MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Consultation submission form

The Ministry of Business, Innovation and Employment (MBIE) would like your feedback on:

A proposed reliability obligation to manage dry-year risk.

Please provide your feedback by **5pm, 21 July 2026**

When completing this submission form, please provide comments and supporting explanations for your reasoning where relevant. Your feedback provides valuable information and informs decisions about the proposals.

We appreciate your time and effort taken to respond to this consultation.

Instructions

To make a submission you will need to:

1. Fill out your name, email address, phone number and organisation. If you are representing an organisation, please provide a brief description of your organisation and its aims, and ensure you have the authority to represent its views.
2. Fill out your responses to the discussion document questions. Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
3. If your submission has any confidential information:
    i. Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE will take such declarations into account and will consult with submitters when responding to requests under the Official Information Act.
    ii. Indicate this on the front of your submission (e.g. the first page header may state "In Confidence"). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
    iii. Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.
4. Submit your feedback:
    i. By email to *electricitymarkets@mbie.govt.nz*
    ii. By mailing your submission to:

    Electricity Markets Policy
    Building, Resources and Markets
    Ministry of Business, Innovation and Employment
    PO Box 1473, Wellington 6140
    New Zealand

Submitter information

MBIE would appreciate if you would provide some information about yourself. If you choose to provide information in the section below, it will be used to help MBIE understand how different sectors view the proposals and options for requiring and achieving minimum onshore fuel stockholding. Any information you provide will be stored securely.

Your name, email address, phone number and organisation

Name:	Alan Eyes
Email address:	Privacy of natural persons
Phone number:	
Organisation:	Individual submission

☐ The Privacy Act 1993 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish.

☐ MBIE may upload submissions and potentially a summary of submissions to its website, **www.mbie.govt.nz**. If you do **not** want your submission or a summary of your submission to be placed on either of these websites, please tick the box and type an explanation below:

I do not want my submission placed on MBIE's website because... [insert reasoning here]

Please check if your submission contains confidential information

☐ I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE.

General comments

Thank you for the opportunity to submit on this important paper. The importance transcends the recommendations to manage dry year risk. It is recognition that there is an issue that the current market structure and regulatory settings have not adequately dealt with.

The Government led initiatives to build infrastructure for LNG import, and now introduce energy reliability obligations on key participants in the electricity industry, should be seen as a positive in addressing the underlying risks associated with NZ's highly renewable and hydro dependent electricity system. To debate the likely success or otherwise of these initiatives is not the purpose of this submission. Rather to contribute to the focus of the paper which is how the obligation regime "…could best be designed to maximise its benefits and manage the risks…" [1]

The proposed regime is built around key factors:

a. Maintaining the core market structure relative to other options (set out in Table 4).
b. There is nothing to indicate other market related mechanisms would have a higher likelihood of success.
c. It is a regime that can be implemented relatively quickly given it is integrated into the existing market and regulatory mechanisms.
d. The proposed obligations, and resulting direct impact, are limited to a few large entities.

The proposed long-term obligation focuses on sufficient energy during winter, but this does not put a focus on the key area of the current lack of firming generation. The lead time to design, consent, and build new generation (and perhaps transmission) is questionable within a 5-year window, but more particularly the 3 year obligation period.

The paper notes there will be a cost for this "insurance". For gentailers there is a natural hedge (depending on the size of their retail book). However, for large direct participants – consumers and independent retailers – they will face the challenges, costs, and uncertainties in negotiating for long-term energy in a market where the negotiating power rests with the generator, particularly for firmed energy.

The water value debate is central to the cost equation. Likewise, the acknowledged risk premiums[2] in futures prices, and the potential impact on the Market of an increased number of PPA's, are not canvased in the paper.

The long-term obligation placed on wholesale purchases does largely maintain the current market-led approach. However, questions remain as to the likely success of this approach compared with direct obligations placed on generators.

Short-term obligations placed on generators relating to fuel is supported, but managing and pricing hydro lake levels with a NZ Inc lens remains a major issue.

I will be pleased to provide any further explanations that may be helpful.

Regards

Alan Eyes

[1] Para 53.
[2] MBIE, Energy Portfolio Weekly Report Week commencing: 09/03/2026

Questions for the consultation

Q1. Do you agree with the analysis in this chapter of why New Zealand does not currently have sufficient dry-year firming? If not, where do you disagree?

☐ Yes ☒ Yes, with changes ☐ No

Please explain your views.

The paper captures a number of the core reasons for the situation the country has faced and continues to face. 2024 was 'the awakening' for some, but the risks were evident, and impacts real prior to this, and continue today. In essence reliance on water in the lakes and availability of aging thermal plant and assured fuel supply for that plant. This reliance will remain during the transition to a system with an over-abundance of renewable energy sources.

While the paper identifies the reduction in thermal capacity since 2012, it does not cover the significance of 2018. This was the watershed year, and not just because of the introduction of a ban on off-shore oil and gas exploration, and the start of the significant decline in the Pohokura gas field. There was an immediate impact on major electricity users (with some shielded in the short-term by financial instruments) with a doubling + of wholesale prices generally unrelated to short-run marginal cost, and out of sync with the long-run cost of new generation.

That has contributed to the deindustrialisation[3] of NZ with flow-on economic and social consequences, particularly in the provinces. Contributing to this is a market structure dominated by the four vertically integrated gentailers who until recently shielded the mass-market customers from the wholesale market and avoided the public media headlines. The key failing has not so much been this market-based approach. Rather that the governance and regulatory overview of the energy structure, and in particular the Market, that has not heeded the signals that have been evident for 8 years now. There has been a failure to act in a meaningful way to assess and correct what the market has not been able to achieve ie "to enable a market-led electricity system which turns abundant renewable energy into reliable and affordable electricity that is reliable in dry years"[4].

Q2. What do you consider to be the principal remaining barriers to investment in additional dry-year firming following the recent reforms to improve fuel adequacy (Government procurement of an LNG importation facility)?

Please explain your views.

Investment, be this supply side or demand, requires a business case that has a high degree of assurance as to return on that investment. The paper rightly points out the tenuous nature of firming investments with an **energy only market**[5].

LNG would not be proceeding without the Crown effectively providing the infrastructure and a similar approach may be required to under-write firming generation capacity.

While I am not promoting a capacity type market, this may still be required to overcome barriers to invest.

[3] The cost of Deindustrialisation: How New Zealand's manufacturing decline threatens our economic future - NZ Manufacturer

[4] Fact sheet: A proposed reliability obligation to manage dry year risk, The objective.

[5] Para's A13-A15.

Q3. Do you agree that, despite the recent reforms to improve fuel adequacy, information, roles and tools, further measures are still needed to strengthen incentives to invest in dry-year firming? If not, please explain why not?

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree

Please explain your views.

HOWEVER, the measures in table 2 to strengthen the dry-year regulatory framework require detailed critique.

Consideration is required of the System Operator taking a lead role rather than the Electricity Authority (EA). The EA as the Regulator – designer, implementer, reviewer, and enforcer of the current market regime – has existed for 16 years. While the EA oversees the mechanisms for a robust transactionally sound day-to-day market, intervention has now been required to rectify deficiencies around system-risk[6]. This does not engender confidence the EA should be the party talking a lead role in implementing and managing the reliability obligation.

Table 2, Measures to strengthen the dry-year regulatory framework, require deeper analysis and discission. When it comes to requirements, a distinction is required between "Participants" (a definition within the Code) who are the electricity industry (generators, retailers, etc), and customers (direct purchasers from the Market). One such area requiring deeper consideration is the Stress Test. (refer the 2016/17 consultation process (https://www.ea.govt.nz/documents/9794/Review-of-the-stress-test-regime-decision-paper.pdf).

Q4. Do you agree that there is value in building new measures on existing regulatory architecture, rather than creating an entirely new regime from first principles? Why or why not?

☐ Yes, I agree ☐ No, I don't agree

Please explain your views.

There is not a Yes or No answer to this question.

There is advantage in being able to relatively quickly introduce an obligation regime built on existing mechanisms. This would not be possible with a 'first principles' approach

Under the current "regulatory architecture" NZ has built and maintained an internationally acknowledged transactional market structure handling the day-to-day complexities off full nodal real-time pricing. However, that same "architecture" has been inadequate in responding to medium to long-term issues and has contributed to some very poor outcomes for NZ of recent years (see comments to Q1 and footnote 2 above).

The fact Government intervention has been required to underwrite a mechanism for a supply of firming fuel (LNG), and now these proposals relating to reliability obligations, is a strong indicator that closer examination is required of some of the "first principles" and/or the bodies that administer them. This should be a follow-on review and led by MBIE.

[6] Refer December 2025 Cabinet papers

Long-term Obligation

Q5. Do you agree that a long-term obligation should be introduced to strengthen incentives to secure sufficient dependable winter cover in advance where a forecast winter energy adequacy shortfall is identified? If not, why not?

☐ Yes, I agree ☐ No, I don't agree

Please explain your views.

There is currently inadequate "secure sufficient dependable winter cover" relating to energy.

While the paper jumps to an obligation-based approach to finding a solution, any decision needs to be made mindful of the trade-off against approaches noted to Appendix A including alternatives such as a capacity market. In particular one gets the sense generation based obligation is discounted because of 'distortion' to the current market settings, but in fact may delivery a better outcome.

Long lead-times for new electricity infrastructure means looking five years out is sensible. However, 5 years is a long time-horizon for providing the degree of precision expected in matching supply with demand given the structural and regulatory fragmentation of the NZ relatively small (in world terms) electricity system, and the drive for electrification and economic growth.

Building on the current market mechanism does make sense, (albeit an administrative intervention in the market) and keeps 'distortion' of the market mechanisms to a minimum. Whether the proposed obligation approach will deliver the required outcomes, is an open question.

Q6. Do you agree that the long-term obligation should be placed on large wholesale purchasers rather than on, say, generators or the market more broadly? If not, which parties should hold the obligation, and why?

☐ Yes, I agree ☐ No, I don't agree

Please explain your views.

Obligations placed on generators would be a more direct way of addressing the winter energy and potentially firming issues. It is acknowledged this would be a distortion to the Market and fringe on a capacity market approach.

Obligations placed on large wholesales purchases should be restricted to those who are in the business of retailing electricity. (That differentiates wholesale purchasers for own use).

Electricity consumers who contract with a retailer for supply should rightly have an expectation of continuity of energy availability consistent with their supply contract, and for mass-market customers that is on-going. An obligation placed on retailers is consistent with the expectation of consumers. It is sensible there is a de minimis for obligations on retailers.

For consumers who are direct participants in the market (large consumers and small independent retailers), there is rightly an expectation the regulatory settings will be such the market can be replied upon to have energy available, albeit the price may and will vary. This expectation is built around the fact the regulatory setting prevents a consumer or independent retailer contracting for physical supply ie all generation (>10MW) must be sold into the Market and a direct consumer has no assurance the energy they contract for (financially) will be available to them in time of market stress.

For all wholesaler purchasers it is inappropriate that those brought within the regime are required to take on a proportionate share of the uncovered total. This would be an administrative

intervention over-reach, particularly for those who are not retailers ie direct market consumers and independent retailers. (see also comment to Q9). Any uncovered market volume should be provided for by some other mechanism.

Q7. Do you agree that a de minimis threshold should apply to limit the obligation to wholesale purchasers with a material winter load? If so, is the 500 GWh threshold appropriate, and should it be measured by reference to aggregate load over the winter period?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree

Please explain your views.

If there is to an obligation on wholesale purchases, a de minimis is sensible if for no other reason than for efficient monitoring and compliance.

If direct market participant consumers are to be part of the obligation (see comments to Q7), then 500GWh is not a sensible threshold. The paper references NZ Aluminium Smelter, but my understanding is there are other businesses that have gross consumption that may fit within or close to the criteria. Any regulation should avoid a threshold that creates doubt as to who is included taking into account variations in business activity from year to year.

The Aluminium Smelter is clearly >10% of the total energy market. The next level of consumer is in the 2-3% level of total. Data centres are currently the only identified businesses that could potentially be in the size range of Pacific Aluminium.

The 4 gentailers make up ~85% of the market and are all of the size of Aluminium Smelter or larger and are specifically included in the paper for inclusion. The next level retailer is ~5% of the market.

RECOMMENDATION: The threshold for wholesale purchases to be included in the regime be set at 5% to 10% of winter GWh's depending upon the intent or otherwise to bring significant scale independent retailers and/ or data centres of size into the regime.

Q8. Do you agree with the proposed staged approach under which a warning notification would be issued five years out, a binding obligation would be issued three years out and compliance would be assessed one year out? If not, what timing or trigger approach would be preferable?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree

Please explain your views.

The bigger question is "…whether a long-term obligation can be targeted with sufficient accuracy to address the winter energy adequacy shortfalls…"[7] . Given a dynamic economy and moves to further electrification, it is hard to see how the balance can be maintained between over-conservatism and underinvestment. Views from others, in particular the system operator, will be a key to judging if the 5/3 year obligation approach will be successful.

This question also needs to be answered in conjunction with my comments in the opening section re lead-time to design, consent to build generation, and where required, transmission.

There is also a risk that obligations considered an over-reach, lead to retailers failing to take on new customers, or large potential new consumers looking to invest in NZ are discouraged.

Q9. Do you agree that any identified adequacy shortfall should be allocated among obligated wholesale purchasers by reference to their shares of expected winter demand? If not, what allocation approach would be preferable?

[7] Para 53

☐ Yes, I agree ☐ I agree in part ☒ No, I don't agree ☐ Not sure/no preference

Please explain your views.

There should be no obligation on wholesale purchases for own use. The reasons for this are captured in my response to Q6.

For wholesale purchasers for retailing purposes, there is a logic to say they should be required to have sufficient supply assured to meet the obligations for which they contract. For the mass-market this includes an expectation there is a continuity of energy availability for the medium/long-term.

To extend these obligations to proportionally cover the whole-market is an intervention which can be considered regulatory overreach within the market-based approach the proposed obligation regime is endeavouring to protect.

Q10. What forms of cover should be eligible to meet the long-term obligation?

Please explain your views.

No comment

Q11. How should the compliance framework be designed? In particular, what evidential standard should apply, and how should the regime address more difficult issues such as hydro treatment, attribution, portfolio treatment, shared arrangements and double counting?

Please explain your views.

See response to Q12.

Q12. Should the regime deal with arrangements that appear compliant in advance but later fail because of counterparty failure, project delay, force majeure or similar events? If so, how?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

There is limited value in a regime that does not have consequences for non-delivery. However, penalties applied post a 'lights-out' event are of limited comfort to consumers who have suffered 'loss'.

Given the somewhat uncertain supply/demand balance some years out, and the many factors that cannot reasonably be foreseen, a compliance regime that distinguishes between mis-management and mis-fortune should be considered.

An independent review mechanism of the adequacy and robustness of compliance planning ie ex-ante compliance as the key measure rather than focus just on an ex-post inquisition. This approach is recognised in para 69. A revamped and independent Security and Reliability Council should be considered for this role.

Q13. Should penalties for non-compliance be designed and calibrated to tilt investments to comply without overly encouraging inefficient over-procurement? Please explain your reasoning.

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

I am not confident obligations crystallised at 3 years, and penalties at the one-year out mark[8] will allow sufficient time to rectify an observed shortfall particularly in relation to firming generation.

Q14. What other design features, transitional arrangements, or implementation issues should be considered to ensure that the long-term obligation is workable, proportionate, cost-effective, and beneficial for consumers?

Please explain your views.

No comments

[8] Para 69

Short-term Obligation

Q15. Do you support the introduction of a short-term obligation as a targeted backstop where a near-term winter reliability risk emerges despite the operation of the long-term obligation?

☒ Yes, I agree ☐ No, I don't agree

Please explain your views.

This compliments the longer-term obligation approach, and the time-related uncertainties that brings.

Q16. Do you agree that the short-term obligation should apply to large generators whose contribution to annual energy supply exceeds a defined *de minimis* threshold? We welcome views on whether 2,500GWh of expected annual generation is the appropriate threshold.

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree

Please explain your views.

No view is expressed on the threshold level other than a balance is required between effective outcomes and the overall compliance cost related to the number of generators captured by the nominated threshold.

As outlined above, annual GWh's do not necessarily translate to firming during critical periods of energy stress.

Q17. Do you consider the proposed trigger – projected hydro storage crossing the Watch Curve within 90 days if it declines at an assumed rate of 18GWh/day – is appropriate? If not, what alternative trigger should be considered?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree

Please explain your views.

Given the variability surrounding hydro lake levels, 90 days is a sensible starting point for the proposed obligation regime.

There is a wider question regarding lake level management that is overdue for consideration. While environmental factors need to feature in the review, the prime energy consideration is a NZ Inc perspective which is different to the current investor driven perspective of the four gentailers.

Q18. Do you agree with the proposed monitoring period, notification process, three-week response window, and approach to switching off the obligation if conditions improve? If not, what alternative process would be preferable?

☐ Yes, I agree ☐ No, I don't agree

Please explain your views.

No comment

Q19. Do you agree that each obligated generator's obligation should be determined by reference to the winter load its portfolio is expected to support, including its own retail load and relevant contractual commitments? If not, what alternative basis should be used?

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree

Please explain your views.

Q20. What forms of firm energy fuel cover should qualify under the short-term obligation? In particular, how should hydro be treated, including whether, and in what circumstances, existing stored water should be capable of counting toward compliance?

Please explain your views.

Existing stored water has limited relevance to the short-term obligation 3 months out. Water management practices and models that independently review generator expectations will be more relevant.

Q21. How should compliance be assessed? We welcome views on what evidence should be required, and how the Authority should approach questions of firmness, attribution, double counting, and reliance on third-party arrangements (including examples of how these matters are addressed in other jurisdictions).

Please explain your views.

As per comments to Q12 above, it is suggested this monitoring and assurance be independent of the EA. The suggestion is a revamped and independent Security and Reliability Council.

Q22. How should the regime deal with arrangements that appear compliant in advance but fail in practice because of upstream supply failure, transport disruption, force majeure, counterparty failure, or similar events?

Please explain your views.

Ex-post penalties are of little comfort to consumers who loose supply. The prime focus should be on ex-ante audits of adequacy.

Q23. How should penalties for non-compliance be designed and calibrated so that they provide a credible incentive to secure genuine firm fuel cover without encouraging inefficient or disproportionate responses?

Please explain your views.

Ex-post penalties are of little comfort to consumers who loose supply. The prime focus should be on ex-ante audits of adequacy.

Q24. What other design features, transitional arrangements, or implementation issues should be considered to ensure that the short-term obligation is workable, proportionate, cost-effective, and beneficial for consumers?

Please explain your views.

No comment.