

20 September 2019

Mr Paul Fearon  
Director  
Energy Safe Victoria  
Level 5, 4 Riverside Quay  
SOUTHBANK VIC 3006

Dear Mr Fearon *Paul*

**REGULATORY IMPACT STATEMENT FOR ELECTRICITY SAFETY (ELECTRIC LINE CLEARANCE) REGULATIONS 2019**

I would like to thank staff at Energy Safe Victoria (ESV) for working with our team on the preparation of the Regulatory Impact Statement (RIS) for the proposed Electricity Safety (Electric Line Clearance) Regulations 2019 (the proposed Regulations).

As you know, under section 10 of the *Subordinate Legislation Act 1994* (the SLA), the Commissioner for Better Regulation is required to provide independent advice on the adequacy of analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 19 September 2019 meets the adequacy requirements of the SLA.

**Background**

The *Electricity Safety Act 1998* (the Act) is the primary legislation concerning electrical safety in Victoria. The purpose of the Act is to ensure the safety of electricity supply and use, and to consider the reliability and security of electricity supply and the efficiency of electrical equipment. The proposed Regulations are one of a number of sets of regulations that sit under the Act.

The proposed Regulations include the Code of Practice for Electric Line Clearance and prescribe various standards and procedures that apply to 'responsible parties' that include Electricity Businesses (EBs)<sup>1</sup>, Councils and others. The purpose of the proposed Regulations is to mitigate the hazards resulting from trees contacting powerlines and causing faults that can result in fires, electrocution and supply interruptions resulting in injury, death and economic losses. This purpose is balanced against the cost of tree clearance as well as the environmental and amenity values that trees provide. ESV notes in the RIS that the proposed Regulations largely continue the same requirements as the current Regulations.

---

<sup>1</sup> Following the RIS, EBs is used as a generic term for Major Electricity Companies and Distribution Businesses.

## Options

The Act requires that regulations be in place. The RIS considers two options against a base case of minimal regulations. These two options are to re-make the current Regulations (Option 1) or to re-make the current Regulations with targeted changes intended to improve the effectiveness and efficiency of the Regulations (Option 2).

The changes in Option 2 include exceptions to the minimum clearing distance in certain cases allowing less pruning of trees, changes to requirements for management plans, amending the definition of a suitably qualified arborist to adopt the Certificate III arborist qualification, a change to public notification and dispute resolution requirements, as well as some minor changes to the objectives and wording of the Regulations.

## Analysis

ESV notes it is difficult to estimate accurately the impact of the proposed Regulations due to the length of time that some form of regulations have been in place, the difficulty in establishing conclusively causes for fires and the extent to which climate, weather and other factors affect the rate at which vegetation makes contact with powerlines. Therefore, ESV has used a multi-criteria analysis (MCA) with four criteria:

- costs;
- safety;
- reliability of the electricity supply network; and
- protection of amenity, tree value and the environment.

ESV has used estimated values to illustrate the scale of the expected impacts of regulations. The estimated gross costs of the proposed Regulations are approximately \$85m per year and include \$72m in tree clearance costs for Electricity Businesses, \$11m in tree clearance costs for Councils and \$1.6m in regulatory costs for ESV. There are other regulatory costs incurred by Electricity Businesses and Councils including the cost of providing notifications, undertaking consultations and handling disputes however ESV has not quantified these costs due to insufficient data.

ESV explains in the RIS that safety improvements are difficult to estimate precisely due to various changes between the original introduction of the regulations and current conditions, however, the cost of fires attributable to tree 'grow-ins' (trees growing into prescribed clearance space) was estimated to have fallen from approximately \$170m per annum before regulations were introduced, to approximately \$2.7m per annum, with corresponding improvements in terms of reduced injuries and deaths. Tree contact with powerlines due to 'grow-ins' can also cause electricity supply interruptions resulting in costs to customers and the community. The proposed Regulations are expected to reduce the number of interruptions and estimated to avoid costs of \$190.8m.

ESV discusses the environmental and amenity value of trees in the RIS. ESV explains that the pruning of trees for safety and reliability means that some of this value is lost. ESV uses a range of possible values for trees to derive indicative estimates of the value lost through pruning. The proposed Regulations are expected to result in a smaller volume of vegetation cleared by EBs and a greater volume of vegetation cleared by Councils compared to the base case of no regulations. ESV explains that a smaller volume cleared by EBs outweighs the greater volume clearance by Councils, resulting in a net improvement to environmental and amenity values of trees overall.

Options 1 and 2 achieve similar scores on most criteria. However, Option 2 is preferred as it has lower costs due to reduced regulatory burdens, and has greater benefits in terms of protecting amenity, tree value and the environment due to allowing less pruning in certain circumstances.

## **Implementation and evaluation**

ESV notes in the RIS that implementation of the proposed Regulations will be very similar to the current Regulations, but that ESV has increased its compliance activities which has resulted in the identification of non-compliance issues.

ESV explains in the RIS that it is difficult to separate out the effect of the Regulations from other factors. In particular, this is due to the inherent volatility of conditions such as climate and weather, and the difficulty of attributing incidents unambiguously. ESV notes that the effects of changes to the Regulations are likely to be obscured by these other factors which have a greater impact. Nonetheless, ESV has committed to implementing the recommendations of the Review of Victoria's Electricity and Gas Safety Network (the Grimes Review), including by reviewing and improving its data collection practices and data collection capability. ESV will continue to consult with the Electric Line Clearance Consultative Committee, which consists of key stakeholders, to inform its regulatory approach.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 9092 5800.

Yours sincerely,



Anna Cronin

**Commissioner for Better Regulation**