additional objective under section 15(2) of the Act is to protect the interests of domestic and small business consumers in relation to their supply of electricity. The additional objective only applies, however, to the Authority's activities in relation to the dealings between participants and domestic and small business consumers, under section 32(3).
- 5.9. Section 32(1) of the Act provides that the Code may contain any provisions that are consistent with the Authority's objectives and are necessary or desirable to promote one or all of the matters listed in section 32(1).

5.10. The Authority considers that the proposed amendment complies with section 32(1) of the Act because it is necessary or desirable to promote, for the long-term benefit of consumers:

- **Competition in the electricity industry:** The proposal supports competition in the electricity industry because it would increase transparency which will enable market participants to more effectively manage their exposure to price volatility and facilitate the entry of new participants.
- **The efficient operation of the electricity industry:** The proposal supports efficiency because a transparent contracts market would lead to more efficient price discovery and allocation of resources.
- **The performance by the Authority of its functions:** The proposal enhances the Authority’s ability to perform its market monitoring, market facilitation and enforcement functions under the Act, because it would enable the Authority to collect and provide more information about the operation of the contracts market and monitor market competitiveness.

Q15. Do you agree the Authority’s proposed amendment complies with section 32(1) of the Act?

### The Authority has had regard to the Code amendment principles

5.11. When considering amendments to the Code, the Authority is required by its Consultation Charter to have regard to the following Code amendment principles, to the extent that the Authority considers that they are applicable. Table 1 (below) describes the Authority’s regard for the applicable Code amendment principles in the preparation of the proposal.

**Table 9: Regard for Code amendment principles**

Principle	
<b>1. Lawful</b>	The Authority is satisfied that the proposal is lawful, and is consistent with the Authority’s statutory objectives and with the requirements set out in section 32(1) of the Act.
<b>2. Provides clearly identified efficiency gains or addresses market or regulatory failure</b>	The efficiency gains are set out in the evaluation of the costs and benefits (Appendix C).
<b>3. Net benefits are quantified</b>	The extent to which the Authority has been able to quantify the benefits of the proposal are set out in Appendix C. The Code amendment principles recognise the quantitative analysis is not always possible. This is the case with the Authority’s proposal to improve the hedge disclosure obligations. However, the Authority is confident the benefits of the proposal outweigh the costs.

## 6. Next steps

- 6.1. The Authority will run workshops to market-test proposed changes to the hedge disclosure system in early 2024. Information on how to participate in these workshops will be published on our website with the release of this consultation paper.
- 6.2. Feedback received in these workshops alongside submissions on the preferred options discussed in this paper will inform the Authority's final decision on the Code amendments required to improve the hedge disclosure obligations. The Authority will publish a paper on its decision in mid-2024.

## Appendix A Proposed amendment

Set out below are the proposed Code amendments.

### Part 1 – Preliminary provisions

#### 1.1 Interpretation

(1) In this Code, unless the context otherwise requires,—

...

**adjustment clause** means a clause in a ~~contract for differences or a fixed-price physical supply contract~~ **risk management contract** under which the price or prices of a specified volume of **electricity** may be adjusted, including an adjustment relating to the Consumer Price Index, the Producers Price Index or any other index

...

**base load contract**, for the purposes of subpart 5 of Part 13, means a contract for a flat volume of **electricity** in every trading period during which a price in the contract applies

**buyer**, for the purposes of subpart 5 and subpart 7 of Part 13, means—

- (a) in respect of a **contract for differences**, the fixed-price payer, being the **party** obliged to make payments at a fixed price from time to time during the **term** of the contract; or
- (b) in respect of a **fixed-price physical supply contract**, the purchaser of **electricity**; or
- (c) in respect of an **options contract**, either—
  - (i) the **party** paying the **premium**; or
  - (ii) if there is no **premium**, the **party** who agrees to be the **buyer** for the purposes of subpart 5 or subpart 7 (as applicable) of Part 13; or
  - (iii) if neither **party** agrees to be the **buyer**, the **party** whose name is the first alphabetically

**(ca)** for the purposes of subpart 5 of Part 13, in respect of a contract prescribed by the Authority under clause 13.219B as a risk management contract, either—

- (i) the party specified as the buyer in the contract; or
- (ii) if neither party is specified as the buyer, the party whose name is the first alphabetically.

(d) for the purposes of subpart 7 of Part 13, in respect of any other contract, the **party** consuming the **electricity** that the contract relates to

...

**contract for differences**, for the purposes of subpart 5 and subpart 7 of Part 13, means a financial derivative contract—

- (a) under which 1 or both **parties** makes or may make a payment to the other **party**; and
- (b) in which the payment to be made depends on, or is derived from, the price of a **specified quantity** of **electricity** at a particular time; and

- (c) that may provide a means for the risk to 1 or both **parties** of an increase or decrease in the price of **electricity** to be reduced or eliminated; and
- (d) that ~~either—~~
  - ~~(i) relates to a quantity of **electricity** that equals or exceeds 0.10-25 MW of **electricity**; or~~
  - ~~(ii) is entered into through a derivatives exchange, being a market in which **parties** trade standardised financial derivative contracts, and contracts containing the right to buy or sell standardised financial derivative contracts, with a central counterparty~~

...

**contract price** means, in respect of a **risk management contract**, a single price that has, in accordance with clause 13.220, been calculated, time weighted, adjusted to a location factor for the relevant **grid zone area**, and corrected for **losses**, for the purposes of subpart 5 of Part 13

~~**contract price schedule** means, in respect of a **risk management contract**, a price or series of prices to be paid under that contract in respect of specified times or amounts and at a single location~~

...

**effective date**, for the purposes of subpart 5 of Part 13, means the date of the first **trading period** to which a **risk management contract** applies

**end date**, for the purposes of subpart 5 of Part 13, means the date of the final **trading period** to which the **risk management contract** applies

...

**fixed-price physical supply contract** means a contract that provides for the physical supply of **electricity**, if—

- (a) the **buyer** is reasonably expected to purchase 1 **MW** or more of **electricity** on average during the **term** of the contract (for the purposes of determining whether a contract meets this 1 **MW** threshold, the total purchases under the contract must ~~should~~ be used ~~despite clause 13.219(6)~~); and
- (b) the contract allows the **buyer** to purchase either—
  - (i) variable amounts of **electricity** linked to actual consumption or generation of **electricity** at a fixed price or prices; or
  - (ii) a fixed amount of **electricity** at a fixed price or prices; and
- (c) excludes a contract for the physical supply of **electricity**, that is generated by an **embedded generating station**, directly to a **consumer**

...

**floating-price payer** means the **party** obliged to make 1 or more payments, from time to time during the **term** of a ~~contract for differences~~ **risk management contract**, of a floating amount for a **quantity** of **electricity**

**force majeure clause**, for the purposes of subpart 5 of Part 13, means a clause in a **risk management contract** under which some or all obligations may be suspended and/or the **risk management contract** may terminate due to 1 or more events (not being

events specified in a **suspension clause**) beyond the control of the **party** and that could not reasonably have been foreseen, including—

- (a) any event or circumstance occasioned by, or in consequence of, any act of God (being an event or circumstance—
  - (i) due to natural causes, directly or indirectly and exclusively without human intervention; and
  - (ii) that could not reasonably have been foreseen or if foreseen, could not reasonably have been resisted); or
- (b) strikes, lockouts, other industrial disturbances, acts of public enemy, wars, blockades, insurrections, riots, epidemics, or civil disturbances; or
- (c) the binding order of any court, government or a local authority beyond the control of the **party**

...

**grid zone area** means a geographical area, which includes many **nodes**, as determined by the **Authority** and published under clause 13.221(1)

...

**location factor**, for the purposes of subpart 5 of Part 13, means the location factor calculated in accordance with clause 13.221(2)

...

**off-peak load contract**, for the purposes of subpart 5 of Part 13, means a contract for a higher average volume of electricity in trading periods 1 to 14 (inclusive) and 45 to 48 (inclusive) in a trading day than in trading periods 15 to 44 (inclusive) in a trading day during which a price in the contract applies

...

**options contract** means a contract containing the right to buy or sell a financial derivative contract that relates to a quantity of electricity that equals or exceeds 0.1 MW of electricity

...

**other party**, for the purposes of subpart 5 of Part 13, means the **party** to a **risk management contract** who did not submit information under clauses 13.219(1)-~~to (4)~~, 13.223(1), or 13.224, as the case may be

...

**party**, for the purposes of subpart 5 and subpart 7 of Part 13, means either the **buyer** or **seller** under a **risk management contract** or both the **buyer** and **seller** under a **risk management contract**, as the case may be, and for the purposes of subpart 7 of Part 13, means either the **buyer** or **seller** under a contract or both the **buyer** and **seller** under a contract, as the case may be

...

**peak load contract**, for the purposes of subpart 5 of Part 13, means a contract for a higher average volume of electricity in trading periods 15 to 44 (inclusive) in a

trading day than in trading periods 45 to 48 (inclusive) and 1 to 14 (inclusive) in a trading day during which a price in the contract applies

...

**premium**, in relation to ~~an options contract~~ **a risk management contract**, means the dollar amount paid by the **buyer** ~~of the options contract~~ to the **seller**

...

**quantity**, for the purposes of subpart 5 of Part 13, means—

- (a) for a **risk management contract other than a fixed-price physical supply contract, contract for differences or options contract** the total volume in MWh of **electricity** to which the contract relates; or
- (b) for a **fixed-price physical supply contract**, the volume in MWh of **electricity** reasonably likely to be supplied under the contract

...

**risk management contract**, for the purposes of subpart 5 and subpart 7 of Part 13, means—

- (a) a **contract for differences**; or
- (b) a **fixed-price physical supply contract**; or
- (c) an **options contract**; ~~but or~~
- (ca) for the purposes of subpart 5 of Part 13, a contract prescribed by the Authority under clause 13.219B as a risk management contract; but
- (d) does not include an **FTR**

...

**seller**, for the purposes of subpart 5 and subpart 7 of Part 13, means—

- (a) in respect of a **contract for differences**, the **floating-price payer**; or
- (b) in respect of a **fixed-price physical supply contract**, the **party** selling the **electricity**; or
- (c) in respect of an **options contract**, either—
  - (i) the **party** receiving the **premium**; or
  - (ii) if there is no **premium** under the **options contract**, the **party** who agrees to be the **seller** for the purposes of subpart 5 or subpart 7 (as applicable) of Part 13; or
  - (iii) if neither **party** agrees to be the **seller**, the **party** whose name is the second alphabetically
- (ca) for the purposes of subpart 5 of Part 13, in respect of a contract prescribed by the Authority under clause 13.219B as a risk management contract, either—
  - (i) the party specified as the seller in the contract; or
  - (ii) if neither party is specified as the seller, the party whose name is the second alphabetically.
- (d) for the purposes of subpart 7 of Part 13, in respect of any other contract, the **party** who is not the **buyer**

...

**special credit clause** means a clause in a ~~contract for differences~~ **risk management contract** that specifies that, if a **party** defaults during the **term** of the contract, the **party** that is not in default will be paid a specified amount or that, on execution of the



contract, the **party** that is not in default, is provided with a guarantee that payment will be made when the settlement amount reaches a certain threshold

...

**suspension clause** means a clause in a **risk management contract** under which some or all of the obligations may be suspended due to an event directly relating to the **supply** (including transmission) or generation of **electricity** or the price at which **electricity** is supplied, including an inability to inject **electricity** into the **grid** as a result of an **outage** of or damage to the **grid** or a **grid injection point** or the price of **electricity** exceeding a level specified in the contract

...

**term**, for the purposes of subpart 5 of Part 13, means the term of a **risk management contract**, being the period between the **effective date** and the **end date**

...

**trade date**, for the purposes of subpart 5 of Part 13, means the date ~~on which legally binding rights and obligations are created between~~ the **parties** enter in to a **risk management contract**

...

**verification notice**, for the purposes of subpart 5 of Part 13, means the notice provided by the **other party** in accordance with clause 13.226(2)(b) or (c)

## Part 13 – Trading arrangements

### Subpart 5 – Hedge arrangement disclosure

#### 13.217 ~~Purpose~~ ~~Contents~~ of this subpart

This subpart provides for the disclosure of information about **risk management contracts**, ~~which may be contracts for differences, fixed-price physical supply contracts or options contracts~~, in order to—

- (a) facilitate the ready comparison of **electricity** prices and other key terms of **risk management contracts**; and
- (b) ~~enable~~ ~~address the lack of information available to~~ persons to formulate their own historic contract curves for **electricity**; and
- (c) provide a more informed basis for ~~the Authority persons~~ to monitor and assess the ~~competitiveness of the~~ market for **risk management contracts** in respect of **electricity**, for the purposes of its functions under section 16 of the Act.

#### 13.218 Parties required to submit information

- (1) The following **parties** to **risk management contracts** are required to submit the information specified in clauses 13.219, ~~13.222~~ and 13.223 using an **approved system**:
  - (a) the **seller**, if the **seller** is a **participant**; or
  - (b) the **buyer**, if the **buyer** is a **participant** and the **seller** is not a **participant**.
- (2) ~~[Revoked] Despite subclause (1), a party specified in that subclause may, at the Authority's discretion, not be required to submit certain information specified in~~

~~clauses 13.219, 13.222 and 13.223 using an **approved system** if the **Authority** is satisfied that appropriate consent and arrangements are in place under clause 13.236AA for the **Authority** to obtain such information directly from an exchange and the **Authority** has advised that **party** in writing —~~

~~(a) — that this subclause applies; and~~

~~(b) — what information that **party** is not required to submit.~~

### **13.219 Information that must be submitted**

(1) The party specified in clause 13.218 must submit the following information to the **approved system** in relation to every **risk management contract**, excluding **exchange-traded risk management contracts** where the **parties** have provided consent under clause 13.236AA:

(a) each **party's** legal name:

(b) each **party's** email address for notice:

(c) the **trade date**:

(d) the **effective date**:

(e) the **end date**:

(f) the **quantity**:

(g) whether the contract is a **contract for differences**, a **fixed-price physical supply contract**, an **options contract** or, if the contract is a type of **risk management contract** prescribed by the **Authority** under clause 13.219B, the type of **risk management contract**:

(h) if the contract is an **options contract**:

(i) whether it is a call option or a put option;

(ii) if it is a call option, whether the **buyer** has the right to buy less than the **quantity**;

(iii) whether it is a cap option or floor option; and

(iv) the option style (for example, American or Asian):

(i) the fuel type (for example, solar, wind, thermal, or hydro), if specified in the contract:

(j) the **premium**, if specified in the contract:

(k) the **trading periods** during which each price in the contract applies:

(l) in relation to each **trading period** during which a price in the contract applies:

(i) the **node** at which each price is set; and

(ii) the price or series of prices to be paid at each relevant **node**; and

(iii) if applicable, the specified volume of **electricity** for each price to be paid at each relevant **node**

(m) whether the contract is a **base load contract**, **peak load contract**, or **off-peak load contract**, if specified in the contract:

(n) whether price (or prices) in the contract are linked to consumption or generation of **electricity**:

(o) whether there is an **adjustment clause**:

(p) whether there is a **force majeure** clause:

(q) whether there is a **special credit** clause:

(r) whether there is a **suspension** clause:

(s) whether there are any other clauses providing for the pass-through of certain costs, levies or tax or some form of carbon-related cost:

- (t) whether the contract uses any version of the International Swaps and Derivatives Association Master Agreement (ISDA Master Agreement) (including where the schedule to the form of the ISDA Master Agreement used for the contract makes an amendment to the main part of the ISDA Master Agreement):
  - (u) any other information specified in a notice **published** by the **Authority** under clause 13.219A.
- (2) The party specified in clause 13.218 must submit the information required by this clause in the form specified by the **Authority** and in accordance with clause 13.225(1).

### **13.219 Information that must be submitted**

- (1) ~~The following information must be submitted to the **approved system** in relation to every **options contract**:~~
- ~~(a) the **trade date**:~~
  - ~~(b) the **effective date**:~~
  - ~~(c) the **end date**:~~
  - ~~(d) the **quantity**.~~
- (2) ~~The following information must be submitted to the **approved system** in relation to each **contract for differences or fixed-price physical supply contract**:~~
- ~~(a) whether the contract is a **contract for differences** or a **fixed-price physical supply contract**:~~
  - ~~(b) the **trade date**:~~
  - ~~(c) the **effective date**:~~
  - ~~(d) the **end date**:~~
  - ~~(e) the **quantity**:~~
  - ~~(f) whether or not the contract applies to all **trading periods** within its **term**:~~
  - ~~(g) whether there is an **adjustment clause**:~~
  - ~~(h) whether there is a **force majeure clause**:~~
  - ~~(i) whether there is a **suspension clause**:~~
  - ~~(j) whether there are any other clauses providing for the pass-through of certain costs, levies or tax or some form of carbon-related cost.~~
- (3) ~~In addition to the information that must be submitted in accordance with subclause (2), the following information must be submitted to the **approved system** in relation to each **contract for differences**:~~
- ~~(a) whether there is a **special credit clause**:~~
  - ~~(b) whether the volume of **electricity**, in respect of which payments are required to be made by the **floating-price payer**, is flat or varies for different **trading periods**:~~
  - ~~(c) whether the contract has been traded on the EnergyHedge platform. The EnergyHedge platform is a centralised trading platform for standardised derivative contracts on **electricity** prices in New Zealand:~~
  - ~~(d) whether the contract has been prepared based on the standardised schedule, which can be adopted in conjunction with the International Swaps and Derivatives Association Master Agreement, as may be available on EnergyHedge.~~
- (4) ~~In addition to the information that must be submitted in accordance with subclauses (2) and (3), the following information must be submitted to the **approved system** in~~

- relation to each ~~contract for differences~~ that has a ~~term~~ of less than 10 years and each ~~fixed-price physical supply contract~~ that has a ~~term~~ of less than 10 years:
- (a) ~~the contract price calculated in accordance with clause 13.220;~~
  - (b) ~~the grid zone area in which the contract price is determined or applies.~~
- (5) ~~The information specified in this clause must be submitted in the form specified by the Authority and in accordance with clause 13.225(1).~~
- (6) ~~If a seller and a buyer enter into a contract for differences or fixed-price physical supply contract that includes more than 1 contract price schedule, the party required to submit information in accordance with clause 13.218 must do so in accordance with 1 of the following methods:~~
- (a) ~~if the contract includes contract price schedules relating to more than 1 grid zone area, by combining the information relating to all contract price schedules within each grid zone area and submitting that combined information to the approved system as if there were 1 contract for each grid zone area;~~
  - (b) ~~if the contract includes contract price schedules relating to more than 1 node, by combining the information relating to all contract price schedules at each node and submitting the combined information to the approved system as if there were 1 contract for each node;~~
  - (c) ~~if the party does not wish to combine the information in accordance with paragraphs (a) and (b), by submitting the information for each contract price schedule to the approved system individually, as though each contract price schedule was a separate contract.~~
- (7) ~~To avoid doubt, if a contract for differences or fixed-priced physical supply contract includes an adjustment clause,—~~
- (a) ~~the information that must be disclosed in accordance with this clause, in relation to the contract, must only be disclosed once; and~~
  - (b) ~~the contract price to be disclosed in accordance with subclause (4) is that which first applies under the contract.~~

### **13.219A Authority may prescribe additional information that must be submitted**

- (1) The Authority may publish a notice prescribing additional information relating to a risk management contract that must be submitted under clause 13.219(1)(u).
- (2) The Authority may prescribe additional information under subclause (1) only for a purpose specified in clause 13.217.
- (3) Before publishing a notice under subclause (1), the Authority must:
  - (a) publish:
    - (i) the proposed notice;
    - (ii) the Authority's purpose in requiring disclosure of the additional information; and
    - (iii) the Authority's assessment of the likely benefits of requiring the disclosure of the additional information prescribed in the proposed notice and whether those benefits are expected to outweigh the likely costs; and
  - (b) provide a reasonable opportunity for persons to make submissions to the Authority on the proposed notice; and
  - (c) consider submissions received under paragraph (b) in deciding whether to:

- (i) make any reasonable changes to the additional information required by the proposed notice; and
- (ii) publish the notice.

**13.219B Authority may prescribe additional risk management contract**

- (1) The Authority may publish a notice prescribing any type of contract used to manage risk in relation to the spot market for electricity as a risk management contract to which this subpart applies.
- (2) The Authority may prescribe any type of contract as a risk management contract under subclause (1) only for a purpose specified in clause 13.217.
- (3) Before publishing a notice under subclause (1), the Authority must:
  - (a) publish a proposed notice that contains:
    - (i) the type or types of contract that the Authority intends to prescribe as a risk management contract;
    - (ii) the Authority’s purpose in prescribing the type or types of contract as a risk management contract;
    - (iii) the Authority’s assessment of the likely benefits of prescribing the type or types of contract as a risk management contract;
    - (iv) a list of any additional information that parties to the type or types of contract must submit to the Authority under clause 13.219A;
    - (v) the proposed date or dates on which this subpart will apply to the type or types of contract; and
  - (b) provide a reasonable opportunity for persons to make submissions to the Authority on the proposed notice; and
  - (c) consider submissions received under paragraph (b) in deciding whether to:
    - (i) make any reasonable changes to the proposed notice; and
    - (ii) publish the notice.

**13.220 Calculation of contract price**

- (1) ~~Following the receipt of information submitted under clause 13.219, the WITS manager must calculate t~~**The contract price** ~~to be submitted for the purposes of clause 13.219(4)(a) and (6) is to be calculated~~ in accordance with the following formula:

$$CP = \left( \frac{\sum_{i=1}^n P_i \times TP_i}{\sum_{i=1}^n TP_i} \right) / LF \times LAF$$

where

CP is the **contract price**

n is the number of different prices within the contract

P<sub>i</sub> is the price specified in the contract

TP<sub>i</sub> is the number of **trading periods** during which each price in the contract applies

LF is the **location factor**, for the relevant **node** at which the price is set in the contract, as **published** by the **Authority** in accordance with clause 13.221

LAF means a loss adjustment factor, which is,—

- (a) if the **contract price** for the contract is referenced to a **point of connection** on the **grid**, 1; or
- (b) for all other contracts, 0.937 (being the difference between 1 and the loss factor of 0.063).

(2) ~~[Revoked] The **Authority** may issue guidelines on the **approved system** to provide assistance to **sellers** and **buyers** in determining what information must be submitted to the **approved system**, which may include clarification as to how to apply the formula in subclause (1) in the circumstances covered by clause 13.219(6).~~

(3) Where a **risk management contract** includes prices at more than 1 **node**, the **WITS manager** will calculate the **contract price** as if there were 1 contract for each **node**.

(4) To avoid doubt, if a **risk management contract** includes an **adjustment clause**, the **contract price** is that which applies before the **adjustment clause** takes effect.

### 13.221 Node and grid zone area information

- (1) The **WITS manager** must **publish** annually,—
  - (a) a list of all **nodes** at which the **clearing manager** makes **final prices** available on **WITS**; and
  - (b) a corresponding **location factor** for each such **node**; and
  - (c) a corresponding **grid zone area** for each such **node**; and
  - (d) a list of nominated **zone nodes**, being 1 **node** at which the **clearing manager** makes **final prices** available on **WITS**, within each **grid zone area**.
- (2) For the purposes of subclause (1)(b), the **location factor** for each such **node** must be calculated as follows:

$$LF = A/B$$

where

A is the average **final price** made available on **WITS** at that **node** over the 12 month period preceding the month before the date on which the **location factors** are **published**

B is the average **final price** made available on **WITS** at the relevant nominated **zone node**, as **published** in accordance with subclause (1)(d), for the 12 month period preceding the month before the date on which the **location factors** are

## published

LF is the **location factor** to be **published** in accordance with subclause (1)(b).

### 13.222 ~~[Revoked]~~ **Other information that must be submitted**

- (1) ~~The following information must be submitted to the **approved system** in relation to every **risk management contract**:~~
- ~~(a) each **party**'s legal name;~~
  - ~~(b) each **party**'s email address for notice.~~
- (2) ~~The information must be submitted in accordance with clause 13.225(1).~~

### 13.222A Information about other contracts that must be submitted

If a **participant** enters into a contract where a substantial purpose is to manage risk for the **participant** in relation to the spot market for **electricity**, but that contract is not a **risk management contract**, the **participant** must submit to the **approved system**:

- (a) notification that the **participant** has entered into the contract; and
- (b) a description of the key terms of the contract.

### 13.223 Modified or amended information

- (1) If a ~~modification or amendment is made to a~~ **risk management contract** ~~is modified or amended~~, after the information referred to in clauses 13.219 ~~or 13.222 has been is~~ submitted to the **approved system**, and the effect of the modification or amendment is that the information submitted to the **approved system** is no longer correct or complete, the **party specified in clause 13.218** ~~must submit the~~ modified or amended information ~~must be submitted~~ to the **approved system**.
- (2) The **party specified in clause 13.218** ~~must submit the~~ information ~~submitted~~ under subclause (1) ~~must~~—
- (a) ~~so that it identifies~~ **identify** in each case the information that has been modified or amended; and
  - (b) ~~be~~ in the form specified by the **Authority**; and
  - (c) ~~be submitted~~ in accordance with clause 13.225(2).

### 13.224 Correction of information

Except when clause 13.223 applies, if ~~a party to a risk management contract the~~ **party specified in clause 13.218** discovers that information previously submitted to the **approved system** about that **risk management contract** is incorrect or incomplete, that **party** must—

- (a) seek to agree with the **other party** to the **risk management contract** that the information is incorrect or incomplete and how it should be corrected; and
- (b) when both **parties** have agreed that the incorrect or incomplete information should be corrected, submit the corrected information to the **approved system** in accordance with clause 13.225(3).

### 13.225 Timeframes for submitting information

- (1) The **party specified in clause 13.218** ~~must submit the~~ information specified in clauses 13.219 ~~and 13.222 must be submitted~~ to the **approved system**—

- (a) in respect of a **contract for differences** or an **options contract**, no later than 5pm, 5 **business days** after the **trade date**; and
  - (b) for any other type of **risk management contract**, no later than 5pm, 10 **business days** after the **trade date**.
- (2) The **party specified in clause 13.218** ~~must submit any~~ modified or amended information ~~submitted~~ under clause 13.223(1) ~~must be submitted~~ to the **approved system** no later than 5pm, 5 **business days** after the amendment or modification to the **risk management contract** is made.
  - (3) A **participant** that discovers under clause 13.224 that information it submitted to the **approved system** is incorrect or incomplete must submit the corrected information to the **approved system** no later than 5pm, 2 **business days** after both **parties** to the **risk management contract** have agreed how the incorrect or incomplete information should be corrected.
  - (4) The **party specified in clause 13.227A(3)** ~~must submit the~~ corrected information agreed under clause 13.227(3A) submitted in accordance with clause 13.227(8) must be submitted to the **approved system** no later than 5pm ~~on the date that is;~~ 2 **business days** after the date that the parties to the risk management contract have agreed, in accordance with clause 13.227(5)(b), that the information made available under clause 13.226(1) is not correct, and on the corrected ~~the~~ information ~~accordingly~~.

### 13.226 WITS manager must make certain information available to the public

- (1) The **WITS manager** must, as soon as practicable, make the following information in relation to every risk management contract ~~the information submitted under clauses 13.219, 13.223(1), and 13.224~~ available at no cost on a publicly accessible **approved system**:
  - (a) information submitted under clauses 13.219(1)(c) to 13.219(1)(j), and 13.219(1)(m) to 13.219(1)(t);
  - (b) whether the contract applies to all trading periods within its term;
  - (c) the contract price calculated in accordance with clause 13.220 or, if clause 13.220(3) applies, the contract prices;
  - (d) the grid zone area in which the or each contract price is determined or applies;
  - (e) where any information is submitted under clauses 13.223(1) and 13.224—
    - (i) that information, to the extent that it modifies, amends, or corrects information made available under paragraph (a); and
    - (ii) any necessary amendments to the information made available under paragraphs (b) to (d).
- (2) At the same time that it makes the ~~submitted~~ information available in accordance with subclause (1), for all information other than that submitted under clause 13.224, the **WITS manager** must—
  - (a) indicate on the **approved system** that the information is unverified; and
  - (b) for a risk management contract other than a fixed-price physical supply contract ~~if the contract is a contract for differences or an options contract~~, give a written notice to the **other party** to the contract—
    - (i) (if the **other party** is a **participant**) requiring the **other party** to submit a **verification notice** to the **approved system** within 2 **business days** of receiving the notice confirming whether or not the information is correct; or



- (ii) (if the **other party** is not a **participant**) giving the **other party** the option to submit a **verification notice** to the **approved system** within 2 **business days** of receiving the notice confirming whether or not the information is correct; or
  - (c) if the contract is a **fixed-price physical supply contract**, give a written notice to the **other party** giving the **other party** the option to submit a **verification notice** to the **approved system** within 2 **business days** confirming whether or not the information is correct.
- (3) A **participant** that receives a **verification notice** under subclause (2)(b)(i) must comply with the written notice.

### 13.227 Verification of information

- (1) The **WITS manager** must indicate on the **approved system** that the information made available under clause 13.226(1) is verified if ~~if~~ the **other party** to a **risk management contract** submits a **verification notice** to the **approved system** within 2 **business days** of receiving notice under clause 13.226(2) confirming that the information made available under clause 13.226(1) is correct, ~~the **WITS manager** must indicate that the information made available under clause 13.226(1) is verified.~~
- (2) The **WITS manager** must indicate on the **approved system** that the information made available under clause 13.226(1) is not disputed, if—
  - (a) the **other party** to a **risk management contract other than a fixed-price physical supply contract** ~~contract for differences or an options contract~~ is not a **participant** and does not submit a **verification notice** to the **approved system** within 2 **business days** of receiving notice under clause 13.226(2)(b)(ii); or
  - (b) the **other party** to a **fixed-price physical supply contract** does not submit a **verification notice** to the **approved system** within 2 **business days** of receiving notice under clause 13.226(2)(c).
- (3) The **WITS manager** must indicate on the **approved system** that the information made available under clause 13.226(1) is disputed if ~~if~~ the **other party** to a **risk management contract** submits a **verification notice** to the **WITS manager** within 2 **business days** of receiving notice under clause 13.226(2) advising that the information made available under clause 13.226(1) is not correct, ~~the **approved system** must indicate that the information is disputed.~~
- (3A) If the information made available under clause 13.226(1) is disputed, the **WITS manager** must give the **parties** to the relevant **risk management contract** a written notice requiring the **parties** to use all reasonable endeavours to agree within 10 **business days** of receiving the notice on:
  - (a) whether the information made available under clause 13.226(1) is correct; and
  - (b) if not, what corrections should be made to the information.
- (4) If the **other party** to a **risk management contract other than a fixed-price physical supply contract** ~~contract for differences or an options contract~~ is a **participant** ~~that has not submitted but does not submit~~ a **verification notice** within 2 **business days** of receiving notice in accordance with clause 13.226(2)(b)(i), the **WITS manager** must—
  - (a) indicate on the **approved system** that the information made available in accordance with clause 13.226(1) is pending verification; and

- (b) give the **other party** a written reminder notice requiring the **other party** to submit a **verification notice** as soon as possible.
- (5) ~~[Revoked] If the information made available under clause 13.226(1) is disputed, the WITS manager must—~~
  - ~~(a) indicate on the approved system that the information is disputed; and~~
  - ~~(b) give the parties to the relevant risk management contract a written notice requiring the parties to use all reasonable endeavours to agree on whether the information submitted in accordance with clause 13.225(1) is correct or not within 10 business days of receiving the notice.~~

### **13.227A Parties to comply with written notices from WITS manager**

- ~~(16) The parties must comply with any written notice given from the WITS manager under subclauses clause 13.227(3A) or (4)(b) or (5)(b).~~
- ~~(27) If the parties to the risk management contract agree in accordance with under clause 13.227(3A) subclause (5)(b) that the information made available under in accordance with clause 13.226(1) is correct, the other party must submit a verification notice to the approved system within 1 business day confirming that the information is correct.~~
- ~~(38) If the parties to the a-risk management contract agree under clause 13.227(3A) to a correction to in accordance with subclause (5)(b) that the information made available under in accordance with clause 13.226(1) is not correct, the party that submitted that information to the approved system must submit the corrected that information in accordance with clause 13.225(4).~~
- ~~(49) If, the parties to the risk management contract have not complied with subclauses (2) or (3) within 10 business days of receiving the written notice from the WITS manager under clause 13.227(3A) or (4)(b), sent in accordance with subclause (5)(b), the parties to the relevant risk management contract are not able to agree whether or not the information made available in accordance with clause 13.226(1) is correct, despite using all reasonable endeavours, the WITS manager must indicate on the approved system that the information is subject to a long term dispute.~~

### **13.228 Confirmation of information submitted through approved system**

- (1) The **WITS manager** must, using the **approved system**, confirm receipt of any information received by it under clauses ~~13.219~~13.21, ~~or 13.222 to~~ 13.222A, 13.223 or 13.224.
- (2) Each confirmation under subclause (1) must contain a copy of the information received using the **approved system**, together with the date and time of receipt.

### **13.229 Submitting party or participant to check if no confirmation received**

- (1) If a **party or participant** ~~that submits information to the approved system~~ does not receive confirmation from the **WITS manager** under clause 13.228(1) ~~that the approved system has received the party's information~~ within 6 hours of submitting the information, ~~they that party~~ must, ~~within 1 business day of that 6 hour period ending,~~ contact the **WITS manager** within 1 business day from the end of that 6 hour period to check whether the **approved system** has received the information.
- (2) If the **WITS manager** ~~advises the party or participant that the approved system has not received the information,~~ the **party or participant** must resubmit the information.

- (3) This process must be repeated until the **WITS manager** has confirmed receipt of the information from the **party or participant** in accordance with clause 13.228.

### 13.230 Certification of information

- (1) Each **participant** that has submitted information to the approved system in accordance with ~~this subpart clause 13.225 in~~ a particular year ending 31 March must, ~~within 3 months of the end of the year ending 31 March by 30 June that year,~~ certify to the **Authority** that the information submitted was correct.
- (2) The certification provided under subclause (1) must be—
- (a) ~~[Revoked]~~
  - (b) in the ~~prescribed form~~ ~~form specified by the Authority~~; and
  - (c) signed and dated by either—
    - (i) a director of the **participant**; or
    - (ii) the **participant's** chief financial officer, or person holding an equivalent position; or
    - (iii) the **participant's** chief executive officer, or person holding an equivalent position.

### 13.231 Appointment of auditor ~~Audit of information~~

- (1) The **Authority** may, in its discretion, ~~require~~ ~~carry out~~ an **audit** as to whether a **participant** has complied with this subpart.
- (2) If the **Authority** ~~requires an audit~~ ~~decides~~ under subclause (1) ~~that a participant should be subject to an audit,~~—
- (a) ~~the Authority must require first give written notice to the participant requiring the participant to nominate an appropriate auditor;~~
  - (b) ~~t~~ ~~The participant must provide that nomination in writing to the Authority within a reasonable timeframe;~~
  - (c) ~~t~~ ~~The Authority may direct the participant to~~ ~~must~~ appoint the **auditor** nominated by the **participant**; ~~and~~
  - (d) ~~i~~ ~~If the participant fails to nominate an appropriate auditor within 20 business days, a reasonable timeframe,~~ the **Authority** may direct the participant to appoint an **auditor** of the Authority's ~~its own~~ choice.
- (2A) The participant must appoint an auditor in accordance with a direction made under paragraph (2)(c) or (2)(d).

### 13.231A Audit process

- (13) A **participant** subject to an **audit** under this clause must, on request from the **auditor**, provide the **auditor** with a copy of every **risk management contract** that it has entered into in the previous 12 months or within such other period specified by the **auditor**.
- (2) The **participant** must provide ~~the this audit~~ information no later than 20 **business days** after receiving a request from the **auditor** for the information.
- (34) The **participant** must ensure that the **auditor** ~~produces~~ ~~provides the Authority with an~~ **audit** report on the **participant's** compliance with this subpart ~~and submits the audit report to the Authority within the timeframe specified by the Authority. that has been prepared in accordance with subclauses (4A) and (5).~~
- (4) Before the audit report is submitted to the Authority, the auditor must refer any apparent failure by the participant to comply with this subpart that the auditor has

identified to the **participant** for comment within the timeframe specified by the **auditor**.

- (54A) The **audit** report must include any comments from the **participant** on any apparent non-compliance that the **auditor** referred to the **participant** under subclause (4) found by the **auditor** if the **participant** provided comments to the **auditor** within the a-time specified by the **auditor**.
- (65) The **audit** report ~~must~~does not need to contain a copy of any **risk management contract** that the **participant** has provided to the **auditor** in accordance with subclause (13), unless the **Authority** has specifically required requested that the **auditor** to include a copy of any **risk management contract** in the **audit** report~~do so~~.

### 13.232 Payment of costs relating to audits

- (1) If an **audit** establishes, to the reasonable satisfaction of the **Authority**, that a **participant** may not have complied with this subpart ~~(whether or not the **Authority** appoints an investigator to investigate the alleged breach)~~, the **participant** must pay for the **audit** even if the **Authority** declines to appoint an investigator to investigate the alleged breach.
- (2) If the **Authority** considers that the apparent non-compliance of the **participant** is minor or relates to some (but not all) of the clauses in this subpart, the **Authority** may, in its discretion, make an assessment regarding the proportion of the costs of the **audit** that are to be paid by the **participant**, and those costs must be paid by the **participant**.
- (3) If an **audit** establishes to the reasonable satisfaction of the **Authority** that the **participant** has complied with this subpart, the **participant** is not required to pay any of the **auditor**'s costs.

### 13.233 WITS manager and Authority must ~~not publish~~ keep certain information and ~~may use information only under this subpart~~ confidential

- (1) The **Authority** must keep, and ensure that the **WITS manager** ~~and each **auditor** appointed under clause 13.231(2)~~ keeps, information submitted to the **approved system** under this subpart ~~clauses 13.219, or 13.222 to 13.224 and copies of any **risk management contract** provided to the **auditor** under clause 13.231~~ confidential, unless—
- (a) the information is provided by the **Authority** to subcontractors or **service providers** that the **Authority** appoints to provide services for the purposes of this subpart, and those subcontractors or **service providers** have agreed to keep that information confidential, on the same terms as apply to the **Authority** under this clause; or
- (b) disclosure is required to enable the **Authority** to carry out its obligations and duties under the Act, the Code or the Electricity Industry (Enforcement) Regulations 2010 or is otherwise the information is required to be disclosed by law; or
- (c) the ~~party, or parties~~ or other persons to whom the information relates have provided written consent to the disclosure; or
- (d) any of the information in a **risk management contract** is made available in accordance with clause 13.226(1); or

- (e) the information is otherwise publicly available at the time that the Authority discloses it.
- (1A) The obligation in subclause (1) does not prevent the Authority from—
- (a) using the information for any purpose in connection with the Authority’s objectives set out in section 15 of the Act or the Authority’s functions in section 16 of the Act or section 14 of the Crown Entities Act 2004; or
- (b) disclosing the information in connection with a purpose referred to in paragraph (a) in anonymised form or in consolidated form.
- (2) The Authority may use ~~the information submitted under clause 13.222 and~~ copies of a **risk management contract** provided to the Authority under clause 13.231A(6) by an auditor appointed under clause 13.231(2) only for purposes related to this subpart and the enforcement of this subpart.

### 13.234 No misleading information

A party may not submit any information that, at the time the information was submitted, was misleading or deceptive or likely to mislead or deceive.

### 13.235 Risk management contracts must be lawful

A party may not submit information if that party knows or ought reasonably to know that the **risk management contract** to which that information applies would contravene any law.

### 13.236 Availability of information

The **WITS manager may only remove** information that is submitted under clauses 13.219, 13.223, or 13.224 ~~may only be removed~~ from the **approved system** ~~after~~ 12 months ~~following~~ after the termination of the **risk management contract**.

### 13.236AA Requirement to provide consent to exchange

- (1) Each **participant** must ensure that, before placing any bid or offer for, or entering into, an exchange-traded **risk management contract**, it has provided the consent described in clause 13.236AA(2) to the exchange through which the bid or offer will be placed or contract entered into, which consent must continue to be in effect at the time any such bid or offer is placed or contract is entered into.
- (2) The participant must ensure that the consent ~~required under subclause (1) must be~~ is in the **prescribed form** and allows the exchange to provide any of the following de-anonymised information (including historical information) to the **Authority** at such frequency as may be required by the **Authority** from time to time:
- (a) any information, documents or data in relation to bids or offers placed for **risk management contracts**, or in relation to such contracts entered into, by, or on behalf of, the **participant** (including in relation to buy and sell prices, trading periods, volumes and quantities);
- (b) any information, documents or data in relation to the number of outstanding **risk management contracts** held by, or on behalf of, the **participant** at the end of each **trading day**;
- (c) where the **participant** has an agreement with an exchange that imposes requirements on the **participant** in relation to the exchange’s market-making scheme for **risk management contracts**, any other information, documents or

data that the **Authority** may require in relation to the **participant's** performance of its obligations under that agreement.

- (3) ~~Each~~**The participant** must ensure that, all necessary arrangements are in place with any agent, associate, contractor, service provider, or other person acting on behalf of, or on the instructions of the participant, immediately after providing consent in accordance with subclause (1), ~~all necessary arrangements are in place with any agent, associate, contractor, service provider, or other person acting on behalf of, or on the instructions of, the participant~~ to permit and facilitate the provision of all information described in subclause (2) by the exchange to the **Authority**.
- (4) ~~Each~~**The participant** must, within 5 **business days** of receiving a written request from the **Authority**, supply the **Authority** with such evidence as may be reasonably required by the **Authority** to satisfy itself that the consent and arrangements required by this clause 13.236AA are in full force and effect.
- (5) The **Authority** may issue guidelines to assist **participants** to identify the types of information the **Authority** may obtain from an exchange and the types of arrangements it expects **participants** to put in place to permit and facilitate the provision of such information.

Q17. Do you have any comments on the drafting of the proposed amendment?

## Appendix B Format for submissions

<b>Submitter</b>	
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<b>Questions</b>	<b>Comments</b>
Q1. Do you agree with the proposal to retain the existing categories of risk management contract (CfDs, fixed-price physical supply and options contracts), with the proposed changes to ensure these contract categories remain fit-for-purpose? If not, please explain why?	
Q2. Do you agree with the proposed disclosure approach regarding the novel contracts? If not, please explain why?	
Q3. Do you support the proposal to exclude ASX-traded contracts from the hedge disclosure obligations, if it means losing access to detailed data at the individual contract level for these contracts? If not, please explain why?	
Q4. If you do not support excluding ASX-traded contracts from the hedge disclosure obligations, please describe what additional value this data holds compared with the aggregated insights available on the Authority's EMI website. If not, please explain why?	
Q5. Do you agree with the proposed approach to the disclosure of contract details including price, quantity, contract characteristics, contract profile, fuel type, trading period and location?  If not, please explain why and outline what you consider to be a more appropriate approach.	

Questions	Comments
Q6. Are there any other datapoints you think should be disclosed for each contract?	
Q7. Do you agree with the proposed voluntary approach to the disclosure of bids and offers?  If not, please explain why and outline what you consider to be a more appropriate approach?	
Q8. Do you agree with publishing the proposed data-points in Table 8 for individual contracts on the hedge disclosure system?  If not, please explain why and outline what you consider to be a more appropriate approach?	
Q9. What other insights and analysis on the risk management information do you think would be helpful to publish on the hedge disclosure system or EMI?	
Q10. Do you agree with the proposed approach to improving the hedge disclosure system?  If not, please explain why and outline what you consider to be a more appropriate approach?	
Q11. Do you support the option of using API to disclose risk management information, even if doing so requires investment and upgrade in your systems?	
Q12. Do you agree with the objectives of the proposed amendment? If not, please explain why?	
Q13. Do you agree that the benefits of the proposed amendment outweigh its costs?	
Q14. Do you agree that the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms	



Questions	Comments
consistent with the Authority's main statutory objective in section 15 of the Electricity Industry Act 2010.	
Q15. Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?	
Q17. Do you have any comments on the drafting of the proposed amendment?	

## Appendix C Cost Benefit Analysis

The Authority considers that enhancing the information available on OTC contracts would be of net benefit to consumers. The proposed changes in hedge disclosure requirements have relatively low costs since much of the information is already being generated and disclosed. The proposed changes offer numerous advantages, including increasing market transparency, enabling more effective risk management and fostering efficient investments, and enhancing confidence in market competitiveness. Additionally, increased transparency strengthens regulatory oversight and support higher-quality future policy developments.

Quantifying these costs and benefits accurately is challenging, but the Authority aims to provide indicative and conservative dollar values to demonstrate the financial impacts of improving hedge disclosure obligations. This paper employs sensitivity analysis to estimate the expected costs and benefits compared to the status quo. This method assesses how variation in a certain variable driven by transparency in the contracts market influences various aspects of the electricity market, such as retail efficiency, demand-side flexibility, and investment efficiency.

Broadening the scope of risk management information collected and published is expected to yield the following costs and benefits:

- a) enhanced market competition
- b) improved investment decisions
- c) efficiency of regulatory oversight
- d) compliance costs for participants
- e) potential for disclosure of commercially sensitive information
- f) costs for the Authority

### Benefits

#### Enhanced market competition

Improving the disclosure of information on OTC contracts is crucial for establishing a transparent and robust price curve, a fundamental aspect of an efficient electricity market. Timely access to reliable and accurate data enables participants to develop efficient hedging strategies, putting downward pressure on retail costs and prices. Moreover, the ability to hedge against spot price volatility based on prices that are visible to all market participants helps to reduce entry barriers and enhances competition in the electricity market.

The prospect of new entrants and the growth of smaller retailers drive innovation, creating added value for consumers. Even minor improvements are expected to yield significant economic benefits for the sector because of the relatively large size of the market.

In the context of this project, market benefits from a more transparent contracts market are measured in terms of operating cost reductions using following assumptions:

- 2,281,985 total ICPs as at 31 July 2023 - 1,943,403 million residential, SME 281,656, Commercial 206,335, Industrial 132,247

- Retail costs to for households is around \$2,213 per ICP per year<sup>16</sup> and for commercial and industrial customers is around \$4,000 per ICP per year<sup>17</sup>.

With these assumptions a 0.05% to 0.1% reduction in the energy cost paid by customers due to greater competition would yield an annual retail efficiency of \$3.4 - \$6.8 million in 2023 and when discounted at 4.85%<sup>18</sup> over 20 years, they total to \$42.8 - \$85.6 million in present value terms.

### **Improved investment decisions**

The substantial growth in variable renewable generation poses new challenges to the electricity system operation, emphasising the need for a secure and resilient electricity supply. With increased intermittent generation, investments in renewable generation and storage capacity become imperative to meet peak demand and ensure energy supply during dry periods. The primary policy objective is to enhance investment efficiency by increasing transparency, enabling participants to make timely and cost-effective investment decisions.

The Market Development Advisory Group (MDAG), established in 2017, is one of the advisory groups that provides the Authority with independent advice on the development of the Code and market facilitation measures. In line with this objective, it has examined how price discovery would work in the New Zealand wholesale electricity market in a renewable-based electricity system and published an Issues Discussion Paper in March 2022.<sup>19</sup>

MDAG's analysis suggests that an estimated investment of \$27 - \$37 billion is required by 2050<sup>20</sup> for generation and batteries. This translates to an average annual investment ranging from \$700 million to \$900 million until 2050. Such a monumental investment requires clear insights into future conditions to guide decisions and reduce uncertainties. Participants' willingness to commit the necessary capital at the right times is shaped by price signals in the wholesale electricity market. Ambiguous or distorted signals may deter investors, leading to supply gaps and unreliable services. Conversely, if signals are too strong, investment could occur in more expensive options or be premature – both of which would raise costs for society.

Improving information provision on future prices, transparency, and predictability can promote efficient investments in generation, storage, and networks by mitigating investment risks. A modest reduction of 0.05% to 0.1% in the average cost of capital/debt could yield an annual benefit of around \$1 million to \$1.5 million in investment. When calculated over a 20-years period at 4.85% discount rate, this translates to a total benefit of \$9 million to \$17 million.

### **Efficiency of regulatory oversight**

Increasing the Authority's access to information about OTC contracts is crucial for effective regulatory oversight of the electricity industry. It enhances the Authority's ability to perform its monitoring functions to promote competition in, reliable supply by, and efficient operation of, the electricity industry for the long-term benefit of consumers. The increased access to

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<sup>16</sup> <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-statistics-and-modelling/energy-statistics/energy-prices/electricity-cost-and-price-monitoring/>

<sup>17</sup> Average of commercial and industrial retail revenue extracted from generator-retailers annual report

<sup>18</sup> [Discount Rates and CPI Assumptions for Accounting Valuation Purposes | The Treasury New Zealand](#)

<sup>19</sup> [DRAFT, 6 Nov 20 \(ea.govt.nz\)](#)

<sup>20</sup> BCG report forecasted an investment of \$42 billion by 2030. This analysis is based on MDAG estimates which results in a more conservative cost of capital.

information enables the Authority to identify and respond to emerging issues to support market development, further increasing confidence in the market.

By providing the Authority with essential information on prices, supply and demand trends, market concentration and competitive behaviour, transparency enables thorough assessment of market competitiveness, structural support for price stability, and fair competition. It also allows continuous monitoring of factors driving price volatility and market liquidity levels. This comprehensive understanding empowers the Authority to formulate policies that align with the dynamic electricity market, reducing the need for unnecessary corrective interventions.

## Costs

### Compliance costs for participants

Currently all active participants in the contracts market already have existing policies in place to disclose their risk management information under the Code. The proposed changes aim to enhance this disclosure by requiring more comprehensive information, encompassing all contract types and detailed contract specifications such as shape and price. While these changes increase the compliance requirements, the additional data demands, as outlined in Table D.1, are not anticipated to be technically burdensome and are expected to incur minimal additional costs for participants.

To illustrate the financial impact of these enhancement relative to status quo, the Authority estimated indicative conservative dollar values. Disclosing the additional information on OTC contracts is projected to require 5 hours of analyst time per week for smaller participants and 8 hours for larger gentailers. This translates to approximately \$75,000 per year for 7 independent retailers (averaging \$10,000 each) and \$65,000 per year 4 large gentailers (averaging \$15,000 each). The total annual compliance costs are estimated to be around \$140,000. Over 20 years, considering a discount rate of 4.85%, this totals to \$1.8 million.

**Table C.1: Information collected on OTC contracts**

	Current Code	Proposed Code
Counterparty	✓	✓
Trade, effective and end date	✓	✓
Contract type	✓	✓
Quantity	✓	✓
Location	~	✓
Related contract clauses	~	✓
Price	~	✓
Load type		✓
Option style		✓
Fuel Type		✓
Trading period		✓
Delivery type		✓

✓ all contracts    ~ some contracts

## **Improvement costs for the Authority**

Improving information collected and published on hedge disclosure obligations could impose costs on the Authority in two areas: updating the hedge disclosure system and publishing more insights and information on the contracts market.

The Authority has the infrastructure in place to store and publish risk management information. It has full access to the information disclosed on the hedge disclosure system and receives weekly reports from NZX. Following a consultation process in 2020 the Authority also secured direct and automatic access to de-anonymised tick data from the exchange platform (ASX) on an ongoing basis.

Updating the hedge disclosure system to accommodate proposed Code amendments is projected to be straightforward and estimated to cost \$75k. The cost of publishing additional insights and information about OTC contracts on the Authority EMI website is projected to be minimal. It requires maximum 100 hours of Analyst time to design and 4 hours per week for ongoing support. This translates to approximately \$14,500 per year for ongoing process and \$7,000 for the initiation cost.

## **Potential for disclosure of commercially sensitive information**

The proposed additional disclosure requirements, specifically regarding price, node and type of contract, have raised concerns about potentially revealing commercially sensitive information of certain participants. The Authority acknowledges the risk of requiring disclosure of such sensitive information without robust data protection measures in place. Inadequate protection could undermine market confidence, leading to reduced investment and competitiveness.

Currently, information on OTC contracts is collected by the Authority and stored in its database. Participants disclose their electricity OTC contracts through the hedge disclosure system; a web portal hosted by NZX. NZX publishes a subset of disclosed information weekly on the web portal and shares all disclosed information with the Authority, which is used to create a database and monitor market efficiency.

The Authority, as a regulator, collects, stores, manages, and makes use of large amounts of electricity market data. A significant volume of the data we hold is either commercially sensitive or is potentially personally identifiable information. A secure, regularly audited, cloud-based storage and analytics platform is used by the Authority.

Data collection, management, storage and presentation is managed on a platform housed on the Microsoft Azure cloud, which has been risk-assessed and approved as an all-of-government offering – see the Azure cloud service agreement. Data within the Authority's cloud-based storage solution is encrypted and analysed within the Authority's secured environment. Access is strictly controlled and delegated to staff based on requirements. Limited read-only access can be granted to authorized personnel, including contractors or auditors, subject to internal approvals.

The Authority has had no reported breaches of its secure storage system and has a protocol to report breaches and near misses. All information and data the Authority holds, or has control of, is subject to the Official Information Act 1982 (OIA). The Authority is required by law to assess each request for access to official information on its merits. There are no exceptions to this requirement. However, when assessing a request for commercially

sensitive information the Authority will consider whether there is any basis on which it may withhold the information from disclosure (eg, whether any OIA withholding grounds apply).

**Table C.2- Improving hedge disclosure obligations – 20 years NPV calculation**

	Annual cost (\$million)	NPV (20 years) (\$million)
<b>Benefits</b>		
Enhancing competition	6.8	42.8 - 85.6
Improved investment decision	1-1.5	9 - 17
Efficiency of regulatory oversight	NA	NA
<b>Costs</b>		
Compliance costs	0.14	1.8
Improvement costs (initial investment)	0.75	0
Disclosure of commercially sensitive information	NA	NA

## Appendix D Zones for disclosure of contract information

Grid Zone area	Normalisation node	Description
Zone A	Otahuhu OTA2201	Northland
		Auckland
Zone B	Whakamaru WKM2201	Hamilton
		Edgecumbe
		Hawkes Bay
Zone C	Haywards HAY2201	Taranaki
		Bunnythorpe
		Wellington
Zone D	Islington ISL2201	Nelson
		Christchurch
		West coast
Zone E	Benmore BEN2201	Canterbury
		Otago
		Southland