



COVERSHEET

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| Minister | Hon Simon Watts | Portfolio | Energy |
| Title of Cabinet paper | A Secure Network: Amendments to the Electricity (Hazards from Trees) Regulations 2003 | Date to be published | 29 May 2025 |

List of documents that have been proactively released

| Date | Title | Author |
|---------------|---|-----------------------------------|
| April 2025 | A Secure Network: Amendments to the Electricity (Hazards from Trees) Regulations 2003 | Office of the Minister for Energy |
| 8 April 2025 | A Secure Network: Amendments to the Electricity (Hazards from Trees) Regulations 2003 EXP-25-MIN-0043 Minute | Cabinet Office |
| 28 March 2025 | Regulatory Impact Statement: Amendments to the Electricity (Hazards from Trees) Regulations 2003 | MBIE |

Information redacted

YES / **NO** *(please select)*

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of Confidential advice to Government.

Office of the Minister for Energy
Cabinet Economic Policy Committee

A Secure Network: Amendments to the Electricity (Hazards from Trees) Regulations

Proposal

- 1 This paper seeks agreement to amendments to the Electricity (Hazards from Trees) Regulations 2003 (Regulations). The purpose of the Regulations is to protect the security of electricity supply, and the safety of the public.

Relation to government priorities

- 2 The amendments proposed in this paper contribute to implementing the Government's commitment in Electrify NZ to unleash transmission and distribution infrastructure.
- 3 Electrifying large parts of the economy will require enormous investment in transmission and local lines. Reforming the Regulations will support investment by reducing the risks of outages arising from changes in land use and weather patterns.
- 4 A resilient and secure electricity supply is crucial for New Zealand's future prosperity. Protecting electricity lines from vegetation encroaching or trees falling is vital to ensure electricity supply remains reliable and safe.

Executive Summary

- 5 The Regulations create a non-encroachment Growth Limit Zone (GLZ) around lines. Following Cabinet agreement in September 2024 to Phase 1 amendments, the GLZ was amended so it reaches vertically to the sky for lines with a voltage greater than 11kV. The Notice Zone was also extended by 1 metre, so lines owners can issue cut or trim notices well before a tree encroaches in the GLZ and both tree and line owners have more time to address encroaching trees.
- 6 However, the current scope of the Regulations is too narrow to address risks from trees falling onto lines from outside of the GLZ. Changes in land use and weather patterns are increasing risks to the security of electricity supply and causing more outages and jeopardising public safety. A significant proportion of outages in recent severe weather (e.g. Cyclone Gabrielle) occurred because of trees falling on lines from outside of the GLZ.
- 7 Strengthening these Regulations to better deal with the risk posed by trees was recommended by the *Government Inquiry into the Response to the North Island Severe Weather Events*. Lines owners have long requested the Regulations be improved.
- 8 I am proposing Phase 2 amendments to the Regulations, to improve security of supply and public safety while limiting adverse impacts on electricity consumers, lines owners, landowners, tree owners and the general public.
- 9 I propose the amendments outlined in the following table:

| Proposed amendment | | To apply in these areas | Transition period |
|---------------------------------------|--|--|---|
| KEY CHANGES | | | |
| 1 | Reduce risks posed by existing trees: empower lines owners to assess hazardous trees around lines and issue Notices requiring that they are removed within <i>45 working days</i> (moderate risk), or <i>25 working days</i> (high risk). | Both urban and non-urban areas. | Two years from Gazettal, before a Treefall Hazard Notice may be issued. |
| 2 | Reduce risks posed by new trees: where there is no existing forest, a restriction on new planting 24 metres either side of lines to trees that will be lower in height than their distance from the lines at maturity. | Non-urban areas (would not apply to urban areas or already forested land). | One year from Gazettal, before restrictions will apply. |
| MINOR AND TECHNICAL AMENDMENTS | | | |
| 3 | Extend the GLZ ‘clear to the sky’ arrangements for lines 11kV or below in non-urban areas. | Non-urban areas (this already applies in urban areas). | Effective 16 October 2026 to align with existing ‘clear to the sky’ amendments. |
| 4 | Modernise the Regulations by retaining the requirement for online communication (including forthcoming amendments) by lines owners, and no longer requiring publication in local newspapers or written notice to every customer. | All areas. | No transition period. |

10 A summary of the rationale and of proposals 1 and 2 is contained in **Appendix Two**.

Background

- 11 The Regulations were made in 2003 to deal with the risk to electricity supply posed by vegetation encroaching on lines. The Ministry of Business, Innovation and Employment (MBIE) has undertaken a review of the Regulations.
- 12 The Regulations already create a non-encroachment zone around lines (GLZ). Following Cabinet agreement in September 2024 to Phase 1 amendments, the GLZ was amended so it reaches vertically to the sky for lines with a voltage greater than 11kV, and lines with spans of more than 150 metres. The Notice Zone was also extended by 1 metre, so lines owners have more time to address encroaching trees.
- 13 However, the current scope of the Regulations remains too narrow to address risks from trees falling onto lines from outside of the GLZ. The Phase 2 amendments now proposed will complete the reforms that can be progressed via changes to the Regulations.

14 Confidential advice to Government

Analysis of proposed amendments

- 15 The risk of treefall onto electricity lines is increasing. Changes in land use and weather patterns are increasing risks to the security of electricity supply and causing more outages and jeopardising public safety. *The Report of the Government Inquiry into the Response to the North Island Severe Weather Events* noted that:

many power outages were caused by trees falling on power lines, particularly in Tairāwhiti and Northland during Cyclone Gabrielle. Trees planted too close to powerlines increases the risk of outages. **The Inquiry suggests strengthening the Electricity (Hazards from Trees) Regulations 2003.**

- 16 The risk posed by trees outside the GLZ are currently managed through commercial negotiation or litigation, but this approach is ad-hoc and inconsistent. It is effective for dealing with residential tree owners, but electricity distribution businesses (EDBs) submit that it is ineffective for dealing with commercial forestry.
- 17 Litigation has been used to influence maintenance and planting practices. In *Nottingham Forest Trustee Ltd (NFT) v Unison Networks Ltd*, the lines owner successfully sued a tree owner and was awarded compensation for damage caused by forestry trees falling on lines. However, any litigation precedent is fact-specific and does not provide adequate clarity for out-of-zone tree management to all lines owners and tree owners.

Proposal: A new power to remove existing hazardous trees

- 18 I propose the introduction of a risk-based Notice power, giving lines owners the power to require tree owners to remove a tree, following an assessment of the risk the tree poses.
- 19 I propose that a lines owner may issue a ‘Treefall Hazard Notice’ if a tree:
 - 19.1 is within 24 metres of either side of the GLZ, and
 - 19.2 is within fall distance of the line, and
 - 19.3 has been assessed by the lines owner as a moderate or high treefall hazard risk.
- 20 The Regulations would specify the factors that a lines owner had to consider when assessing the likelihood and impact of an existing tree falling on its lines. Having considered the relevant factors, a lines owner would have to reach a view as to whether the likelihood and impact were low, moderate or high. Lines owners would be required to base their view on the advice of a qualified arborist and may also consult with a qualified forestry advisor if they wish to ensure a higher level of confidence in the assessment.
- 21 The combinations of likelihood and impact that would constitute a moderate or high treefall hazard are set out in the table below:

| | Low impact | Moderate impact | High impact |
|---------------------|--------------|--------------------------|--------------------------|
| High likelihood | Not a hazard | Moderate treefall hazard | High treefall hazard |
| Moderate likelihood | Not a hazard | Low treefall hazard | Moderate treefall hazard |
| Low likelihood | Not a hazard | Not a hazard | Low treefall hazard |

- 22 The amendments will ensure:
 - 22.1 Lines owners have discretion as to which trees within the 24-metre area either side of the GLZ were assessed, and when to assess them.
 - 22.2 All lines in the transmission network would be deemed to fall into the ‘high impact’ category in the table above, due to the significant impact on electricity supply of transmission line failure.

- 22.3 The lines owner would be required to meet the reasonable costs of tree removal.
 - 22.4 The tree owner would be required to ensure the tree is removed within a specified timeframe, unless an alternative timeframe is agreed with the lines owner.
 - 22.5 There would be an arbitration process available if the tree owners disputes the lines owner's assessment of the treefall hazard risk, or if a lines owner disputes the tree owner's stated costs for removal are reasonable.
 - 22.6 If the tree is not removed within the applicable timeframe, the tree owner will be liable for any subsequent damage to the lines caused by that tree falling on the lines. The tree owner will also be liable to a maximum fine of \$10,000 if they failed, without reasonable excuse, to comply with the notice.
- 23 I propose a two-year transition period until lines owners may send a Treefall Hazard Notice to the owner if a tree is assessed as a high or moderate treefall hazard. The transition period will allow time for lines owners to review the risk from trees around their lines, for the Tree Arbitrator(s) to understand the amendments, and for arborists to train to do the assessment work.

Proposal: Reducing the risk posed by new trees, outside existing forestry areas

- 24 Where there is no forest around lines I am proposing a 'low height planting zone' (LHPZ) within a 24-metre area on either side of the lines.
- 25 This change will prevent future planting increasing the risk to lines by limiting new trees planted to an expected mature height of less than their distance from the line on land that is not already forest land.
- 26 It would provide more comprehensive, pro-active protection than the treefall hazard notice – but would not impose unexpected costs on tree or landowners. The change would reduce a landowner's flexibility to use land for forestry in future and may reduce the value of land suitable for future afforestation, but it would not impose an immediate cost on tree or landowners.
- 27 I propose this restriction would only apply in non-urban areas, and not to already forested land. This is because it is targeted at land which could be converted to forestry, and therefore less relevant in urban areas where amenity might be impacted. As there is broad alignment across other legislation on the key definitions of forest land, I propose that the definition of forest land broadly aligns with the Climate Change Response Act 2002 and the Forest Act 1949.
- 28 It is critical that the definition of forest land includes cutover land to avoid rotational forestry becoming subject to the restrictions, but it should not include 'land intended to be forested.' The latter, if included, could frustrate the application of any restriction on new planting.
- 29 No additional offences, nor a separate notice regime, are proposed to implement this restriction on new planting. Instead, I propose tree owners meet the cost of any damage caused to lines where the tree owner has contravened the restriction on new planting. This provides an incentive to carefully manage any trees planted in the proposed LHPZ without imposing a burdensome offence and notice regime. With a clear pathway to liability set out under this proposal both parties will benefit from avoiding complex common law litigation through the High Court.

Proposal: Extending the 'clear to the sky' provisions to rural areas

- 30 The recent Phase 1 amendments to make the GLZ 'clear-to-the-sky' excluded lines 11kV and below from the change. This exclusion was due to concerns about a possible increase in disputes and costs for electricity customers and residential tree owners in urban areas, where most of these lines are located.
- 31 Lines owners have raised a concern that the exemption is unnecessarily reducing the potential advantage of a 'clear to the sky' regime in non-urban areas. Some 11kV and below lines run through forested areas in non-urban locations, where the policy rationale does not apply, but the 'clear to the sky' provisions would reduce risks.
- 32 I propose that the GLZ around lines 11kV and below in non-urban areas become subject to the 'clear to the sky' requirements.

Proposal: Modernising publication requirements

- 33 Electricity Networks Aotearoa (ENA), the sector association for EDBs, has raised concerns that the Regulations' publication requirements are outdated. Currently lines owners must regularly publicly disclose and publish information relating to the Regulations on the internet. In addition, lines owners must also either:
- 33.1 ensure that each consumer who is provided with line function services by that lines owner is given written notice of the information; or
 - 33.2 publish the information in the news sections of 2 separate editions of each newspaper that is widely read by consumers provided with line function services by that lines owner.
- 34 Providing written notice is expensive, and EDBs prefer to publish the information in community newspapers. However, the number of local newspapers is declining. I propose removing the requirement to provide written notice by letter or in a newspaper, and the related offence provision, which are either costly for the value they add, or no longer appropriate.
- 35 I propose instead that EDBs are permitted to publish information specified in the Regulations on the internet.

The costs for assessing trees and removing trees will fall to lines owners

- 36 Any extension of the current regime will impose costs – for example to remove trees - which must be met by somebody. All stakeholders are reluctant to pick up these costs. I propose that lines owners meet the reasonable cost of assessing the hazard posed by trees, and also of removing trees and associated debris under the treefall hazard notice proposal.
- 37 Some lines owners objected strongly to this approach during consultation, saying that electricity consumers would face additional costs. They also submitted that it would encourage irresponsible management of trees and forestry, as there would be no incentives to avoid planting and growing trees which could fall on lines.
- 38 I consider that the best approach remains that lines owners meet the new costs. The lines owners and their customers benefit most from the ability to reduce the number of outages, the need for investment to reinforce the network and the cost of restoring service. Trimming encroaching trees under the Regulations is funded from regulated revenue for price-regulated EDBs or passed on to consumers for other EDBs. I consider that this extension of the scope of the Regulations should be dealt with in the same way, which will encourage judicious use of

the proposed Treefall Hazard Notice power. I consider tree owners are already (and will remain) incentivised to manage their trees responsibly as lines owners will still be able to advance common law damages claims against tree owners. My proposal to restrict new planting will also limit irresponsible planting.

- 39 Price regulated EDBs can return to the Commerce Commission for the price path to be reopened for additional revenue to cover the cost of activities related to managing trees and vegetation, as these costs cannot be directly passed through. As with any request for additional revenue by an EDB, the Commission would assess the potential impact on consumers.

Balancing the impacts on private property rights: for lines- and landowners

- 40 Some tree owners have voiced concerns that they may face additional costs because of the scale of tree felling after the changes. Some tree owners consider they may absorb some costs when trees are removed, but no compensation is available. The Electricity Act 1992 provides that compensation is payable if the tree or vegetation was growing on the land before the construction of the works or electrical installation but not in any other case.
- 41 I do not expect tree owners to face significant additional costs because of the scale of tree felling or the unavailability of compensation, given that:
- 41.1 lines owners will still operate within a limited budget (and therefore limited scope to remove trees), and
 - 41.2 there is a hazard threshold that must be met before the lines owner can require a tree owner to remove a tree.
- 42 The amendments seek to balance costs across different stakeholders in a fair way. For example, tree owners do not bear the costs of removing the treefall risks, even though they arguably contribute to creating them. There will be safeguard available to limit arbitrary exercise of the powers. Arbitration will be available where a tree owner disputes a lines owner's assessment of a tree.
- 43 In summary, I agree with Federated Farmers, who submitted that introducing a treefall hazard notice power represents the 'least-worst' approach to balancing the competing interests of line owners and tree owners. I expect that the proposals will protect the property rights of lines owners, without degrading the property rights of tree owners.
- 44 The proposal to restrict new planting will impact landowners as only trees that are expected to be, at full height, lower than their distance to the line, can be planted. This balances against the risks to economy and life involved with longer duration electricity outages.

Implementation

- 45 The following timeframes are proposed for implementation:

| Amendment | Proposed timeframe for implementation | Rationale |
|---|---|---|
| A new treefall hazard notice to address risk posed by existing trees | Two years from Gazettal, before a Treefall Hazard Notice may be issued. | As well as reporting workability issues, the transition period will be needed to: <ul style="list-style-type: none"> allow Transpower and EDBs to survey the area 24 metres on either side of the GLZ for fall zone risk trees that could affect their lines |

| | | |
|--|------------------------|--|
| | | <ul style="list-style-type: none"> allow councils to make the necessary adjustments train arborists to undertake tree risk assessments develop a collaborative approach between lines owners and tree owners. |
| A new restriction on planting trees | One year from Gazettal | To avoid negatively impacting landowners who have already made the decision to plant trees. |
| Extending the GLZ 'clear to the sky' in non-urban areas | 16 October 2026 | To align with the 'clear to the sky' amendments gazetted in October 2024 and avoid confusion. |
| Modernising notice requirements | Upon Gazettal | To provide immediate relief to EDBs and provide consumers with timely information on updated requirements. |

Cost-of-living Implications

- 46 These changes should have the net impact of reducing costs to consumers in the medium- to long-run as high-risk trees are dealt with, as well as enhancing security of supply. Less will need to be spent on network restoration and strengthening. In the short term, the amendments will impose additional costs on lines owners in the form of assessment, monitoring, and removal of treefall hazards. I expect that these additional costs arising from the proposal will be recovered from consumers.
- 47 Overall, I consider that these regulatory checks and balances, provided for by Part 4 of the Commerce Act 1986, will provide incentives to minimise expenditure and prompt lines owners to focus on dealing with the highest risk, highest impact trees.

Financial Implications

- 48 There are no significant financial implications for the Crown. Costs will generally be borne by lines and tree owners.

Legislative Implications

- 49 The Electricity (Hazards from Trees) Regulations 2003 will need to be amended to give effect to the policy proposals in this paper.

Impact Analysis

- 50 The proposal to remove publication and notice requirements has been exempted from impact analysis requirements by the Ministry for Regulation.

Regulatory Impact Statement

- 51 Impact analysis is required for these recommendations and a Regulatory Impact Statement (RIS) has been prepared and is attached to the Cabinet paper.
- 52 MBIE's Quality Assurance panel has reviewed the RIS and confirms that it **meets** the criteria. The Regulatory Impact Analysis has been used to inform the final policy proposals put forward in this paper.

Climate Implications of Policy Assessment

- 53 The Ministry for the Environment has confirmed that a Climate Implications of Policy Assessment is not required.

Population Implications

- 54 Māori own \$4.3 billion of assets in forestry and have ownership of about 40 per cent of New Zealand's forestry interests including large areas of indigenous forest. Commercial forestry is also a largely rural enterprise. MBIE undertook consultation with Māori interests over the course of the Review, particularly with the most significant Māori investors in forestry.
- 55 Submissions from Māori with forestry interests raised concerns about costs imposed by existing lines and proposed that commercial easements should be sought to reduce risks for lines owners and provide fairness to landowners. They emphasised that long term solutions should be preferred. They also proposed broader compensation arrangements, including in relation to land returned to Māori through Treaty settlements.
- 56 In general, the design of the new regulatory scheme limits the scope for lines owners to impose significant costs on tree or landowners. Lines owners bear the costs of tree removal and the new notice power can only be exercised if a two-limbed test is met, taking likelihood and impact of treefall into consideration.
- 57 I consider this a targeted, proportionate approach that will minimise concerns about impacts on landowners, while giving more scope for lines owners to address treefall risk. This will also reduce the risks of lengthy electricity outages to remote Māori communities. Based on these factors, I do not foresee significant Treaty risks from the recommended actions.

Human Rights

- 58 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 59 The Treasury, Ministry of Justice, Ministry for Primary Industries, Ministry for the Environment, Ministry for Regulation, Department of Conservation, Te Puni Kōkiri, Infrastructure Commission, Commerce Commission and WorkSafe New Zealand were consulted on the development of the policy proposals.

Communications

- 60 I will announce the decision through a media release.

Proactive Release

- 61 I intend to proactively release this Cabinet paper once decisions have been made subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister for Energy recommends that the Committee:

1. **note** that the Electricity (Hazards from Trees) Regulations 2003 set out the rights and responsibilities of tree owners and lines owners in relation to the management of trees growing near lines

IN CONFIDENCE

2. **agree** to give lines owners the power to require a tree owner to remove a tree if:
 - 2.1 the tree is within 24 metres of either side of the GLZ, and
 - 2.2 the tree is within fall distance of the line, and
 - 2.3 the lines owner has assessed the tree as being a high treefall hazard or a moderate treefall hazard
 - 2.4 the lines owner has issued a treefall hazard notice to the tree owner.
3. **agree** to require lines owners when assessing the treefall hazard risk in relation to a tree to consider:
 - 3.1 the likelihood of the tree falling on lines; and
 - 3.2 the impact of the tree falling on lines.
4. **authorise** the Minister for Energy to make further decisions on what factors will be considered by lines owners when assessing the likelihood and impact of trees falling on lines
5. **agree** that lines owners must seek the advice of a qualified arborist, and may consult with a qualified forestry advisor when assessing the treefall hazard risk
6. **agree** that a tree owner who receives a tree fall hazard notice will be required to meet the following timeframes for removing the tree or trees specified in the notice:
 - 6.1 if the tree is a high treefall hazard, 25 working days after the tree owner received the notice
 - 6.2 if the tree is a moderate treefall risk, 45 working days after the tree owner received the notice
 - 6.3 any alternative timeframe agreed between the lines owner and tree owner, within 25 working days after the tree owner received the notice
7. **agree** to require lines owners to meet the reasonable costs of removing a tree and associated debris in response to a treefall hazard notice
8. **agree** that if a tree is not removed within the applicable timeframe, the tree owner will be liable for any subsequent damage to lines if the tree falls on the lines
9. **agree** that tree owners who fail, without reasonable excuse, to comply with a treefall hazard notice will commit an offence and be liable for a fine of up to \$10,000
10. **agree** that arbitration will be available where:
 - 10.1 a tree owner disputes a lines owner's assessment of a tree as being a high or moderate treefall hazard
 - 10.2 the lines owner disputes whether costs are reasonable.
11. **agree** to a two-year transition period before lines owners may give treefall hazard notices in respect of trees that have been identified as a high or moderate treefall hazard
12. **agree** that lines with a voltage of 11kV or less that have spans of less than or equal to 150 metres in non-urban areas become subject to the 'clear to the sky' extension to the Growth Limit Zone

I N C O N F I D E N C E

13. **agree** that trees or vegetation planted within 24 metres either side of a line on land in non-urban areas, that is not already forest land, must have an expected mature height lower than the distance from the line to the tree or vegetation
14. **agree** to a one-year transition period before landowners are restricted to planting trees or vegetation with a mature height lower than their distance from the line, within 24 metres either side of the line
15. **agree** to remove the following requirements for lines owners (and the associated offence for failing to comply):
 - 15.1 to provide required information to each consumer who is provided with line function services by the lines owner through written notice
 - 15.2 to publish required information in the news sections of two separate editions of each newspaper that is widely read by consumers provided with lines function services by that lines owner
16. **agree** to require lines owners to publish additional information on the internet about the treefall hazard notice power, risk assessment process, planting restrictions, and the inclusion of lines with a voltage of 11kV or less in the 'clear to the sky' extension to the GLZ
17. **authorise** the Minister for Energy to make decisions consistent with the proposals in these recommendations on any issues that arise during drafting and on minor or technical issues as required
18. **authorise** the Minister for Energy to issue drafting instructions to Parliamentary Council Office to give effect to the policy proposals in this paper
19. **authorise** the Minister for Energy to approve release of an exposure draft of the amendments to the Regulations for targeted consultation.

Authorised for lodgement

Hon Simon Watts
Minister for Energy

Appendix One: Regulatory Impact Statement

Appendix Two: A3 – Summary of Phase 2 proposals 1 and 2